

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No:	S6/2012/2656/S73B
APPLICATION Site:	Land at Hornbeam Lane, Brookmans Park

NOTATION:

The site lies within the Metropolitan Green Belt, Landscape Character Area and Wildlife Site, with adjoining Right of Way as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The wider Warrenwood site extends to 24.05 ha. Currently, the wider site includes a partially constructed dwelling house and stable block (dwelling to eaves level, the stable to roof and watertight), the footings for a barn (granted permission for agricultural use) as well as a number of buildings that were present at the time of the former dwelling house – small stable block and garage, plus post and rail fencing constructed in relation to the stables, ménage etc. A storage container was noted on the application site for the dwelling house, whilst a domestic caravan and a storage container were present on the stable block site. An electronic alarm system, whilst in situ at the entrance to the dwelling house site, was not functioning.

A 1930s detached house originally stood on the site, together with a number of outbuildings including the stable and garaging block. Whilst the original dwelling house has since been demolished, its stable and garaging blocks remain.

The site is located approximately 2km to the south of the village of Essendon. Access to the site is via Kentish Lane (B158). The application site, to which this proposal relates, comprises 0.83 ha of land. It lies on either side of Hornbeam Lane, which serves the site and a number of cottages and also forms a public bridleway.

Within the site boundary and on the southern side of Hornbeam Lane, is the partially constructed two storey dwelling house. The structure has no roof and has been left unprotected.

To the northern side of the partially constructed dwelling house is the remaining original garaging and stable blocks. This part of the application site is defined along the boundaries of the residential curtilage by landscaping and the bridleway.

The other part of the application site is on the opposite side (northern) of Hornbeam Lane. This comprises the incomplete 20 box stable building. This structure is more advanced with virtually complete roof, together with dormer windows at a first floor level.

DESCRIPTION OF PROPOSAL:

This application seeks permission for a variation of condition 1 of planning permission reference S6/2009/2574/FP which granted consent for “*Erection of new dwelling, three bay garage block, garden store together with retention and alteration of the existing stables, landscaping and all other ancillary works. Following demolition of partially constructed dwelling, adjoining stables and garage blocks*”.

Condition 1 stated that the development shall be begun **within a period of three years commencing on the date of the decision notice (Dated 18 January 2010)**.

The current application is for a new planning permission to replace the extant planning permission in order to extend the time limit for implementation by three more years.

PLANNING HISTORY:

Previously called Meadow Cottage.

S6/1980/64 Two storey side extension - approved 25 Feb 1980.

S6/1984/133 Two storey extension – refused 13 Apr 1984.

Re-named Spike Island.

S6/1987/841/OP Two storey side extension – approved 20 Nov 1987.

S6/1988/1021/DE Two storey side extension with balcony at first floor – approved 28 Nov 1988.

S6/1989/652/OP Demolition of existing house & construction of replacement dwelling – refused 18 Aug 1989. Appeal lodged and upheld 15 Jun 1990.

S6/1993/350/OP Renewal of OP to demolish and build replacement dwelling – approved 08 Jul 1993.

S6/1996/189/OP Renewal of OP to demolish and build replacement dwelling – approved 10 May 1996.

Spike Island and the adjacent land were purchased by Andrew Perryment (Rose Limited) in 1998.

S6/1998/129/AG Barn for general storage purposes in connection with the agricultural use of the land – Determined no objection and no further details required 09 Mar 1998.

S6/1998/291DE Details pursuant to S6/1996/189/OP relating to replacement dwelling – approved 20 Jul 1998.

S6/1998/1132/FP Revised siting of dwelling house approved under S6/1998/0291 – approved 17 May 1999 subject to existing dwelling being removed before commencement of replacement.

S6/1999/372/FP Change of use of land to equestrian with associated ménage, rides and landscaping – approved 09 Aug 1999.

ENF/99/253 – November 1999. 3 x concrete strips laid in west corner of field opposite Spike Island. PCN served leading to:-

S6/1999/993/FP 24 timber loose boxes on concrete bases for equestrian use – refused 04 Jan 2000. Reported to PCC 06 Apr 2000 when enforcement authorised.

S6/2000/387/FP Variation to Condition 5 of S6/1998/1132/FP to allow retention of existing dwelling for 6 months after new dwelling commenced – approved 17 Jul 2000.

Enforcement Notice TP/EN/12/2000 served 22 September 2000 requiring removal of concrete strips. Appeal lodged and new application submitted.

S6/2000/1492/FP Erection of 20 box stable building – refused 05 Jan 2001 but after appeal lodged against non-determination within 8 weeks.

S6/2000/1520/FP Variation to Condition 5 of S6/1998/1132/FP to allow retention of existing dwelling for 12 months after new dwelling commenced – approved 29 Jan 2001.

NB: Appeals against Enforcement Notice and non-determination decision issued 05 July 2001. Notice quashed and permission granted for 3 concrete strips. Permission granted for 20 box stable building.

S6/2001/499/FP Replacement dwelling house (revision of S6/1998/1132/FP) showing additional 12 dormer windows and a basement – approved 27 Aug 2002, subject to condition requiring existing dwelling to be removed prior to commencement of approved replacement.

S6/2009/2556/MA - Change of use to equestrian with associated ménage, rides and landscaping – Granted conditionally on 21 January 2010.

ENF/01/113 - On 26 Sept 2001 it was reported that a mobile home had been sited on land adjacent to Spike Island and was occupied for residential purposes by Mr Moynihan. Enforcement action was authorised on 14 March 2002. An application for Certificate of Lawfulness was submitted but not determined. The mobile home was removed from the land in 2003 (but was moved to the land where stables were being built).

ENF/03/107 – On 25 April 03 it was reported that earth moving was taking place. Investigations revealed this to be groundwork in respect of the replacement house development.

On 15 Sept 2003 revised details of the siting of the barn showing a 90 degree turn were submitted. On 19 September amended details of the replacement house were submitted. These were approved by letter on 22 September 2003.

ENF/04/009 – On 13 Jan 04 it was reported that the stables building was too high. The officer who inspected thought that the building appeared to be proceeding as approved, although photographs taken at the time reveal that the building was much larger.

ENF/06/071 - On 23 March 2006 it was reported that dormer windows had been inserted in the roof of the stables and that a mobile home was being lived in on the land. Investigations revealed that the building was higher than approved, larger than approved and that a first floor was being installed with dormer windows.

ENF/07/099 - It was noted that the barn was not being built in accordance with the details submitted being a different shape, larger and in the wrong materials. Therefore this could not be the permitted development notified under S6/0129/98/AG and amended by letter dated 22 September 2003.

ENF/07/100 & ENF/07/103 – On 28 March 2007 it was noted that the existing house had not been demolished as required by the condition of the permission (as varied), and it appeared that the replacement house was larger than approved. Furthermore a large pond had been created and the landscaping of the site did not correspond with the details approved.

S6/2012/2661/S73B – Variation to Condition 21 (showing easement details that give legal rights of access for vehicular traffic) to secure revised wording to the condition was approved prior to the determination of this time limit extension, hence this application if supported will impose the revised approved wording to this condition.

SUMMARY OF DEVELOPMENT PLAN POLICIES:

National Planning Policy Framework, March 2012

Circular 03/09: Costs Awards in Appeals and Other Planning Proceedings

Hertfordshire Structure Plan Review 1991 – 2011:

None

Hertfordshire County Council Waste Local Plan 1999

Waste Policy 7 - Re-use of Waste Arising from New Developments

Welwyn Hatfield District Plan 2005:

SD1: Sustainable Development

GBSP1: Definition of Green Belt

R3: Energy Efficiency

R11 Biodiversity and Development

R15 Wildlife Sites

M14: Parking standards for new developments

D1: Quality of design

D2: Character and context

D8: Landscaping

RA4 Replacement Dwellings in the Green Belt

RA10 Landscape Regions and Character Areas

RA24 Riding and Livery Stables

RA25 Public Rights of Way

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking

Standards, January 2004

CONSULTATIONS:

Hertfordshire Biological Records Centre: No objections to the proposed time extension.

Hertfordshire CC (Highways): As Highway Authority does not wish to restrict the grant of planning permission, but highlight that issues of access to the site have still to be fully resolved.

Herts and Middlesex Wildlife Trust: No objections against extension of the time limit.

TOWN/PARISH COUNCIL COMMENTS: None

REPRESENTATIONS

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

DISCUSSION:

The main issues are:

1. Whether the Extension to the Time Limit is Acceptable
2. Other Material Considerations

1. Whether the Extension to the Time Limit is Acceptable

Section 73 allows applicants to apply to remove one or more conditions attached to an earlier planning permission, reference No. S6/2009/2574/FP in this particular case. This results in a new permission with one or more conditions from an extant permission varied or being wholly removed. In determining an application under this section, officers have to have regard to the development plan and all other material considerations but the principle of development should not be re-assessed since that is not an issue in relation to the variation or removal of the condition.

This application is for a variation of condition 1 of planning permission S6/2009/2574/FP which granted consent for the..... "*Erection of new dwelling, three bay garage block, garden store together with retention and alteration of the existing stables, landscaping and all other ancillary works. Following demolition of partially constructed dwelling, adjoining stables and garage blocks*".

Condition 1 stated that the development shall be begun before the expiration of three years from the date of the decision notice. The current application is for a new planning permission to replace the extant planning permission in order to extend the time limit for implementation.

The extant planning consent is still relevant apart from any changes identified below in regards to:

- Changes to the surroundings, context of the application site or the application site itself
- Changes to planning policy under which the proposal was approved
- New planning history

The National Planning Policy Framework (NPPF) was published on 27 March 2012 and is a material consideration in determining planning applications. This Framework

replaced Planning Policy Guidance (PPGs) and Planning Policy Statements (PPSs) which were relevant when planning application S6/2009/2574/FP was earlier determined in 2010, guidance in the then PPS1: Delivering sustainable development, PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation and PPG13: Transport material at that time.

The NPPF of March 2012 does not change the statutory status of the development plan as the starting point for decision making. Planning applications must still be determined in accordance with the development plan consisting of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance/SPG Parking Standards.

Of further note, and in terms of regional policy, is the recent revoking of the East of England Plan 2008 (January 3rd 2013), wherein policies SS1: Achieving Sustainable Development, T14: Parking, ENV7 Quality of Design, ENV2 Landscape Conservation and ENV3 Biodiversity and Earth Heritage were originally considered and material.

There have been no significant changes to the application site itself, surrounding context, planning history or other planning policy which would impact on the implementation of this proposal in regards to raising new issues which would justify the need of a fresh planning application.

No representations have been received from neighbours and the Essendon Parish Council did not comment.

Whilst it is normally considered reasonable that the current planning application should be subject to the same conditions as the previous planning application where they remain in accordance with the test set out in paragraph 206 for the NPPF, the recent approval of S6/2012/2661/S73B (variation to wording of condition 21) requires the imposition of the revised condition to this decision notice.

2. Other Material Considerations

Protect Species: The presence of protected species is a material consideration, in accordance with the Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05. In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states: *"a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."* The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals, however the existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would an EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

Biodiversity – A detailed biodiversity report was submitted with the original application. This assesses bats, birds, reptiles, amphibians and mammals. Bats have been found to be present within the 2 stable blocks with possibility that bats could also be present within the main building (dwelling) (it was not possible to investigate for health and safety reasons). The site has also been acknowledged to be a likely site for nesting birds and works should be undertaken at suitable times of the year to ensure their protection. Herts & Middlesex Wildlife Trust and Herts

Biological Records Centre responded to the original consultation on the proposals and neither have raised objections to this time limit extension.

Sustainability – the applicant has submitted a sustainability checklist as part of the application. This details that measures such as minimisation of water consumption, permeable surfacing, minimizing heat loss, following the waste hierarchy, contribution to biodiversity and so forth will be undertaken. It is therefore considered that the development will contribute towards the sustainability objectives of the local plan.

CONCLUSION:

The proposed development is considered to be in accordance with the relevant the National Planning Policy Framework, the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance, February 2005 and Parking Standards, January 2004.

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C.2.1 – 3 year time limit
2. C.13.1: Development in accordance with approved plans/details 541/LP1 & 01 & 02 & 03 & 04 & 05 & 06 & 07 & B09018.03 Rev A & B09018.04 A, with the exception of details to be approved under conditions 10 and 11 received and dated 23rd November 2009
3. C.5.1 – Samples of materials
4. Prior to the commencement of the development hereby permitted,
 - (i) the existing buildings as shown on drawing 01 (annotated as existing garage & timber shed, existing stables and extent of part constructed dwelling & cellar to be removed shown dotted) and the part constructed barn as shown on drawing 541/05 (annotated part constructed agricultural barn to be demolished and landscape reinstated) shall be demolished in their entirety with all materials removed from the site, with the exception of materials to be recycled as part of the construction. The demolition timing shall be undertaken in accordance with details within condition 6 and as to be agreed under condition 5.

REASON: In the interests of the visual amenity of the Green Belt in accordance with Policy RA4 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework (NPPF).

5. No works of demolition of the existing buildings are to take place until bat emergence surveys have been carried out on site and a report submitted to the Local planning authority for approval in writing. Surveys shall follow the Bat Conservation Trust Survey Guidelines (2007). A mitigation scheme shall also be submitted to the Local planning authority for approval in writing. This is to include a Method Statement, Mitigation Strategy (to include details of roost replacement provision) and Works Schedule stating how it is proposed to accommodate each species of bat within the new development.

REASON: To comply with the requirements of the Wildlife and Countryside Act and Habitats Regulations.

6. No demolition of buildings, or removal of trees, scrub or hedges, shall be carried out on site between the 1st March and the 31st August inclusive in any year, unless searched before hand by a suitable qualified ornithologist.

REASON: To protect nesting birds from disturbance under the Wildlife and Countryside Act 1981 (As amended).

7. No external lighting shall be installed within the site or affixed to any buildings on the site unless the Local planning authority has first approved in writing details of position, height, design and intensity.

REASON: To ensure the site continues to be suitable for use by bats. Certain buildings and habitats around the site may be important for bats, which might be adversely affected by light pollution in sensitive areas in accordance the Wildlife and Countryside Act 1981 (As amended).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, B, C, D & E of Part 1 of Schedule 2 shall take place, unless permission is granted on a planning application made to the local planning authority.

REASON: To enable the Local planning authority to fully consider the effects of future development normally permitted by that order in the interests of the safeguarding the openness and visual amenity of the Green Belt in accordance with Policy RA4 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework (NPPF).

9. C.4.1 – Landscaping (a, e, l – a tree survey to be collated and include the Poplar Plantation works, compliant with BS5837:2005)
10. Notwithstanding the landscaping details that have been submitted with the application, prior to the commencement of the development hereby permitted details shall be submitted showing amendments to the landscape plan, to vary the planting and enhance the landscape and biodiversity value of the site, to the Local planning authority for approval in writing. The development shall not be carried out other than in accordance with the approved details.

REASON: The landscaping of the site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 and R11 of the Welwyn Hatfield District Plan 2005.

11. Notwithstanding the landscaping details that have been submitted with the application, prior to the commencement of the development hereby permitted the trees within the area covered by TPO3 W42 proposed for felling shall be marked up and a plan of their location submitted to the Local planning authority (together with location of trees that are to remain). A minimum of 5 working days shall be given to the Local planning authority for the marked up trees to be viewed on site. Subsequently only the approved details shall be felled.

REASON: To ensure that any works undertaken comply with arboricultural practice and that the visual amenity of the area is maintained in accordance with Policies R17, D8 and D2 of the Welwyn Hatfield District Plan 2005.

12. Prior to the commencement of the development hereby approved an Arboricultural Method Statement, compliant with BS5837:2005, which shall include the following details, shall be submitted to the Local planning authority for approval in writing:

- the method and location of the barriers to protect trees and hedgerows on site and on Hornbeam Lane
- ground protection for any areas of the root protection area which will fall outside of the protective fencing
- a method statement and diagrams showing how any new hard or gravel surfaces which fall inside the root protection areas are to be constructed.

REASON: The landscaping of the site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 and R11 of the Welwyn Hatfield District Plan 2005.

13. C.4.2 – Implementation of landscaping

14. Prior to the commencement of the development hereby permitted, details shall be submitted to the Local planning authority showing measures to protect the most southern pond, together with how the pond shall be incorporated into the design and future management of the meadow.

REASON: In the interests of the visual amenity of the site in this agricultural Green Belt location and to encourage biodiversity in accordance with Policies R11 and D2 of the Welwyn Hatfield District Plan 2005.

15. Prior to the commencement of the development hereby permitted, a detailed scheme for the storage and disposal of waste and manure shall be submitted to and approved in writing by the local planning authority.

REASON: To ensure that risks from contamination to the users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

16. The stable building hereby permitted shall only be occupied in conjunction with the residential development hereby approved on the adjoining land and shall not at any time be used for commercial livery or riding school purposes.

REASON: To restrict the use of the building to one compatible with the local area and to minimise the intensity of use of the site in Policy RA24 of the Welwyn Hatfield District Plan 2005.

17. Prior to the commencement of the development hereby permitted, details of boundary treatment to demarcate the residential curtilage from the agricultural land as defined on drawing 541/LP1 (southern most red outline) shall be submitted to the Local planning authority for approval in writing. Subsequently the approved details shall be implemented prior to the occupation of the dwelling and retained in perpetuity thereafter.

REASON: To ensure the residential curtilage is clearly defined and prevent encroachment into the adjoining agricultural land in the interests of the openness and visual amenity of the Green Belt in accordance with Policy RA4 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework (NPPF).

18. Waste materials from the existing part constructed stable block, dwelling house and barn shall be recycled in accordance with details submitted within the waste management plan within the Design & Access Statement by Peter Newson Associates Limited.

REASON: To accord with the waste planning policies of the area in accordance with Policy 7 of the Hertfordshire County Council Waste Local Plan 1999.

19. The basement to the dwelling hereby approved shall be used solely for purposes ancillary to the new dwelling and/or incidental to the enjoyment of the new dwelling and the area shall not be used for separate living accommodation.

REASON: In the interests of the amenities of the Green Belt, to minimise overdevelopment and intensity of use of the site in accordance with Policy RA4 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework (NPPF).

20. A plan showing the layout of the first floor of the stable block shall be submitted to the local planning authority for approval in writing prior to the commencement of the development hereby permitted. The use of the first floor shall be for hay, straw or other agricultural products and shall not be used for any residential, commercial or non-agricultural purposes.

REASON: In the interests of the amenities of the Green Belt in accordance with Policy RA24 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework (NPPF).

21. Prior to the commencement of the development hereby permitted an opinion from counsel, including statutory declarations and any other information, shall be submitted to and agreed in writing by the local planning authority which shows there are legal rights for vehicular traffic to travel along the Public Bridleway (Hornbeam Lane).

REASON: To ensure that there is a legal right of access for vehicular traffic

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against the National Planning Policy Framework, Hertfordshire County Council Waste Local Plan 1999 Waste Policy 7 - Re-use of Waste Arising from New Developments, development plan policies SD1, GBSP1, R3,R11, R15, M14,D1, D2, D8, RA4, RA10, RA24, RA25, Supplementary Design Guidance, of the Welwyn Hatfield District Plan 2005 and Supplementary Planning Guidance, Parking Standards, January 2004 in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. The decision has also been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision

contrary to the development plan (see Officer's report which can be inspected at these offices).

INFORMATIVES:

- 1. Investigation of the culvert/bridge along the Public Bridleway in Hornbeam Lane should be undertaken to determine its structural soundness prior to commencement of development. A survey to determine the weight and vehicle movement capacity of the bridge should also be undertaken. Details of the survey results should be submitted to Hertfordshire County Council, Rights of Way department.
- 2. Any structure erected on a public right of way must be authorised by Hertfordshire County Council, Rights of Way department.
- 3. Please note, all manure storage areas, in connection with condition 15, shall be suitably sized, and consist of a properly constructed impervious base. All run-off shall be collected in a dirty water system or in a below ground tank. The scheme must include a location plan of the manure storage area which should not be located within 100m from the nearest residential premises. Provisions for controlling pests including flying insects must be included within the scheme.
- 4. No manure shall be burnt on site.
- 5. It is suggested that landscaping details in connection with condition 10 are submitted in accordance with suggestions within the memorandum dated 13th January 2010 from the landscape officer.
- 6. The developers attention is drawn to 'The Site Waste Management Plans Regulations 2008' SI 2008 No. 314, which requires a Site Waste Management Plan to be prepared for construction sites with an estimated cost greater than £300,000.
- 7. The developer is advised to submit details of the location of any proposed bonfires to the Local planning authority.

Signature of author...A.W.Mangham.....

Date...11 February 2013.....