

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2010/2885/FP
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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.

DESCRIPTION OF SITE:

The application site is located on the south side of The Ridgeway (B157) and consists of a detached dormer bungalow with accommodation in the roof space, front and rear gardens, and an attached single garage. The surrounding area and street scene are semi-rural in character consisting of large detached dwellings of individual design set within which form a ribbon of residential development to the west of Cuffley. North of application site, on the opposite side of The Ridgeway, is Northaw Great Wood which includes a wildlife sites and a Site of Special Scientific Interest (SSSI).

The site measures approximately 92m in depth x 15m in width. The application dwelling is set back approximately 10m from the highway and benefits from a carriage driveway with a large parking area in addition to the single garage. The ground level falls away from the front of the site to the rear boundary, and a rear terrace exists with steps down to the back garden. The rear garden is long and deep with distant views of open countryside in the distance.

The dwelling is finished in painted white render (with red brick corner details) and a plain tiled hipped roof. Like many of the dwellings in the immediate vicinity, the application dwelling has been significantly altered in the past. Previous alterations include a single storey side and rear extension and a loft conversion with flat roofed dormer windows to the sides and pitched roof dormer windows to the front and rear.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the demolition of existing garage and erection of two storey side extension to include a garage, erection of two storey rear extension and alterations to roof to form two additional bedrooms.

The two storey side extension would measure approximately 4.4m in width x 5.7m in depth a would be set back approximately 2.7m from the front elevation of the application dwelling. The extension would be situated forward of an existing side extension, which forms the kitchen, and would project in line with the existing flank elevation. The rear extension would measure approximately 3m in width x 3m in depth and would be situated adjacent to an exiting rear extension.

At first floor level, alterations to the roof are proposed to provide four bedrooms, three en-suite bathrooms and one family bathroom. The roof above the proposed garage would extend over the exiting single storey side extension and would feature a pitched dormer window to the front and rear. It is proposed to extend the main roof

over the existing and proposed rear extensions, the existing flat roofed side dormer would be lengthened and a projecting glass gable feature added to the rear.

PLANNING HISTORY:

S6/2010/2073/PA - Extensions and Alterations (18/10/2010)

Summary of pre-application advice:

Any further extension would only add to the already disproportionate increase in the size of the original dwelling and is therefore unlikely to be considered appropriate. Notwithstanding the fact that the amended scheme has been reduced size and scale, this statement is still applicable. The cumulative increase in floorspace, cubic content and size of dwelling in comparison with the original dwelling, as a matter of fact and degree, would be considerable and substantial.

The visual impact of the current proposal would be appreciably less than that of the previously refused scheme. Even so, it would have a greater bulk than the existing bungalow. The proposed side extension and first floor extensions would increase the presence of the building within the street scene and reduce the gap between the application dwelling and the adjacent dwelling No.69 The Ridgeway. This would result in a reduction of the visual permeability of this group of dwellings.

S6/2010/1065/PA – Extensions and Alterations (14/06/2010)

S6/2009/2677/FP – Erection of Detached Dwelling (Refused 02/03/2010)

Summary of reasons for refusal of planning application S6/2010/2677/FP:

1. The site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The proposed replacement dwelling would materially exceed the size of the original dwelling being replaced as it would be significantly bulkier due to the increase in floorspace and volume. It would also appear a more conspicuous structure and, as a consequence, it would also be more visually intrusive in the countryside to the detriment of the openness, character, appearance and visual amenity of the Green Belt. As such, the proposed development represents inappropriate development and no very special circumstances are apparent in this case to set aside Green Belt policies of restraint.
2. The proposed rear side retaining and privacy walls to the new rear terrace and steps would appear overbearing and so harmful to the residential amenity of the adjoining neighbours at Nos.65 & 69 The Ridgeway due to their excessive height and close proximity to these adjoining properties rear private amenity space. Furthermore, the height of these walls would also significantly impact on the sunlight and daylight to these adjoining rear gardens.

Further Relevant Planning History:

S6/1984/0531/ – Single Storey Rear Extension (Granted 08/10/1984)

S6/1979/0858/ – Loft Conversion (Granted 17/03/1980)

E/989-50 – Extension to Lounge (Granted 19/10/1950)

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

T14 Parking

Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development

R3 Energy Efficiency

GBSP1 Definition of the Green Belt

RA3 Extensions to Dwellings in the Green Belt

RA10 Landscape Regions and Character Areas

D1 Quality of Design

D2 Character and Context

M14 Parking Standards for New Developments

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

CONSULTATIONS:

Hertfordshire County Council (Transportation Planning and Policy) - Do not wish to restrict the grant of permission.

TOWN/PARISH COUNCIL COMMENTS:

Northaw and Cuffley Parish Council – “The PC have concerns that this will be an overdevelopment of the site. It appears to have been greatly extended earlier.”

REPRESENTATIONS:

The application was advertised by site notice and neighbour notification letters. No representations were received.

DISCUSSION:

The main issues are:

1. Impact on the Green Belt
2. The Proposed Development's Impact Upon the Character and Appearance of the Locality
3. The Proposed Development's Impact Upon the Residential Amenity of the Adjoining Occupiers
4. Other Material Considerations

1. Impact on the Green Belt

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. The limited extension, alteration or replacement of existing dwellings is not inappropriate provided that it does not result in disproportionate additions over an above the size of the original building. This advice is reflected in Local Plan Policy RA3(i).

Policy RA3(ii) states that permission for extensions to existing dwellings within the Green Belt will be allowed only where the proposal would not have an adverse visual impact in terms of its prominence, size, bulk and design on the character, appearance and pattern of development of the surrounding countryside.

The main issues are therefore:

1. Whether or not the proposed extensions would amount to inappropriate development in the Green Belt.
2. The effect of the extensions on the openness of the Green Belt, its character and visual amenity.
3. Whether there are any very special circumstances to clearly outweigh the by reason of inappropriateness and any other harm.

Whether or not the proposed extensions would amount to inappropriate development in the Green Belt: Neither PPG2 or Policy RA3 provide specific guidance on assessing the size of a property and there are a number of ways in which an extended property can be compared to an original dwelling in order to assess whether or not an addition is disproportionate. The net total additional floorspace added to the original dwelling is one commonly used indicator, however, each and all other factors, including the proposed additional cubic content, the increase in footprint and any increase in height are also relevant and capable of being taken into account.

The application dwelling has been significantly altered in the past. Previous alterations include a single storey side and rear extension and loft conversion with dormer windows. These extensions comprise a substantial enlargement of the size, over-and-above that of the original dwelling.

Following a review of the planning history, the floorspace of the original dwelling, as it existed in 1947, has been calculated as approximately 115sqm (including the garage). The floorspace of the existing dwelling measures approximately 237sqm, equivalent to a 106% increase over the original dwelling. In terms of footprint, the dwelling has increased from approximately 115sqm to 174sqm equivalent to a 51% increase over the original dwelling.

The size of existing extensions in comparison with the original dwelling, as a matter of fact and degree, are considerable and substantial. It is considered that the dwelling has previously been extended by a disproportionate amount. Consequently, any further extension would only add to the already disproportionate increase in the size of the original dwelling and would amount to inappropriate development in the Green Belt.

Drawings of the existing dwelling have been submitted as part of this full planning application and measurements have been taken from these in calculating the floorspace and footprint figures. This Green Belt Table below provides an overall assessment and summary of the existing and proposed gross floor areas:

	Floorspace (Sqm measured externally of all floors)	Increase over original dwelling	Footprint (Sqm measured externally)	Increase over original dwelling
Original dwelling (including detached garage) (or as at 1948)	115		115	
Existing Dwelling (including garage and covered front porch area)	237	106%	174	51%
This application (including garage and covered front porch area)	346	201%	186	62%

The Council accepts that the application dwelling retains permitted development rights, however, this has no bearing on the issue of inappropriate development in the Green Belt as there is no reference to permitted development rights in either PPG2 or Policy RA3.

The effect of the extensions on the openness of the Green Belt and its visual amenity: There is much variety in the design and bulk of properties on The Ridgeway as many smaller dwellings have been extended or replaced by larger dwellings. The design and appearance of the proposed development would be in keeping with the pattern of development and its scale would be compatible with the character of surrounding area. The proposed extensions would therefore accord with Policy RA3 of the Welwyn Hatfield District Plan.

Notwithstanding the above, PPG2 identifies in paragraph 1.4 that the fundamental aim of Green Belt policy is to keep land permanently open; openness being the most important attribute of the Green Belt. The visual impact of the current proposal would be appreciably less than that of the previously refused scheme. Even so, it would have a greater bulk than the existing bungalow. The proposed side extension and first floor extensions would increase the presence of the building within the street scene and would reduce the gap between the application dwelling and the adjacent dwelling No.69 The Ridgeway. This would result in a reduction of the visual permeability of this group of dwellings. The scale of adjacent buildings does not mitigate this material harm, as such, the proposed development would be contrary to the advice contained in PPG2 Green Belts.

The Planning Statement which accompanies this planning application draws support for the scheme from the fact that neighbouring dwellings have been extended or replaced with larger properties. These permitted developments do not provide a robust justification for a proposal which would cause the harm outlined above and which conflicts with local and national planning policy, in any case, each proposal must be considered on its own merits in the light of the extant development plan and all other material planning considerations.

It is suggested within the Planning Statement that the application dwelling could be extended and that a curtilage building up to 558sqm could be erected without planning consent if full permitted development rights were to be exercised. The planning statement goes on to suggest that permitted development rights could be “waived in return for acceptance of the development proposals”.

Although neither PPG2 or Policy RA3 indicates any tolerance for permitted development rights, they do represent a fallback position that is a material consideration when considering the effect on openness. However, extending the existing dwelling through implementing permitted development would have less perceived impact on openness than the current proposal. Therefore, the prospect of that development taking place attracts limited weight in favour of the proposed development. The possibility of buildings being erected within the garden under permitted development rights does not represent a fallback position of such significance or likelihood that it ought to carry weight in the favour of the development currently proposed, nor does the possibility of imposing conditions to withdraw those rights carry weight, even were such conditions to be reasonable in themselves.

Very Special Circumstances: No very special circumstances have been advanced of sufficient weight to set aside Green Belt policies of restraint.

2. The Proposed Development’s Impact Upon the Character and Appearance of the Locality

Planning Policy Statement 1 Delivering Sustainable Development (PPS1) requires planning authorities to plan for high quality design which is appropriate in its context. Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 respectively require high quality design in all new development and for proposals to respect and relate to the character and context of their location.

As discussed previously in this report, there is much variety in the design and bulk of properties on The Ridgeway. The design and appearance of the proposed development would be in keeping with the pattern of development and its scale would be compatible with the character of surrounding area. The proposed extensions would therefore accord with Policy D1 and D2 of the Welwyn Hatfield District Plan.

3. The Proposed Development’s Impact Upon the Residential Amenity of the Adjoining Occupiers

The extended dwelling would be no deeper than the existing dwelling and the eaves and ridge height would be no higher. The main impact would result from the enlargement of the roof and addition of more dormers.

In regards to sunlight/daylight, the proposal would have no significant impact. The proposal would also not appear unduly dominant or overbearing when viewed from neighbouring properties.

The side dormer windows could potentially overlook No.65 The Ridgeway, therefore, it would be reasonable to impose a planning condition for these windows to be fixed and obscure glazed. It is likely that the windows within the side elevations of the glazed rear gable would increase overlooking to the terraces immediately to the rear of both adjoining properties, therefore, it would also be reasonable to impose a condition requiring these to fixed and obscure glazed. Views from the rear dormer window and the rear facing windows within the glazed gable would predominantly be to the rear garden of the application site. Whilst some additional overlooking to neighbouring gardens may result, this would not be sufficiently harmful to warrant refusal of planning permission. The front dormer windows would look out to the front of the site which is currently open and visible from the highway and footpath so this would have limited impact.

The depth of the proposed rear terrace has been reduced so that it would not be any deeper than the existing terrace. Although it would be extended across almost the entire width of the rear elevation, the proposed terrace would not have a significantly greater impact on neighbour amenity over-and-above the existing terrace. The current proposals therefore overcome reason 2 for refusal of planning application S6/2009/2677/FP.

No letters of representation have been received from neighbours. The proposed development would not result in unacceptable harm to the amenity currently enjoyed by occupiers of neighbouring dwellings in accordance Policy D1 Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

4. Other Material Considerations

Landscape Conservation: Policy RA10 of the Welwyn Hatfield District Plan requires developments to contribute to the landscape character and region. The application site is located with Landscape Character Area 53 where there is a strategy to 'Conserve and Strengthen' the condition and character of the area. The proposal would not have any direct impact upon the local landscape quality of the area and although would not contribute would not be contrary to this policy.

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 extensions would not impact upon neighbour amenity; would maximise the use of rooflight and large south facing windows; all new elements will achieve the required thermal limits and existing walls and windows would be upgraded; were possible second-hand materials would be used; hardstanding to the front would be permeable and existing trees and hedges would be preserved.

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 90m of the application dwelling and there is a reasonable likelihood of bats foraging within the immediate locality. The application dwelling itself is in a poor state of repair and in places the fascias, soffits and bargeboards are rotten which may provide an opening for bats to enter the roof void. No evidence has been submitted with the application to show that the site has been inspected for bats and an appropriate survey undertaken.

The proposed development is likely to involve demolition of the existing roof structure of the application dwelling. The applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species Regulations 2010 9(5) as no appropriate bat survey has been submitted with the application to confirm whether bats are present in the existing roof of the application property. This is contrary to the requirements of Planning Policy Statement 1 (Delivering Sustainable Development), guidance contained in Planning Policy Statement 9 and Circular 06/05 (Biodiversity and Geological Conservation) and policy SD1 (Sustainable Development) of the Welwyn Hatfield District Plan 2005, The Conservation of Habitats and Species Regulations 2010 and The Wildlife and Countryside Act 1981 where there is a reasonable likelihood of European Protected Species being present.

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.

CONCLUSION:

The depth of the proposed rear terrace has been reduced so that it would not be any deeper than the existing terrace. The current proposals therefore overcome reason 2 for refusal of planning application S6/2009/2677/FP. The design and appearance of the proposed development would be in keeping with the pattern of development and its scale would be compatible with the character of surrounding area. Subject to a planning condition requiring fixed and obscure windows within the side dormer and side elevations of the rear gable, the proposed development would not result in unacceptable harm to the amenity currently enjoyed by occupiers of neighbouring dwellings. The proposed extensions would therefore accord with Policy D1 and D2 of the Welwyn Hatfield District Plan.

The application dwelling has previously been extended by a disproportionate amount. Any further extension would only add to the already disproportionate increase in the size of the original dwelling. The extensions would result in a dwelling that would appear as a more prominent structure than the existing dwelling and as a consequence, would have a greater visual impact on the appearance of the surrounding countryside to the detriment of the openness, character, appearance and visual amenity of the Green Belt. As such, the proposed development would be contrary to the advice contained in Planning Policy Guidance Note 2 and would conflict with Policy RA3 of the Welwyn Hatfield District Plan 2005. No very special circumstances have been advanced of sufficient weight to set aside Green Belt policies of restraint.

There is a reasonable likelihood of bats foraging within the immediate locality of the application site. The application dwelling itself is in a poor state of repair and in places the fascias, soffits and bargeboards are rotten which may provide an opening for bats to enter the roof void. No evidence has been submitted with the application to show that the site has been inspected for bats and an appropriate survey undertaken. The applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species Regulations 2010.

RECOMMENDATION: REFUSAL AND REASON (S)

SUMMARY OF REASONS FOR THE REFUSAL OF PERMISSION:

1. The site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The proposed extensions to the application dwelling would result in a disproportionate increase in the size of the original dwelling and so would represent inappropriate development contrary to Policy RA3 of the Welwyn Hatfield District Plan 2005. No very special circumstances have been advanced of sufficient weight to set aside Green Belt policies of restraint.
2. The proposed development would result in the visual amenity of the Green Belt and its perceived openness being harmed as the extended dwelling would appear more prominent than the existing dwelling and would reduce the gap between the application dwelling and the adjacent dwelling No.69 The Ridgeway. As such, the proposals represent inappropriate development contrary to the requirements of Policy RA3 of the Welwyn Hatfield District Plan

2005 and Planning Policy Guidance Note 2 (Green Belt). No very special circumstances have been advanced of sufficient weight to set aside Green Belt policies of restraint.

3. The Local Planning Authority considers that the applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species Regulations 2010 as no appropriate bat survey has been submitted with the application to confirm whether bats are present in the existing roof of the application property. This is contrary to the requirements of Planning Policy Statement 1 (Delivering Sustainable Development), guidance contained in Planning Policy Statement 9 and Circular 06/05 (Biodiversity and Geological Conservation) and policy SD1 (Sustainable Development) of the Welwyn Hatfield District Plan 2005, The Conservation of Habitats and Species Regulations 2010 and The Wildlife and Countryside Act 1981.

INFORMATIVES

None

DRAWING NUMBERS

001 Rev P4 & 006 Rev P6 & 007 Rev P7 & 011 Rev P2 received and dated 30 November 2010

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