

Item No.	Application No. and Parish	Statutory Target Date	Proposal, Location, Applicant
(1)	24/00378/HOUSE Woolhampton	06/05/2024 ¹	Retrospective New patio and garden works. 49 Abbey Gardens Woolhampton Reading RG7 5TZ Mrs Bradley
¹ Extension of time agreed with applicant until 06/08/2024 (pending review)			

The application can be viewed on the Council's website at the following link:

<https://publicaccess.westberks.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S9M35WRD0HE00>

Recommendation Summary: That the Development Manager be Authorised to **GRANT PLANNING PERMISSION** subject to conditions

Ward Member(s): Councillor Read

Reason for Committee Determination: More than 10 letters of objection.

Committee Site Visit: 28/08/2024

Contact Officer Details

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1. Introduction

- 1.1 The purpose of this report is for the Committee to consider the proposed development against the policies of the development plan and the relevant material considerations, and to make a decision as to whether to approve or refuse the application.
- 1.2 This application seeks planning permission for retention of a patio and garden works.
- 1.3 The application site is a terraced dwellinghouse with a front and rear garden. This and surrounding houses were specifically designed with the Abbey buildings in mind and echo some of the strong design details of those buildings, the materials used are a mix of brick and stone. The host building faces west onto a cul-de-sac the rear garden slopes towards the east. To the rear of the rear garden there is a bridle way and beyond that there are some purpose-built garages.
- 1.4 This proposal is a retrospective planning application which was submitted following an enforcement investigation which found a breach of planning control. The proposal is in relation to a stepped terraced patio which has been erected in the rear garden. Therefore, the relevant policies set out in this report will be applied and assessed.

2. Planning History

- 2.1 The table below outlines the relevant planning history of the application site.

Application	Proposal	Decision / Date
02/01838/FUL	Planning application granted for the Restoration of main former abbey school building, and conversion into flats. Demolition of outlying former school building and construction of new houses/flats. Approved on the 7th May 2004.	Approved 07/05/2004
11/00492/HOUSE	Planning application refused for a loft conversion with velux windows and insertion of gable windows to front and rear elevations. Refused on the 04th July 2011.	Refused 04/07/2011
22/00719/HOUSE	Planning permission granted for an orangery on the 5th August 2022.	Approved 05/08/2022

3. Legal and Procedural Matters

- 3.1 **Environmental Impact Assessments (EIA):** Given the nature, scale and location of this development, it is not considered to fall within the description of any development listed in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. As such, EIA screening is not required.
- 3.2 **Publicity:** Publicity has been undertaken in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015, and the Council's Statement of Community Involvement. Site notices were displayed

on 11 June at the site, with a deadline for representations of 02 July. A public notice was displayed in the Newbury Weekly News on 21 March 2023.

- 3.3 **Local Financial Considerations:** Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Whether or not a 'local finance consideration' is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body. No local financial considerations are relevant to this application
- 3.4 **Community Infrastructure Levy (CIL):** CIL is a levy charged on most new development within an authority area. The money is used to pay for new infrastructure supporting the development of an area by funding the provision, replacement, operation or maintenance of infrastructure. This can include roads and transport facilities, schools and education facilities, flood defences, medical facilities, open spaces, and sports and recreational areas. CIL will be charged on residential (C3 and C4) and retail (A1 - A5) development at a rate per square metre (based on Gross Internal Area) on new development of more than 100 square metres of net floorspace (including extensions) or when a new dwelling is created (even if it is less than 100 square metres).
- 3.5 CIL is addressed under a separate process and the applicant has submitted forms containing the relevant information.
- 3.6 **New Homes Bonus (NHB):** New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. NHB money will be material to the planning application when it is reinvested in the local areas in which the developments generating the money are to be located, or when it is used for specific projects or infrastructure items which are likely to affect the operation or impacts of those developments. NHB is not considered to be a relevant material consideration in this instance, but can be noted for information.
- 3.7 **Public Sector Equality Duty (PSED):** In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The Council must have due regard to the need to achieve the following objectives:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.8 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.9 The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have regard to and remove or minimise disadvantage. In considering the merits of this planning application, due regard has been given to these objectives.
- 3.10 All new buildings within the development will be required to comply with Building Regulations which have their own criteria to apply for the design of buildings which also has due regard to the Act. The scheme also level access to the rear of the dwelling, which would provide a benefit for those with mobility related disability.
- 3.11 **Human Rights Act:** The development has been assessed against the provisions of the Human Rights Act, including Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial) and Article 8 (Right to respect for private and family life and home) of the Act itself. The consideration of the application in accordance with the Council procedures will ensure that views of all those interested are taken into account. All comments from interested parties have been considered and reported in summary in this report, with full text available via the Council's website.
- 3.12 The proposals have raised concerns with local residents in respect in particular to overlooking and drainage. It is acknowledged that there are certain properties where they may be some impact beyond the previous state of affairs in terms of overlooking, and matters related to drainage are addressed in the report below. However, any interference with the right to a private and family life and home arising from the scheme as a result of impact on residential amenity is considered necessary in a democratic society in the interests of the economic well-being of the district and wider area and is proportionate given the right to enjoyment of their own property of the resident.
- 3.13 Any interference with property rights is in the public interest and in accordance with the Town and Country Planning Act 1990 regime for controlling the development of land. This recommendation is based on the consideration of the proposal against adopted Development Plan policies, the application of which does not prejudice the Human Rights of the applicant or any third party.
- 3.14 **Listed building setting:** Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Section 16(2) has the same requirement for proposals for listed building consent. These proposed works are not considered to entail any significant or harmful impact on the listed buildings at Douai Abbey or their setting.

4. Consultation

Statutory and non-statutory consultation

- 4.1 The table below summarises the consultation responses received during the consideration of the application. The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report.

Woolhampton Parish Council:	The Parish Council wish to object to the application due on account of the works being unauthorised, it is their understanding that the relevant permitted development rights have been removed in the area.
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Public representations

4.2 Representations have been received from 21 contributors, 10 of which support, and 11 of which object to the proposal.

4.3 The full responses may be viewed with the application documents on the Council's website, using the link at the start of this report. In summary, the following issues/points have been raised:

- That the height of the patio would result in loss of privacy to neighbouring properties.
- That the works had been done without consultation with the abbey Gardens Residents' Association.
- Concern about the impact upon maintaining neighbouring fences and the impact of run off.
- Concern was raised about overlooking onto an adjacent bridle path.

4.4 The following points raised in support:

- The patio works together with the planting improves the appearance of the garden.
- The height of the patio is such, that the ability to overlook neighbouring properties is negligible compared to original garden levels.
- That the patio has been done to facilitate improved wheelchair access to the garden.
- That the owner has suffered a loss in mobility and the improved garden will enable them to more fully enjoy the outside space.

5. Planning Policy

5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The following policies of the statutory development plan are relevant to the consideration of this application.

- Policies ADPP1, CS14, CS19 of the West Berkshire Core Strategy 2006-2026 (WBCS).
- Policy NRM6 of the South East Plan.

5.2 The following material considerations are relevant to the consideration of this application:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- North Wessex Downs AONB Management Plan 2019-24

- WBC House Extensions SPG (2004)
- WBC Quality Design SPD (2006)
- Planning Obligations SPD (2015)

6. Appraisal

6.1 The main issues for consideration in this application are:

- Impact on character and appearance of surrounding area.
- Neighbouring amenity.

Principle of development

6.2 The proposed works are for relatively minor works of a residential character to a dwellinghouse outside of the defined settlement boundary but within a defined area of residential development. The principle of development is considered to be acceptable. Your officers' recommendation of approval is informed by the considerations set out below.

Character and appearance

6.3 The terrace/patio is surfaced with square and rectangular flagstones which are laid in a non-uniform pattern. They are variously coloured and are in muted tones. In terms of the materials used they are an appropriate material for a patioed area. Planting beds are arranged either side of the raised patio area which are enclosed in rail sleeper-style timber boxes. These increase in size and patio steps cascade down to the area to the rear garden that is partially paved and partially grassed. It is considered that the materials are acceptable, and the terrace complies with policies ADPP1, CS14, CS 19 contained in West Berkshire Council's Core Strategy.

6.4 It is noted that the application site is seen in the context of the relatively recent Abbey Gardens development that forms part of the wider context and setting of listed buildings at Douai Abbey. However, the works are not considered to be of such a nature and extent as to engender any significant or harmful impact on the character or setting of these listed buildings.

Neighbouring amenity

6.5 The raised patio is somewhat elevated when compared to the immediate neighbouring properties the this is confined to areas to towards the rear of the garden and is to a limited extent, thereby engendering some, but limited additional overlooking of these areas. It is considered that the works are not sufficiently elevated to result in demonstrable harm to amenity, and additionally with regard to the layout of surrounding development which already engenders a level of incidental overlooking across garden spaces from windows of habitable rooms. It is therefore the view of your officers that the level of elevation of the patio is acceptable and accords with the policies ADPP1, CS14, CS 19 contained in West Berkshire Council's Core Strategy.

6.6 Objections refer to concerns with maintenance of fences. Such matters are civil and fall to the particular responsibilities of the landowners concerned. They are not the province of planning

Drainage

- 6.7 While it is noted that a number of objections refer to flood risk and drainage concerns it is noted that there is no applicable legislated restriction on hardstanding in rear gardens. Neither would there be a requirement for planning permission to lay a whole garden to hardstanding. Such minor drainage matters fall outside of the province of planning to address, although your officer notes that the proposals do not entail the laying of the whole garden to hardstanding, and therefore would accommodate some provision for drainage. In respect of concerns regarding drainage to neighbouring land as a result of the works, it is the responsibility of the landowner to ensure that hardstanding is sufficiently drained not to result in an adverse impact on neighbouring land and buildings, and is a civil land ownership matter rather than being the proper remit of planning.

Town/Parish Council representations

- 6.8 The Parish Council raise concerns with the impacts on neighbouring amenity. These are addressed above. The Parish Council raise concerns with regard to the retrospective nature of the application. The principle planning legislation makes no meaningful distinction between consideration an application submitted prior to and after development in this respect, and the retrospective nature of this planning application is not material to considerations. The Parish Council raise the restriction on permitted development rights on the site. This restriction relates to the appearance of the site and size of the plots. The proposed works are not considered to significantly detract from the wider character and appearance of the site, nor result in the appearance of cramped or visually harmful development.

7. Planning Balance and Conclusion

- 7.1 Your officers do not consider that the works have resulted in harm such as would weigh against approval of this application. The application is therefore recommended for approval.

8. Full Recommendation

- 8.1 To delegate to the Development Manager to GRANT PLANNING PERMISSION subject to the conditions listed below.

Conditions

1.	<p>Approved plans</p> <p>The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:</p> <ul style="list-style-type: none"> -Application form - 29/02/2024 -Location and Block Plan - 15/02/2024 -Sections, Elevation and Plan - 29/02/2024 <p>Reason: For the avoidance of doubt and in the interest of proper planning.</p>
2	<p>The materials to be used in the development hereby permitted shall be as specified on the plans or application forms. Where stated that materials shall match the existing house, those materials shall match those on the existing development in colour, size and texture.</p>

	Reason: To ensure that the external materials respect the character and appearance of the area. This condition is applied in accordance with the National Planning Policy Framework, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006- 2026) Supplementary Planning Guidance 04/2 House Extensions (July 2004) and Supplementary Planning Document Quality Design (June 2006).
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Informatives

1.	This decision has been made in a positive way to foster the delivery of sustainable development having regard to Development Plan policies and available guidance to secure high quality appropriate development. In this application whilst there has been a need to balance conflicting considerations, the local planning authority has secured and accepted what is considered to be a development which improves the economic, social and environmental conditions of the area.
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