

Item No	Application No.	8/13 week date and Parish	Proposal, Location and Applicant
(1)	14/00233/FUL Woolhampton	24 <sup>th</sup> March 2014	<p>Section 73 – Application to remove Class E from condition 4 of approved application 13/02394/HOUSE</p> <p>Little Paddocks, Woolhampton Hill, Woolhampton</p> <p>Mr and Mrs Robinson</p>

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

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=14/00233/FUL>

**Recommendation Summary:** To **DELEGATE** to the Head of Planning and Countryside to **REFUSE PLANNING PERMISSION**

**Ward Member(s):** Councillor Irene Neill

**Reason for Committee determination:** Member call in regardless of recommendation as Committee Members recommended the removal of permitted development rights in deciding to approve application 13/02394/HOUSE.

**Committee Site Visit:** Not applicable.

#### Contact Officer Details

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## 1. PLANNING HISTORY

**13/61** Dwellinghouse at Woolhampton Hill. GRANTED 17<sup>th</sup> January 1961.

**12/70** Additions. GRANTED 20<sup>th</sup> January 1970.

**109367** Alterations and addition to first floor to provide 3 bedrooms. GRANTED 25<sup>th</sup> October 1978.

**121893** Lounge extension. GRANTED 11<sup>th</sup> July 1984.

**122235** Two storey extension. WITHDRAWN 9<sup>th</sup> August 1984.

**138240** Timber garage to replace iron shed. Cannot determine.

**141560** Two storey extension to dwelling.  
Cloaks/hall/dining/bathroom/bedroom/en-suite. GRANTED 25<sup>th</sup> September 1992.

**06/01074/HOUSE** Pitched roofs over the two existing flat roofed sections and with bedroom accommodation in one of the roofs. Two dormer windows within the new bedroom and the conversion of the existing garage into the kitchen and utility room. Alterations to porch. WITHDRAWN.

**11/00575/HOUSE** Flat roofed single storey extensions removed, 2 storey extensions, single storey garden room and new pitched roof garage added. REFUSED 5<sup>th</sup> July 2011 and dismissed at appeal.

**12/01144/HOUSE** Flat roofed single storey extensions removed, 2 storey extensions, single storey garden room and new pitched roof garage added. REFUSED 7<sup>th</sup> September 2012 and dismissed at appeal.

**13/00782/HOUSE** Remove existing single storey garage, southern single storey extension, western boiler house and eastern section of two storey house. Erect new 2 storey extension to east and single storey glazed extension to south. WITHDRAWN.

**13/01845/PASSHE** Single storey extension – depth from rear wall 8 metres, maximum height 4 metres, eaves height 3.5 metres. Application not required (permitted development). 11<sup>th</sup> September 2013.

**13/02394/HOUSE** Flat roofed single storey extensions removed, two storey extension and single storey extensions. GRANTED 28.11.13.

## 2. PUBLICITY

Site Notice Expired: 4<sup>th</sup> March 2014.  
Neighbour Notification Expired: 28<sup>th</sup> February 2014.

### **3. CONSULTATIONS AND REPRESENTATIONS**

#### **3.1 Consultations**

**Parish Council:** No response received at time of writing. Comments will be reported to Planning Committee.

**Highways:** No objection.

**Public Rights of Way** No response.

#### **3.2 Representations**

Total: 0 Object: 0 Support: 0

### **4. PLANNING POLICY**

- 4.1 The statutory development plan comprises the saved policies in the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) (WBDLP), and the West Berkshire Core Strategy 2006-2026.
- 4.2 Other material considerations include government guidance, in particular:
  - The National Planning Policy Framework (March 2012) (NPPF)
  - National Planning Guidance (March 2014)
  - The Town and Country Planning (General Permitted Development) Order 1995 as amended
- 4.3 Paragraph 215 of the NPPF advises that, for the 12 months from the day of its publication, due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The following saved policies from the Local Plan are relevant to this application:
  - ENV.1: The Wider Countryside
  - ENV.24: Extensions to Dwellings in the Countryside
  - HSG.1: The Identification of Settlements for Planning Purposes
  - TRANS.1: Meeting the Transport Needs of New Development
- 4.4 In addition, the following locally adopted policy documents are relevant to this application:
  - SPG 4/02: House Extensions (July 2004)
  - SPG 4/03: Replacement Dwellings and Extensions to Dwellings in the Countryside (July 2004)
  - Supplementary Planning Document Quality Design (June 2006)
    - Part 1 Achieving Quality Design
    - Part 2 Residential Development
- 4.5 The West Berkshire Core Strategy (2006-2016) July 2012 now forms part of the development plan and therefore its policies attract full weight. The following policies are relevant to this application:
  - Area Delivery Plan Policy 1: Spatial Strategy

- Area Delivery Plan Policy 6: The East Kennet Valley
- CS 4: Housing Type and Mix
- CS 13: Transport
- CS 14: Design Principles
- CS 19: Historic Environment and Landscape Character

## 5. DESCRIPTION OF DEVELOPMENT

5.1 The application seeks consent to vary condition 4 of planning permission 13/02394/HOUSE to remove reference to Class E of the General Permitted Development Order. Application 13/02394/HOUSE was recommended for refusal at the 27<sup>th</sup> November 2013 Eastern Area Planning Committee, and was approved by Members. Officers had recommended refusal as Little Paddocks is located in the countryside where there is a tighter level of management of development, and the increase in bulk by the two storey extension in particular, in this visually prominent site, meant that the proposed extensions would be materially greater than the original dwelling. Members considered the design appropriate and an improvement on the style of the existing property. However, it was also noted that the applicants had already taken advantage of the extended permitted development rights under application 13/01845/PASSHE, and there were concerns that further development could be undertaken 'without consideration toward the appearance of the overall property' (as taken from the minutes of the meeting). Members therefore resolved to approve subject to the removal of permitted development rights.

5.2 Class E allows buildings, enclosures, swimming or other pools, or maintenance, improvement or other alteration of such a building or enclosure within the curtilage of a dwellinghouse, or a container used for domestic heating purposes. Such buildings cannot take up more than half the area of land around the original house (and existing extensions and outbuildings are included in the 50% limit). Buildings cannot be more than one storey, with a maximum eaves height of 2.5 metres and maximum overall height of 4 metres with a dual pitched roof or 3 metres for any other roof. If, however, the building is within 2 metres of the boundary the maximum height cannot exceed 2.4 metres. Furthermore, no verandas, balconies or raised platforms can be added. No building operation can occur on land forward of a wall forming the principle elevation.

## 6. APPRAISAL

The main issues for consideration in the determination of this application are:

- The appropriateness of the restriction of Class E of the General Permitted Development Order.

### 6.1 The appropriateness of the restriction of Schedule 2, Part 1, Class E of the General Permitted Development Order

6.1.1 Permitted development rights were removed under condition 4 of permission 13/02394/HOUSE for extensions, alterations, buildings and other development which would otherwise be permitted by Schedule 2, Part 1, Classes A, B, C and E of the General Permitted Development Order. The reason for this condition was that 'The site is located within the countryside and measures are in place to prevent the overdevelopment of sites and a material increase in visual intrusion in the landscape. As Little Paddocks has already been greatly extended it is appropriate

for the Local Planning Authority to examine further proposals for extensions, alterations and outbuildings to assess whether these would be appropriate to the character of the dwelling, the site and to the local area.'

6.1.2 As presented to Members as part of the assessment of application 13/02394/HOUSE whilst there was no increase in floor area above the existing house it represented a 188% increase on the original, and 190% increase in volume on the original. The design was such that single storey elements were to be demolished and a two storey extension and single storey extensions were added in its place. Without repeating the reasons why officers felt that the extensions approved under 13/02394/HOUSE should have been refused officers do now wish to highlight that there has already been a great deal of extension and other works to the property. Permitted development rights were extended by Government in 2013 and so there was further opportunity for more development (as already considered under 13/01845/PASSHE). The site, whilst large, is visible from the adjacent public right of way, and to some extent from Woolhampton Hill to the north across the valley to the south. The size of the site does not imply that any development should be permitted, and it is a matter of judgement as to whether a proposal is appropriate to the site and surrounding area. Indeed, the size defines the very character of the site. In dismissing the appeal for extensions under 11/00575/HOUSE the Inspector commented that 'a distinctive characteristic is the spaciousness of the plot and its contribution to the open character of the area and the landscape'.

6.1.3 The Inspector commented that views of the house are obtained from the footpath through gaps in the hedges and trees which form the site boundary. Since the appeal the applicants have strengthened the boundary hedging though there are still views into the grounds. The extensions have already altered the character of the original building, and the Inspector noted that the extensions proposed under 11/00575/HOUSE would 'substantially add to the amount of built development on the site, reducing its open character and appearance'. The Inspector did comment that this would have a detrimental impact on the AONB, though the site is not within the AONB. The Inspector when corrected did not alter the decision to dismiss. Thus, in applying this assessment to the proposal to remove the restriction of Class E projects the spaciousness of the plot contributes positively to the open character of the area, and given the extensions permitted under 13/02394/HOUSE and also the rear extension classed as permitted development under 13/01845/PASSHE, there is a threat that outbuildings and other projects under Class E could affect this spaciousness and subsequent character. Therefore, the Council are sound in their reasoning for wishing to retain control over certain projects which would otherwise not require planning permission.

6.1.4 The cumulative impacts of incremental extensions and outbuildings can have an urbanising impact upon the character of the site and surrounding countryside. In removing permitted development rights the Council have sought to retain control over further extensions, alterations and outbuildings which would otherwise not need permission, to assess whether cumulatively the proposals are appropriate in their context. As outlined in the description of development (paragraph 5.2) Class E allows all sizes of building up to the size limits highlighted in the description. Given the size of the curtilage there is potential for quite large buildings to be erected, and given the past extensions, this could lead to a cumulative increase in the amount of built form which could then have a detrimental impact on the countryside, and as noted above could affect the spaciousness character of the site.

6.1.5 The applicant states that the imposition of the condition means that they would need permission to erect or replace a garden building, 'perhaps to accommodate children's toys, bicycles, swimming pool plant or a dog run'. This places extra expense and delay for the applicant, and an extra burden on Local Authority's resources. As considered above, it is the cumulative impact of such developments, together with the potential for quite large structures, which means that such developments are to be considered under a planning application. The protection of the countryside is considered to be more important than the additional work involved for the Local Planning Authority.

6.1.6 Given the comments made by the applicants in their submission officers considered an option to amend the condition to allow outbuildings and pool structures up to a certain size, to permit smaller developments but still retain control over larger proposals. This was despite some reservation that there could be a cumulative impact of smaller developments. However, the applicant considers that given the size of the site even with such extensions approved it will not be overdeveloped, that the imposition of the condition is disproportionate relative to any other property in the area or the country, and that there is no flexibility in imposing such a condition where permitted development rights exist for this type of reason. The applicant does not consider the restriction of Class E meets the six tests outlined in the National Planning Guidance (having now replaced Circular 11/95), and therefore did not agree with the suggestion to amend the restrictions to Class E.

6.1.7 As outlined in paragraph 005 of the National Planning Guidance (NPG) any proposed condition that fails to meet the six tests should not be used. This applies even if it is suggested by members of a planning committee. The merits of each case are to be examined when determining conditions, and it is not felt that this has an effect on all other properties sitting in large plots. The six tests are that planning conditions should only imposed where they are:

- Necessary;
- Relevant to planning and;
- To the development to be permitted;
- Enforceable;
- Precise and;
- Reasonable in all other respects.

6.1.8 In assessing whether the condition is necessary the key question is whether it would be appropriate to refuse planning permission without the requirements imposed by the condition. There must be a planning reason for it and should not be wider in scope than necessary. Given the amount of extensions built over and above the original dwelling the management of future proposals to the building and site was considered appropriate by the committee. The extensions permitted under 13/02394/HOUSE would increase the built form over and above the existing house, and particularly over the original house. As explained in the assessment above the cumulative impact of developments over time can change the character and urbanise a site, and in this case affect the spaciousness of the site. The Council's Supplementary Planning Guidance on 'Replacement Dwellings and Extensions to Dwellings in the Countryside' states at paragraph 3.4.3 that the withdrawal of permitted development rights may be considered where a replacement dwelling is larger than the original dwelling. This would prevent further increases which would

be disproportionate to the original and could impact on the surrounding area. Whilst this refers to replacement dwellings, paragraph 4.2 of the SPG states that all guidelines on size increase are equally applicable for extensions in the countryside. Thus, the management of future development is considered necessary.

6.1.9 In assessing whether the condition is relevant to planning the key question is whether the condition relate to planning objectives and it is within the scope of the permission to which it is to be attached. The condition relates to planning objectives of protecting the countryside.

6.1.10 In assessing whether the condition is relevant to the development to be permitted the key question is whether this fairly and reasonably relates to the proposal. This is an area which the applicant feels strongly about, as without the permission the resident can keep the house as it looks at present but build a large shed. The permission allows extensions to the house but does prevent any further outbuildings without planning permission being sought. The extensions permitted did not add to the floor area of the existing house, as sections were to be demolished, though the proposal did introduce a two storey element in place of more inconspicuous single storey elements and therefore was materially greater than the existing dwelling, and quite an increase on the original house. The nature of the development permitted means that the house would be greatly extended over the original, and the character of the house and the site would be altered by such extensions. The increase in overall size and scale to be created by the extensions are such that control is maintained over further extensions, additions and other buildings within the curtilage of the dwelling. Officers do recognise the imposition the restrictions have and this is why the suggestion for a tailored condition to allow certain sized outbuildings, pool structures and enclosures was suggested to the applicant as a compromise.

6.1.11 In assessing whether the condition is enforceable, the erection of outbuildings, enclosures and pools may be noticed by members of the public or other users of the public rights of way. It would also be possible to remedy a breach of condition.

6.1.12 In assessing whether the condition is precise there is no doubt of what a developer needs to do in order to comply.

6.1.13 In assessing whether the condition is reasonable in all other respects the NPG outlines that conditions which place unjustifiable and disproportionate burdens on an applicant will fail this test. Furthermore, conditions cannot be used to make development that is unacceptable acceptable. It is not considered that removing permitted development rights under Class E places unjustifiable and disproportionate burdens on an applicant. A developer will need to submit a planning application for projects under Class E for which no application fee is required, though this is not disproportionate. As outlined above the condition is considered justified. The Council are mindful of the countryside location and an increase in visual intrusion, and therefore consider it reasonable to assess such proposals under development plan policies.

6.1.14 The Government is clear that conditions restricting the future use of permitted development rights should only be used in exceptional circumstances. It is considered that the condition to restrict permitted development rights, including those under Class E, was reasonable and appropriate when considering the

particular merits of the application. When considering the case to remove reference to Class E officers were concerned that given the extent of extensions already built and permitted and the visual prominence of the site large outbuildings, enclosures and pools could cumulatively erode the qualities of the appearance of the site. This is why a suggestion was made to allow small scale development. Given that this option was rejected by the applicant officers do not consider that the request to remove reference to Class E in condition 4 can be supported.

## **6.2 Presumption in favour of sustainable development**

6.2.1 The NPPF has introduced a presumption in favour of sustainable development, which paragraph 197 advises should be applied in assessing and determining development proposals. It is difficult to apply the dimensions of sustainable development when considering the variation of condition, as they are strategic. Recognising the intrinsic character and beauty of the countryside is a core planning principle of the NPPF, and allowing the alteration to the permitted development rights may impact on the natural and built environment. It is not considered that there is a presumption in favour of sustainable development. The Council has also been proactive in suggesting alternatives to the complete removal of the reference to Class E, though as there is no resolution officers cannot support the proposal.

## **7. CONCLUSION**

7.1 Having taken into account all the relevant policy considerations and the other material considerations the proposed amendment to condition 4 of approved application 13/02394/FUL is not considered to contribute to the aims of delivering sustainable development. When considering the extensions permitted under 13/02394/HOUSE the additional built form would increase the amount of development on site over and above the original dwelling. Members in supporting the extensions thought it reasonable to restrict permitted development rights to limit any further smaller scale developments. The condition to restrict outbuildings and other projects under Class E is considered appropriate to seek to retain the qualities of the site and prevent adverse impacts from cumulative developments. The application is therefore contrary to the guidance on the design contained in the NPPF, Policy CS14 of the West Berkshire Local Planning Core Strategy 2006-2026 July 2012 and West Berkshire Council Supplementary Planning Guidance 'House Extensions' July 2004 and Policy ENV24 of the West Berkshire District Local Plan 1991-2006, Saved Policies 2007 and the accompanying Supplementary Planning Guidance 'Replacement Dwellings and Extensions to Dwellings in the Countryside', July 2004.

## **8. FULL RECOMMENDATION**

**DELEGATE** to the Head of Planning & Countryside to **REFUSE PLANNING PERMISSION** for the reason set out in Section 8.1.

### **8.1 Recommended refusal reason**

1. Condition 4 of permission 13/02394/HOUSE restricted permitted development rights for projects otherwise permitted by Schedule 2, Part 1, Classes A, B, C and E. The reason was that 'The site is located within the countryside and measures

are in place to prevent the overdevelopment of sites and a material increase in visual intrusion in the landscape. As Little Paddocks has already been greatly extended it is appropriate for the Local Planning Authority to examine further proposals for extensions, alterations and outbuildings to assess whether these would be appropriate to the character of the dwelling, the site and to the local area.'

Little Paddocks is located outside of any defined settlement boundary, in the countryside in planning policy terms. Guidance in the National Planning Policy Framework, Policies CS14 and CS19 of the Core Strategy 2006-2026 requires that applications achieve high quality design appropriate to their setting. Policy ENV24 of the West Berkshire Local Plan 1991-2006 Saved Policies 2007 seeks to prevent the over development of sites in the countryside and a material increase in visual intrusion into the countryside. In determining the application for extensions under 13/02394/HOUSE it was considered appropriate to restrict certain permitted development rights, including those under Schedule 2, Part 1, Class E. Advice in the National Planning Guidance (March 2014) outlines that conditions must meet the six tests for appropriateness.

In considering the removal of Class E from condition 4 the Council have sought to retain control over further extensions, alterations and outbuildings which would otherwise not need permission, to assess whether cumulatively the proposals are appropriate in their context. The cumulative impacts of incremental extensions and outbuildings can have an urbanising impact upon the character of the site and surrounding countryside. Little Paddocks, whilst sitting on a large site, has been greatly extended since it was first built, and further uncontrolled development could result in a change to the spacious character of the site, which is set in an attractive part of the countryside and visible from an adjacent public right of way and open views from the south. This is supported by the appeal decision APP/W0340/D/11/2160600 which noted that a distinctive characteristic of the site is the spaciousness of the plot and its contribution to the open character of the area and landscape. Policy ENV24 of West Berkshire Local Plan 1991-2006 Saved Policies 2007 seeks to prevent the overdevelopment of sites in the countryside and a material increase in visual intrusion into the countryside. Given this aim and the extent of projects which could otherwise be undertaken by virtue of Class E the restriction of permitted development rights is considered wholly reasonable and necessary, and meets the six tests of appropriateness as outlined in the National Planning Guidance (March 2014).

The proposal therefore fails to comply with guidance contained within the National Planning Policy Framework (March 2012), National Planning Guidance (March 2014), Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), Policy ENV24 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), West Berkshire Council's Supplementary Planning Document Quality Design (Part 2) (June 2006), West Berkshire Council's Supplementary Planning Guidance notes 'House Extensions' and 'Replacement Dwellings and Extensions to Dwellings in the Countryside' (July 2004).