

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 7 JANUARY 2016  
REPORT OF THE DIRECTOR (GOVERNANCE)

6/2015/1741/FULL

125 THE RIDGEWAY, NORTHAW, EN6 4BG

DEMOLITION OF EXISTING SINGLE STOREY DWELLING AND REPLACEMENT  
WITH SINGLE STOREY DWELLING (WITH BASEMENT)

APPLICANT: Mr S Nash

(Northaw and Cuffley)

**1 Site Description**

- 1.1 The application site comprises a detached, single storey two-bedroom dwelling and its gardens on the south side of The Ridgeway, Northaw. The site is approximately 11m wide at the front, 17m wide at the rear and 80m deep. From a mid-point of the site the land falls slightly to the rear boundary.
- 1.2 The existing house is set back 32m from the road frontage (about half way down the site). It was built in 1978 as a garage for No 127 The Ridgeway and has been converted, over time, to residential use. The house has two bedrooms and an existing footprint of about 80sqm. The walls are finished in white render and the roof is flat except for a plain-tiled mock pitch (3.8m high). The eaves are 2.5m high.
- 1.3 The front of the site is open to the highway in The Ridgeway, gravel surfaced and used for parking. A low front wall with railings and gate are set back 22m from the street. There is a single-storey outbuilding at the rear of the site, which was a garage but has since been converted to an annex with a bedroom and bathroom in the roof space. From the rear boundary there are views across the green belt towards London.
- 1.4 The house is located in a row of houses along the south side of The Ridgeway. The majority of the houses are built on a similar building line 10 to 15m back from the road. In this respect No 125 is unusual in being set back from the building line and having a deep front garden that contributes a space in the streetscape between the houses at No's 123 and 127. No 123 to the east is a large two storey detached house. No 127 to the west is also two storeys high.
- 1.5 The vehicle access is from a service road that runs parallel with The Ridgeway, a busy through road.

**2 The Proposal**

- 2.1 Full planning permission is sought for a four bedroom dwelling following the demolition of the existing two-bedroom house. The new dwelling would have a footprint of 150sqm measuring 10m wide by 15.7m deep. The building would be single storey above ground and include a basement with a floor area of approximately 142sqm. The total floor space of the new house would be 293sqm.
- 2.2 The roof apex would be 4.5m high with its highest point at 5m. The eaves would be 2.5m high. The roof would be asymmetrical with pitches to both sides and flat gables to the front and back.
- 2.3 Amended plans show the proposed dwelling repositioned to 22m back from the road and the existing front garden wall and railing to be removed.
- 2.4 The external walls would be finished in render with horizontal timber treatment to the front and rear end gables and side walls at roof height. The roof would be tiled in materials and style to be agreed with the Local Planning Authority. The window frames and door frames would be Upvc.

### **3. Reason for Committee Consideration**

- 3.1 This application is presented to the Development Management Committee because Councillor Nicholls called the application in by virtue of the previous planning history on this site.

### **4. Relevant Planning History**

- 4.1 S6/2014/2481/PA – Erection of replacement dwelling. Responded January 2015 - that the replacement dwelling would be materially larger than the dwelling it would replace and so be inappropriate and harm the Green Belt. Advised positioning any replacement no further forward on the site than the existing house.
- 4.2 S6/2009/0169/LU – Certificate of Lawfulness for a proposed single storey rear and side extension. Granted 20.3.2009.
- 4.3 S6/2008/1887/FP – Erection of three bedroom detached dwelling following demolition of existing dwelling. Refused 18.12.2008 on grounds of scale and bulk being visually intrusive and causing harm to Green Belt. The appeal was dismissed for, amongst other matters, the following key reasons:  
*'The substantial differences in the proposed and existing quantities demonstrate clearly that the replacement dwelling would be materially larger in terms of floor-space [149sqm], height [5.35m] and volume [410cub m]. Therefore, I conclude that the proposal does amount to inappropriate development in the Green Belt.'*  
 And  
*'The replacement dwelling... would have a greater bulk and be more prominent than the existing bungalow. In this respect I conclude that it would reduce the openness which...is the most important attribute of Green Belts.'*
- 4.4 S6/2003/0429/FP – Erection of replacement dwelling and demolition of existing. Refused 5.6.2003. Dismissed on appeal.
- 4.5 S6/1996/0695/FP – Change of use of triple garage to self-contained dwelling (Retrospective). Withdrawn 12.11.1996.

- 4.6 S6/1993/0600/FP – Erection of detached triple garage for 127 The Ridgeway. Approved 28.10.1993.

#### Enforcement History

- 4.7 S106 planning obligation held to require that the outbuilding to the rear of the garden remains ancillary to the use of the main dwellinghouse and does not become an independent residential unit.

### **5. Planning Policy**

- 5.1 National Planning Policy Framework (NPPF2012) (paragraphs 47-50 housing, 56-66 design)
- 5.2 Welwyn Hatfield District Plan 2005
- 5.3 Supplementary Design Guidance, February 2005
- 5.4 Supplementary Planning Guidance, Parking Standards (January 2004) and Interim Parking Standards 2014

### **6. Site Designation**

- 6.1 The site lies within the Green Belt and Landscape Character Area 53 as designated in the Welwyn Hatfield District Plan 2005.

### **7. Representations Received**

- 7.1 The application was advertised by means of a site notice and neighbour notification letters. Objections have been received from four properties on The Ridgeway. Their objections may be summarised as:
- Design out of keeping with character of the area
  - Basement excavation would involve lorries and consequent disruption to local residents
  - Proposal is inappropriate and disproportionate – double the size
  - The annex should be demolished or, if retained, remain dependent on the new dwelling
  - Potential overlooking of patio of No 123 the Ridgeway
  - Excavation could cause root damage
  - The slip road could not accommodate parking for five cars
  - Repositioning would reduce parking area
  - Likely damage to the grass verge
  - Possible subsidence to neighbouring properties
  - Protect the grass verge (service pipes run under it).
- 7.2 The issues of subsidence fall under the remit of Building Regulations and Party Wall Acts and cannot be considered as a planning matter. The issue of damage to verges is a matter of highway regulation and an informative regarding this can be added to any decision notice. These remaining issues are considered in the main body of the report.

### **8. Consultations**

- 8.1 Herts Ecology has been consulted. Any response will be verbally reported at the DMC meeting.

## **9. Town / Parish Council Representations**

- 9.1 The Northaw and Cuffley Parish Council confirms it has no objection to the proposal.

## **10. Analysis**

- 10.1 The main planning issues to be considered in the determination of this application are:
- 1. Whether the proposal is appropriate development within the Green Belt or very special circumstances exist which outweigh the harm (Local Plan Policies GBSP2, NPPF paragraphs 86-89)**
  - 2. Respect and relationship to the character and context of the area, (D1, D2)**
  - 3. Impact on living conditions and residential amenity of neighbouring properties (D1, SPD)**
  - 4. Other material planning considerations**
    - (i) Parking and Highway Safety (NPPF, D5, M14, SPG and interim Policy for Car Parking Standards and Garage Sizes)**
    - (ii) Protected Species (NPPF)**
    - (iii) Refuse and Recycling Storage (D1, D5)**
- 10.2 The application site is within the Green Belt and the key policies for this proposal are contained in National Planning Policy Framework (NPPF 2012) Paragraphs 86-89 and Saved Policies SD1, H2, GBSP2 and RA4 of the Welwyn Hatfield District Plan 2005. These Policies direct new residential development towards existing towns and settlements outside the Green Belt. They make clear that new residential development is inappropriate in the Green Belt and therefore harmful to it and would only be considered in very special circumstances.
- 10.3 Exceptions to this are limited and are set out in paragraph 89 of the NPPF. Replacement buildings are only considered to be appropriate where the new building is not materially larger than the one it replaces.
- 10.4 The redevelopment of previously developed sites is only permitted where it would not have a greater impact on the openness of the Green Belt. The current proposal is to replace the existing building rather than extend it because of its poor state of repair (including a leaking roof). However, the Council would not be in a position to support a redevelopment proposal for residential use unless it clearly fell within the definition of one of the exceptions as outlined in paragraph 89 of the NPPF:
- (i) in the same use and

- (ii) a replacement building not materially larger than the one it replaces and
- (iii) one which would not have a greater impact on the openness of the Green Belt.

The proposal meets the first criterion as residential use as a separate dwelling. This was first established in 1999. An assessment now follows in respect of the other two criteria.

#### Scale and Size

- 10.5 The second issue, that of the size and scale of the proposed replacement, shall be determined in relation to the current policy context. Saved Policy RA4 of the Welwyn Hatfield District Plan 2005 sets out the criteria for acceptable replacement dwellings in the Green Belt. This states that:
- (i) the replacement should not materially exceed the size of the original dwelling (as at 1948 or when it was constructed, whichever is the later) in terms of its floor-space, height and volume;
  - (ii) the new building should not have a greater visual impact in terms of prominence, bulk and design on the character, appearance and pattern of development of the surrounding countryside;
  - (iii) the new building is designed to reflect the character and distinctiveness of its rural setting and accords with the design policies of the plan and any Supplementary Design Guidance.
- 10.6 Criterion (i) has been superseded by para 89 of the NPPF (2012): exceptions to inappropriate development may include a replacement building “not materially larger than the one it replaces” i.e. the existing building. These criteria are expanded upon in turn below.
- 10.7 The existing house has a relatively small footprint and floorspace of 80sqm (8m wide by 10m deep) but this is not unusually small for a two-bedroom property. The proposal would involve an increase in the footprint of almost 100% to 157sqm (10m wide and 15.7m deep). This would clearly be materially larger than the existing footprint. However, a Certificate of Lawfulness was granted in 2009 for extensions to the house under permitted development regulations. If implemented, these extensions would result in a building 12m wide by 14m deep (at its greatest depth) with a footprint of 152sqm. Although these extensions have not been constructed they could have a reasonable possibility of being built and the Certificate of Lawfulness (CLUP) is still valid under the amended General Permitted Development Order 2015.
- 10.8 The CLUP provides for the property a fall-back position with respect to the scale of building that could lawfully result on the site. It can, therefore, be considered a material consideration in the determination of the current application. The proposed replacement house in this current submission would be very similar in footprint to the CLUP scheme; 157sqm compared with 152sqm, and would not be materially or disproportionately larger. The proposed footprint would not be of a scale that would result in additional significant harm to the green belt in this location.
- 10.9 With regard to footprint, the existing house has 80sqm floorspace, which could be increased to 152sqm under permitted development rights. The provision of a basement with light-well windows to front and rear would increase the floor-space to 300sqm. In percentage terms this is a 275% increase. The replacement dwelling would contain four bedrooms (and associated reception

rooms) and would accommodate more people than the existing one. In real terms it would be occupied as one dwelling and the amount of everyday paraphernalia would be commensurate with the larger number of people. On the front of the site this would amount to the parking of cars, which occurs at present. To the rear of the site, vehicle access to the outbuilding would be prevented by the width of the new building so that parking at the rear would be precluded. Other garden furniture etc would be likely to remain within the rear garden.

- 10.10 By definition, the increase in floorspace would cause harm to the Green Belt and, therefore, be contrary to the Policy in NPPF 2012 and to Saved Policies GBSP2 and RA4 of the Welwyn Hatfield District Plan 2005.

#### Visual Openness

- 10.11 The existing building has a flat roof with mock pitch edges to the front and one side (west) which are 3.8m high. The proposed building would have an apex height of 4.5m with an asymmetric peak at 5m (DRWG No 1806-03d). The proposed roof would be wider than the existing one (10m compared to 8m) but less wide than the roof permitted under the Certificate of Lawfulness (12m). The eaves height would be the same as existing.
- 10.12 The increase in roof-scape of the proposed replacement dwelling would not be significantly larger or more bulky in shape and scale than the existing or the Certificate of Lawfulness scheme. Compared to the previously dismissed appeal scheme (S6/2008/1887/FP), which had a steep roof pitch and a higher and a wider ridge (5.35m) facing the front of the site, the currently proposed design would be lower and less bulky. As illustrated on the proposed street scene Drawing (No 1806-05d) the apex of the roof would be below the eaves of the houses on each side, and this element of the scheme is acceptable.
- 10.13 The basement, by definition, would be below ground and would not extend beyond the footprint of the replacement dwelling. There would be no external entrance to the basement on the site frontage. The light-wells to the basement rooms at the front of the house would be screened by low fencing and planting. Consequently, the visual impact of the basement (and the related increase in floor-space) on the appearance of the building would be minimal. The land slopes away slightly to the back of the site and the proposed design uses this feature of the land to provide light to basement rooms at the rear of the building.
- 10.14 Initial proposals showed the house set back 15m from the site frontage, positioned between the houses at No's 123 and 127. Amended plans show the house set further back at 22m from the street frontage, replicating the position of the existing garden wall and gates. This would retain the feeling of space on the site frontage between the houses at No's 123 and 127 and, of paramount importance, does address the second of the previous reasons for refusal set out by the Planning Inspector for application reference number S6/2008/1887/FP.
- 10.15 The flank walls of the proposed dwelling would be set in from the side boundaries of the site by approximately 2m on each side, maintaining a suitable gap to retain the detached pattern properties in the street-scape and the dwelling would not appear cramped upon its site. The proposed design and positioning would enable the retention of the trees on the front of the site close to the boundary with No 123.

- 10.16 Though neither the NPPF nor Saved Policy RA4 indicate any tolerance for them, permitted development rights do represent a potential fall-back position that is a material consideration when determining a planning application for a replacement dwelling in the Green Belt. A key part of that consideration is the likelihood of those rights being exercised and whether the approved CLUP scheme is similar enough to the current planning application to be considered a fall-back position.
- 10.17 As the CLUP extension has not been built it does not constitute part of the existing house and the likelihood of it being built requires assessment. The approved CLUP proposal was considered under the GPDO at December 2014. The regulations although amended by the General Permitted Development Order (April 2015) were not altered in respect to the approved CLUP (S6/2009/0169/LU), which could still be lawfully built.
- 10.18 The current planning application proposal is comparable to the approved CLUP scheme in footprint and the scale and bulk of the roof-scape, such that the CLUP scheme could be considered a reasonable fall-back position that constitutes a material consideration.
- 10.19 The current planning application also addresses the previous reasons for refusal on this site in terms of the bulk and prominence and the consequent impact of the proposal on the openness and character of the site and the wider area.
- 10.20 The replacement dwelling would be materially larger than the dwelling it would replace and as such represents inappropriate development within the Green Belt and would result in harm. The term 'larger', whilst not having a precise formula, allows for judgement of the merits of each case in its own context. The material impact in this case would more clearly be determined by whether the proposal would affect the visual openness and rural character of the Green Belt more than the Certificate of Lawfulness scheme. Due to the design and positioning of the proposed dwelling it is considered that it would not substantially reduce the visual openness of the Green Belt in this location over and above the existing situation. However, the replacement house would represent full use of permitted development rights for the scale of the existing building on the site and any further extension of the proposed property or outbuildings could result in the building appearing cramped in its site and impacting further on the openness of the Green Belt. As such permitted development rights for extensions to the building, alterations and extensions to the roof and outbuildings (Classes A, B, C and E) are recommended to be removed by condition.
- 10.21 The proposed replacement dwelling cannot be considered an exception to the principles of the NPPF 2012 and the policies of the Local Plan which define residential development as inappropriate in the Green Belt. This is because the proposed building would be materially larger than the existing building and would adversely impact upon the openness of the Green Belt. However, the amended scheme is acceptable in terms of its design and impact on the character and appearance of the area. The approved LUP scheme can be considered to be a reasonable fall-back position for the amended submission. As such it can be considered a special circumstance that, subject to controls over materials and restriction of PD Rights, would balance out the inappropriateness of the development in the green belt so that the harm would not be significantly adverse to justify refusal.

## **2. Character and context of the area. (C1, D2, D8, SDG and NPPf)**

- 10.22 Local Plan Policies D1 (Quality of Design) and D2 (Character and Context) aim to ensure a high quality of design and that new development respects and relates to the character and context of the area in which it is proposed. These policies are expanded upon in the Council's Supplementary Design Guidance (SDG) which requires the impact of a development to be assessed with regard to its bulk, scale and design and how it harmonises with the existing buildings and surrounding area. NPPF paragraph 64 emphasises the importance of good design in context that improves the character and quality of an area and the way it functions.
- 10.23 The area is residential in nature and the housing is laid out in a ribbon development along the south side of The Ridgeway. Many have been extended and altered so that they approach the boundaries of their plots. Sufficient spaces remain (1-2m in most cases) to prevent cramped appearance and prevent a terracing effect within the street scene. The style of houses varies at this end of the row and there is little uniformity, with two storey properties of various sizes and styles in the vicinity.
- 10.24 The house at No 123 is two storeys high and built within 1-2m of the boundary on both sides of the 25m plot. The house at No 127 is also two storeys high and set in a similar distance from the side boundary. Materials in common use are brick, render and tiled roofs. Car parking is accommodated within each site and the front boundaries are typically walled and/or planted with trees and shrubs.
- 10.25 The application site utilises part of the plot at No 127 but has established use as a separate dwelling curtilage. The brick single storey outbuilding at the rear of the site has been used for purposes incidental to the occupation of the main house at No 125 since its construction. It is currently parked with two cars belonging to the site owner and provides ancillary accommodation for family members of No 125, although its occupation has not been continuous. There is also a S106 Planning Obligation ensuring its use remains ancillary to the main house.
- 10.26 The proposed replacement house would be modern in design but introduce materials in keeping with the area; render and tiles. The styling of the roof lines would introduce new design elements but flat end gables and roofs pitched to the side are characteristic of this particular row of houses. There is a wide variety of building materials and accumulated alterations in the housing stock in the vicinity so that the proposed house, would not appear significantly out of character with the surrounding environment.
- 10.27 In terms of the character and context of the area, the scheme is considered to be in accordance with Saved Policies D1, and D2 of the Welwyn Hatfield District Plan 2005 and Section 7 of the NPPF.

## **3. Residential Amenity of Neighbouring Properties (D1, SDG and NPPF)**

- 10.28 Policies D1 and the Supplementary Design Guidance (2005) (SDG) aim to preserve neighbouring amenity. The SDG sets out the Council's guidelines with regard to residential development for the provision of adequate amenity for future occupants and the protection of neighbouring residential amenity.



Guidance in Paragraph 17 of the NPPF seeks high quality design and good standards of amenity for all existing and future occupiers of land and buildings.

- 10.29 With regard to the amenity of the development for future occupants, the house would have four bedrooms, a generous garden, and ample parking on the site frontage. The windows to basement rooms would have adequate light from light wells and at the rear of the property the land falls away slightly presenting more natural light than at the site frontage. The proposed basement lounge on the rear aspect would have adequate daylight.
- 10.30 The positioning of the house to the proposed location on the site would mean that the front elevations of the new house would be closer to the rear elevation of No 123. These windows would be at ground floor level and would offer very oblique angled views to the rear of No 123. In addition the windows would only be at ground floor and the existing boundary planting (3m high laurel hedge) is positioned in and under the control of the neighbouring property. Provided adequate boundary treatment is provided/retained, the relationship between the units would share with one another would result in a satisfactory level of amenity for the future occupants in terms of overbearing impact, light and privacy.

#### Neighbouring Residents-

- 10.31 The most likely neighbours to be impacted are those at Nos 123 (east) and 127 (west) The Ridgeway.
- 10.32 With regard to overbearing impact, views from views from the private garden area immediately to the rear of No 123 of the bungalow would be screened by the 3m high evergreen hedge on 123's side of the boundary. Similarly, the fence and mixed planting on the boundary at No 127, particularly the three conifer trees, would screen the roof of the proposed bungalow. In addition, the shallow pitch and inset from the boundary of 2m would prevent the building from appearing overbearing when viewed from the properties at No 123 and No 127. Given their role in screening between the properties the planting on the boundaries would require protection during construction and further details of boundary treatment can be required by condition on any planning decision.
- 10.33 With regard to day and sunlight, the rear of the properties on The Ridgeway face south. The proposed dwelling would be positioned beyond the rear of No 123's rear elevation. However, the shallow pitch of the roof, the distance from the boundary and presence of existing hedges and planting mean that the proposal would not give rise to significant loss of sun or daylight to the rear of the neighbouring properties over and above the existing situation.
- 10.34 With regard to privacy and overlooking, the proposed bungalow would only be one storey above ground, as existing. The principal windows to habitable rooms would be in the front and rear elevations at ground floor level. Subject to adequate boundary treatment and retention of boundary planting no overlooking or loss of privacy would arise over and above the existing situation.
- 10.35 Neighbours concerns over the impact of ground excavation upon the stability of their properties is not a material planning consideration but an issue for the Party Wall etc Act and indeed Building Regulations.
- 10.36 Having regard to the above, it is considered, that on balance, the development would not detrimentally impact upon neighbouring amenity in terms of

overbearing impact, loss of day and sun light, loss of privacy and overlooking sufficient to warrant refusal of the application. The proposal would provide adequate amenity for future occupiers of the units. The proposal is, therefore, considered to comply with Policy D1 of the Welwyn Hatfield District Plan 2005, the Supplementary Design guidance (2005) and Section 7 of the NPPF.

#### **4. Other Material Planning Considerations**

##### **(i) Parking and Highway Safety**

- 10.37 With regard to site access, Policy D5 of the Welwyn Hatfield District Plan 2005 requires all new development to make provision for pedestrian, cyclist and passenger transport facilities. Parking and traffic management provision must be included in new development.
- 10.38 The existing access to the site would not be altered. The access lane to the houses on The Ridgeway, which runs parallel to the main carriageway but is separated by a grass verge, is wide enough for two cars to pass unless vehicles are parked on the carriageway. Neighbours have commented that damage could occur to the grass verge from construction vehicles. There is space within the application site for vehicles and materials to be stored. The grass verge is beyond the site boundary. However, an informative can be added to any planning decision advising that any damaged highway verges should be restored.
- 10.39 The Council's Local Plan Policy M14 and the Parking Standard Supplementary Planning Guidance (SPG) use maximum standards which are not consistent with the NPPF and are, therefore, not afforded significant weight. In light of the above the Council has produced an Interim Policy for Car Parking Standards and Garage Sizes that states that parking provision will be assessed on a case by case basis and the existing maximum standards within the SPG should be taken as guidance only.
- 10.40 The car parking requirement for a four bedroom house is 3 parking spaces. The proposed scheme would provide 4 parking spaces within the front garden. This would be sufficient to meet the guidelines set out in the SPG.
- 10.41 Cycle parking requirements are for one long term space per house. There is an existing outbuilding where a bicycle could be stored.
- 10.42 The proposal would provide adequate parking for the future residents of the site. It is considered, therefore, that the proposal is acceptable in term of parking provision and in accord with Saved Policy M14 of Welwyn Hatfield District Plan 2005, the Supplementary Planning Guidance Parking Standards (2004) and Paragraph 39 of the NPPF.

##### **(ii) Protected Species**

- 10.43 The existing site and development is such that there is not a reasonable likelihood of European Protected Species (EPS) being present on site nor would an EPS offence be likely to occur, as defined within the Conservation Regulations. It is therefore not necessary to consider the Conservation Regulations 2010 or (Amendment) Regulations 2012, National Planning Policy Framework (paragraphs 118-119), Natural Environment & Rural Communities

(NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05. Saved Policy R11 of the Welwyn Hatfield District Plan 2005

- 10.44 The presence of protected species is a material consideration, in accordance with the National Planning Policy Framework (paragraphs 118-119), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations 2010 as well as Circular 06/05.
- 10.45 A biodiversity checklist was submitted with the application which showed that the site is within 500m of an Site of Special Scientific Interest (SSSI), 200m of a woodland (Northaw Great Wood) and involves demolition of a building with roof voids. Herts Ecology has been consulted and their response can be reported to Committee verbally. As the proposal involves demolition of the existing structure which contains roof voids an informative shall be added to any planning decision advising the site owner of their responsibilities towards European Protected Species.

### **(iii) Refuse and recycling**

- 10.46 The current requirement for bin storage for each residential unit is three bins which need to be stored close to the dwelling. There is ample space within the site for bin storage on the frontage or to the side or rear of the new dwelling. The bins need to be collected from a point close enough to where a refuse vehicle can safely be located. Future residents would ensure the bins were moved on collection day to within 25m of the highway. The existing collection arrangements would be continued.

### **Conditions**

- 10.47 The National Planning Practice Guidance (NPPG) governs the use of conditions in planning and the power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. Conditions should only be imposed where they are necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. In considering whether a particular condition is necessary, both officers and members should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.
- 10.48 In this case, submission of sample materials, submission of a scheme for boundary treatment and tree protection, and development in accordance with approved plans are all necessary for the grant of permission and in accordance with the six tests. Additionally, conditions removing permitted development rights to extend and alter the house have already been discussed in this report. Informatives regarding highway verges and European Protected Species can be applied.

## **11. Conclusion**

- 11.1 The proposed development is not considered to be in accordance with policies of the NPPF and Saved Policies GBSP1, GBSP2 and RA4 of the Welwyn Hatfield District Plan 2005. However, the scale and size of the replacement dwelling would reflect the permitted development scheme (S6/2009/0169/LU) sufficiently for the CLUP scheme to be considered a reasonable fall-back position reflective of the scale of building likely to result on the site. As such, it can be considered a special circumstance that, subject to controls over materials and restriction of PD Rights, would balance out the inappropriateness of the development in the Green Belt so that the harm would not be significantly adverse to justify refusal.
- 11.2 For these reasons the application is recommended for approval subject to conditions over submission of sample materials, removal of permitted development rights, tree protection, and boundary treatment.
- 11.3 The impacts of the proposal have also been considered in relation to the impacts on the character of the area, the amenity of future occupants and the amenity of neighbouring dwellings and other relevant material considerations. It is concluded that the proposal is on balance acceptable and, as such, is in accordance with the relevant policies of the adopted Welwyn Hatfield District Plan 2005, adopted Supplementary Planning and Design Guidance and with the NPPF.

## **12. Recommendation**

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

1. C.13.1 – In accordance with plans and details:

1806-01a & 1806-02 & 1806-03d and 1806-05d & 1806-06 received and dated 14.8.2015 and 1806-04h received and dated 27.11.2015.

### **Pre-development**

2. C.5.1 – Samples of materials. No development shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials. Subsequently, the approved materials shall not be changed.

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

3. Prior to the commencement of development hereby permitted the existing bungalow shall be demolished. All the materials arising from such demolition shall be completely removed from the site within 1 month of the first occupation of the replacement dwelling hereby permitted.

REASON: The site lies outside of established settlement limits and therefore within an area where permission for new dwellings is not normally granted. The Local Planning Authority would not be prepared to permit a

second dwelling in this location in the Green Belt and in the interests of preserving the character and appearance of the area in accordance with Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005.

4. No development shall take place until further full details of the height, position and materials on a suitably scaled plan of means of enclosure and boundary treatment have been submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be in addition to those shown on the approved plans and shall be carried out as approved.

REASON: To protect the amenity of neighbouring properties in accordance with Policy D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design guidance (adopted 2005).

5. No development shall take place (including site clearance, tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Tree Protection Plan, Arboricultural Method Statement and Site Monitoring Schedule have been submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be in addition to those shown on the approved plans and shall be carried out as approved. Details shall include:-

- a) A plan showing the areas of trees and shrubs growing within the site and on adjacent sites to be protected and fencing in accordance with the relevant British Standard (BS5837:2012 Trees in relation to design, demolition and construction - Recommendations) and identified areas where no chemical or materials or equipment shall be stored, mixed or prepared and no fires or site washings within the RPA of the tree or under the canopy spread whichever is the greater.

- b) Details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree, or any tree or shrub on land adjacent to the site;

- c) Clearly show any demolition, construction or soil level changes to be undertaken within the proximity of the PRA of the retained trees,

- d) Specify any other means needed to ensure that all of the trees to be retained will not be harmed during the development, including by damage to their root system, directly or indirectly.

REASON: The landscaping of this 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 of the Welwyn Hatfield District Plan 2005.

6. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or

otherwise protected in the approved tree protection scheme. The fencing or other works which are part of the approved Tree Protection Plan shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site.

REASON: The landscaping of this 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 of the Welwyn Hatfield District Plan 2005.

### **Post development**

7. Remove PD Classes A, B, C and E. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (England)) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no extensions or external alterations must be carried out (other than those expressly authorised by this or any other express permission) in/on the development hereby permitted.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by that order in the interests of residential and visual amenity and to preserving the open and rural character and appearance of the Green Belt in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005

### **Summary of reasons for grant of permission**

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.

### **Informatives**

1. It is an offence under Section 137 of the Highways Act 1980 for any permission, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.
2. The applicant is advised that the storage of materials associated with the construction of development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website

<http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

3. If at any time during the course of construction of the development hereby approved, a species of animal that is protected under Schedule 1\* or 5\*\* of the Wildlife and Countryside Act 1981 (as amended), the Conservation (Natural Habitats) Regulations 1994\*\*\* or the Protection of Badgers Act 1992 is discovered, all construction or other site work affecting the species must cease until a suitable mitigation scheme has been approved by the Local Planning Authority in writing or a licence to disturb protected species has been granted by DEFRA or Natural England (Formerly English Nature)

\* Includes nesting birds

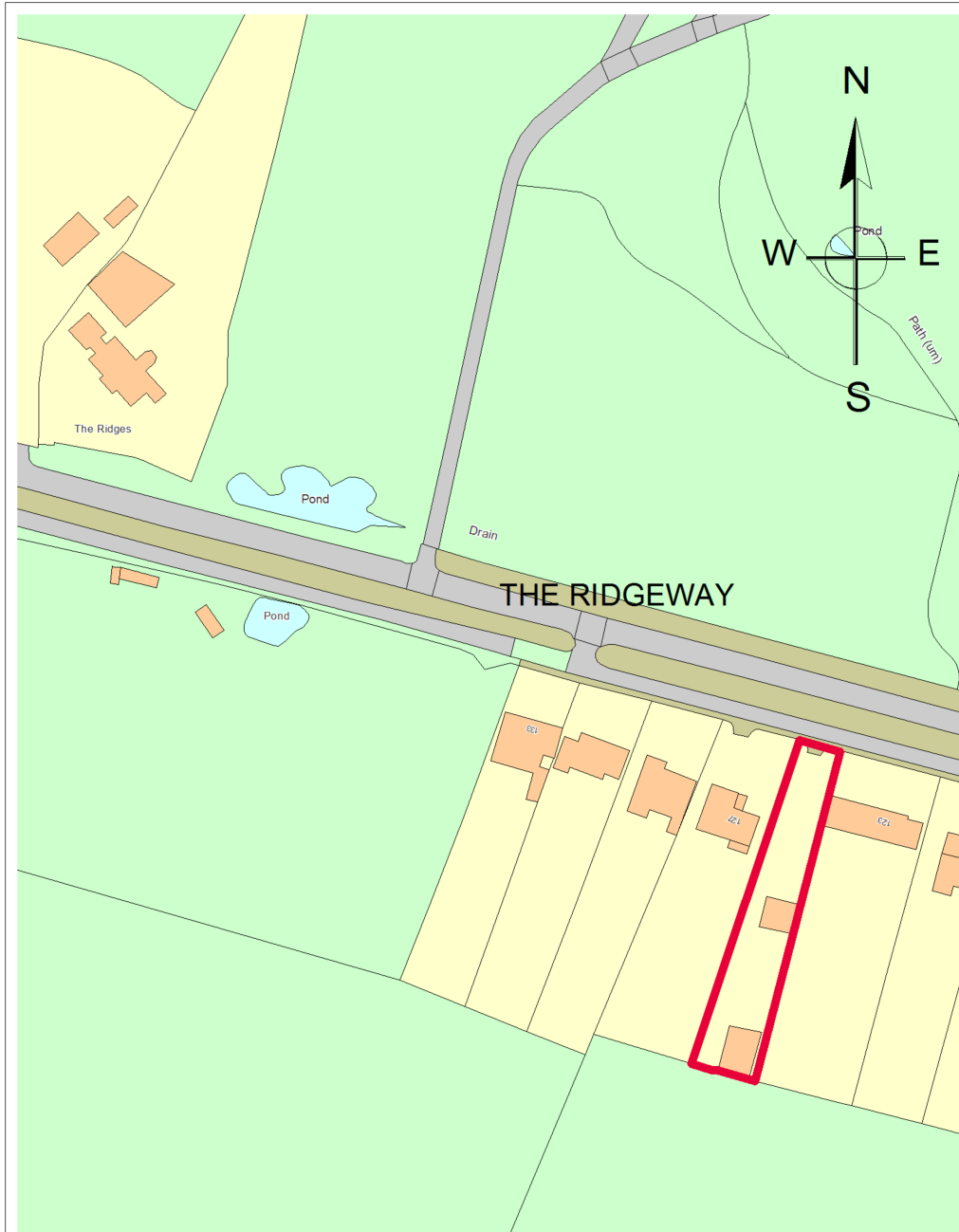
\*\* Includes great crested newts, bats, reptiles and water voles


\*\*\* Includes great crested newts and bats

4. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Hertfordshire County Council for works to kerbs, Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.
5. The decision notice contains conditions which require you to submit information to the Local Planning Authority and have it approved in writing before any development relating to the approval takes place. There is a formal procedure for applying to discharge conditions and further information can be found at <http://www.welhat.gov.uk/index.aspx?articleid=834>. Failure to comply with this type of condition may result in the development being considered unlawful and enforcement action could be taken. If you require any clarification or information please contact the section on 01707 35700.
6. The applicant is advised to take account the provisions of The Party Wall Act 1996 insofar as the carrying out of development affecting or in close proximity to a shared boundary.

Expiry Date: 30/10/2015

*June Pagdin*, (Strategy and Development)  
Date 14/12/2015



 Council Offices, The Campus Welwyn Garden City, Herts. AL8 6AE	Title: <b>125 The Ridgeway, Northaw</b>		Scale: DNS
	Project: DMC Meeting		Date: 2015
Drawing Number: 6/2015/1741		Drawn: Andrew Windscheffel	
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