

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2010/1763/MA
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NOTATION:

The site lies wholly within the Metropolitan Green Belt and landscape area 53 as defined in the Welwyn Hatfield District Plan Proposals Map. The application site also partly falls within Wildlife Site 205.

DESCRIPTION OF SITE:

The application site comprises an undeveloped area of grass land adjoining the north west boundary of No.40 Firs Wood Close. No.40 Firs Wood Close is one of four individually designed detached houses, constructed in the 1990's. The application site previously formed part of a far larger site known as Hook Kennels which was comprehensively redeveloped for a change of use from a racing association headquarters to residential use following permission granted by application S6/1987/0171/FP. The wider character of the area is rural and features arable fields, pasture fields and woodland.

The site is irregular in shape, long and narrow to the west, widening to the east. At its widest point, the site measures approximately 300m in width. The total site area measures approximately 1.82ha. Access to the site is via No.40 Firs Wood Close to the south west or via a track to the north east leading from Hook Lane.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the erection of a stable building comprising four stables situated on a concrete hard standing. The building would have a footprint measuring approximately 3.8m in depth x 15m in width with a pitched roof approximately 3m in height to the ridge. Externally, the building would be finished in timber shiplap cladding, bitumen shingle roof tiles and timber doors and timber framed windows.

It is proposed to locate the stable building adjacent to the north west site boundary approximately half way along its length. Approximately 120m separation distance would be maintained between the stable building and the site boundary with the residential curtilage of No.40 Firs Wood Close.

PLANNING HISTORY:

S6/1987/0171/FP – Change of use of existing racing assn hq to residential comprising conversion & extensions to form 38 dwellings & car park & 5 detached houses & garages (Granted 31/10/1987)

S6/1993/0837/FP – Erection of one detached dwelling house (revision of S6/1987/0171/FP) (Granted 14/04/1994)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy:

PPS1 Delivering Sustainable Development

PPG2 Green Belts

PPS9 Biodiversity and Geological Conservation

East of England Plan 2008:

SS1 Achieving Sustainable Development

ENV2 Landscape Conservation

ENV3 Biodiversity & Earth Heritage

ENV7 Quality in the Built Environment

Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development

R3 Energy Efficiency

R7 Protection of Ground and Surface Water

GBSP1 Definition of the Green Belt

RA10 Landscape Regions and Character Areas

RA24 Riding and Livery Stables

D1 Quality of Design

D2 Character and Context

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

CONSULTATIONS

None

TOWN/PARISH COUNCIL COMMENTS

Northaw and Cuffley Parish Council – “The PC have no objection.”

REPRESENTATIONS

The application was advertised by site notice and neighbour notification letters. One letter of representation was received from a neighbour which observed that the stable would be better sited nearer the house to allow for closer monitoring of horses. Also electrical and water connections would be shorter.

DISCUSSION:

The main issues are:

1. The suitability of the site for stables in accordance with PPG2 and the criteria outlined in Policy RA24
2. Other Material Considerations

1. The suitability of the site for stables in accordance with PPG2 and the criteria outlined in Policy RA24

The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. Such development should not be approved, except in very special circumstances. Inappropriate development is, by definition, harmful to the Green Belt and it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. Planning Policy Guidance Note 2 Green Belts (PPG2) states that within the Green Belt permission will only be given for erection of new buildings in limited circumstances, including essential facilities for outdoor sport

and outdoor recreation and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it.

In addition Policy RA24 'Riding and Livery Stables' states that planning permission will be granted for small scale riding and livery stables, subject to the following criteria:

- (i) The impact on the Green Belt;
- (ii) The number, size, height and materials of buildings proposed;
- (iii) Their relationship to existing buildings and the surrounding area reflecting the rural character and landscape;
- (iv) Their effect on neighbouring properties i.e. smell and noise
- (v) Their effect on environmental assets such as wildlife habitats; and
- (vi) Consideration of the standards for the safety and comfort of horses; recommended by the Countryside Agency and The British Horse Society.

New residential accommodation needed for the maintenance of the stables will not be permitted.

Proposals will not be permitted unless local roads are able to accommodate the anticipated additional vehicular traffic and links are provided from the site which give riders direct access to the bridleway network where appropriate. The implementation of these requirements will be achieved through the use of planning conditions or Section 106 agreements.

New residential accommodation would not be needed for the maintenance of the stables. It is proposed that the stables are used for the keeping of horses for the private recreational purposes of the owners of No.40 Firs Wood Close which adjoins the application site. In terms of additional vehicular traffic, the proposed development would have minimal impact by virtue of direct access from No.40 Firs Wood Close and the small number of the stables proposed. The north east corner of the site application site benefits from direct access to a bridleway with an easement providing a right of way for vehicles for all purposes connected with the reasonable enjoyment of the site.

The following section of the report will consider the proposal against the six criteria listed above.

- (i) The impact on the Green Belt.

The proposed stables would be sited on an area of grassland that was purchased by the owners of No.40 Firs Wood Close in 1993. The Title identifies the application site as "the paddock" although horses are not currently kept on the site. Historical maps show that buildings were located within the north east corner of the application site prior to the comprehensive redevelopment Hook Kennels granted by application S6/1987/0171/FP. The applicant has suggested these buildings included stables for horses which still existed in 1994, however, there is no evidence to support this and therefore it carries little weight.

The construction of new buildings in the Green Belt is not necessarily inappropriate if they are essential facilities for outdoor sport or outdoor recreation, which preserve the openness of the Green Belt and do not conflict with land in it. PPG2 indicates that 'small stables' are an example of appropriate recreation uses within the Green Belt. Case law has generally established that the scale of stables should be considered in

contextual terms rather than absolute. In relation to the 1.82ha site area, the four stables proposed can reasonably be considered as small scale in this context.

The rearing and riding of horses outdoors is a sport and recreational activity and stables are necessary to support this use, therefore, stables are considered appropriate development in the Green Belt. The applicant has stated the desire to keep their own horses within the confines of their land for pleasure and recreation, readily accessible from their home. The proposed stable building is considered essential in order to support the recreational use of the land for equestrian purposes. PPG2 guidance does not distinguish between commercial and private horse uses, however, it is considered that the proposed use for small scale private recreational purposes, is appropriate in the context of the application site and it would be reasonable to impose a planning condition restricting the stabling of horses for the personal enjoyment of occupiers of No.40 Firs Wood Close.

It has been established that the proposal would be sited on an undeveloped area of grassland. It is acknowledged that any form of development would have some degree of impact on the character and openness of the Green Belt. However, in terms of visual amenity, the impact of the proposed stable building would be minimal. Views of the stable building would be limited by virtue of its location in a narrow field between two areas of woodland which provide effective screening from the surrounding countryside. The stable building is unlikely to be visible from any highway or other public vantage point. Notwithstanding this, there is potential for distant views from the rear gardens of No.38 and No.40 Firs Wood Close and from the field to the north east of the application site. From these areas the stables would appear modest and discrete within their context. It is considered that the proposed stable building would maintain the openness of the Green Belt to an expectable degree and would not have a detrimental effect on the visual amenity of this part of the Green Belt sufficient to warrant refusal of planning permission.

(ii) The number, size, height and materials of buildings proposed

In terms of the number of stables proposed, according to figures from the British Horse Society the application site area of 1.8ha could support approximately four horses. Four stables are proposed, although the applicant has indicated that one of these is to be used for storage of equipment relating to the keeping of horses. It is therefore considered that the application site is extensive enough that horses kept within the proposed stables would be able to exercise or graze on land within in the applicant's ownership.

In terms of size, the proposed stable is a modest building and is considered small scale in relation to the land area. The stable building would feature a pitched roof with eaves approximately 2.1m in height and a ridge height of 3m. It is proposed to finish the stable building with stained timber shiplap cladding, bitumen shingles to the roof, timber doors and timber framed windows. It would be reasonable to attach a planning condition requiring samples of materials to be used in the construction of external surfaces to be submitted to and approved in by the Local Planning Authority. The low height, design and appearance of the proposed stable is considered to be discrete and appropriate for this type of building located within a rural setting.

(iii) Their relationship to existing buildings and the surrounding area reflecting the rural character and landscape

The application site comprises an undeveloped area of grassland featuring a small scattering of mature trees. Land levels are undulating but generally slope downhill in

a north easterly direction. It proposed to locate the stable building adjacent to the north west site boundary approximately half way along its length. The north west site boundary is defined by a post and wire fence beyond which is an area of woodland. Approximately 25m separation would be maintained between the front of the stable building and the site boundary to the south east. This boundary is also defined by a post and wire fence with woodland beyond. The residential curtilage of No.40 and No.38 Firs Wood Close is located to the south west, separated by approximately 120m from the proposed stable building.

Further pasture fields and woodland are located beyond the site boundary to the north east.

(iv) Their effect on neighbouring properties i.e. smell and noise

The proposed stable building is unlikely to result in any impact on the amenity currently enjoyed by the occupiers of neighbouring properties by reason of its proposed location which would maintain approximately 120m separation distance from the nearest residential curtilage.

(v) Their effect on environmental assets such as wildlife habitats

The wooded areas and shrubs that surround the site would remain. The loss of a relatively small area of grassland is unlikely to result in a significant impact of any wildlife habitats.

(vi) Consideration of the standards for the safety and comfort of horses recommended by the Countryside Agency and The British Horse Society

Details have not been submitted with the application with relation to this section of the criteria. However, this application could be subject to appropriately worded conditions to ensure that this would be achieved.

2. Other Material Considerations

Sustainable Development and Energy Efficiency: The applicant has submitted details of how the proposal would contribute towards sustainability in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005. The applicant has indicated within the submitted sustainability checklist that the stables would not impact upon neighbour amenity; would feature south facing windows; a level access and all existing trees would be retained.

East of England Plan 2008: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and
- He failed to consider the likely environmental effects of revoking Regional Strategies

However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill, which is expected to begin its passage through Parliament before Christmas. In the meantime, the policies in the East of England

Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

The application has been considered against policy(ies) in the East of England Plan, which at the time of this decision forms part of the development plan for the borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

Storage and disposal of Horse Manure: Responsible storage and disposal of Horse Manure is necessary to protect the local environment from the harmful affects that 'run off' from manure can have if it is allowed to enter watercourses. Stables should be designed to prevent drainage contaminated with manure from entering any watercourse or drain. Policy R7 of the Welwyn Hatfield District Plan 2005 states that planning permission will not be granted for development which poses a threat to the quality of both surface and/or groundwater. No details of drainage systems or provisions for the storage and disposal of Horse Manure have been submitted. It is therefore reasonable to impose a planning condition requiring a detailed scheme for the storage and disposal of waste and manure to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Protected Species: The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

"a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."

The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- "Deliberate capture or killing or injuring of an EPS"
- "Deliberate taking or destroying of EPS eggs"
- "Deliberate disturbance of a EPS" including in particular any disturbance which is likely –

- (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
- b) If the answer is yes, consider whether the three “derogation” tests will be met.

A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

The area surrounding the application site includes suitable habitat for bats such as fields, hedgerows, woodland and a pond. A known bat roost site is located within approximately 300m of the proposed stable building. HBRC have confirmed that the proposed stable building would not damage or destroy a known bat roost site, however, there is a reasonable likelihood of bats foraging within the immediate locality. Therefore, it is considered appropriate to impose a planning condition to control external lighting to ensure the site continues to be suitable for use by bats which might otherwise be adversely affected by light pollution. As such, it is unlikely that a EPS offence will occur and it is therefore not necessary to consider the Conservation Regulations 2010 further.

CONCLUSION:

The proposals comply with the relevant national policies and guidance, policies within the East of England Plan 2008, the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance (Statement of Council Policy).

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C.2.1 – Time Limit
2. C.13.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details 006 received and dated 26 August 2010

PRE-DEVELOPMENT

3. C.5.1 – Samples of Materials to be Submitted and Agreed
4. 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 R7 of the Welwyn Hatfield District Plan 2005.

POST-DEVELOPMENT

5. The stable building hereby permitted shall only be used for the personal stabling of the horses of occupiers of No.40 Firs Wood Close 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.

6. No external lighting shall be installed within the site or affixed to any buildings on the site.

REASON: To ensure the site continues to be suitable for use by bats. Certain buildings and habitats around the site may be important for bats, which might be adversely affected by light pollution in sensitive areas in accordance with Conservation of Habitats and Species Regulations 2010, PPS9 the Wildlife and Countryside Act 1981 (As amended) and PPS9 Biodiversity and Geological Conservation.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against National Planning Policy PPS1, PPG2, PPS9 Policy SS1, ENV2, ENV3 and ENV7 of the East of England Plan 2008 and development plan policies (i.e. Welwyn Hatfield District Plan 2005 GBSP1, SD1, R3,

R7, RA10, RA24, D1, D2 and Supplementary Design Guidance), 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. Please note, all manure storage areas, in connection with condition 4, shall be suitably sized, and consist of a properly constructed impervious base. All run-off shall be collected in a dirty water system or in a below ground tank. The scheme must include a location plan of the manure storage area which should not be located within 100m from the nearest residential premises. Provisions for controlling pests including flying insects must be included within the scheme.
2. No burning of straw and horse manure shall take place on site; all waste must be removed and taken to a suitably licensed waste site. Please note that small bonfires, consisting of cleared vegetation only, are permitted as long as they do not cause a statutory nuisance to neighbouring properties.

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