

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2009/2556/MA
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NOTATION:

The site lies within the Metropolitan Green Belt, Landscape Character Area and Wildlife Site, with adjoining Right of Way as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The wider Warrenwood site extends to 24.05 ha. Currently, the wider site includes a partially constructed dwellinghouse and stable block, the footings for a barn (granted permission for agricultural use) as well as a number of buildings that were present at the time of the former dwellinghouse – small stable block and garage, plus post and rail fencing constructed in relation to the stables, ménage etc.

The site is located approximately 2km to the south of the village of Essendon. Access to the site is via Kentish Lane (B158). The application site, to which this proposal relates, 14.57ha of land. It lies on the northern side of Hornbeam Lane, which serves this site, a number of cottages and also forms a public bridleway.

This part of the site comprises the incomplete 20 box stable building. This structure is slightly more advanced (than the partly constructed dwellinghouse) with an unfinished roof but a first floor, together with dormer windows. This building has also not been built in accordance with approved plans. Additionally, post and rail fencing has been provided towards the northern/eastern part of the site.

Within the wider ownership, land comprises:

Agricultural land on the western side of Hornbeam Lane and to the south of this area, a small residential curtilage with permission granted for a replacement dwelling and detached garage block/garden store.

DESCRIPTION OF PROPOSAL:

The proposal seeks the change of use of land to equestrian with associated ménage, rides and landscaping. This is a resubmission of an application from 1999 (372/99) which was granted planning permission, but never implemented.

Post and rail fencing exists to part of the site (predominantly the area to the east and south-east of the stable block), with proposed post and rail fencing to be located around the proposed ménage and proposed pony holding area (shown on the landscaping drawing).

PLANNING HISTORY:

Previously called Meadow Cottage.

S6/1980/64 Two storey side extension - approved 25 Feb 1980.

S6/1984/133 Two storey extension – refused 13 Apr 1984

Re-named Spike Island

S6/1987/841/OP Two storey side extension – approved 20 Nov 1987

S6/1988/1021/DE Two storey side extension with balcony at first floor – approved 28 Nov 1988.

S6/1989/652/OP Demolition of existing house & construction of replacement dwelling – refused 18 Aug 1989. Appeal lodged and upheld 15 Jun 1990.

S6/1993/350/OP Renewal of OP to demolish and build replacement dwelling – approved 08 Jul 1993.

S6/1996/189/OP Renewal of OP to demolish and build replacement dwelling – approved 10 May 1996.

Spike Island and the adjacent land were purchased by Andrew Perryment (Rose Limited) in 1998.

S6/1998/129/AG Barn for general storage purposes in connection with the agricultural use of the land – Determined no objection and no further details required 09 Mar 1998.

S6/1998/291DE Details pursuant to S6/1996/189/OP relating to replacement dwelling – approved 20 Jul 1998.

S6/1998/1132/FP Revised siting of dwelling house approved under S6/1998/0291 – approved 17 May 1999 subject to existing dwelling being removed before commencement of replacement.

S6/1999/372/FP Change of use of land to equestrian with associated ménage, rides and landscaping – approved 09 Aug 1999.

ENF/99/253 – November 1999. 3 x concrete strips laid in west corner of field opposite Spike Island. PCN served leading to:-

S6/1999/993/FP 24 timber loose boxes on concrete bases for equestrian use – refused 04 Jan 2000. Reported to PCC 06 Apr 2000 when enforcement authorised.

S6/2000/387/FP Variation to Cond 5 of S6/1998/1132/FP to allow retention of existing dwelling for 6 months after new dwelling commenced – approved 17 Jul 2000.

Enforcement Notice TP/EN/12/2000 served 22 September 2000 requiring removal of concrete strips. Appeal lodged and new application submitted.

S6/2000/1492/FP Erection of 20 box stable building – refused 05 Jan 2001 but after appeal lodged against non-determination within 8 weeks (Allowed).

S6/2000/1520/FP Variation to Cond 5 of S6/1998/1132/FP to allow retention of existing dwelling for 12 months after new dwelling commenced – approved 29 Jan 2001.

A1037 Appeals against Enforcement Notice and non-determination decision issued 05 July 2001. Notice quashed and permission granted for 3 concrete strips. Permission granted for 20 box stable building.

S6/2001/499/FP Replacement dwelling house (revision of S6/1998/1132/FP) showing additional 12 dormer windows and a basement – approved 27 Aug 2002 subject to condition requiring existing dwelling to be removed prior to commencement of approved replacement.

ENF/01/113 - On 26 Sept 2001 it was reported that a mobile home had been sited on land adjacent to Spike Island and was occupied for residential purposes by Mr Moynihan. Enforcement action was authorised on 14 March 2002. An application for Certificate of Lawfulness was submitted but not determined. The mobile home was removed from the land in 2003 (but was moved to the land where stables were being built).

ENF/03/107 – On 25 April 03 it was reported that earth moving was taking place. Investigations revealed this to be groundwork in respect of the replacement house development.

On 15 Sept 2003 revised details of the siting of the barn showing a 90 degree turn were submitted. On 19 September amended details of the replacement house were submitted. These were approved by letter on 22 September 2003.

ENF/04/009 – On 13 Jan 04 it was reported that the stables building was too high. The officer who inspected thought that the building appeared to be proceeding as approved, although photographs taken at the time reveal that the building is much larger.

ENF/06/071 - On 23 March 2006 it was reported that dormer windows had been inserted in the roof of the stables and that a mobile home was being lived in on the land. Investigations revealed that the building was higher than approved, larger than approved and that a first floor was being installed with dormer windows. The mobile home was being used for residential purposes by Mr Moynihan (unit now removed from the land). However it transpired that legal action was in progress to recover the property and any action should be delayed pending the outcome of the action.

ENF/07/099 - It was noted that the barn was not being built in accordance with the details submitted being a different shape, larger and in the wrong materials. Therefore this could not be the permitted development notified under S6/0129/98/AG and amended by letter dated 22 September 2003.

ENF/07/100 & ENF/07/103 – On 28 March 2007 it was noted that the existing house had not been demolished as required by the condition of the permission (as varied), and it appeared that the replacement house was larger than approved. Furthermore a large pond had been created and the landscaping of the site did not correspond with the details approved.

Property re-named Warrenwood Manor. Re-possessed by Bank May 2008.

S6/2009/2574/FP - Erection of new dwelling, three bay garage block, garden store together with retention and alteration of the existing stables, landscaping and all other ancillary works. Following demolition of partially constructed dwelling, adjoining stables and garage blocks – Approved 18.1.10

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Policy

PPS1: Delivering sustainable development

PPG2: Green Belts
PPS9: Biodiversity and Geological Conservation
PPG13: Transport

East of England Plan 2008
SS1: Achieving Sustainable Development
T14: Parking
ENV7 Quality of Design
ENV2 Landscape Conservation
ENV3 Biodiversity and Earth Heritage

Hertfordshire Structure Plan Review 1991 – 2011:
None

Welwyn Hatfield District Plan 2005:
SD1: Sustainable Development
GBSP1: Definition of Green Belt
R11 Biodiversity and Development
R15 Wildlife Sites
R20 Light Pollution
M14: Parking standards for new developments
D1: Quality of design
D2: Character and context
D8: Landscaping
RA10 Landscape Regions and Character Areas
RA15 Agricultural Land
RA21 Leisure and Tourism in the Countryside
RA24 Riding and Livery Stables
RA25 Public Rights of Way
RA26 Bridleways
RA28 New Development using Rural Roads
Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

CONSULTATIONS

Environmental Health do not object, subject to conditions being attached.
County Rights of Way and Landscaping responded to application S6/2009/2574/FP although not this one. The comments to that application are considered to apply to this proposal.

TOWN/PARISH COUNCIL COMMENTS

Share concerns (with local residents) regarding equestrian use. Hornbeam Lane is not capable of taking the potential traffic a commercial use might bring – use should be restricted to private use.

REPRESENTATIONS

The application was advertised by press and site notices and neighbour notification letters. Two letters of representation were received. Period expired 6th January 2010 raising the following points

How was permission originally granted for stables?
Why has demolition order never been put on it (stable block)?
Why have height restrictions not been put in place?
How has it been allowed with 2 floors?
How has a house been allowed on top?

Spoilt the views and care about (their) land
Additional house (with windows and doors) which is an apparent barn
Why has this building not been given a demolition order?
Hornbeam Lane is not suitable for regular access by horse boxes etc
Should not be for commercial use if granted

DISCUSSION:

The main issues are:

- 1. Impact of the use on the Green Belt**
- 2. Impact of the proposed landscaping (hard and soft)**
- 3. Other Material Planning Considerations**

1. The site is within the Green Belt wherein only specified developments will be permitted. This land has previously been subject to a planning permission (S6/0372/99/FP) for the same proposal, which was granted permission in 1999. Whilst the post and rail fencing has been erected across a large part of the site (which in itself would not require planning permission), it is considered that (due to the history of this site) the equestrian use has never been implemented and hence permission is required if this is to be implemented.

The details, at the time of the 1999 application, was that the owner personally owned a number (string) of polo ponies (as part of a team) and hence the permission previously indicated was for personal use. There is currently not an 'owner' of the site, due to repossession and the need to remarket the site and it will therefore be necessary as part of this application to consider whether the proposed use as a commercial venture would be acceptable, or if, the permission should be non-commercial.

PPG2 identifies that small-scale essential sport and recreational facilities within the Green Belt are appropriate development. Whilst it is not necessarily considered that the proposed area would constitute 'small scale', there is no defined definition of small scale and consideration must be given to the previous approval (Green Belt policy in regard to sport & recreation has not been amended since the previous decision) as well as the Inspector's considerations with reference to the 20 box stable block (S6/2000/1492/FP). The proposed area for the equestrian use and 'rides' is smaller than previously permitted in 2000. Previously rides were shown to be provided on land on the western side of Hornbeam lane, even with an additional parcel of land having been included in this proposal to the very south-east. The proposal is therefore considered acceptable in principle.

Previously permission was granted without a personal use, although the stable block granted on appeal did restrict this building to non commercial livery or riding school. However, due to the scale of the site (and with reference to considerations under planning application S6/2009/2574/FP), it is considered necessary and appropriate to condition this development to non-commercial use and for its use to be in association with the dwellinghouse and stable block as approved under this permission. If permission were sought for commercial livery, riding school or similar use, the intensity of the use would be likely to increase significantly compared to a personal use and may not be appropriate. Additionally, the separation of land may result in pressure for residential accommodation in order to care for the horses. Without these details, it is not possible to properly appraise the proposal – hence the suggested condition.

2. The applicant has submitted a proposed landscaping plan as part of application S6/2009/2574/FP and has agreed that the plan applies to this development.

The proposed rides would be located to the larger area, within the red site outline, and within the area defined by Essendon Brook. This is as previous and considered acceptable. Details have not been provided as to whether surfacing might be changed in this area and a condition is suggested requiring details to be agreed.

The ménage is shown to be grassed and this is acceptable. Just to the north-west of this is the existing site of the barn, to be demolished as part of application (S6/2009/2574/FP) and beyond this an area which has not been identified in terms of its materials – nor the car parking area. To ensure that the surfacing for the car park is acceptable a condition was attached to S6/2009/2574/FP. However, it is possible that only this permission, if granted, might be implemented. It is therefore considered appropriate to request details of proposed materials/surfaces for these areas.

Landscaping commented on application S6/2009/2574/FP, and the views given to that development are considered to also apply to this proposal in relation to proposed mix of landscaping to enhance the visual amenities of the area and also any biodiversity.

The post and rail fences are considered appropriate for this location and minimise any impact upon the openness and are therefore considered acceptable in their existing positions as well as proposed.

3. Biodiversity Minimal physical building works are proposed as part of the development. The measures that are proposed are considered would not impact upon biodiversity (and wildlife site) and is therefore acceptable, subject to a condition preventing lighting. Lighting might also have a detrimental impact on the visual amenities of the Green Belt and the condition should also refer to this within the reason.

Rights of Way – the proposed development is sited to the north of the bridleway and in this regard would not have impact. County Rights of Way commented on S6/2009/2574/FP raising a number of concerns regarding impact to the rights of way in the area. Comments have not been received to this application, however it is considered that their comments apply equally to this proposal. Discussion on S6/2009/2574/FP comprised the following discussion:

County Rights of Way department have objected to the proposal due to a number of problems for the public bridleway, with construction traffic accessing the site severely damaging the bridleway surface and bridge. They state that the surface was repaired but not the bridge and therefore an investigation of the bridge's structural soundness would be needed. Traffic movements would also be a problem on a daily basis with movements of staff, horse boxes and deliveries. This might cause safety issues for walkers, cyclists and horse riders. They also indicate that a number of livery and private stables are within the area that put pressure on the right of way. They state that the additional pressure of the stables proposed could be mitigated by dedicating land within the owners control to public bridleway or financial contribution.

They also comment that any fencing would need to take into account of the width of the footpaths that have been walked. Lastly, they comment on the landscape assessment which indicates that a stile will be erected on one of the footpaths. It

would appear that this stile would be a replacement, however its provision would need consent from County.

A dwelling has historically been on this site and planning permission for both the dwelling and stables, with a greater number of horse boxes, have previously been granted. This is a material planning consideration with this proposal. County have been contacted to query the location of the bridge due to the definitive map not being clear. They have also been asked to justify their response in view of the history of the site as well as not previously seeking contributions.

Rights of Way section have provided details of the location of the bridge, which is just north of the curtilage of number 3 Hornbeam Lane. Details have also been provided of a letter sent to Caledonian Construction Ltd in 2004 querying the construction details for the development and requesting details to prove rights to allow vehicular access over the land. It would appear that a response was not sent to County.

They have questioned details of their response to previous applications and have provided details under which they request s106 monies for development. The document referred to is an internal document, that is understood provides the guidance to County, as to how contributions should be spent. The approved document for requesting funds is the HCC Planning Obligations Toolkit (June 2008). This has not been adopted by the planning authority and, in this instance, due to the 'amount' of development proposed, a figure not being included, nor any clear justification for the monies, it is not considered appropriate in this instance to seek a contribution.

With regards to the stability of the bridge, rights of access over the land and any stile that might be proposed, it is proposed to include a Grampian condition for details to be submitted showing the rights of access (easement), an informative regarding provision of any structure on the right(s) of way and also to provide details regarding the stability of the bridge prior to construction to County Rights of Way.

The same issues apply and it is recommended that an appropriate condition and informative is attached.

Barn – Whilst application S6/2009/2574/FP might not be implemented and thus the condition requiring the demolition of the existing dwelling, (old) stable block, garage, barn and modifications to the stable block would not come in to force, it is considered that due to the barn not having been fully completed (it is up to low brick plinth), that the enforcement 'clock' has not yet commenced and therefore there is no time pressure, in this regard, to secure the demolition of the barn.

It is anticipated that once the site has been marketed and sold that the current unauthorised structures will be demolished or modified (as required). However, if this is not undertaken within a reasonable length of time, enforcement action may be considered.

Horse shelters - these have been shown on the landscaping plans within the 'northern' field. Such structures are not defined as development, within planning law, and therefore permission is not required for their provision.

Environmental Health have requested that a condition is attached for details to be submitted of measures to be undertaken for the disposal of manure and associated products. Additionally, they have suggested that a condition is attached for no

burning of manure of site. This however, falls outside of planning and is suggested to be included as an informative.

Neighbour comments

Comments which have not been addressed within the main body of the report are addressed below:

How was permission originally granted for stables?

The stables are not part of this application and this matter has been addressed under S6/2009/2574/FP

Why has demolition order never been put on it (stable block)?

This matter has been addressed under S6/2009/2574/FP

Why have height restrictions not been put in place?

This matter has been addressed under S6/2009/2574/FP

How has it been allowed with 2 floors?

This matter has been addressed under S6/2009/2574/FP

How has a house been allowed on top?

Not applicable, there is no house 'on top' although the existing unauthorised structure might have this appearance

Spoilt the views and care about (their) land

Planning legislation does not allow for existing views to be protected. It is therefore not possible to uphold this objection through consideration of a planning application.

Additional house (with windows and doors) which is an apparent barn

Permission was granted for an agricultural barn. This has been partly implemented, not in accordance with submitted plans and not to a level whereby it is clearly apparent where both windows and doors might be located. Notwithstanding this, it is proposed to demolish the structure as part of application S6/2009/2574/FP

Why has this building not been given a demolition order?

This matter has been addressed under S6/2009/2574/FP

CONCLUSION:

The proposed development is considered to comply with national, regional and local plan policies and subject to conditions restricting the proposed use of the site to personal use associated with application S6/2009/2574/FP is considered acceptable. Details are required to show the proposed surfacing of certain areas of the site and this is requested by condition.

Rights of Way (County) have objected to the other development, however their objections are considered to also apply to this proposal, although they have not been substantiated. Previous planning approvals on the site represent material planning considerations, such that planning permission should not be withheld, subject to conditions and informatives.

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C.2.1 – Standard time limit
2. C.13.1: Development in accordance with approved plans/details B09018.04A & 541/LP2 received and dated 20 November 2009
3. No removal of trees, scrub or hedges, shall be carried out on site between the 1st March and the 31st August inclusive in any year, unless searched before hand by a suitable qualified ornithologist..

REASON: To protect nesting birds from disturbance under the Wildlife and Countryside Act 1981 (As amended) and PPS9 Biodiversity and Geological Conservation.

4. No external lighting shall be installed within the site

REASON: The site is within the Green Belt wherein lighting would be likely to have a detrimental impact on the character of the countryside and existing ecology within and adjacent to the site which is likely to be an important habitat for biodiversity and might be adversely affected by light pollution in sensitive areas in accordance with PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation and the Wildlife and Countryside Act 1981 (As amended).

5. C.4.1 – Scheme of landscaping (b, e)

6. Notwithstanding the landscaping details that have been submitted with the application, prior to the commencement of the development hereby permitted details shall be submitted showing amendments to the landscape plan, to vary the planting and enhance the landscape and biodiversity value of the site, to the Local Planning Authority for approval in writing. The development shall not be carried out other than in accordance with the approved details.

REASON: The landscaping of the site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with policy D8 and R11 of the Welwyn Hatfield District Plan 2005.

7. C..4.2 – Implementation of landscaping

8. Prior to the commencement of the development hereby permitted, a detailed scheme for the storage and disposal of waste and manure shall be submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that risks from contamination to the users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

9. The use hereby permitted and associated ménage and rides shall only be in conjunction with the residential development and stable block approved under planning application S6/2009/2574/FP and shall not at any time be used for commercial livery or riding school purposes.

REASON: To restrict the use of the building to one compatible with the local area and to minimise the intensity of use of the site in accordance with PPG2: Green Belts and policy RA24 of the Welwyn Hatfield District Plan 2005.

10. Prior to the commencement of the development hereby permitted, details shall be submitted to the Local Planning Authority for approval in writing, showing easement details that give legal rights for vehicular traffic to travel along the Public Bridleway (Hornbeam Lane).

REASON: To ensure that there is a legal right of access for vehicular traffic in accordance with Countryside and Rights of Way Act 2000.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

Reason for Grant of FP/LB/CA/DT/ (**Approvals only**):

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPG2, PPS9 and PPG13 , SS1, T14, ENV7, ENV2 and ENV3 of the East of England Plan 2008 and development plan policies SD1, GBSP1, R11, R15, R20, M14, D1, D2, D8, RA10, RA15, RA21, RA24, RA25, RA26 and RA28 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the Development Plan (see Officer's report which can be inspected at these offices).

INFORMATIVES:

1. No manure shall be burnt on site.
2. Investigation of the bridge along the Public Bridleway should be undertaken to determine its structural soundness prior to commencement of development. A survey to determine the weight and vehicle movement capacity of the bridge should also be undertaken. Details should be submitted to Hertfordshire County Council, Rights of Way department.

Signature of author..... Date.....