

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2011/1617/FP
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NOTATION:

The site lies within the Metropolitan Green Belt and Landscape Character Area 51 as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The application property comprises of a church, which was formerly known as St Mark's Church, and is now used by the Greek Orthodox Community as a church following planning permission granted in 1998.

It is located on the northeast corner of Kentish Lane and Woodfield Lane and is accessed from this junction and also from a second point further along Woodside Lane.

The church is not a Listed Building, but probably dates from the Victorian era and is an attractive flint finished building with red brick and stone detailing under a plain tile pitched roof. The church is set back from the highway with parking to the front.

The location of the proposal is the boundary which adjoins Woodfield Lane and is close to the junction with Kentish Lane. This boundary of the application site is set back from the edge of the highway and currently has a flint wall which adjoins the parking area. There exists no pavement along this section of the highway as there is only a soft verge, with mature trees spaced along its length and in front of the existing subject wall.

This existing wall has collapsed in a couple of locations and a close boarded fence has been constructed to close the gaps.

DESCRIPTION OF PROPOSAL:

The application seeks full planning permission for a new boundary treatment along Woodfield Lane which borders the existing car parking area to Twelve Apostles Church.

The existing boundary treatment comprises of a flint wall with a red brick wall which is approximately 1.3m high.

It is proposed to demolish this and replace it with a new boundary wall supported with intermediate piers of approximately 1.25m high spaced at 4m intervals.

The wall between the piers is to be constructed of red brick to match the existing church with brick copings to be salvaged from the existing wall.

The piers are to be formed from the same red brick, but with flint infill panels in the shape of a cross. The flints are also to be salvaged from the existing wall. The tops of the piers are also to use the same re-used copings to match the walls.

The existing entrance and exit gates are to remain along with the supporting piers.

PLANNING HISTORY:

S6/2010/134/FP - Replacement fencing to boundary – Refused 31/03/10

S6/2008/0819/FP – Installation of sewage works – granted 17/7/08

S6/2006/0054/FP - Erection of single storey extension to priests office – Refused 13/03/06

S6/2005/0306/FP – Retention of Land to use as car parking – granted 11/05/05

S6/2001/1520/FP – Erection of Outbuilding After Demolition of Existing Shed - granted 14/1/02

S6/1999/490-/FP – Extension to form kitchen and toilets –granted 22/10/99.

S6/1998/917/FP – Extension to existing church – granted 11/12/98

S6/1998/419/FP - Change of use from residential training centre to church use, and construction of 27 car parking spaces – granted 28/8/98

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy:

PPS1 Delivering Sustainable Communities

PPG2 Green Belts

PPG13: Transport

East of England Plan 2008:

SS1 Achieving Sustainable Development

ENV7 Quality in the Built Environment

Hertfordshire Structure Plan Review 1991 – 2011:

None

Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development

GBSP1 Definition of the Green Belt

RA10 Landscape Regions and Character Areas

D1 Quality of Design

D2 Character and Context

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

CONSULTATIONS

None

TOWN COUNCIL COMMENTS

Hatfield Town Council: no comments received.

REPRESENTATIONS

This application has been advertised by neighbour letter and site notice.

No comments have been received. Period 21/9/11

DISCUSSION:

The main issues are:

- 1. Green Belt Policy**
- 2. The impact of the proposal on the character of the existing church and surrounding area.**
- 3. Other Matters**

1. Green Belt Policy

Planning Policy Guidance Note 2 (Green Belts) is relevant.

Paragraphs 1.4 & 3.1 of PPG2 indicate that the most important attribute of the green belt is its openness and that there is a general presumption against inappropriate development in the green Belt. Such development should not be approved except in very special circumstances. Paragraph 3.4 of PPG2 points out that the construction of new buildings inside a green belt is inappropriate, subject to particular exceptions.

Guidance to whether a new boundary treatment can be considered to be a new building in PPG2 does not exist within this policy document, and so it is up to the decision maker to make a planning judgement. In previous appeal decisions in this Borough on other sites, a view has been taken that boundary treatments can be considered to represent new buildings. Although the particular circumstances of each case must be taken individually, the size of the proposed wall in this application at a length of around 45m is such that it would be reasonable to consider it to be a new building also in this case.

As the proposal does not fall within Paragraph 3.4 of PPG2 which lists a number of purposes where development is not inappropriate, the development would be inappropriate by definition in the Green Belt.

Very Special Circumstances

Paragraph 3.2 indicates that 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.

The previous design and access statement advised that the wall is in poor condition and is falling over in places and could be considered to be a health and safety hazard.

It was accepted in the previous application (S6/2010/134/FP) that the existing wall is in need of urgent repair as it has collapsed in a couple of places. It was also considered that there was an opportunity for some of the materials to be salvaged.

In this application the design has been significantly amended so that the appearance is much more in keeping with character of the church and will reflect the character of the original wall which is to be replaced. The applicant has also taken note of the Council's view that some of the materials can be re-used.

These matters along with the poor stability of the existing wall are now considered to represent very special circumstances that outweigh the harm to the openness of the Green Belt.

Very special circumstances therefore exist.

Visual Amenity

In regards to paragraph 3.15 it is also necessary to consider the impact on the Visual Amenity of the Green Belt.

Due to the reduced height and improved design of the wall compared to the previous application the impact on the visual amenity of the Green Belt is no longer viewed as being harmful. The visual amenity of the area and Green Belt would therefore not be harmed by the proposal.

2. The impact of the proposal on the character of the existing church and surrounding area.

Policy D1 & D2 re relevant along with Policy RA10.

In regards to Policy D2, the proposal also has to relate to its immediate context and surrounding area.

This revised proposal is considered to be a significant improvement over the previous scheme.

The design is using materials which already on the site and the overall scale and height is similar to the current wall.

The quality of design shows detailing with flint infill panels and copings which are also appropriate to this location.

Overall the design complies with Local Plan Policy D1 & D2.

Conclusion

The proposal is considered to represent inappropriate development in Green Belt Policy, however, very special circumstances are considered to exist.

The proposal would not harm the visual amenity of the Green Belt.

The proposal would also comply with Policy D1 & D2 and RA10 as it would be in character with the surrounding area and landscape.

4. Other Matters

Highways: The Highway Authority have no objection to the proposal but do request that the applicant does contact Herts Highways in regards to any requirements they may have with regard to work adjacent to the highway.

An informative can be added to any permission to bring this to the attention of the applicant.

Landscaping : The Councils Landscape Service has requested that any new trenches are hand dug which are close to the existing mature trees on the adjacent highway verge and that there is no storage of materials or washing of tools underneath them.

A planning condition can secure this requirement.

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.

RECOMMENDATION: APPROVAL AND CONDITIONS

CONDITIONS

1. C.2.1 3 Year Time Limit
2. C.13.1: Development in accordance with approved plans/details: 1:1250 Site Location Plan & SK/01A & SK/02A received and dated 28 July 2011.
- 3 The brickwork, flints, bond, mortar, and detailing of the approved wall and piers shall match the existing church, unless otherwise approved in writing by the Local Planning Authority. Brick copings and flints of the existing wall to be replaced are to be re-used and if any additional copings and flints are required these are to be matching in appearance.

REASON; To ensure a satisfactory standard of development in the interests of visual amenity of the Green Belt and surrounding area in accordance with Policies GBSP1, D1 and D2 of the Welwyn Hatfield District Plan 2005 and Planning Policy Guidance Note 2 (Green Belt).

4. Any trenches that are dug for the new wall and piers close to the existing trees on the adjacent highway verge are to be hand dug to prevent any mechanical damage to their roots. No stacking of deliveries, vehicular skip storage or washing of tools under the canopies of these trees is permitted.

REASON: The protection of these trees is important to maintain the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPG2 & PPG13 East of England Plan 2008 policies SS1 & ENV7 and local development plan policies SD1, GBSP1, RA10, D1 & D2 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:

- 1. Hertfordshire County Council Transportation Planning and Policy has requested that the applicant contacts Hertfordshire Highways regarding any requirements there could be with regards to work adjacent to the highway.

Signature of author.....

Date.....