

WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL
DELEGATED REPORT

APPLICATION No:	S6/2012/0512/FP
APPLICATION Site:	3 Wilkins Green Lane

NOTATION:

This site is located within the town of Hatfield as outlined in the Welwyn Hatfield District Plan 2005 and within the Watling Chase Community Forest.

DESCRIPTION OF SITE:

The application site is situated to the north of Wilkins Green Lane and consists of a detached two storey dwelling with double garage and gardens to the front and rear. Wilkins Green Lane has a semi-rural character with agricultural land to the south and large detached houses set within spacious plots to the north. The application site is rectangular in shape measuring approximately 80m in depth x 30m in width with the dwelling set back approximately 30m from the highway. The site boundaries are defined by mature planting consisting of a variety of trees shrubs and hedgerows. The application dwelling is finished dark red facing brick with a plain tile roof. A gravel driveway provides ample off street parking in addition to the double garage.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for erection of first floor rear extension.

PLANNING HISTORY:

S6/2010/1929/FP – Erection of first floor rear extension (Granted 02/11/2010)

S6/1999/0617/FP – Erection of two storey rear extension and pitched roof to existing link to garage (Granted 31/08/1999)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy Framework 2012

East of England Plan 2008:

SS1: Achieving Sustainable Development

ENV1: Green Infrastructure

ENV3: Biodiversity & Earth Heritage

ENV5 Woodlands

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
RA11: Watling Chase Community Forest
M14: Parking Standards for New Developments

Welwyn Hatfield District Plan, Supplementary Design Guidance, 2005
Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

CONSULTATIONS

None

TOWN/PARISH COUNCIL COMMENTS

Hatfield Town Council – No response (consultation expired 05/05/2012)

REPRESENTATIONS

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

DISCUSSION:

The main issues are:

1. The impact of the proposal on the character and appearance of the existing property and the character of the area
2. Impact on the residential amenity of neighbouring properties
3. Parking provision and impact on the highways
4. Other material considerations

1. The impact of the proposal on the character and appearance of the existing property and the character of the area

The National Planning Policy Framework states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments add to the overall quality of the area; respond to local character and history; reflect the identity of local surroundings and materials; are visually attractive as a result of good architecture and appropriate landscaping. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

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. These policies are expanded upon in the Council's Supplementary Design Guidance (SDG) 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.

The first floor rear extensions would project in line with the existing east flank elevation and would the existing projection to the west, therefore, existing separation distance from the site boundaries and spacing around the dwelling would be maintained. The proposed extension would have an acceptable design for an addition to the rear of the property and would not appear cramped on the site.

An existing extension to the application dwelling features a crown roof similar to a number of dwellings within immediate vicinity of the application site. Crown roofs, therefore, represent an acceptable form of development in this location and would not harm the character of the area. The proposed crown roof would be approximately 800mm below the ridge height of the original dwelling and would not be visible from any public viewpoint.

In summary, the extensions respect the form and style of the existing property and would maintain the spacious character of the area in accordance with the National Planning Policy Framework; 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 main difference between the current proposal and the extant permission granted under planning permission S6/2010/1929/FP is the omission of a balcony to the rear and the inclusion of this space within the extension. No representations were received and Hatfield Town Council did not respond to consultation. The impact of the proposed development on the residential amenity of neighbouring occupiers is considered in terms of the impact on access to day/sun/sky light, privacy and overbearing impact.

With regards to light amenity and overbearing impact, the proposed extension would have no significant impact upon neighbouring occupiers by virtue of orientation and approximately 7m separation distance maintained between the extension and the nearest site boundary.

Views from windows within the rear elevation would predominantly be to the rear garden of the application site and would not result in any significant loss of privacy over and above the present situation. There are currently three windows situated at first floor level which face east towards the flank site boundary with No.2 Wilkins Green Lane. Two of these windows, one which serves a bedroom at the front of the house and one which serves a study would be retained. The window which serves a study would become a window to a WC. In addition, three new windows are proposed within the first floor flank elevation. Two of these would serve bathrooms and one would serve as a secondary window to the master bedroom. It would be reasonable to attach a planning condition requiring this window to be obscure glazed and fixed below a height of 1.7m above floor level. 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).

3. Highways and parking

Supplementary Planning Guidance on parking standards identifies the site as within Zone 4. Residential dwellings with four or more bedrooms located within Zone 4 require a three car parking spaces which can be provided on site. The proposals comply with Policy M14 of the Welwyn Hatfield District Plan 2005 and Supplementary Planning Guidance.

4. Other material considerations

Watling Chase Community Forest: Within the boundaries of Watling Chase Community Forest the Council seek to achieve the objectives of the Forest Plan,

including landscape improvements. The proposed development would not adversely affect any trees or mature vegetation that are considered to be worthy of protection. 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: The applicant has completed a sustainability checklist which highlights that the scheme generally responds positively to the topic areas that are required to be considered in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005.

Protected Species: The presence of protected species is a material consideration, in accordance with 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 impact of the proposed works on the roof space of the building appears limited therefore it would be unreasonable for the LPA to require a bat assessment survey to be submitted in support of this application. Furthermore, the application site benefits from an extant permission for a first floor extension granted under planning permission S6/2010/1929/FP. This permission could still be implemented and would involve works to the roof of the dwelling similar to the current proposal. Policy and legislation relating to protected species has not changed since planning permission S6/2010/1929/FP was granted, therefore, it would be unreasonable for the Local Planning Authority to require more onerous actions to be undertaken by the applicant.

Development should proceed with caution, particularly those associated with the roof. In the event of bats being found, work must stop immediately and ecological advice taken on how to proceed lawfully. It is considered appropriate to impose a planning condition that if at any time during the course of construction of the development, a species of animal that is protected under Schedule 1 or 5 of the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats) Regulations 1994 or the Protection of Badgers Act 1992 is discovered, all construction or other site work affecting the species shall cease until a suitable mitigation scheme has been approved by the Local Planning Authority in writing or a licence to disturb protected species has been granted by DEFRA or Natural England (Formerly English Nature).

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 National Planning Policy Framework; 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 266588/10/302 & 266588/10/303 & 266588/12/301 Rev B received and dated 10 April 2012

POST-DEVELOPMENT

- 3. C.5.2 – Matching Materials
- 4. C.7.9 – Fixed and Obscured Glazing (First Floor Flank Elevation)
- 5. C.11.3 – If Protected Species Discovered During Works

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against the National Planning Policy Framework, East of England Plan 2008 policies SS1, ENV1, ENV3, ENV5, ENV7, T14 and development plan policies GBSP2, SD1, R3, D1, D2, RA11, 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

None

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