WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT DELEGATED REPORT

APPLICATION No:	S6/2012/1258/FP
APPLICATION SITE:	Wildwood, Kentish Lane

NOTATION:

The site lies within the Metropolitan Green Belt and the North Mymms Common Newgate Street Farmed Plateau Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The application site is located on the east side of Kentish Lane and comprises of a large detached dwelling within landscaped grounds approximately 1.6 hectares in area. North east of the dwelling is a former garage which has been extended and partially converted and now incorporates parking for three vehicles, a one bedroom staff annexe at the ground floor and a two bedroom staff annex at first floor. To the north of the site are three further outbuilding used for gardening purposes. An openair swimming pool with a terrace is situated to the south west of the application dwelling.

The site is accessed via a private drive from Kentish Lane with gates adjoining the highway. Dense planting provides effective screening along the site frontage to Kentish Lane. The site boundary to the north east is defined by a 2m high close boarded fence and mixed. To the south east the site adjoins the residential garden of Courtyard Cottage. The wider area is semi-rural in character comprising agricultural fields and paddocks, woodland and hedgerows.

At the time of the site visit an extension was under construction to the north east side of the application dwelling. Prior this, the dwelling itself has not been extended since it was built as a replacement dwelling following planning permission S6/1052/97/FP, although it has benefited from additional habitable accommodation provided within the roofspace.

DESCRIPTION OF PROPOSAL:

This application seeks full planning permission for the erection of a swimming pool enclosure. The footprint of the new building would measure approximately 17.6m x 10.3m (181sqm measured externally) and would adjoin an existing outbuilding which houses a changing room and shower. The swimming pool enclosure would feature a flat roof concealed behind a parapet wall measuring approximately 3.6m in height. Externally the enclosure would be finished in white render with stone cladding detail to match the main house.

PLANNING HISTORY:

S6/2011/2227/FP – Erection of linked swimming pool and gym and erection of terrace with retaining walls (Refused 10/02/2012 and dismissed at appeal 16/05/2012)

Summary of reason for refusal of planning application S6/2011/2227/FP:

 The proposed extensions would result in a disproportionate increase in the size of the original dwelling that would fail to appear as a limited extension to the dwelling. The proposal is therefore inappropriate development within the Green Belt where 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 contrary to the requirements of Policy RA3 of the Welwyn Hatfield District Plan 2005 and Planning Policy Guidance Note 2: Green Belts.

S6/2011/0208/FP – Erection of side extension to create new orangery with basement (Refused 12/04/ 2011 and Allowed at Appeal 27/07/2011)

S6/2011/0198/MA – Conversion of existing residential unit in ground floor of detached outbuilding into a garden room and retention of first floor staff annex (Granted 10/05/2011)

S6/2005/0881/FP – Erection of swimming pool enclosure (Refused 07/09/2005)

S6/2005/0586/FP – Erection of an orangery to side of building (Granted 30/06/2005)

S6/2005/0246/FP – Erection of an orangery and pool enclosure (Refused 29/04/2005)

S6/2003/1120/FP – Alteration to roof of detached garage (Granted 15/09/2003)

Condition 3: The extension hereby approved shall be used only as storage in conjunction with the use of the rest of the property as a single family dwelling and shall not be let, sold or otherwise occupied as a separate residential unit.

S6/2001/1195/FP – Conversion and extension of existing garage to form living accommodation for staff (Granted 1208/2002)

Condition 3: The occupation of the ancillary living accommodation within the extended garage hereby permitted shall be limited to the owner/occupier of Wildewood, members of the owner/occupier's family or staff employed by the owner/occupier in connection with the occupation of Wildewood as a residential dwelling. The ancillary living accommodation shall at no time be let, occupied separately or sold as an independent dwelling.

S6/0484/99/FP – Erection of Garden Store (Granted 02/08/1999)

S6/1052/97/FP – Demolition of existing dwelling, glasshouses and barns and construction of replacement dwelling and garage (variation to planning permission S6/0173/97/FP to add conservatory, attic dormers and garden store) (Granted 02/03/1998)

Permitted development rights removed: Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 1, Class A, B, C and E

S6/0173/97/FP – Demolition of existing dwelling, glasshouses and barns and construction of replacement dwelling and garage (Granted 03/12/1997)

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy Framework

East of England Plan 2008 SS1: Achieving Sustainable Development ENV2: Landscape Conservation ENV3: Biodiversity & Earth Heritage ENV7: Quality in the Built Environment

Welwyn Hatfield District Plan 2005 SD1: Sustainable Development GBSP1: Definition of Green Belt R3: Energy Efficiency R11: Biodiversity and Development D1: Quality of Design D2: Character and Context RA3: Extensions to dwellings in the Green Belt RA10: Landscape Regions and Character Areas

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 and Strategy Department: Does not wish to restrict the grant of planning permission. Welwyn Hatfield Borough Council Landscape and Ecology Department: No response (consultation expired 25/07/2012)

TOWN/PARISH COUNCIL COMMENTS

Hatfield Town Council: No response (consultation expired 25/07/2012)

REPRESENTATIONS

This application has been advertised by site notice and neighbour notification letters. No representations have been received.

DISCUSSION:

The main issues are:

- 1. Whether the proposal is appropriate development in the Green Belt and the impact on the character and openness of the Green Belt
- 2. The impact of the proposal on the character and appearance of the existing property and on the amenity of adjoining properties
- 3. Other material planning considerations

1. Whether the proposal is appropriate development in the Green Belt and the impact on the character and openness of the Green Belt

The general policies controlling development in the countryside apply with equal force in Green Belts but there is, in addition, a general presumption against inappropriate development within them. As with previous Green Belt policy, the National Planning Policy Framework (NPPF) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The NPPF goes on to indicate that "substantial weight" should be given to any harm to the Green Belt and that very special circumstances

will not exist unless the harm as a result of inappropriateness and any other harm is clearly outweighed by other considerations.

The NPPF accepts that within the Green Belt the construction of new buildings should be regarded as inappropriate development. Exceptions to this include buildings for agriculture and forestry; provision of appropriate facilities for outdoor sport and outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it. The extension or alteration of a building is not inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. This advice is reflected in Local Plan Policy RA3 (Extensions to Dwellings in the Green Belt) criterion (i). Policy RA3 is also applicable to those outbuildings which require planning permission.

The Welwyn Hatfield District Plan was adopted in April 2005. Policy RA3 indicates that within the Green Belt extensions to dwellings and outbuildings, both individually and when considered with other extensions, should not result in a disproportionate increase in the size of the original dwelling. Policy RA3 is consistent with the objectives of the NPPF as regards the protection of the Green Belt and therefore should be given significant weight.

The NPPF does not qualify what is said about inappropriate development in the Green Belt by any reference to whether or not such extensions would be readily visible or cause any harm to the appearance of the Green Belt. Also, whilst Policy RA3 of the Local Plan deals with visual impact it does so in a separate criterion from that which addresses whether or not a proposal would result in a disproportionate increase in the size of a dwelling. Appearance and visual impact are matters to be weighed in the balance once a conclusion has been reached on whether or not a proposal would be inappropriate development.

Policy RA3 (ii) states that permission for extensions to existing dwellings within the Green Belt will be allowed only where the proposal would not have an adverse visual impact in terms of its prominence, size, bulk and design on the character, appearance and pattern of development of the surrounding countryside.

The main issues are therefore:

- 1. Whether or not the proposed swimming pool enclosure would amount to inappropriate development in the Green Belt.
- 2. The effect of the development on the openness of the Green Belt, its character and visual amenity.
- 3. Whether there are any very special circumstances to clearly outweigh the by reason of inappropriateness and any other harm.

Whether or not the proposed swimming pool enclosure would amount to inappropriate development in the Green Belt: Neither the NPPF Policy RA3 provide specific guidance on assessing the size of a property and there are a number of ways in which an extended property can be compared to an original dwelling in order to assess whether or not an addition is disproportionate. The net total additional floorspace added to the original dwelling is one commonly used indicator, however, each and all other factors, including the proposed additional cubic content, the increase in footprint and any increase in height are also relevant and capable of being taken into account.

The Local Plan makes clear that the judgement as to whether a proposal would result in a disproportionate increase in the size of the original dwelling must take into account any existing or approved extensions but it gives no detailed guidance as to what scale of increase will be considered 'disproportionate'.

The application site has a complex planning history. It was originally part of Warrenwood Estate and the cottage which occupied the site was the former pump house. The site then became a commercial nursery comprising of a number of large outbuildings and greenhouses whilst retaining the residential dwelling.

In December 1997 planning permission was granted to demolish the existing dwelling, glasshouses and barns and construct a replacement dwelling and garage (S6/0173/97/FP). In March 1998 an alternative permission was granted, for a dwelling that included a conservatory, dormers and garden store (S6/1052/97/FP). The approved dormers were to provide natural light to a storage area only and no habitable rooms were proposed within the roof space. This latter permission was implemented, and resulted in the present dwelling known as Wildewood.

The original dwelling which occupied the site was single storey and had a footprint of 237sqm as outlined in the Case Officer's report for application S6/1052/97/FP. Very special circumstances were put forward by the applicant as part of this permission for a replacement dwelling stating that the new dwelling would be set back from the main road, the overall footprint would be less and the demolition of all the outbuildings buildings associated with the commercial nursery would improve the visual appearance of the site. The application was granted permission and Condition 5 of this permission removed permitted development rights for Class A, B, C and E of Schedule 2, Part 1 to allow the Council to have strict control on any future proposed alterations, extensions and outbuildings to the site. A materially larger replacement dwelling was allowed to be constructed due to very special circumstances.

The NPPF explains that the limited extension, alteration or replacement of existing dwellings is not inappropriate in the Green Belt provided that it does not result in disproportionate additions over and above the size of the 'original' building. This is reiterated in Local Plan Policy RA3. For the purpose of determining applications to extend a replacement dwelling within the Green Belt, the Council consider that it is the size of the demolished dwelling, as originally constructed or as existed on 1st July 1948, which is the 'original' dwelling. Notwithstanding this, in allowing planning application S6/2011/0208/FP the Inspector opined that on this particular site, a comparison with the demolished dwelling would be misleading as it would ignore the other building that existed on the site prior to the 1998 permission for a replacement dwelling. Consequently for the purpose of determining the present application, the replacement dwelling as permitted in 1998 (S6/1052/97/FP) is considered the 'original' dwelling.

Since the implementation of planning consent S6/1052/97/FP nine planning applications have been received by the Local Planning Authority for further development. Five applications were granted and four were refused of which one refusal was allowed at appeal. The permissions are relevant as they have resulted in an extension to the original dwelling, conversion of the attic space to habitable accommodation, the erection of additional outbuildings and the extension of the garage (Policy RA3 is also applicable to those outbuildings which require planning permission).

At the time of the site visit an orangery extension was under construction to the north east side of the application dwelling (planning reference S6/2011/0208/FP granted on appeal). Prior this, the dwelling itself has not been extended since it was built as a replacement dwelling. Although the dwelling had not previously been extended, it is relevant that the roof space has been converted to provide additional habitable

accommodation as shown on drawing 10424-s003-A. Whilst it is acknowledged that planning permission S6/1052/97/FP included the introduction of "attic dormers", these were intended to provide natural light to the attic which was not included in the calculation of habitable floor area when granting permission for the replacement dwelling (the Officer's report and application form for planning permission S6/1052/97/FP are available on file).

The garage as it exists is an amalgamation of previous planning permissions and a number of additions which were completed without the benefit of planning permission. Planning application S6/2011/0198/MA permitted the retention of the two bedroom annexe at first floor, the conversion of the existing one bedroom ground floor annexe into a garden room and the retention of the external alterations including the addition rooflights and external staircase.

Three other outbuildings exist towards the northern site boundary comprising, a timber garden store, a greenhouse and another garden store which is open on three sides. These outbuildings do not benefit from planning permission even though planning permission would have been required. It is relevant that a 'garden store' was granted planning permission in August 1999 under planning reference S6/0484/99/FP although the design and location are different to what exists on site.

The Officer's report and application form for planning permission S6/1052/97/FP (available on file) identified a total proposed floor area for the replacement dwelling of 449sqm. However, the plans submitted as part of this application show the replacement dwelling to have a floor area of 541sqm. This includes the ground floor and first floor only as the second floor and basement, as approved, did not include any habitable accommodation.

The Green Belt Table below provides an overall assessment and summary of the existing and proposed footprint and gross floor area calculated using the submitted drawings:

	Floor Area (Sqm measured externally)	Approximate percentage increase over original dwelling	Footprint (Sqm measured externally)	Approximate percentage increase over original dwelling
Original dwelling (ground floor and first floor only)	541		289	
Existing Dwelling (including second floor accommodation, orangery extension, outbuildings which required consent, staff annex and extension to garage)	943	74%	452	56%
Cumulative total including current proposal	1124	108%	633	119%

The existing floor area including second floor accommodation within the roofspace, the orangery extension, all outbuildings which required consent, the staff annex and the extended part of garage totals approximately 943sqm. The floor area of the proposed swimming pool enclosure would measure approximately 181sqm. The cumulative floor area would total approximately 1124sqm or a 108% increase over-and-above the floor area of the original dwelling.

The cumulative footprint would measure approximately 633sqm which is equivalent to a 119% increase over-and-above the original dwelling which had a footprint of approximately 289sqm.

It is acknowledged that there is a considerable disparity between the Council's figures and those of the applicant as regards the extent to which the floorspace within the buildings at Wildewood has been increased since the creation of the replacement dwelling. The applicant does not include the additional habitable accommodation provided within the roofspace of the main dwelling or the erection and extension of outbuildings, which include extensions to the garage, conversion of the first floor of the garage to a staff annex and the erection of garden stores and a greenhouse. These developments pre-date the 2011 appeal which was against the Council's decision to refuse permission for an orangery extension at the eastern end of the dwelling. In allowing that appeal the Inspector commented that the Council did not seek to argue that the outbuildings were of relevance and the Inspector took a similar view. Nevertheless, even discounting those developments, the proposal, when taken together with the additional accommodation provided within the roofspace and the orangery extension would result in an increase in floorspace of 61% as shown by the table below:

	Floor Area (Sqm measured externally)	Approximate percentage increase over original dwelling	Footprint (Sqm measured externally)	Approximate percentage increase over original dwelling
Original dwelling (ground floor and first floor only)	541		289	
Existing Dwelling (including second floor accommodation, and orangery extension but not outbuildings which required consent, staff annex and extension to garage)	692	28%	324	12%
Cumulative total including current proposal	873	61%	505	75%

In allowing the 2011 appeal the Inspector stated *"As far as I am aware, the building has not been extended since it was completed"*. Clearly the Inspector was provided with insufficient evidence to demonstrate the planning history of the site, with

particular regard to the additional habitable accommodation created within the roofspace of the main dwelling. It is acknowledged that this was an omission on the part of the Local Planning Authority, however, the current scheme must be considered strictly on its own merits having regard to the objectives of policies for development in the Green Belt. The planning history is not a positive attribute of the current scheme that could be considered to weigh in its favour. In assessing the increase in the size of the original dwelling, the calculations should include outbuildings in accordance with Policy RA3.

The footprint and floor area calculations demonstrate that as a matter of fact and degree, the cumulative amount of development which already exists is disproportionate to the original building. Any further enlargement would only add to the already disproportionate increase. Even if the existing outbuildings were discounted, the loft conversion and orangery extension already built have added approximately 28% to the floor area of what was originally a large replacement dwelling. The addition of the proposed swimming pool enclosure would result in a cumulative increase in floor area of 61% together with a very substantial and significant increase in built footprint, bulk and volume. The proposal is therefore regarded as inappropriate development in the Green Belt which is by definition, substantially harmful to the Green Belt contrary to the National Planning Policy Framework and Policy RA3(i).

The effect of the development on the openness of the Green Belt and its visual amenity: In terms of the effect of the proposal on the openness of the Green Belt and its visual amenity, the NPPF identifies in paragraph 79 that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

The second criterion of Policy RA3 requires extensions not to have an adverse visual impact on the character, appearance and pattern of development in the surrounding countryside. As discussed earlier in this report, Policy RA3 of the Welwyn Hatfield District Plan is also applicable to those outbuildings which require planning permission. In terms of the effect of the swimming pool enclosure on the openness of the Green Belt, the proposed increase in volume would materially increase the bulk and mass of development of site thereby reducing the openness of the Green Belt. Notwithstanding this, the new building would be concealed from view from the highway by extensive boundary vegetation within the site and along the roadside verge. For this reason, in determining the previous planning application, the Local Planning Authority considered that the proposal would not have an adverse impact on the character and appearance of the surrounding countryside and would therefore accord with the second criterion of Local Plan Policy RA3.

In dismissing the 2012 appeal the Inspector agreed that "As a result of its siting the building would not detract from the character or appearance of the countryside", however, the Inspector added "Although not in public view the presence of a building of this size would detract from the openness of the Green Belt and thereby conflict with one of its essential characteristics." The appeal decision concluded that the proposal would be inappropriate development in the Green Belt that would conflict with Policy RA3 and would also detract from the openness of the Green Belt. In light of this recent appeal decision, it is considered reasonable for the Local Planning Authority to reconsider the loss of Green Belt openness.

The applicant has reduced the size of the proposed building both in terms of its footprint and its height. The link to the main dwelling has also been removed creating approximately 5.7m separation distance between the main dwelling and the proposed swimming pool enclosure. It is agreed that the proposal would be subordinate to the

dwelling, however, it remains a very large structure with three dimensional bulk. To the substantial harm by reason of inappropriateness must be added the inevitable loss of Green Belt openness locally that addition of the proposed building would occasion. It is accepted that because the addition would be concealed from view from the highway and the surrounding countryside by trees, boundary fences and landform, the loss might not be readily apparent but it would none the less be tangible. Taking account of the aim of the NPPF to protect Green Belts from development it is considered that the presence of a building of this size would detract from the openness of the Green Belt and thereby conflict with one of its essential characteristics.

Very Special Circumstances: No very special circumstances have exist of sufficient weight to set aside Green Belt policies of restraint.

2. The impact of the proposal on the character and appearance of the existing property and on the amenity of adjoining properties

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 dwellinghouse is located on a large plot within a rural setting. The general characteristics of properties within the vicinity of Kentish Lane are generally large detached dwellings located within large residential plots. Notwithstanding the large footprint proposed, the swimming pool enclosure would appear subordinate in scale to the application dwelling and would not appear cramped on the site. The architectural style, windows, detailing and materials are appropriate to the original dwelling.

The proposal it considered unlikely to have a significant impact on neighbouring occupiers by virtue of separation distance, orientation and boundary screening. No representations have been received from neighbours and Hatfield Town Council did not comment. In terms of the impact on the character of the area and on the residential amenity of neighbouring properties, the proposed development is in accordance Policy D1 Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

4. Other material planning considerations

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.

Landscape Regions and Character Areas: 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 North Mymms Common and Newgate Street Formed Plateau Landscape Character Area. The objectives of the landscape character area are to conserve and restore. Taking into consideration the size of the proposal and location of the site and its boundary treatment, it is not considered to detrimentally impact on the objectives of the North Mymms Common and Newgate Street Formed Plateau Landscape Character Area which complies with Policy RA10 of the Welwyn Hatfield District Plan, 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).

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 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.

CONCLUSION:

The increase in size of the application dwelling resulting from the proposed swimming pool enclosure is considered disproportionate over and above the size of the original building and therefore inappropriate development within the Green Belt contrary to the first criterion of Policy RA3 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework. The increased bulk and massing would result

in a reduction in the openness of the immediate surroundings contrary to the second criterion of Policy RA3 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

RECOMMENDATION: REFUSAL AND REASON (S)

SUMMARY OF REASONS FOR THE REFUSAL OF PERMISSION:

 The site lies within the Metropolitan Green Belt where there is a presumption against inappropriate development. The cumulative increase in size of the application dwelling resulting from existing extensions to the application dwelling, existing extensions to outbuildings and the erection of new outbuildings is considered disproportionate over-and-above the size of the original building and therefore inappropriate development within the Green Belt. Furthermore, as a result of its size, the proposed swimming pool enclosure would result in a reduction in the openness of the immediate surroundings. The proposal is, therefore, contrary to the provisions of Section 9 'Protecting Green Belt Land' contained in the National Planning Policy Framework, March 2012; and criterion (i) and (ii) of Policy RA3 of the Welwyn Hatfield District Plan 2005. The harm, by reason of inappropriateness is not outweighed by other considerations.

INFORMATIVES

None

REFUSED DRAWING NUMBERS

10424-S004-B & 10424-A1-PL07 received and dated 28 June 2012

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