

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No: S6/2013/2225/FP

SITE ADDRESS: The Warren, 8 Carbone Hill

DESCRIPTION OF DEVELOPMENT: Extensions and alterations to existing dwelling to include front and rear two storey extensions and first floor balcony

RECOMMENDATION: Refusal

1. SITE AND APPLICATION DESCRIPTION:

The application site is located on the south east side of Carbone Hill which is a classified “C” road. The site comprises a large detached dwellinghouse set about 15m from the frontage behind established boundary planting and a U-shaped gravel driveway. A triple detached garage is situated approximately 15m to the north east of the main dwelling. Behind the house is a lawned area which is approximately 60m deep. The red outline of the site also includes a parcel of land beyond the immediate curtilage of the dwelling, about 160m wide by 120m deep. This land does not form part of the application site.

The surrounding area and street scene are semi-rural in character consisting of large detached dwellings of individual design set within generously proportioned and spacious plots which form ribbon development to the west of Cuffley. The rear garden slopes gently downhill away from the house and is obscured from the surrounding area by trees within the site.

This application seeks full planning permission for extensions and alterations to existing dwelling to include front and rear two storey extensions and first floor balcony.

2. SITE DESIGNATION:

The site lies within the Metropolitan Green Belt and Northaw Great Wood Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005.

3. RELEVANT PLANNING HISTORY:

S6/1993/0226/FP – Alterations to elevations and new front porch (re-submission)
(Granted)

S6/1992/0144/FP – Extensions and alterations to existing dwelling; alterations to vehicular access (Granted)

74/495 – Basement extension (Granted)

73/5564 – Two storey side extension (Granted)

73/3715 – Two storey side extension to form elderly relations cottage (Refused)

73/791 – Two storey chalet extension to outbuilding to form old person’s annex
(Refused)

58/1462 – Site for residential development (Granted)

55/459 – Additional vehicle access (Granted)

4. CONSULTATIONS:

No objections have been received in principle from Hertfordshire County Council, Transportation, Planning and Policy; Environment Agency; Welwyn Hatfield Borough's Environmental Health; Thames Water.

Hertfordshire Ecology do not hold any ecological data for the property at The Warren, 8 Carbone Hill or records for bats within the immediate surrounding area, however, there are a number of bat records for the Cuffley and Ridgeway area. The proposals will have an extensive impact on the existing roof and loft space and the dwelling is very close to woodland, with good connectivity to open grassland and streams further away; all favoured foraging habitats for bats. Hertfordshire Ecology consider there is a reasonably likelihood that bats may be present in the dwelling and if present, its conversion would be likely to result in a breach of Article 12 of the EU Habitats Directive (92/43/EEC).

5. NEIGHBOUR REPRESENTATIONS:

No representations have been received from the public.

6. TOWN/PARISH COUNCIL REPRESENTATIONS:

No objection

7. MAIN PLANNING ISSUES AND RELEVANT PLANNING POLICIES:

The main planning issues with this application are:

- a) Principle of development and the impact upon the openness of the Green Belt and the character and appearance of the area (NPPF paragraphs 87-90, Local Plan Policies SD1, GBSP1, R3, D1 and D2),
- b) Impact on the residential amenity of adjoining properties (Local Plan Policy D1)
- c) The impact of the proposal on protected species (NPPF paragraph 109, Local Plan Policy SD1, R11)

8. ANALYSIS:

- a) Principle of development and the impact upon the openness of the Green Belt and the character and appearance of the area:

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. "Very special circumstances" will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The NPPF accepts that within the Green Belt 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(i).

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:

- (i) Whether or not the proposed extensions would amount to inappropriate development in the Green Belt
- (ii) Whether the proposal would comply with the five purposes of including land in the Green Belt and the effect of the extensions on the openness of the Green Belt, its character and visual amenity
- (iii) Whether there are any very special circumstances to clearly outweigh the harm by reason of inappropriateness and any other harm

(i) Whether or not the proposed extensions would amount to inappropriate development in the Green Belt:

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”.

Neither the NPPF or 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 building in order to assess whether or not an addition is disproportionate. The net total additional floor area added to the original building 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.

Drawings of the existing dwelling have been submitted as part of this full planning application and measurements have been taken from these in calculating the floor area and footprint figures. The application dwelling has benefitted from a large two storey side extension and a single storey rear extension. Following a review of the planning history (refer to historic drawings on this file), the floor area of the original dwelling, as it existed in 1948, has been calculated as approximately 162sqm. The floor area of the existing dwelling measures approximately 370sqm, equivalent to a 128% increase over-and-above the original dwelling. In terms of footprint, the dwelling has increased from approximately 81sqm to 196sqm equivalent to a 142% increase over-and-above the original dwelling.

The proposed extensions would result in a total floor area of approximately 504sqm which is equivalent to a 211% increase over-and-above the original dwelling. The

footprint would increase to approximately 263sqm or a 225% increase over-and-above the original dwelling.

It is considered that the footprint and floor area calculations demonstrate that the cumulative amount of development which already exists is disproportionate to the original building. Notwithstanding this, it is acknowledged that the NPPF test is primarily an objective one based on size. In this regard, the development which already exists is considered disproportionate to the original building in terms of the increase in width, bulk and massing. This can be demonstrated by comparing the width of the original building, which measured approximately 11.3m, and the width of the existing building, which measures approximately 24.9m. This increase has considerably enlarged the overall profile, massing and bulk of the building.

The main bulk of the proposed extensions would be added to the front of the building and to the roof where it is proposed to infill the area between the two existing projecting gables with the addition of a third gable feature. It is also proposed to square off the south west corner of the building with a two storey extension which would add a second gable to the flank elevation and increase the depth of the flank wall from approximately 4.5m to 8.9m at first floor level.

A large flat crown is proposed to limit the height of the extended roof to that of the existing ridge. The Supplementary Design Guidance states that *“extensions should be designed to complement and reflect the design and character of the dwelling and be subordinate in scale”*. The proposal would result in a substantial increase in the size of the application dwelling and is not be considered appropriately subordinate in scale. The fact that the proposed extension would have a large flat crown is symptomatic of an very large extension where the footprint is either too deep or too wide to accommodate a pitched roof without it having an excessively tall ridge.

It is of material significance that in assessing the increase in the size of the original dwelling, the calculations should include the detached garage in accordance with Policy RA3 which is also applicable to those outbuildings which require planning permission. However, the applicant has not provided detailed drawings of this building. The Local Planning Authority are therefore unable to accurately calculate the size of this building. Notwithstanding this, the bulk and massing of the garage would, as a matter of fact and degree, add to the amount of development which has already taken place within the application site and would further demonstrate that the cumulative amount of development which already exists is disproportionate to the original building.

Overall, it is considered that proposal represents a disproportionate addition to the original dwellinghouse and is therefore inappropriate development within the Green Belt which is by definition, substantially harmful to the Green Belt contrary to the National Planning Policy Framework, March 2012 and Policy RA3(i).

(ii) Whether the proposal would comply with the five purposes of including land in the Green Belt and the effect of the extensions on the openness of the Green Belt, its character and 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 of the Welwyn Hatfield District Plan requires extensions not to have an adverse visual impact on the character, appearance and pattern of development in the surrounding countryside. Given the extent of the site and the mature screening around it, public views of the application dwelling are limited to glimpses from Carbone Hill. Notwithstanding this, the NPPF does not qualify what is said about extension of existing dwellings by any reference to whether or not such extensions would be readily visible or cause any harm to the appearance of the Green Belt. The effect on openness of the Green Belt is a matter of physical presence rather than visual qualities. The extension would inevitably reduce the openness of the Green Belt by reason of its three dimensional bulk regardless of whether the additional built form can be seen. Taking account of the aim of the NPPF to protect Green Belts from development it is considered that the presence of such a large extension would detract from the openness of the Green Belt and thereby conflict with one of its essential characteristics. This harm to openness would therefore add to the harm by way of inappropriateness.

Turning to visual amenity, character and pattern of development, the impact of a proposal is assessed giving regard to the bulk, scale and design of the development and how it harmonises with the existing building and the wider area. In addition to Policy RA3, Policies D1 and D2 respectively require high quality design in all new development and for proposals to respect and relate to the character and context of their location.

Although the proposals cannot be considered subordinate in scale when compared to the original building, they would adequately reflect the design and character of the existing building. Given the extent of the residential curtilage and its generally well wooded boundaries, it is considered that there would be no additional harm to the rural character and appearance of the local area and no conflict with Local Plan Policies RA3, D1 and D2 in this respect.

Overall it is considered that the increased scale of the dwelling would fail to maintain the openness of the Green Belt contrary to criterion (ii) of Policy RA3 and the NPPF. As a result, the harm in this respect is also afforded a significant degree of weight.

(iii) Whether there are any very special circumstances to clearly outweigh the harm by reason of inappropriateness and any other harm: No very special circumstances have been advanced by the applicant. In addition, there are no circumstances which on the opinion of the Local Planning Authority could amount to very special circumstances required to outweigh the harm caused by reason of inappropriateness and the harm to the openness of the Green Belt. The proposal is therefore contrary to the advice contained in the National Planning Policy Framework and would conflict with Policy RA3 of the Welwyn Hatfield District Plan 2005.

b) Impact on the residential amenity of adjoining properties:

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. Giving consideration to the scale of the proposal and its setting, it is considered that the proposed extension would not have an unreasonable impact on light amenity or the level of privacy afforded to the neighbouring residencies and would not appear visually overbearing in accordance with the NPPF, Policy D1 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

c) The impact of the proposal on protected species:

The presence of protected species is a material consideration, in accordance with the National Planning Policy, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

The NPPF at Section 11 “Conserving and enhancing the natural environment” states that The planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures”

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) and as amended through The Conservation of Habitats and Species (Amendment) Regulations 2012. Where a European Protected Species (‘EPS’) might be affected by a development, it is necessary to have regard to Regulation 9(1) of the Amended Conservation Regulations 2012, which states:

“a competent authority must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.”

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 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 Local Planning Authority 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 Local Planning Authority failing to do so would be in breach of Regulation 9(1) of the Amended Conservation Regulations 2012 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

Hertfordshire Ecology have advised that the application building is of a type that is attractive to bats as a potential roost site. The area surrounding the site includes attractive feeding habitats for bats, such as open countryside with grassland, mature woodland, trees, hedgerows, ponds, and watercourse. There is, therefore, a reasonable likelihood of bats foraging within the immediate locality of the application site. Hertfordshire Biological Records Centre recommended that an initial bat inspection survey should be undertaken by a licensed bat ecologist to establish whether bats are present and whether they are likely to be affected by the proposed

development works. If the initial building search and assessment finds evidence of a bat roost, then further emergence surveys will be required to inform the Local Planning Authority before a planning decision can be taken.

No evidence has been submitted with the application to show that the site has been inspected for bats and an appropriate survey undertaken. The applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species (Amendment) Regulations 2012 and Policy SD1 and R11 of the Welwyn Hatfield District Plan 2005.

9. CONCLUSION:

The increase in size of the application dwelling resulting from the proposed extension 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 scale of the dwelling would fail to maintain the openness of the Green Belt contrary to criterion the second criterion of Policy RA3 and the National Planning Policy Framework.

There is a reasonable likelihood of bats foraging within the immediate locality of the application site. The application building itself is of a type that is attractive to bats as a potential roost site. No evidence has been submitted with the application to show that the site has been inspected for bats and an appropriate survey undertaken. The applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species (Amendment) Regulations 2012 and The Wildlife and Countryside Act 1981.

REASONS FOR REFUSAL:

1. The proposal represents a disproportionate addition to the original dwellinghouse and is therefore inappropriate development within the Green Belt. In addition, the scale of the proposal would have a detrimental impact on the openness of the Green Belt and surrounding area. The Local Planning Authority do not consider that very special circumstances exist which outweigh the harm, by reason of inappropriateness and the harm to the openness of the Green Belt. The proposal is therefore contrary to the National Planning Policy Framework, Policies D1, D2 and RA3 of the Welwyn Hatfield District Plan 2005, and the Supplementary Design Guidance, Statement of Council Policy, 2005.
2. The Local Planning Authority considers that the applicant has failed to demonstrate the development complies with the requirements of The Conservation of Habitats and Species (Amendment) Regulations 2012 as no appropriate bat survey has been submitted with the application to confirm whether bats are present in the existing roof of the application property. This is contrary to the requirements of the National Planning Policy Framework, Policy SD1 and R11 of the Welwyn Hatfield District Plan 2005, The Conservation of Habitats and Species (Amendment) Regulations 2012 and The Wildlife and Countryside Act 1981.

SUMMARY OF REASONS FOR REFUSAL:

The decision has been made taking into account material planning considerations and where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework (see Officer's report which can be viewed on the Councils website or inspected at these offices).

REFUSED DRAWING NUMBERS:

1:2500 Site Location Plan & Proposed Floor Plan Layout & Proposed Elevations
Layout & Existing/Proposed Roof Plan received and dated 31 October 2013

INFORMATIVES:

None

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