

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2010/2189/LB
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NOTATION:

The site lies within the Conservation Area of Old Hatfield as designated in the Welwyn Hatfield District Plan 2005 and the building is designated as Grade II Listed.

DESCRIPTION OF SITE:

The property dates back to the mid 16th Century in parts, and was at one point two houses with a central corridor creating the two units.

Following Listed Building Consent in 1999, some of the partitions were granted permission to be removed to open up the living space. The reason why there are two staircase in the property, however, dates back to these earlier uses.

There are also two chimneys for the same reason, with the one that is the subject of this application being larger than the other, which indicates that it has been added to at a later date.

DESCRIPTION OF PROPOSAL:

The proposal is to rebuild one of the existing staircases by re-using the existing remaining original treads and runners and replacing the metal structure with a new oak framework.

It is also proposed to remove a later addition to the fire place.

A new oak handrail is also proposed to the staircase.

PLANNING HISTORY:

S6/1999/0589/LB - Internal alterations to reveal original structure, and removal of modern partitions – granted 20/09/99

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Policy

PPS1: Delivering sustainable development

PPS5: Planning for the Historic Environment

PPG 14: Development on Unstable Land

East of England Plan 2008

SS1: Achieving Sustainable Development

ENV6: The Historic Environment

Hertfordshire Structure Plan Review 1991 – 2011:
None

Welwyn Hatfield District Plan 2005:
SD1: Sustainable Development

CONSULTATIONS

TOWN COUNCIL COMMENTS

None received

REPRESENTATIONS

None.

Period expired 22/11/10.

DISCUSSION:

The main issues are:

- 1. The impact of the proposed changes on the historic character and fabric of the building.**

PPS5 is relevant.

The current staircase appears to have been significantly altered with a metal frame used to support the remaining 6 oak treads in the top section.

The current design is unsympathetic with the overall historic character of the dwelling and according to the applicant is impractical and unsafe.

The previous LBC (by the same agent, but was not retained to supervise the work) did not grant permission for this alteration, and it appears that this work was carried out by previous owners without LBC.

Notwithstanding this, the current proposal will go some way to reinstate what the original staircase would have looked like and this is considered to be now the most appropriate solution.

At the site visit, it was possible to ascertain the condition of the 6 remaining solid oak steps and the proposal to use the existing vertical face of these (which is in better condition) is a logical approach. The first set of design drawings showed another section of timber being fixed to the top surface of these original steps, but these were thought to detract from the appearance of these and so best avoided.

It was agreed on site that the view of the Building Control Officer would be needed to finalise the finished structure (and surface of the steps), but for the time being, the proposal would be to retain the existing steps in their original condition.

It is clearly unfortunate that the staircase has been changed so significantly in the past, but the overall intentions of this application will be a positive intervention

through the use of replacing steelwork with oak and for the design to replicate that which probably existed previously.

In regards to the fireplace, this has been added to at some point, possibly in the last century. The removal of this to expose the original fireplace is not considered to be an issue. At the site visit it was noted that the left hand side appeared older, and probably formed part of the original wall. The drawings have therefore been amended to show that this element is to be retained.

A new oak handrail is proposed to the staircase. None currently exists, and this would be reasonable to improve the safety of the staircase.

In summary, the proposals are considered to be beneficial to retaining the historic character of the dwelling, but a planning condition requiring a meeting with the Building Control Officer will be needed to discuss the final detailing of the staircase, and possibly any related matters from the proposed changes to the fireplace.

A planning condition requiring the new staircase to be constructed in oak using traditional materials would clarify the approval being granted.

Chalk Mining: The risk assessment for this development, using the tool by Hyder, indicates a very low risk. The application should therefore, in accordance with PPG14, include an informative.

No significant new loading is considered to result from the proposed 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 existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

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 policies 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.

CONCLUSION:

The proposal is considered to comply with PPS5, subject to the following conditions:

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C. 2. 2 3 Year Time Limit (LBC)
- 2.. C.13.2 The development/works shall not be started and completed other than in accordance with the approved plans and details: H1993 received and dated 1st October 20210 & H1993 01 Rev C received and dated 26th November 2010 unless otherwise agreed in writing by the Local Planning Authority:

REASON: To ensure that the development is carried out in accordance with the approved drawings and any changes must be agreed in advance in writing by the Local Planning Authority.

PREDEVELOPMENT

- 3 All joinery to the staircase hereby permitted shall be constructed in oak using traditional joinery methods and the existing wooden original treads are to be retained as shown on the approved drawing.

REASON: To ensure the historic and architectural character of the building is properly maintained, in accordance with PPS5 : Planning for the Historic Environment and Policy ENV6 of the East of England Plan 2008.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement 1& 5 and Planning Policy Guidance Note 14, East of England Plan 2008 Policies SS1 & ENV6 and local development plan policy SD1 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. It is advised that the Local Planning Authority is contacted when a Building Control applications is submitted so that a meeting can be arranged to discuss the compliance of the proposed staircase design.

2. The planning authority has determined the application as very low risk, on the basis of the information available to it but this does not warrant or indicate that the application site is safe or stable or suitable for the development proposed, or that any nearby land is structurally stable. The responsibility for safe and suitable development rests upon the developer and/or land owner and they should take a watching brief during construction for any chalk mines. Should evidence be found, expert advice from properly qualified experts should be sought, to ensure that the historic chalk mining activities in the area will not adversely affect the development. Details should be submitted to the Local Planning Authority for approval.

The planning authority has determined the application on the basis of the information available to it but this does not warrant or indicate that the application site is safe or stable or suitable for the development proposed, or that any nearby land is structurally stable. The responsibility for safe and suitable development rests upon the developer and/or land owner and they should take expert advice from properly qualified experts to ensure that the historic chalk mining activities in the area will not adversely affect the development.

There is a history of chalk mining activity in the Borough which has left voids beneath the ground surface in some areas. The responsibility for every development rests with the developer and /or landowner, and it is recommended that advice is secured from properly qualified experts who can advise on structural stability matters relating to the proposed development. The grant of planning permission or of building regulation approval does not warrant or indicate that the application site is safe or suitable for the development proposed.

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