

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2011/0833/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 southern side of Shepherds Way, some 90m east of the junction with Great North Road (A1000) and comprises a semi-detached two storey dwelling with a rear garden and a gravel parking area to the front. The character of the surrounding area is rural and features fields, areas of woodland and a large pond. The site is irregular in shape measuring approximately 60m in length along the site frontage with Shepherds Way, 5m in depth to the west boundary and 16m in depth to the east boundary. The application dwelling is orientated so that the front elevation faces west and the flank elevation faces Shepherds Way. At its closest point, approximately 4m separation distances exists between the application dwelling and the site frontage to Shepherds Way. The boundary to the side and rear is defined by a close boarded fence approximately 1.8m in height. The application dwelling is believed to date from the late 19th Century and features a gable roof, a single storey extension to the rear and a porch extension to the front. Externally the application dwelling is finished in yellow stock brick, a plain tiled roof with timber soffits and fascia boards, replacement windows and doors.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the erection of a part two storey, part single storey side extension. The two storey side extension would measure approximately 8.6m in depth and up to 4m in width. The extension would project along the full length of the existing flank elevation and continue the ridge, eaves and pitch roof the main roof. A further single storey extension, measuring approximately 4m x 3m, would be situated to the rear of the proposed two storey element and adjoin an existing single storey rear projection. A replacement porch measuring approximately 1.9m x 1m is also proposed. The extensions would be finished in materials to match the existing dwelling.

PLANNING HISTORY:

S6/2001/0121/FP – Two storey side extension (Granted 22/01/2001)
S6/1993/0796/FP – Single storey rear extensions (Granted 08/12/1983)
S6/1991/0639/FP – Single storey side extension (Granted 22/11/1991)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy:
PPS1 Delivering Sustainable Communities
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:
GBSP2 Towns and Specified Settlements
SD1 Sustainable Development
R3 Energy Efficiency
RA3 Extensions to Dwellings in the Green Belt
RA10 Landscape Regions and Character Areas
D1 Quality of design
D2 Character and context
Welwyn Hatfield District Plan, Supplementary Design Guidance, 2005

CONSULTATIONS

Hertfordshire County Council Transportation Planning and Policy: Do not wish to restrict the grant of permission

Landscape and Ecology: No objection

TOWN/PARISH COUNCIL COMMENTS

North Mymms Parish Council: "this site is within the Green Belt so proposed extension should comply with Green Belt policies."

REPRESENTATIONS

The application was advertised by site notice and neighbour notification letters. One representation was received from North Mymms District Green Belt Society stating that this property is in the Green Belt and the extensions should conform to PPG2.

DISCUSSION:

The main issues are:

1. Impact on the Green Belt
2. Quality of Design and Impact on the Character of the Area
3. Impact on the Residential Amenity of Neighbouring Properties
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 and 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.

Policy RA3 is also applicable to those outbuildings which require planning permission.

The main issues are therefore:

1. Whether or not the proposed extension would amount to inappropriate development in the Green Belt.
2. The effect of the extension 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 extension 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 previously benefited from a single storey rear extension and the erection of a porch to the front. Following a review of the planning history, the floorspace of the original dwelling, as it existed in 1947, has been calculated as approximately 92sqm. The floorspace of the existing dwelling measures approximately 119sqm, equivalent to a 29 percent increase over the original dwelling. In terms of footprint, the dwelling has increased from approximately 53sqm to 80sqm equivalent to a 51 percent increase over the original dwelling.

The proposed extensions would result in a total floorspace of approximately 193sqm which is equivalent to a 110 percent increase over the original dwelling. The footprint would increase to 123sqm which is equivalent to a 132 percent increase over the original dwelling (refer to historic drawings on this file). This level of increase is considered to be disproportionate. Furthermore, the increase in the height, cubic content and size of dwelling in comparison with the original dwelling, as a matter of fact and degree, would be considerable and substantial. Therefore, it is considered that the proposed extensions 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. The 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 (or as at 1948)	92		53	
Existing Dwelling (not including garage or outbuildings)	119	29%	80	51%
This application	193	110%	123	132%

The effect of the extension on the openness of the Green Belt and its visual amenity: 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. Policy RA3 of the Welwyn Hatfield District Plan requires extensions not to have an adverse visual impact on the character, appearance and pattern of development in the surrounding countryside.

In terms of the effect of the extension on the openness of the Green Belt, the proposed increase in volume would materially increase the bulk and mass of the dwelling thereby reducing the openness of the Green Belt. Due to the orientation and the close proximity of the application dwelling to the highway at the side of the site, the two storey extension would be highly visible from viewpoints travelling along Shepherds Way. The increase in bulk and massing at a high level would result in more prominent structure than the existing dwelling and a reduction in the openness of its immediate surroundings. The proposed development would, therefore, have an adverse visual impact on the appearance of the surrounding countryside to the detriment of the openness, character and visual amenity of the Green Belt contrary to PPG2 and Policy RA3.

It is acknowledged that the dwelling adjoining the application site, No.2 The Cottages, has benefited from a two storey side extension and a single storey rear extension not dissimilar in size to development currently proposed. Planning permission for the extension at No.2 was granted on 9 August 1993 under reference S6/1993/0320/FP, therefore predates the current development plan. Each proposal must be considered on its own merits in the light of the extant development plan and all other material planning considerations. The scale of the extension to No.2 does not provide robust justification for a proposal which would cause the harm outlined above and which conflicts with local and national policy.

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

2. Quality of Design and Impact on the Character of the Area

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.

The design and appearance of the proposed extension would adequately reflect the existing dwelling in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan and Supplementary Design Guidance 2005 (Statement of Council Policy).

3. Impact on the Residential Amenity of Neighbouring Properties

The proposed extension would not have a significant impact on neighbouring occupiers by virtue of separation distance and orientation. No representations have been received from neighbours and North Mymms Parish Council did not comment. 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

Parking Provision and Impact on the Highway: Parking Standards 2004 identifies the appeal site as within Zone 4. Residential dwellings with four or more bedrooms located within Zone 4 require three car parking spaces (expressed as a maximum). Following a Ministerial announcement made on 3 January 2011, the Government has published an amendment to PPG13 to better reflect localism (para 49, 51, 54 and 56). The Government's position on parking standards is that local authorities are best placed to take account of local circumstances and are able to make the right decisions for the benefit of their communities. As such, the central requirement to express "maximum" parking standards for new development has been deleted. Local authorities will still need to set parking standards for their areas, but it will be for them to determine what that standard should be, depending on individual circumstances.

In light of the above, development proposals should be considered on their individual merits depending on individual circumstances. The existing parking area to the front of the site provides three parking spaces. No alterations are proposed to the site access. The development and would not have an unreasonable impact on the safety and operation of the adjoining highway in accordance with PPG13.

Sustainable Development: 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 extension would not impact upon neighbour amenity; the extension will be insulated to current building regulation requirements; second-hand materials would be used for the roof; dual flush toilets would be installed to reduce water consumption; no mature trees or hedges would be removed.

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 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.

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 wildlife site is located approximately 100m north of the application dwelling and there is a reasonable likelihood of bats foraging within the immediate locality. The application dwelling itself is of pre-1914 origins and the condition of the roof area suggests it might be possible 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 works to 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.

CONCLUSION

The cumulative increase in size of the application dwelling resulting from the proposed extensions is considered disproportionate over and above the size of the original building and therefore inappropriate development within the Green Belt contrary to PPG2 Green Belts the first criterion of Policy RA3. The increased bulk and massing at a high level would result in a significantly more prominent structure and a reduction in the openness of its immediate surroundings contrary to PPG2 Green Belts and the second criterion of Policy RA3.

There is a reasonable likelihood of bats foraging within the immediate locality of the application site. The application dwelling is of pre-1914 origins and the condition of the roof area suggests it might be possible for bats to enter the roof void. The proposed development is likely to involve works to the existing roof structure of the application dwelling. 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 proposed extensions would result in a disproportionate increase in the size of the original dwelling that would fail to appear as a limited extension to the dwelling. Furthermore, the proposed development as a result of its prominence, bulk and design would significantly diminish the openness of this part of the Green Belt to the detriment of the character of the area. The proposal is therefore inappropriate development within the Green Belt where the applicant has failed to prove to the satisfaction of the Local Planning Authority, that the harm, by reason of its inappropriateness is outweighed by other considerations contrary to the requirements of Policy RA3 of the Welwyn Hatfield District Plan 2005 and Planning Policy Guidance Note 2: Green Belts.
2. 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

REFUSED DRAWING NUMBERS

1:1250 Site Location Plan & 1:500 Block Plan & 2101/2 & 2101/3 received and dated 10 May 2011

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