

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 01 MARCH 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

S6/2011/2743/FP

3 HOOK LANE, NORTHAW EN6 4DA

ERECTION OF TWO STOREY REAR EXTENSION AND FORMATION OF
HARDSTANDING

APPLICANT: Mrs S. Moseley

(Northaw and Cuffley)

1 Site Description

- 1.1 The application site is situated on the west side of Hook Lane which is a linear form of residential development within a rural area. Hook Lane falls gradually from south west to north east giving varying land level changes between these dwellings. The application dwelling has been extended upon previously through a two storey rear extension, a single storey rear extension and a side dormer window

2 The Proposal

- 2.1 This application seeks full planning permission for a two storey rear extension, infilling between the two existing rear extensions and an extension of the ridgeline of the existing rear gable by an additional 1.4m. To the front of the dwelling, hardstanding comprising of open/porous blocks is proposed to provide an additional car parking space.

3 Planning History

- 3.1 S6/1990/0433/FP - Two storey rear extension and dormer on side elevation at first floor level. Granted 28th September 1990

4 Planning Policy

- 4.1 National Planning Policy:

PPS1: Delivering Sustainable Development
PPG2: Green Belts
PPS9: Biodiversity and Geological Conservation
- 4.2 East of England Plan 2008:
SS1: Achieving Sustainable Development
ENV7: Quality in the Built Environment
- 4.3 Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development
GBSP1: Definition of the Green Belt
R3: Energy Efficiency

D1: Quality of design
D2: Character and context
D8: Landscaping
R11: Biodiversity and Development
RA3: Extensions to Dwellings to the Green Belt
RA10: Landscape Character and Regions

4.4 Welwyn Hatfield District Council, Supplementary Design Guidance, February 2005

5 **Constraints**

5.1 The site lies within the Metropolitan Green Belt, Northaw Common Parkland Landscape Character Area and Hook Lane Wildlife Site as designated in the Welwyn Hatfield District Plan 2005.

6 **Consultations**

6.1 **Hertfordshire County Council (Transport Programmes & Strategy)** does not wish to restrict the grant of planning permission subject to a number of conditions. This section of Hook Lane is a bridleway Northaw 010 and The Rights of Way Unit make the following comments on the potential impacts the development works might entail and the required minimum standards regarding the maintenance of the Public's rights and safety during and after construction.

- The Public Right of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works.
- The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times.
- The condition of the route should not deteriorate as a result of these works. Any adverse affects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) to be made good by the applicant to the satisfaction of this Authority.
- All materials to be removed at the end of the construction and not left on the Highway or Highway verges.

If the above conditions cannot reasonably be achieved then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order.

6.2 **Hertfordshire Biological Records Centre (HBRC)** comment that they have a record of a bat roost in an adjacent property. In addition, Hook Lane is immediately adjacent to Hook Wood Wildlife Site; woodland is a favoured feeding habitat for bats. As a result, HBRC take the view that it is possible that bats may be roosting in the dwelling and could be harmed or disturbed by the proposed development. Bats are protected under both European and national legislation and are a material consideration in the determination of a planning application, that if implemented would be likely to result in harm to the species. Consequently, an initial inspection bat survey should be undertaken by a suitably experienced bat ecologist to establish whether bats are present and likely to be affected. In granting planning permission the LPA has a statutory

duty to apply the three tests contained in the species protection provision of the Habitats Regulations.

The three tests are as follows:

- The proposals must be for imperative reasons of overriding public interest (OPI) or for public health and safety ,
- There must be no satisfactory alternative,
- The favourable conservation status of the species in their natural range must be maintained

This duty cannot be discharged by the LPA imposing a condition on the consent that requires the developer to obtain a license from Natural England.

Hertfordshire Biological Records Centre make the following conclusions and recommendations:

1. An initial bat inspection survey should be undertaken by a licensed bat ecologist to establish whether bats are present and whether they are likely to be affected by the proposed development works
2. If the building search and assessment finds no evidence of bats, then the application will not need to be determined on ecological grounds
3. If the initial building search and assessment finds evidence of a bat roost, then further emergence surveys will be required to inform the LPA before a planning decision can be taken.

6.3 **Welwyn Hatfield Council Landscaping Department** - No comments due 27th January 2012

7 Representations Received

7.1 This application has been advertised by neighbour notification letters and site notice and no representations have been received. Period expired 3rd February 2012.

8 Parish Council

8.1 **Northaw and Cuffley Parish Council** - No comments were received.

9 Discussion

9.1 This application is presented to the Planning Control Committee because Cllr Couch has called the application in 'on the grounds that the proposal is only to infill a piece of land and the total amount of development only increases the footprint of the original building by 51%'.

9.2 **The main issues to be considered are:**

1. **The impact of the proposal on the openness of the Metropolitan Green Belt**
2. **The impact of the development on the design and character of the dwellinghouse and surrounding area**
3. **The impact of the development on the residential amenity of neighbouring dwellings**
4. **Other material planning considerations**

1. The impact of the proposal on the openness of the Metropolitan Green Belt

9.3 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. It is for the development plans to then make clear the approach of the local planning authority, including the circumstances (if any) under which extensions to dwellings are acceptable.

9.4 Local Plan Policy RA3 accords with PPG2 in as much as it sets out the criteria for extensions to dwellings in the Green Belt:

Policy RA3 – Extensions to Dwellings in the Green Belt

Permission for extensions to existing dwellings within the Green Belt will be allowed only where all the following criteria are met:

(i) The proposal would not individually or when considered with existing or approved extensions to the original dwelling, result in a disproportionate increase in the size of the dwelling;

(ii) It would not have an adverse visual impact (in terms of its prominence, size, bulk or design) on the character, appearance and pattern of development of the surrounding countryside.

9.5 In relation to criteria (i), the dwelling has been extended upon previously through a two storey rear extension, a single storey rear extension and a side dormer window. The original dwelling equates to 124.9m² in floor space and the existing extensions which are not original (including the proposal) equates to 64.27m². The proposed two storey rear extension will accumulate in a floorspace increase of 15.8m². The proposed extensions in addition to the existing extensions which do not form part of the original dwellinghouse represents 51% increase in floorspace upon the original dwelling. Consequently, the dwelling would be extended by a disproportionate amount and, despite the limited scale of works proposed, the cumulative increase would fail to appear as a limited extension to the dwelling. Therefore the proposal, in addition to the previous extensions, would result in a disproportionate increase that is not subordinate to the scale of the original dwellinghouse.

9.6 Turning to the overall visual impact of the proposal on the openness of the Green Belt, this is particularly important, as floorspace assessments in isolation may not suffice, as irrespective of the floorspace increase Policy RA3 also looks at the overall resultant size and its visual impact on the countryside. The addition of development at both first floor and roofspace level by virtue of the increase in the existing rear gable by a further 1.4m in depth would be particularly noticeable. As a consequence, the proposed increase in floorspace and the bulk of development at both first floor and roofspace level would have an adverse affect on the open characteristics of the Green Belt as a result of increasing its developed appearance and adding to the bulk of the building.

- 9.7 Inappropriate development can only be permitted where very special circumstances exist that would outweigh the harm caused by its inappropriateness. No very special circumstances have been put forward by the applicant. Accordingly it is considered that the applicant has failed to demonstrate very special circumstances to outweigh the harm of the proposal on the Green Belt by reason of its inappropriateness.
- 9.8 The proposal, in addition to the previous extensions, would result in a disproportionate increase that is not subordinate to the scale of the original dwellinghouse and would represent inappropriate development. The proposal would have an adverse affect on the open characteristics of the Green Belt as a result of increasing its developed appearance and adding to the bulk of the building. The proposal is therefore contrary to the advice contained in Planning Policy Guidance Note 2 and would conflict with Policy RA3 of the Welwyn Hatfield District Plan 2005.

2. The impact of the development on the design and character of the dwellinghouse and surrounding area

- 9.9 Policies GBSP1, D1 and D2 of the adopted Welwyn Hatfield District Plan apply which seek to provide a good standard of design in all new development and require that all new development respects and relates to the character and context of the area in which it is to be sited. These policies are expanded upon in the Council's Supplementary Design Guidance which requires that residential extensions should be complementary in design and be subordinate in size and scale to the existing dwelling. The impact of a development is assessed giving regard to the bulk, scale and design of the proposal and how it harmonises with the existing building and area.
- 9.10 The proposed addition of hardstanding to the front of dwelling is not considered to be out of keeping with other dwellings along Hook Lane and an element of landscaping will be retained. The proposed hardstanding is not considered to detract from the existing rural character of the surrounding area.
- 9.11 The architectural style, windows, detailing and materials are appropriate to the original dwelling and the design of the scheme does not have an adverse visual impact upon the character and appearance of the existing dwelling or immediate surrounding area. The extension would be constructed of materials that are in keeping with the existing dwelling and the local area. No letters of objection have been received and Northaw and Cuffley Parish Council did not object. The proposal would not have a significant impact on the design and character of the dwelling and surrounding area in compliance with policy D1 and D2 of the Welwyn Hatfield District Plan, 2005.

3. The impact of the development on the residential amenity of neighbouring dwellings

- 9.11 Policy D1 and the supplementary design guidance paragraph 5.2 (Section 5 Residential Extensions) states in part iii) the extension 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 extension. In addition paragraph 5.7 states that new extensions should be designed, orientated and positioned in such a way to minimise overlooking between dwellings.
- 9.12 The main impact of the proposal would be upon the adjoining neighbours at No.2 and 4 Hook Lane. The proposal creates an infill adjacent to the existing

two storey rear extension which forms the boundary with No.4. The proposal does not exceed the depth of the existing two storey rear extension and therefore the proposal is not considered to result in loss of sunlight/daylight or privacy to No.4.

- 9.13 In relation to neighbouring property to the north east, No.2 Hook Lane, the proposed addition of the two storey rear extension will maintain the pitched roof design and existing dwelling tapers away from the adjoining boundary towards the rear of the site. Whilst the bulk of the roofspace will increase, sufficient distance exists between the two dwellings not to appear overly prominent or result in detrimental loss of sunlight/daylight to No.2. No windows are proposed on the side elevation of the rear extension which prevents additional overlooking. Overall, the proposed development is not considered to detrimentally impact upon the residential amenity of neighbouring dwellings in accordance with policy D1 of the Welwyn Hatfield District Plan, 2005.

4. Other material planning considerations

- 9.16 **Sustainable Development:** Policy R3 states that the council expects all development to include measures to maximise energy conservation through the design of buildings, site layout and provision of landscaping. The applicant has submitted a sustainability checklist which states that sustainability measures will be implemented where possible however, no specific examples are given and the applicant only refers to the use of porous block for the proposed hardstanding to the front of the dwelling. Whilst limited information has been submitted, the applicant has given due consideration for the use of sustainable measures in accordance with policy SD1 and R3 of the Welwyn Hatfield District Plan, 2005.
- 9.17 **Landscape Character Area:** Policy RA10 states that proposals for development in the rural areas will be expected to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area in which they are located. The application site is located within the Northaw Common Parkland Landscape Character Area. The objectives of this area are to conserve and strengthen. Taking into consideration the scale of the proposal, it is not considered to detract from these objectives. The proposal therefore complies with policy RA10 of the Welwyn Hatfield District Plan, 2005.
- 9.17 **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.
- 9.18 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).
- 9.19 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.”

9.20 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)

9.21 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.

9.22 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.

- 9.23 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.
- 9.24 It is considered that there is a reasonable likelihood of EPS being present on the site and that one (or more) of the offences described above would result. Regulation 61 (2) of the Conservation Regulations 2010 requires the applicant to submit sufficient information for assessment. The applicant has not submitted such information required by the Council and it is therefore not possible to determine whether the proposal would comply with the three derogation tests as set out below:
- Is the development being carried out for
 - imperative reasons of overriding public interest including those of a social or economic nature? Or;
 - reasons relating to human health, public safety or beneficial consequences of primary importance to the environment?
 - Is there an alternative solution? and,
 - Can the effects of the development be avoided (i.e. mitigated) by the inclusion of conditions?
- 9.25 The application should therefore be refused as being contrary to the provisions of The Conservation of Habitats and Species Regulations 2010, Wildlife and Countryside Act 1981 and PPS9.
- 9.25 **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
- 9.26 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Act. 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.
- 9.27 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.

10 Conclusion

- 10.1 The proposed extension would result in a disproportionate increase that is not subordinate to the scale of the original dwelling. The proposed extensions

would have an adverse affect on the open characteristics of the Green Belt as a result of increasing its developed appearance and adding considerably to the bulk of the building. As such, the proposals represent inappropriate development and as no very special circumstances have been advanced of sufficient weight to set aside Green Belt policies of restraint, is contrary to the advice contained in Planning Policy Guidance Note 2 and would conflict with Policies RA3 of the Welwyn Hatfield District Plan 2005.

- 10.2 The applicant has also failed to provide an initial bat inspection survey to establish whether bats are present within the application dwelling. Consequently, an assessment cannot be made as to whether the proposal is likely to impact upon the presence of any bats if found and therefore whether an offence will occur under the Regulations. Therefore the proposal fails to comply with PPS9: Biodiversity and Geological Conservation and Conservation of Habitats and Species Regulations 2010

11 Recommendation: Refusal

- 11.1 It is recommended that planning permission be refused for the following reasons:

1. The dwelling has been previously extended and, despite the limited scale of works now proposed, the cumulative increase would fail to appear as a limited extension to the dwelling. Therefore the proposal, in addition to the previous extensions, would result in a disproportionate increase that is not subordinate to the scale of the original dwellinghouse. The proposed extensions would have an adverse affect on the open characteristics of the Green Belt as a result of increasing its developed appearance and adding considerably to the bulk and height of the building. 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. Accordingly, the proposal is contrary to the advice contained in Planning Policy Guidance Note 2 and would conflict with Policy RA3 of the Welwyn Hatfield District Plan 2005.

2. The applicant has failed to provide an initial bat inspection survey to establish whether bats are present within the application dwelling. Consequently, an assessment cannot be made as to whether the proposal is likely to impact upon the presence of any bats if found and therefore whether an offence will occur under the Regulations. Therefore the proposal fails to comply with PPS9: Biodiversity and Geological Conservation and Conservation of Habitats and Species Regulations 2010.

Refused Drawing Numbers:

2011/0598 received and dated 13th December 2011

Jackie Phillips (Strategy and Development)

Date 10/02/2012

Background papers to be listed (if applicable)

