

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2011/0491/S73B
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NOTATION:

The site lies within a Conservation Area within the specified settlement of Old Hatfield as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The site is situated on the northern side of Fore Street on an irregular shaped plot.

The property in question is a later C19 addition to a Grade II listed building (8 and 10). No. 6 is a two storey building with a hipped roofline and timbered render at first floor level. No. 8 and 10 dates to early C18 and is constructed of red brickwork with a plain tiled roofline of a hipped roofline. There are flat roof dormer windows within the attic space and sash windows at ground and first floor level.

The street scene contains a number of listed buildings within the vicinity with similar architectural characteristics to No.8 and 10 Fore Street.

DESCRIPTION OF PROPOSAL:

The application seeks listed building consent to replace the existing windows to the front and rear elevations. It is also proposed to replace an existing door to the side elevation.

PLANNING HISTORY:

S6/2008/0206/LB - Replacement of windows to front and rear elevation and replacement door to side elevation – granted 26/3/08

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Policy

PPS1: Delivering sustainable development

PPS5: Planning for the historic environment

PPG14: Development on Unstable Land

East of England Plan 2008

SS1: Achieving Sustainable Development

ENV6: The Historic Environment

Hertfordshire Structure Plan Review 1991 – 2011:

None

CONSULTATIONS

None

TOWN/PARISH COUNCIL COMMENTS

Hatfield Town Council – have not commented to date

REPRESENTATIONS

None.

Period expired 22/04/2011

DISCUSSION:

The main issues are:

1. Whether the Extension to the Time Limit is Acceptable
2. Other Material Considerations

1. Whether the Extension to the Time Limit is Acceptable:

This application is for an extension to the time limit of planning application reference S6/2008/0206/LB for the replacement of windows to front and rear elevation and replacement door to side elevation

The previous application is still relevant apart from any changes identified below in regards to:

- Changes to the surroundings context of the application site or the application site itself
- New planning history
- Changes to planning policy under which the proposal was approved

There have been no significant changes to the application site, surrounding context or planning history. Planning policy has changed with the adoption of PPS5 and the Local Plan Policy R25 not being 'saved'. However, PPS5 for this type of proposal is not significantly different in regards to its intentions and aims and so no new issues arise for this proposal from the adoption of this new national policy which would justify the need of a fresh planning application.

No letters of representation have been received from neighbours or Parish Council. It is considered reasonable that the current planning application should be subject to the same planning conditions as the previous planning application.

2. Other Material Considerations

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. 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.

Chalk Mining: The site is located in an area of Hatfield which is designated as a low risk. The replacement of windows and doors is the type of development which would make negligible difference to the loading of the building. No issues of ground stability are likely therefore to result from this type of proposal and so the development complies with PPG14.

CONCLUSION:

The proposed replacement windows and door to the elevations have been appropriately designed and do not detract from the character and setting of the listed building.

Overall, the proposal complies with PPS 1, 5 & PPG14, East of England Plan 2008 Policies SS1& ENV6 and Local Plan Policy SD1.

RECOMMENDATION: LISTED BUILDING CONSENT WITH CONDITIONS

CONDITIONS:

1. C.2.2 – Time limit for Listed Buildings
2. C.13.1 – Development shall be built in accordance with the approved plans – ‘survey’ (only with regard to site Location Plan) & ‘As Proposed’ (showing proposed 1:100 proposed elevations) – received and dated 31/01/08

PREDEVELOPMENT

3. C.5.1 – Samples of materials
4. Prior to any building works first commenced, detailed drawings of the new and/or replacement windows including a section of the glazing bars and frame moulding (if applicable), which it is proposed to install, clearly showing the position of the window frame in relation to the face of the wall, depth or reveal, arch and sill detail shall be submitted to, and approved in writing by the Local Planning Authority.

REASON: To ensure the historic and architectural character of the buildings is properly maintained, in accordance with Planning Policy Statement 5 (Planning and the Historic Environment).

5. Prior to any building works first commenced, detailed drawings including section, showing the new and/or replacement doors which it is proposed to install, together with a detailed description or specification, shall be submitted to, and improved in writing by the Local Planning Authority

REASON: To ensure the historic and architectural character of the building is properly maintained, in accordance with Planning Policy Statement 5 (Planning and the Historic Environment).

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS5 & PPG14, 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, at the time of this decision 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:

None

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