

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2011/2513/FP
------------------------	------------------------

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 generous plots 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.

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 erection of boundary wall, gates and railings.

Two sets of gates are proposed at the entrance of the carriage driveway either side of the site frontage. Railings would be installed above a dwarf wall between the two sets of gates. The gates would measure approximately 1.5m in height x 2.7m in width and would be supported by brick piers finished with a stone cap. The piers would also measure approximately 1.5m in height. The dwarf wall would be 337mm high and approximately 8.8m in length. The railings above the dwarf wall would measure 1.4m in height with a central curved feature up to 1.5m in height. The gates and railings would be painted black.

PLANNING HISTORY:

S6/2011/2149/FP – Demolition of existing garage and erection of replacement garage (Withdrawn 12/12/2011)

S6/2010/2885/FP – 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 (Refused 24/01/2011 and appeal dismissed 20/06/2011)

S6/2009/2677/FP – Erection of detached dwelling (Refused 02/03/2010)

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

PPG13 Transport

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:

SD1 Sustainable Development

GBSP1 Definition of the Green Belt

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

D8 Landscaping

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

CONSULTATIONS:

Hertfordshire County Council Transportation Planning and Policy Department –

Do not wish to restrict the grant of permission subject to a planning condition requiring any gates to be set back a minimum of 5m from the edge of the carriageway and open inwards.

TOWN/PARISH COUNCIL COMMENTS:

Northaw and Cuffley Parish Council – “The PC have no objection.”

REPRESENTATIONS:

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

DISCUSSION:

The main issues are:

1. The Proposed Development's 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. The Proposed Development's Impact on the Highway
5. Other Material Considerations

1. The Proposed Development's Impact on the Green Belt

National Planning Guidance in Planning Policy Guidance Note 2 Green Belts (PPG2) in paragraph 1.4 identifies that the most important attribute of the Green Belts is their openness. PPG2 sets out a general presumption against 'inappropriate' development in Green Belts, adding such that development should only be permitted in very special circumstances.

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. Although boundary treatments are not specifically considered within PPG2, in terms of the types of developments that are acceptable, it is a form of development that can be considered. The provision of an enclosure would have an impact upon the Green Belt and therefore the consideration is whether the proposed wall, railings piers and gates are of a form that would have a significant detrimental impact upon the open character of the Green Belt.

The application property is part of a ribbon of development to the west of Cuffley set within a semi-rural location. 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). On the south side of The Ridgeway, detached houses are set well back from the road on generous plots. The front gardens provide a setting for the dwellings where planting can flourish and where parking and hard surfacing can be readily absorbed. As is conventional these areas are mostly unencumbered by buildings or other structures and this absence of development gives rise to a pleasing spaciousness along the road frontage. Although there are some examples of built boundary treatments, these are generally limited to a low level of approximately 1m and below. The existing lower boundary treatments within the vicinity do not form dominant or prominent structures. It is acknowledged that No.63 and No.65 The Ridgeway feature much larger and more prominent boundary walls, railings and gates, however, these do not benefit from planning permission even though planning permission would have been required. No.63 and 65 are considered to be in the minority such that they have not sufficiently altered the character of this part of The Ridgeway which remains predominantly open and semi-rural in character.

The application site itself benefits from a frontage measuring approximately 15m in width which is currently defined by a planting bed. No planting of landscape value exists within the front garden or in the grass verge in front of the property. The two sets of gates are proposed either side of the site frontage where there are existing crossovers to the carriage driveway. Between the gates a dwarf wall and railings are proposed measuring approximately 8.8m in length. The dwarf wall would be just 337mm high and the gates, piers and railings would measure between 1.4m and 1.5m high. The existing grass verge which measures approximately 2m in depth

would be retained to the front of the site between the proposed railings and the edge of the footpath. The open design of the gates and the railings would allow views through to the landscaped garden beyond. Planting is proposed behind the railings between the two sets of gates, therefore, the railings would be viewed against a backdrop of planting which would soften their appearance and limit their impact on the character of the area. It would be reasonable to attach a planning condition requiring a landscaping scheme to be submitted and approved by the Local Planning Authority. Subject to appropriate planting, the proposed wall, railings, gates and piers would not be at odds with the general pattern of development and would not result in sufficient harm to the openness of the Green Belt to warrant refusal of planning permission. The proposal is therefore considered to be acceptable and in accordance with National Planning Policy Guidance PPG2 Green Belts.

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 some variety in the design and bulk of boundary treatments to properties on The Ridgeway. In addition to the proposed landscaping which will provide a backdrop to the railings, the proposed gates and railings have minimal decorative features and would be painted black to minimise their visual impact and prominence within the streetscene. The overall character of the area would therefore be maintained in accordance with PPS1, Policy D1 and D2 of the Welwyn Hatfield District Plan and Supplementary Design Guidance, 2005 (Statement of Council Policy).

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

In terms of light amenity and overbearing impact, the proposed piers and gates would not result in any significant impact by virtue of their location towards the front of site and approximately 12m separation distance from the nearest window serving a habitable room. No representations have been received from neighbours and the Parish Council did not object. 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. The Proposed Development's Impact on the Highway

The Ridgeway is a classified road B157 and designated as a secondary distributor road. The submitted drawings do not show the distance between the gates and the edge of the carriageway although the Ordinance Survey based site plan indicates a 4.8m setback. A planning condition is suggested requiring the approved gates to be setback a minimum of 5m from the edge of the highway and to open inwards into the site. This would allow a vehicle to wait clear of the carriageway whilst the gates are opened and closed. Subject to the suggested condition, the proposal would not have an unreasonable impact on the safety and operation of the highway.

5. 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 boundary wall would not impact upon neighbour amenity; existing planting would be retained and no new hardstanding is proposed.

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.

Notwithstanding the above, the proposed development is such that there is not a reasonable likelihood of an EPS offence being likely to occur. The proposed boundary wall would be situated approximately 11m from the application dwelling in an area that currently comprises of a carriage driveway and a planting bed containing only a few small plants of no significant ecological value. 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 proposed development is considered to be in accordance with the relevant national policies and guidance, policies within the East of England Plan 2008, the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance (Statement of Council Policy).

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C.2.1 – Time Limit
2. C.13.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details 001 Rev P2 received and dated 18 November 2011& 500 Rev P3 received and dated 10 January 2012

PRE DEVELOPMENT

3. C.4.1 – Scheme of Landscaping to be Submitted and Agreed (f,g)
4. C.5.1 – Samples of Materials to be Submitted and Agreed

POST-DEVELOPMENT

5. C.4.2 – Implementation of Landscape Planting
6. C.8.7 – Gates Over Highway

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPG2, PPS9 and PPG13, East of England Plan 2008 policies SS1, ENV2, ENV3 and ENV7 and development plan policies GBSP1, SD1, R3, RA3, RA10, D1, D2, D8 and Supplementary Design Guidance 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:

INF2 – Ownership

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