

WELWYN HATFIELD COUNCIL
PLANNING CONTROL COMMITTEE – 19 JULY 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

S6/2012/0605/FP

3 HORSA GARDENS, HATFIELD, AL10 9GF

CONVERSION OF GARAGE TO HABITABLE ACCOMMODATION

APPLICANT: Mrs Shazia Abdul Haq

(Hatfield Villages)

1 Site Description

- 1.1 The application site is situated on the east side of Horsa Gardens within the redeveloped former Hatfield Aerodrome site known as Salisbury Village. The application property comprises of a one bedroom first floor flat benefitting from a private entrance at ground floor level and a single garage accessed via the east side elevation of the building. The first floor accommodation extends over two adjoining garages (No.9 & 11 Horsa Gardens) which are not within the applicant's ownership.
- 1.2 The application property is served by two parking spaces in addition to the garage space, one situated in front of the garage at the side of the building and a second parking space adjacent to the front door of the property. A parking court surrounds the front and east side of the building and provides access to further car parking spaces, garages and the rear gardens of properties which front on to Horsa Gardens and The Runway. To the west side is an adjoining flat with a similar arrangement to the application property. No.3 Horsa Gardens backs onto gardens serving No.11 and 13 Horsa Gardens and does not benefit from any external private amenity space.

2 The Proposal

- 2.1 This application seeks full planning permission for conversion of a garage to habitable accommodation to provide a study. It is proposed to retain the original garage door and erect a wall internally to convert the garage to a habitable room. Access to the study would be via a new internal door leading from the entrance porch serving the application property. It also proposed to insert a window within the front elevation to serve the converted garage. Planning permission is required as the application property is not a dwellinghouse and therefore does not benefit from permitted development rights. The applicant proposes to retain one parking space in front of the garage door and use the second parking space adjacent to the front door to provide an area for a bin store and cycle store.

3 Planning History

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

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

4 Planning Policy

4.1 National Planning Policy

National Planning Policy Framework

4.2 East of England Plan 2008

SS1: Achieving Sustainable Development

SS2: Overall Spatial Strategy

ENV3: Biodiversity & Earth Heritage

ENV7: Quality in the Built Environment

T14: Parking

4.3 Welwyn Hatfield District Plan 2005

SD1: Sustainable Development

GBSP2: Towns and Specified Settlements

R3: Energy Efficiency

R11: Biodiversity and Development

M14: Parking Standards for New Developments

D1: Quality of Design

D2: Character and Context

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

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

4.6 Hatfield Aerodrome Supplementary Planning Guidance, 1999

5 Constraints

- 5.1 The site lies within the specified town settlement of Hatfield as designated in the Welwyn Hatfield District Plan 2005.

6 Representations Received

- 6.1 This application has been advertised by site notice and neighbour notifications. Two representations were received from neighbouring households within Horsa Gardens and The Runway objecting to the proposal. Summary of representations received:

- There is an existing parking problem in the area due to the high density of development, the high density of Houses in Multiple Occupation (HMO) and the proximity of De Havilland Primary School;
- The proposal shows the use of a visitor parking space for the storage of the applicant's bicycles and refuse bins. This visitor parking space is not allocated to the application property;
- The proposal would result in the loss of one visitor parking space;
- Objection due to lack of space for public, increased crowding and congestion;
- If the garage were converted, the applicant would use the common area for parking two cars and storing waste bins;
- This application could set a precedent for similar proposals in the future.

7 Consultations Received

- 7.1 **Hertfordshire County Council Transportation Programmes & Strategy Department** – Does not wish to restrict the grant of permission subject to suggested planning conditions. Comments: This application for the conversion of the garage into habitable accommodation will not impact upon highway safety or capacity. Off street parking is still provided and no works within the public highway are required.

8 Town Council Representations

- 8.1 “Hatfield Town Council wishes to object to the application considering the loss of a garage and in particular a car parking space in an already congested area unacceptable”

9 Discussion

- 9.1 This application is presented to the Planning Control Committee because an objection has been received from Hatfield Town Council.
- 9.2 The main issues for to be considered are:

- 1. Impact on the character of the property and the surrounding area**
- 2. Impact on the residential amenity of neighbouring properties**
- 3. Parking provision and impact on the highway**
- 4. Other material planning considerations**

1. Impact on the character of the property and the surrounding area

- 9.3 The National Planning Policy Framework (NPPF) 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.

- 9.4 The application property currently benefits from an integral garage which is accessed via the east facing side elevation of the building. An adjacent garage serves No.11 Horsa Gardens. The existing habitable accommodation is provided at first floor level. A door within the north facing front elevation of the building provides access to a small porch and stairs to the first floor accommodation. It is proposed to retain the original garage door and erect a wall internally to convert the garage to a habitable room. An internal door would be knocked through between the porch and the rear wall of the garage. It also proposed to insert a window within the front elevation to serve the converted garage. This arrangement would maintain the existing external appearance of the east facing elevation of the property. The new window within the front elevation has been designed to match the style and scale of existing windows at first floor level. The proposal would, therefore, adequately maintain the character of the area in accordance with the NPPF and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

2. Impact on the residential amenity of neighbouring properties

- 9.5 The impact of the proposed development on the residential amenity of neighbouring dwellings is considered in terms of the impact on neighbouring properties access to day/sun/sky light, privacy, overbearing impact and noise. In this case, the proposal is for internal alterations and the insertion of a window within the front elevation at ground floor level. No external construction work is proposed, therefore, the development would have no impact in terms of light amenity or overbearing visual impact.
- 9.6 The conversion of the garage to a study would not result in additional noise generation beyond what would be expected as reasonable noise within a residential environment. The additional window within the front elevation would look out to the front of the site which is currently open and visible from the highway. No neighbour objections were received with regard to amenity issues. In terms of impact on residential amenity, the proposal complies with the Policy D1 of the Welwyn Hatfield District Plan and Supplementary Design Guidance, February 2005 (Statement of Council Policy).

3. Parking provision and impact on the highway

- 9.7 Welwyn Hatfield District Plan 2005 Policy M14 requires parking provision for new development to accord with the standards in the Council's Supplementary Planning Guidance (SPG) on parking, which is a maximum for car parking. The Council's Hatfield Aerodrome SPG 1999 applies to this site as it is part of the redevelopment of the former Hatfield Aerodrome. That SPG requires a maximum parking provision of 1.5 spaces for a 1 bed flat.
- 9.8 The number of bedrooms within the application property would not increase as a result of this proposal. Whilst the conversion of the garage to a study would result in the loss of garage space for parking, the site benefits from an area of hard paving in front of the garage that is sufficient to provide off-street parking for one vehicle. The applicant proposes to use a second parking space adjacent to the front door to provide a storage area for waste bins and bicycles.

- 9.9 There is no evidence of significant pressure for car parking in the area of the site and there are very few parking restrictions on the highway. There are a considerable number of private garages nearby, as well as off-street parking spaces. Furthermore, parking in the area surrounding the application site appears to be controlled by permits, which should ensure that it is available for use by local residents. On this basis, there is insufficient evidence to justify a requirement for the maximum level of parking provision for residential development in the area.
- 9.10 In terms of cycle parking, the Council's SPG identifies the need for at least one cycle storage space per dwelling if no garage or shed is provided. Whilst storage space within the application property is limited, the use of the garage for parking a car and bicycle would be cramped. The loss of the use of the garage for cycle parking is insufficient reason on its own to refuse planning permission. Nonetheless, there is potential for a covered cycle storage area to be provided to the front of the property. Therefore, if the application is to be approved the additional details illustrating appropriate storage could be agreed by condition.

4. Other material planning considerations

- 9.11 Land ownership and right of way:** The Site Location Plan and Block Plan includes within the red line part of the parking court in front of the application property. Five parking spaces and three garages serving No.3, 9 & 11 Horsa Gardens also fall within the red line. The Block Plan, Existing Ground Floor Plan and Proposed Ground Floor Plan identify two parking spaces for the benefit of No.3 Horsa Gardens. It is proposed to use one of these parking spaces for a bin store and cycle store to benefit the application property. A neighbour representation suggests that this parking space is not allocated to the application property and should be retained as a shared parking space for visitors. The original layout of the development did not include any parking provision in this location and the current use of the area as a parking space is an informal arrangement. The applicant has submitted a copy of their Title Plan which shows the area of the proposed bin and cycle store to be within their ownership.
- 9.12 The applicant has completed Certificate B of the application in respect of the garages which serve No.9 & 11 Horsa Gardens. In addition, the occupiers of all properties which share a boundary with the application site and those opposite were notified of the planning application by letter dated 10 May 2012. A site notice was also posted at the entrance to Horsa Gardens on 25 May 2012. The Council is therefore satisfied that reasonable steps were made to notify all persons with an interest in the land or building to which this application relates and the owners of all neighbouring properties. Matters relating to rights of way or land ownership are not protected by planning legislation and therefore carry little weight in determining planning applications. However, it is suggested that should planning permission be granted, an informative is included on the Decision Notice stating that the granting of planning permission does not convey or imply any consent to build upon land not within the ownership of the applicant, without the prior approval of the landowner
- 9.13 Quality of accommodation and provision of private amenity space:** With regard to living conditions, the application site does not include any private amenity space other than the area of hard paving at the front and side used for parking and access to the front door. However, the original one bedroom flat was not intended for occupation by a family and no increase in the number of bedrooms is proposed. There is also a sizeable landscaped and grassed area within a very short walking distance of the site. As such, the conversion of the garage into a study does not

increase the size of the property by a sufficient amount to require any additional private amenity space for its occupants' use.

- 9.14 The Council's Supplementary Design Guidance 2005 indicates that rigid standard sizes for gardens should not be applied and that the amount of open space in the local area is a factor when deciding upon the size of a garden. With respect to this application, the nearby communal amenity space is large enough and close enough to the site to meet the needs of the residents of the property. Therefore, based on the above, the garage conversion would not result in any significant harm to the living conditions of the occupants of the property.
- 9.15 **Bin storage and recycling facilities:** Bin storage could currently be provided within the garage. The conversion of the garage to habitable accommodation would result in the loss of the only available storage space at ground floor level. However, in the absence of policy requirements in relation to bin storage within residential accommodation, a lack of proposed bin storage carries only limited weight and is unlikely to be sufficient to warrant refusal of planning permission. Nonetheless, there is potential for a bin storage area to be provided to the front of the property. Therefore, if the application is to be approved the additional details illustrating appropriate storage could be agreed by condition.
- 9.16 **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 applicant has indicated within the submitted sustainability checklist that the existing garage walls would be insulated to comply with Building Regulations; no external construction work is proposed; all work will be internal; an area has been designated for cycle storage and bin storage.
- 9.17 **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.
- 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 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.

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.

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9.29 **Neighbour representations:** The majority of neighbour representations have been addressed within this report. However, one representation also raised the issue that this application could set a precedent for similar proposals in the future. Should any planning applications be submitted in the future for any other property, they would be assessed accordingly and on their own planning merits in the light of prevailing Development Plan policies and all other material planning considerations.

10 Conclusion

10.1 It is proposed to retain the original garage door and erect a wall internally to convert the garage to a habitable room. This arrangement would maintain the existing external appearance of the east facing elevation of the property. The new window within the front elevation has been designed to match the style and scale of existing windows at first floor level. The proposal would, therefore, adequately maintain the character of the area.

10.2 No external construction work is proposed and the additional window within the front elevation would look out to the front of the site which is currently open and visible from the highway. The proposals would have no significant impact on the residential amenity of neighbouring dwellings

10.3 The Council's Hatfield Aerodrome SPG 1999 applies to the area of the appeal site as it is part of the redevelopment of the former Hatfield Aerodrome. That SPG requires a maximum parking provision of 1.5 spaces for a 1 bed flat. There is insufficient evidence to justify a requirement for the maximum level of parking provision for residential development in the area.

10.4 Overall, 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).

11 Recommendation

11.1 It is recommended that planning permission be approved subject to the following conditions.

1. C.2.1 – Three Year 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 0101201 & 0101202 & 010203 received and dated 24 April 2012

PRE-DEVELOPMENT

3. C.7.13 – Bin Store/Recycling
4. C.8.5 – Secure Cycle Storage

POST DEVELOPMENT

5. The new window hereby approved shall match the style and appearance of existing windows within the application property, unless otherwise approved in writing by the local planning authority.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005.

Informatives

1. INF2 – Ownership

Summary of reasons for grant of permission (if applicable)

The proposal has been considered against the National Planning Policy Framework, East of England Plan 2008 policies SS1, SS2, ENV3, ENV7, T14 and development plan policies SD1, GBSP2, R3, R11, M14, D1 and D2 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the Development Plan.

Mark Peacock (Strategy and Development)
Date 25 June 2012

