

**WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL  
DELEGATED REPORT**

<b>APPLICATION No:</b>	<b>S6/2011/2323/FP</b>
<b>APPLICATION Site:</b>	<b>171 Cunningham Avenue</b>

**NOTATION:**

This site is located within the town of Hatfield as defined in the Welwyn Hatfield District Plan Proposals Map.

**DESCRIPTION OF SITE:**

The application site is situated on the north side of Cunningham Avenue. The application property as originally constructed comprised of a single garage and a private entrance door at ground floor level with stairs leading to accommodation at first floor. The garage has since been converted to provide habitable accommodation. The first floor accommodation extends over two adjoining garages (not within the applicant's ownership) and the access road to the parking court. The application property benefits from a single parking space situated in front of the garage. The application property does not benefit from any external private amenity space but does include the grass verge frontage along Cunningham Avenue which and a narrow strip of land between the west elevation of the application building and the adjacent garage.

The application property as originally approved in October 2003 under reference S6/2003/0957/DE comprised of a two bedroom property. Subsequent internal alterations were made to form three a bedroom property without the benefit of planning consent. Details of the alterations are shown in the notes section of the submitted drawings. These notes include point C dated 05/03/07 which states *"Amended to Investor Property. Partition inserted in Bed 1 to create additional Bed 3."* Retention of the garage conversion would further increase the habitable accommodation provided within the application dwelling with the potential to create a four bedroom house.

**DESCRIPTION OF PROPOSAL:**

This application seeks full planning permission for retention of change of use of garage to habitable accommodation and provision of cycle storage and bin store. The garage door has been relocated forward within its frame and fixed in place. A wall has been built on the inside of the garage door and an internal door provides access from the porch. It is proposed to erect a gate between the flank wall of the application building and the adjacent garage to the west to provide a secure storage area for cycles and refuge. Planning permission is required as the application property is not a dwellinghouse and therefore does not benefit from permitted development rights.

**PLANNING HISTORY:**

S6/2009/2746/FP – Change of use from garage to habitable accommodation and change of use from amenity land to cycle storage and car parking (Refused 09/02/2010)

Summary of reasons for refusal of planning application S6/2009/2746/FP:

1. The loss of soft landscaping to provide further parking would be detrimental to the visual amenity and character of the area.
2. The intensification of uses of the site would add to the parking pressures within the vicinity and consequently would exacerbate the existing problems of inconvenience and danger to road users and damage to grass verges and landscaped areas.

S6/2009/1065/FP – Change of use from garage to habitable accommodation (Refused 06/10/2009)

S6/2003/0957/DE – Residential development of 322 dwellings and associated infrastructure (works pursuant to outline approval S6/1999/1064/OP) (Granted 23/10/2003)

S6/1999/1064/OP – Demolition of existing (unlisted) buildings, removal of runway and other hard standing areas and redevelopment for the following purposes: as a business park comprising uses within use class B1, B2, B8 and sui generis use; housing; new university campus (use class D1 and D2) to include replacement De Havilland sports and social club and associated playing fields; two hotels; primary school and associated facilities; district centre; works of conversion to enable recreation use of existing listed hangar; aviation heritage centre. Together with associated highway, transport and service infrastructure (including a strategic transport corridor), landscaping and open space, diversion of Ellenbrook. Means of access to be determined (Granted 29/12/2000)

#### **SUMMARY OF DEVELOPMENT PLAN POLICIES:**

National Planning Policy:

PPS1 Delivering Sustainable Communities  
PPS9 Biodiversity and Geological Conservation  
PPG13 Transport

East of England Plan 2008:

SS1 Achieving Sustainable Development  
ENV3 Biodiversity & Earth Heritage  
ENV7 Quality in the Built Environment  
T14 Parking

Welwyn Hatfield District Plan 2005:

GBSP2 Towns and Specified Settlements  
SD1 Sustainable Development  
R3 Energy Efficiency  
D1 Quality of Design  
D2 Character and Context  
M14 Parking Standards for New Development  
IM2 Planning Obligations

Welwyn Hatfield District Plan, Supplementary Design Guidance, 2005

**CONSULTATIONS:**

Hertfordshire County Council Transportation Planning and Policy Department do not wish to restrict the grant of permission.

**TOWN/PARISH COUNCIL COMMENTS:**

Hatfield Town Council – No response (consultation expired 06/01/2012)

**REPRESENTATIONS:**

The application was advertised by neighbour notification letters. One representation was received objecting to the number of rental properties in the area, the lack of regard for recycling and presenting rubbish and the lack of regular maintenance of the property and amenity areas.

**DISCUSSION:**

The main issues are:

1. Impact on the Character of the Area
2. Impact on the Residential Amenity of Neighbouring Properties
3. Parking Provision and Impact on the Highway
4. Other Material Considerations

**1. Impact on the Character of the Area**

National Planning Policy Guidance PPS1 Delivering Sustainable Development requires planning authorities to plan for high quality design which is appropriate in its context. Planning authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. 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 original garage door has been retained, albeit relocated forward within its frame and fixed in place. This has not resulted in any harm to the visual amenity of the application building or the character of the area. The development adequately maintains the character of the area in accordance PPS1, Policy SS1 and ENV7 of the East of England Plan 2008 and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

**2. Impact on the Residential Amenity of Neighbouring Properties**

The development would have no impact on the light or privacy that is afforded to neighbouring residents. The conversion of the garage to a habitable room would not result in additional noise generation beyond what would be expected as reasonable noise within a residential environment. In terms of impact on residential amenity, the proposal complies with PPS1, Policy SS1 and ENV7 of the East of England Plan 2008, Policy D1 and D2 of the Welwyn Hatfield District Plan and Supplementary Design Guidance, February 2005 (Statement of Council Policy).

### 3. Parking Provision and Impact on the Highway

The Hatfield Aerodrome Supplementary Planning Guidance, 1999 (SPG) identifies a parking requirement of 2 spaces for a 2-3 bedroom dwelling or 3 spaces for 4 bedroom dwelling (expressed as a maximum). 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. In this case, the application property originally benefited from two car parking spaces including the garage space. This level of parking provision was in accordance with the requirements of the SPG. The conversion of the garage to habitable accommodation has resulted in the loss of one parking space. It is not known how the applicant proposes to use the habitable accommodation, however, there is a likelihood that the conversion of the garage would provide for an additional bedroom resulting in a four bedroom dwelling with one car parking space. Notwithstanding the uncertainty regarding the use of the converted garage, it is considered that the intensification of the use of the site, together with the loss of a parking space would add to the parking pressures within the vicinity and consequently would exacerbate the existing problems of inconvenience and danger to road users and damage to grass verges and landscaped areas. This would set an undesirable precedent for similar future developments which would be likely to further increase the stress on parking provision within the locality. The application, therefore, fails to comply with PPG13, Policy T14 of the East of England Plan 2008, Policy M14 of Welwyn Hatfield Council District Plan 2005 and Aerodrome Supplementary Planning Guidance, 1999.

The applicant proposes to enter into a legal agreement to covenant that neither he nor any of the residents of the property will apply for more than two residential parking permits to allow the parking of a motor vehicle within the controlled park zone operating in the locality within which the property is situated.

The parking permit scheme within the vicinity of the application site is operated privately and the neither Welwyn Hatfield Borough Council nor the County Council are considering taking control of the scheme at this time. As a result there is no guarantee that the controlled park zone will continue to operate indefinitely. In the event that the parking controlled park zone ceases to be enforced in the future, there would be no mechanism to restrict the number of vehicles associated with the occupation on the application property. If at some point in the future Welwyn Hatfield Borough Council were to operated a parking permit scheme within the area it would have to be a fair and equitable scheme and it may not be appropriate to single out individual properties or occupiers and apply specific restrictions on them.

The Council also have to consider the application on the basis of how in practical terms the number of parking permits issued to occupiers of the application property would be monitored and enforced to ensure compliance with the proposed legal agreement. In this case the legal agreement would require the planning department to monitor the number of parking permits issued to the application property indefinitely. It remains unclear how this would be achieved in practical terms. The

proposed head of terms is not considered sufficiently robust to allow the Council to enforce the proposed restriction on parking permits.

Notwithstanding the above, the applicant is proposing that neither he nor any of the residents of the property will apply for more than two residential parking permits. This would permit the parking of one vehicle in front of the garage which does not require a permit and two further vehicles on the street. This level of on-street parking would be unacceptable and contrary to the aims and objectives of PPG13, Policy T14 of the East of England Plan 2008, Policy M14 of Welwyn Hatfield Council District Plan 2005 and Aerodrome Supplementary Planning Guidance, 1999.

#### **4. Other Material Considerations**

**Private Amenity Space:** The application property as originally approved in October 2003 under reference S6/2003/0957/DE comprised of a two bedroom property. Subsequent internal alterations were made to form three a bedroom property without the benefit of planning consent. Details of the alterations are shown in the notes section of the submitted drawings. These notes include point C dated 05/03/07 which states *“Amended to Investor Property. Partition inserted in Bed 1 to create additional Bed 3.”* Retention of the garage conversion would further increase the habitable accommodation provided within the application dwelling potentially creating a four bedroom house. As a result the amount habitable accommodation available would be significantly beyond what was initially intended for the site. The application dwelling does not benefit from any private amenity space. Policy D1 and the Supplementary Design Guidance do not give specific dimensions but require private amenity space to be appropriate for the location and function. A three or four bedroom house could reasonably be considered a family home and therefore providing no private amenity space would fail to comply with Policy D1 of the District Plan and Supplementary Design Guidance February 2005 (Statement of Council Policy).

**Cycle store:** Supplementary Planning Guidance (SPG) on Parking Standards identifies a requirement for a minimum of one long term cycle storage space per dwelling in no garage or shed is provided. The proposed development includes provision of secure cycle storage in accordance with SPG.

**Bin Storage and Recycling Facilities:** It was evident from the site visit that a general lack of bin storage within the vicinity has lead to refuse being left outside properties including the application dwelling. Bin storage could have been provided within the existing garage/utility area before the garage was converted. An increase in habitable accommodation may result in increased household waste in addition to the loss of existing storage. The proposed development includes the erection of a gate between the flank wall of the application building and the adjacent garage to the west to provide an area for recycling and refuse storage which is acceptable.

**House in Multiple Occupation (HMO):** There are particularly high concentrations of HMOs in Hatfield and in particular within the redeveloped former Hatfield Aerodrome site (known as Salisbury Village). This high concentration is changing the character of parts of Hatfield which can have a detrimental effect on neighbouring residents and the wider local area. A key national housing objective is the creation of mixed, sustainable and inclusive communities, which contain a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The presence of a

high concentration of HMO's in areas of Hatfield results in a lack of mix and imbalance within local communities, is not inclusive and does not create sustainable communities.

The Council made an Article 4 Direction covering Hatfield on 11 January 2011. Following public consultation, the Article 4 Direction was confirmed on 14 April 2011 and came into effect on 12 January 2012. The Article 4 Direction requires planning permission for a change of use from a dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) from 12 January 2012. It does not affect existing Houses in Multiple Occupation within Hatfield.

The issue as to whether or not the conversion of the garage to habitable accommodation has resulted in a change of use of the application property to a House in Multiple Occupation is a separate matter to be investigated by the Council's Planning Enforcement Team.

**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 proposal would make use of previously developed land; minimise water consumption through use of water efficient fixtures and fittings; include facilities for storage of waste and recycling; and avoid the use of unsafe building materials.

**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. 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, however 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 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 proposal fails to comply with PPS1, PPG13, Policy T14 of the East of England Plan 2008, Policy D1, D2 and M14 of the Welwyn Hatfield District Plan 2005 and the accompanying Supplementary Design Guidance, 2005 (Statement of Council Policy).

**RECOMMENDATION: REFUSAL AND REASON (S)**

**SUMMARY OF REASONS FOR THE REFUSAL OF PERMISSION:**

1. The intensification of the use of the site, together with the loss of a parking space would add to the parking pressures within the vicinity and consequently would exacerbate the existing problems of inconvenience and danger to road users and damage to grass verges and landscaped areas. This would set an undesirable precedent for similar future developments which would be likely to further increase the stress on parking provision within the locality. The application, therefore, fails to comply with PPG13, Policy T14 of the East of England Plan 2008, Policy M14 of Welwyn Hatfield Council District Plan 2005 and Aerodrome Supplementary Planning Guidance, 1999.
  
2. It is not considered that the propose Head of Terms suggested by for the legal agreement could be appropriately monitored and enforced or evidenced to suggest that the parking permit scheme will be retained in perpetuity. The proposed Head of Terms would not result in additional parking being provided on site and therefore the proposal would add to the parking pressures within the vicinity and consequently would exacerbate the existing problems of inconvenience and danger to road users and damage to grass verges and landscaped areas. The proposal is therefore contrary to IM2 of the Welwyn Hatfield District Plan 2005
  
3. The proposed increase in habitable accommodation would result in a dwelling size and type that could reasonably be considered a family home. No provision has been made for private amenity space. The proposal is therefore contrary to Policy D1 of the District Plan and Supplementary Design Guidance February 2005 (Statement of Council Policy).

**INFORMATIVES**

None

**DRAWING NUMBERS**

1:500 Block Plan & INVEST/CT2023 VT1/WD1 Rev E received and dated 10 November 2011

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