

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2011/2685/FP
APPLICATION Site:	Land Adjoining 29 & 30 Greenfields

NOTATION:

This site is located within the settlement of Cuffley as outlined in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The application site encompasses No.25 – 41 (odds) Greenfields which form part of a sheltered housing development located at the south east end of South Drive, Cuffley. The application site includes a car park accessed from South Drive and communal gardens which surrounds the existing development.

Further sheltered housing within the applicant's ownership is situated east of the application site. To the east of the site is Cuffley School with an access road forming the northern site boundary. Beyond the access road are detached bungalows fronting onto South Drive. To the south of the site is a field within the Green Belt. Land level slope downhill from east to west.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the erection of 2no. 2 bedroom bungalows to form an extension to the existing sheltered housing development. The footprint of the proposed bungalows is on land adjoining No.29 & 31 which currently forms part of the communal garden area. This area is currently grass with a few small trees.

The bungalows would have a footprint measuring approximately 10.5m in depth x 7.8m in width. Internal accommodation would comprise two bedrooms, a bathroom, a kitchen/dinner and a lounge. Externally the dwelling would be finished in dark red facing bricks and concrete plain roof tiles to match existing bungalows within Greenfields. A landscaped seating area with communal access is proposed between the two new bungalows.

PLANNING HISTORY:

S6/2010/0098/PA – Erection of two elderly person's bungalows and associated works (letter dated 29/03/2010)

S6/1995/0154/FP – Non compliance with condition 6 of Planning Permission S6/0499/75 relating to occupancy restrictions (Granted 12/04/1995).

The following condition was applied to this permission:

1. Occupation of the development hereby permitted shall be restricted to elderly people resident in the parish of Northaw and Cuffley immediately prior to taking up occupation who are in need of warden supervised accommodation. In the case of flats Nos. 55, 57 and 59, if no such person can be found at this the time of a flat becoming vacant, elderly persons resident elsewhere in Welwyn Hatfield District, may be accommodated, provided that written notice of the vacancy is served on the Local Planning Authority and no eligible occupant can be identified within 21 days of that written notice.

REASON: Permission has only been granted for this development within the Metropolitan Green Belt in order to meet specific housing need.

S6/1977/0191 – 39 elderly person's dwellings and 1 wardens house (Granted 06/10/1977)

S6/1975/0499 – Site for elderly persons dwellings (Granted 21/11/1975)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy:

PPS1: Delivering Sustainable Communities

PPS3: Housing

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPS25: Development and Flood Risk

East of England Plan 2008:

SS1: Achieving Sustainable Development

ENV3: Biodiversity & Earth Heritage

ENV7: Quality in the Built Environment

T14: Parking

WAT4: Flood Risk Management

Welwyn Hatfield District Plan 2005:

SD1: Sustainable Development

GBSP2: Towns and Specified Settlements

R1: Maximising the use of previously developed land

R3: Energy Efficiency

R9: Water Supply and Disposal

R17: Trees, Woodland and Hedgerows

R19: Noise and Vibration Pollution

H2: Location of Windfall Development
H9: Special Needs Housing
CLT17: Care in the Community
D1: Quality of Design
D2: Character and Context
D3: Continuity and Enclosure
D8: Landscaping
D9: Access and Design for People with Disabilities
M14: Parking Standards for New Developments
Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005
Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

CONSULTATIONS

Hertfordshire County Council Transport Programmes & Strategy Department – Do not wish to restrict the grant of permission. Planning conditions suggested.
HBRC – No ecological constraints regarding the proposed development.
Landscape Department – A detailed landscape plan be submitted for approval by the Council.
Environmental Health – No response
Thames Water – No objection
Client Services – The storage area for refuse/recycling is based on two wheeled bins, but our service has three wheeled bins, so this would need to be increased in size to be appropriate.

TOWN/PARISH COUNCIL COMMENTS

Northaw and Cuffley Parish Council – “The PC have concerns Greenfields was created as a Senior Citizens development for local people and understand that these new bungalows must be used for the same purpose.”

REPRESENTATIONS

The application was advertised by site notice and neighbour notification letters. Concern was raised on behalf of a resident by Councillor Couch in relation to the occupation of the bungalows.

DISCUSSION:

The main issues are:

1. The Acceptability in Principle of Windfall Residential Development
2. Quality of Design and Impact on the Character of the Area
3. Impact on the Residential Amenity of Neighbouring Properties
4. Parking Provision and Impact on the Highways
5. Other Material Considerations

1. The Acceptability in Principle of Windfall Residential Development

Policy R1 requires development to take place on previously used or developed land. Development will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. This policy applies to all development proposals in the borough and does not simply relate to housing.

National Planning Policy Statement 3: Housing (PPS3) encourages the provision of more housing within towns and other specified settlements and encourages local planning authorities to avoid the inefficient use of land and to make full use of previously developed sites. The application site is situated within the town of Hatfield as outlined in the Welwyn Hatfield District Plan 2005. This site has previously been developed and currently consists of Salisbury Square itself; a surface car park; a shopping parade with retail floorspace totalling 630sqm at ground floor level and seven maisonettes above. Following demolition of the shopping parade and maisonettes, it is proposed to provide a public square; four larger retail units totalling 1,235sqm; 4no. 1 bedroom flats and 15no. 2 bedroom flats; a new two level car park; and a terrace of 5no. 3 bedroom houses.

The site is not an allocated housing site and so is considered to be a 'windfall site' and Policy H2 applies. Policy H2 relates specifically to applications for windfall housing development and states that all proposals of this type will be assessed for potential suitability against the following criteria:

1. The availability of previously-developed sites and/or buildings;
2. The location and accessibility of the site to services and facilities by transport modes other than the car;
3. The capacity of existing and potential infrastructure to absorb further development;
4. The ability to build new communities to support infrastructure and provide demand for services and facilities;
5. The physical and environmental constraints on development of land.

Whilst the housing target set within the District Plan has been met, the national situation has changed to the extent that it is considered that the country is not building sufficient housing to meet its needs. It is therefore considered that the windfall residential development proposed would not result in an oversupply of dwellings even when taking account of other developments that have been granted planning permission, but have not yet been implemented. The application site is located within an existing residential area and as such the infrastructure has been developed to provide good transport links for existing residents. There are also services and facilities available within walking distance of the site. The principle of residential development is therefore acceptable against the criteria set out in Policy H2 subject to an assessment of the scheme against the adopted and emerging policies governing residential development, namely whether it is designed to be in keeping with the character and quality of the local environment, ensuring that there is a proper means of access and

adequate parking provision. Additionally, it will be important to ensure that there is adequate space between buildings to avoid the loss of amenity to neighbouring properties, for example by overshadowing, loss of privacy etc.

The preamble to Policy CLT17 of the Welwyn Hatfield District Plan 2005 states new residential facilities are required allowing people to live within the community while still receiving the support and care they require. Policy CLT17 identifies criteria that need to be met in order to comply with this policy. The criteria are:

- (i) that the scale should not be detrimental to the established character of the area and amenity of adjoining residents;
- (ii) the proposal includes acceptable access and car parking provision;
- (iii) the proposal is located so that it is accessible to essential facilities;
and
- (iv) the proposal does not result in a concentration of such facilities resulting in an overload of local facilities or a change in character of the residential area in which it is located.

There is no data on which to argue that the provision of two additional bungalows within the existing sheltered housing development would lead to an oversupply and pressure on existing services, such as doctors, and therefore an objection cannot be raised. The proposal would not result in a concentration of facilities resulting in a change in character of the residential area in which it is located. The proposal would therefore comply with (iv) of policy CLT17. Points (i) and (ii) are discussed below. Point (iii) requires services to be accessible. The application site is located in a residential area and is accessible to essential facilities such as health care, shops, a public library and bus stops and Cuffley railway station and as such, the development is considered to comply with this part of the policy.

In addition, Policy H9 of the District Plan outlines general support for the provision of special needs housing, although it is suggested that this should be focused towards areas that have a high number of facilities and services and are centrally located. This is considered to be the case with this site.

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

Although the application site borders the Green Belt, the site itself lies within the specified settlement of Cuffley which is excluded from the Green Belt by policy GBSP2. This policy seeks to limit development to that which is compatible with the maintenance and enhancement of the character of the area. Additionally Policies D1 and D2 of the District Plan apply. These policies aim to ensure a high quality of design and to ensure that development respects and relates to the character and context of the locality, maintaining and where possible enhancing

the character of the existing area. The Supplementary Design Guidance identifies Welwyn Garden City.

The Council's Supplementary Design Guidance; Statement of Council Policy 2005 outlines that "The context of a site is crucial, and a clear appreciation of this in the design of new development is the starting point for creating distinctive and attractive places. The design and layout of the development should be informed by the wider context, i.e. with regard not just to the neighbouring buildings, but also to the townscape and landscape in the wider locality."

Furthermore it is outlined that it is essential that "the new development responds to building forms and patterns of the existing buildings in the detailed layout and design to reinforce a sense of place." The Design guidance also introduces a number of issues that should be taken into account when considering the context in which a development it to be located.

In addition to the above, government guidance contained in PPS1 and PPS3 apply. Both of these documents have an emphasis on design of development where both state that "Good design should contribute positively to making places better for people. 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". National guidance in PPS1 emphasises the importance of high quality design and more efficient use of land through higher densities, whilst PPS3 confirms that proposals should complement and be well integrated with neighbouring buildings and the local area in terms of scale, density, layout and access.

The proposed bungalows have been designed to continue the style and massing established by the buildings, which step up following the gradient of the site. The proposed roof pitch would match the existing bungalows No.29 & 31 Greenfields and the windows and doors have been designed to follow a similar configuration. Externally the proposed bungalows would be finished in materials to match the existing neighbouring development. The proposed additional soft landscaping and boundary planting would soften the visual impact of the buildings within their setting. Overall the scheme would be adequately compatible with the maintenance of the character and context of the area. In this respect, no objections are raised with regard to PPS1, PPS3, and Policies GBSP2, D1, D2 and D3 and the Supplementary Design Guidance, Statement of Council Policy.

3. Impact on the Residential Amenity of Neighbouring Properties

Policy D1 of the District Plan applies which seeks to provide a good standard of design in all new development. The Council's Supplementary Planning Guidance supplements Policy D1 and expects that development should not cause loss of light or be unduly dominant from adjoining properties, as a result of either the length of projection, the height or the proximity of the development. In addition, the Council expect that all new residential development should be

designed, orientated and positioned in such a way to minimise overlooking between dwellings.

The occupiers of existing bungalows No.29 & 31 Greenfields are most likely to be affected by the development as the proposed bungalows would be sited alongside No.29 & 31 separated only by a narrow footpath. Notwithstanding the close proximity of the proposed development, there would be no significant impact upon light amenity enjoyed by the occupiers of No.29 & 31 as these properties do not feature windows within the east facing flank elevations and the front elevation of the proposed bungalows would project just 1.4m beyond the front of the existing bungalows. The rear wall of the proposed bungalows would be in line with the rear wall of No.29 & 31.

In terms of privacy, the arrangement of windows within the proposed bungalows is similar to the existing neighbouring bungalows. Windows within the front of the bungalow adjacent to No.29 would look out towards the north site boundary and windows within the rear would look towards the central communal garden. The bungalow adjacent to No.31 would be orientated the same way so that windows within the front look towards the communal garden and windows within the rear would look towards the southern site boundary. At the closest point just 13.5m would separate the lounge window of the bungalow adjacent to No.29 from a bedroom window within the bungalow adjacent to No.31. Although the Council would usually seek a greater degree of separation between habitable rooms, in this case it is considered acceptable because the bungalows form part of an existing sheltered housing development and would maintain a similar arrangement to neighbouring bungalows.

No representations were received from neighbouring occupiers. Overall it is considered that the amenity of the adjoining occupiers would be maintained to an acceptable level. The proposals are in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

As a dwellinghouse the new development would benefit from permitted development rights. It is therefore appropriate to assess what impact further extensions could have on the visual amenity of the area and the residential amenity of neighbouring occupiers.

Further extensions built within permitted development could significantly reduce the amount of amenity space available to future occupiers of the new dwelling and may have a cumulative impact upon the residential amenity of neighbouring occupiers. Therefore, it is appropriate that Class A permitted development rights are withdrawn within any consent granted. The addition of a dormer window could potentially result in an unacceptable looming presence, overbearing impact and loss of privacy to the occupiers of neighbouring properties. It is therefore appropriate to withdraw permitted development rights for additions and alterations to the roof Class C and D.

4. Parking Provision and Impact on the Highway

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 Council Supplementary Planning Guidance (SPG) Parking Standards 2004 identifies the site as within Zone 4. Residential dwellings with two bedrooms located within Zone 4 require 1.5 car parking spaces (expressed as a maximum). It is proposed to extend the existing parking area south to facilitate the provision of three additional parking spaces. It is also proposed to provide secure storage for two bicycles. Hertfordshire County Council Transportation Planning and Policy Department do not wish to restrict the grant of permission but recommended planning conditions to ensure that the proposed car parking spaces are provided prior to the first occupation of the development and that the details of the surface dressing are agreed in writing by the Local Planning Authority. The proposal is unlikely to significantly increase the demand for on-street parking and would not have an unreasonable impact on the safety and operation of the adjoining highway in accordance with PPG13, Policy M14 of the Welwyn Hatfield District Plan 2005 and Supplementary Planning Guidance.

5. Other Material Considerations

Whether or not it is Appropriate to Restrict the Occupation of The Bungalows to Elderly Persons: The original planning consent which granted outline permission for the development of elderly person's dwellings under planning reference S6/1975/0499 included the following condition:

"6. Occupation of the development hereby permitted shall be restricted to elderly residents of Cuffley and Northaw who are in need of warden supervised accommodation.

REASON: Permission is only been granted within the Metropolitan Green Belt due to the specific need for this type of accommodation in the particular circumstances of the applicant"

A subsequent application was granted in 1995 under planning reference S6/1995/0154/FP which varied the wording of the condition as follows:

“Occupation of the development hereby permitted shall be restricted to elderly people resident in the parish of Northaw and Cuffley immediately prior to taking up occupation who are in need of warden supervised accommodation. In the case of flats Nos. 55, 57 and 59, if no such person can be found at this the time of a flat becoming vacant, elderly persons resident elsewhere in Welwyn Hatfield District, may be accommodated, provided that written notice of the vacancy is served on the Local Planning Authority and no eligible occupant can be identified within 21 days of that written notice.

REASON: Permission has only been granted for this development within the Metropolitan Green Belt in order to meet specific housing need.”

Although the original permission granted development within the Green Belt the application site is now clearly within an urban area where Green Belt policies of restraint do not apply. The date the Green Belt boundary was amended is unknown although the site was shown to be excluded from the Green Belt when the Green Belt boundaries were defined in 1993. Circular 11/95 Use of Planning Conditions sets out six tests for the validity of planning conditions which are:

- i. necessary;
- ii. relevant to planning;
- iii. relevant to the development to be permitted;
- iv. enforceable;
- v. precise; and
- vi. reasonable in all other respects

The reason for condition 6 of planning permissions S6/1975/0499 and S6/1995/0154/FP clearly no longer applies to the application site. Applying a similarly worded condition to the current proposal would therefore fail to comply with the tests contained within Circular 11/95. Notwithstanding this, a condition restricting the occupation of the bungalows to elderly people is considered to be appropriate in this case albeit for different reasons. The established residential character of the immediate area that forms the context of the site comprises of a sheltered housing development where residents live within close proximity of each other and share communal amenity space, parking spaces and access. The proposed access to the bungalows from the parking court passes through the communal garden area at the centre of the existing sheltered housing development. The proposed development must therefore integrate within the existing contextual constraints of the site. If the proposed bungalows were to become available on the open market at some time in the future, the close association between the proposed bungalows and the existing bungalows could result in significant harm to the residential amenity of the existing occupiers, therefore, it is necessary and reasonable to attach a condition restricting the occupation of the development in a similar manner to before. It is considered that reference to ‘elderly’ is not clear and would fail the tests associated with

circular 11/95. It is therefore suggested that a condition is attached, which has been agreed with verbally with the agent, in accordance with their letting agreement. This restricts occupiers to single people and couples aged 60 or over, or 55 or over if registered disabled. This adds clarity to the condition.

Sustainable Development: The applicant has completed the sustainability checklist in accordance with Policy R3 of the District Plan and SD1 of the Supplementary Design Guidance. The completed a sustainability checklist highlights that the scheme generally responds positively to the topic areas that are required to be considered.

Landscaping: The proposal is to erect two bungalows and create a landscaped seating area between them with communal access. The development will require the removal of six trees and the remaining trees will have to be pruned. The trees which are to be removed are of mixed quality. The two semi-mature trees adjacent to No.29 are the only trees which will be a loss to the site. However these trees are not sufficient quality to preserve or refuse the application. Although all the trees on site are relatively small or young, consideration should be given as to how the materials and machinery are to access the working area to avoid harming the trees to be retained.

The Council's Landscape Department did not object to the proposed development, however, it would be reasonable to attach a planning condition requiring a landscaping scheme to be submitted and approved by the Local Planning Authority. A landscaping scheme would include means of enclosure and boundary treatments, hard surfacing and planting plans.

Bin Storage and Recycling Facilities: The storage area for refuse/recycling is based on two wheeled bins, but the Councils service requires three wheeled bins, so the storage would need to be increased in size to be appropriate. Adequate provision for bin storage should be sought by way of an appropriately worded planning condition.

Protect 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 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 001 & 002 & 003 & Plan 200 received and dated 15 December 2010

PRE-DEVELOPMENT

3. C.4.1 – Scheme of Landscaping to be Submitted and Agreed (b, e, f, g)

4. C.5.1 – Samples of Materials to be Submitted and Agreed
5. C.7.13 – Bin Stores/Recycling
6. C.7.16 – Construction Site Compound
7. C.8.5 – Secure Cycle Storage

POST-DEVELOPMENT

8. C.4.2 – Implementation of Landscape Planting
9. C.6.1 – Excluding Class A & B & C of Permitted Development Within the Curtilage of A Dwellinghouse Without Further Permission
10. C.8.10 – No Unbound Material/Surface Dressing

PRE-OCCUPATION

11. C.8.9 – No Occupation Until Spaces Laid Out
12. The development hereby permitted shall be occupied only by single people and couples aged 60 or over, or 55 or over if registered disabled.
REASON: in the interests of the character of the area and close association of this development to the existing adjoining bungalows which includes sharing of communal amenity space, parking and access in accordance with policy D1 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, PPS3, PPS9, PPG13, PPS25, East of England Plan 2008 policies SS1, T14, WAT4, ENV3 and ENV7 and development plan policies GBSP2, SD1, R1, R3, R9, R17, R19, H2, H9, CLT17, D1, D2, D3, D8, D9, M14 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:

1. INF6 – Street Numbering
2. INF10 – Wheel Washing
3. INF11 – Damage to Grass Verges
4. To ensure that work undertaken on the highway is constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the public highway. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact the Mid West Hertfordshire Highways Area Office

at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts, AL7 3AX to arrange this.

5. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water: Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required (Tel 0845 850 2777). With regard to water supply, this comes within the area covered by the Veolia Water Company, Veolia Water Company, The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ (Tel 0845 782 3333).

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