

GPDO

Class A

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT

DELEGATED REPORT

APPLICATION No: S6/2015/1203/HH

SITE ADDRESS: The Spinney High Road Essendon Hatfield AL9 6HT

DESCRIPTION OF DEVELOPMENT: Prior approval for the erection of single storey side extensions to either side following demolition of existing garage and two outbuildings

RECOMMENDATION: Prior approval not required

PLANNING HISTORY:

S6/2015/0594/HH - Construction of single storey side extension on each side of dwelling following the demolition of existing garage and two outbuildings HHNRR 01/05/2015

S6/2015/0727/LUP - Certificate of lawfulness for a proposed single storey basement and the erection of two storey rear extension, a porch, alterations to windows and insertion of new windows, erection of single storey garage and single storey outbuilding A(G) 02/06/2015

REPRESENTATIONS:

ANALYSIS:

The main issues are:

- 1. Whether the proposed works are permitted development by virtue of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) Order 2015**

	Yes / No	To be PD
Have permitted development rights been removed	N	N
Is the property a dwellinghouse	Y	Y
Is it detached?	Y	

Is it semi-detached or terraced?	N	
Is it within a conservation area	N	
(a) Has permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use)	N	N
Development not permitted by Class A		
(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse)	N	N
(c) would the height of the part of the dwellinghouse enlarged, improved or altered exceed the height of the highest part of the roof of the existing dwellinghouse	N	N
(d) would the height of the eaves of the part of the dwellinghouse enlarged, improved or altered exceed the height of the eaves of the existing dwellinghouse	N	N
(e) would the enlarged part of the dwellinghouse extend beyond a wall which:- (i) forms the principal elevation of the original dwellinghouse; or (ii) fronts a highway and forms a side elevation of the original dwellinghouse	N	N
(f) would, subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and— (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height	Y	N
until 30th May 2019 (for HH apps only) delete this section for LUs		
(g) is the development outside of article 2(3) land or outside of a site of special scientific interest	Y	Y
(g) cont_ would it have a single storey (previous extensions to the rear		

need to be taken into account)		
(i) Would it extend beyond the rear wall of the original dwellinghouse by up to or the equivalent of 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse	8M	
(ii) Be less than or equal to 4 metres in height	4M	
Have any representations been received from adjoining premises (only)	N	
(h) would the enlarged part of the dwellinghouse have more than one storey and:- (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse	N	N
(i) would the enlarged part of the dwellinghouse be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres	2.4M	N
(j) would the enlarged part of the dwellinghouse extend beyond a wall forming a side elevation of the original dwellinghouse, and:- (i) exceed 4 metres in height, (ii) have more than one storey, or (iii) have a width greater than half the width of the original dwellinghouse	N	N
(i) it would consist of or include:- (i) the construction or provision of a veranda, balcony or raised platform, (ii) the installation, alteration or replacement of a microwave antenna, (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or (iv) an alteration to any part of the roof of the dwellinghouse	N	N
A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted if:-	N/A	N

(a) it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;		
(b) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse;	N/A	N
(c) the enlarged part of the dwellinghouse would have more than one storey and extend beyond the rear wall of the original dwellinghouse	N/A	N
A.3 Development is permitted by Class A subject to the following conditions:-	Y	Y
(a) would the materials used in any exterior work (other than materials used in the construction of a conservatory) be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse		
(b) would any upper-floor window located in a wall or roof slope forming a side elevation of the dwelling house be:- (i) obscure-glazed, and (ii) non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed;	N/A	Y
(c) would, where the enlarged part of the dwellinghouse has more than one storey, the roof pitch of the enlarged part, so far as practicable, be the same as the roof pitch of the original dwellinghouse	N/A	Y

DISCUSSION

The application is a resubmission from a previously refused application referenced S6/2015/0594/HH which was refused for the following reasons –

1. The proposal fails to comply with Schedule 2, Part 1, Class A of The Town and Country (General Permitted Development) Order 2015 due to the enlargement to the north-western flank extending beyond a wall which fronts a highway and forms a side elevation of the original dwellinghouse.
2. The proposal fails to comply with Schedule 2, Part 1, Class A (e) of The Town and Country (General Permitted Development) Order 2015 as both the north-western and south-eastern flanks extend beyond a wall forming a side elevation of the original dwellinghouse, and have a width greater than half the width of the original dwellinghouse.

The former is a typographical error as the reason for refusal clearly refers to section (j) of Schedule 2, Part 1, Class A of The Town and Country (General Permitted Development) Order 2015.

In regards to the first reason of refusal, the submitted information clarifies the angles to which the elevations (front and side) of the existing dwelling. This drawing accurately refutes the previous assertion that the side elevation to the north west of the existing dwelling would not front a highway.

Arnold v Secretary of State for Communities and Local Government [2015] EWHC 1197 (Admin) refers to the question of whether a property which had been largely demolished and rebuilt over time was in fact an improved and extended version of the original dwelling, or an entirely new, unlawful dwelling in its own right. In this light, Mr Justice Dove refers to the need for the existence of the parent dwellinghouse in order to benefit from permitted development rights. This is a compelling argument in this line, and seems to, when aligning with the context of this application, run contrary to the wording in the definition of “original” within the GPDO.

Whilst these statements are made in the context of the parent dwelling being demolished, the argument would hold within the context of an internal conversion of two dwellings to one. The two dwellings no longer exist, and as such, it is unreasonable to restrict permitted development to those parent dwellings.

Overall, the evidence submitted is considered to prove beyond reasonable doubt the stance of the applicant in relation to the permitted development rights for the parent dwelling no longer existing, and the existing dwelling known as “The Spinney” holding its own permitted development rights in its existing form.

CONCLUSION

It is agreed that the previous decision, based on the information and evidence submitted with that application, was incorrect. The evidence submitted with this application is irrefutable, and proves beyond reasonable doubt that the development would comply with all limitations within Schedule 2, Part 1, Class A of The Town and Country (General Permitted Development) Order 2015

RECOMMENDATION

Prior approval not required

The proposal complies with Schedule 2, Part 1, Class A of The Town and Country (General Permitted Development) Order 2015 and **prior approval is not required**. The following conditions are applicable to the development¹:

1. The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.

REASON: In order to comply with A.3 (a) of the Town and Country Planning (General Permitted Development) Order 2015.

¹ Conditions may only be attached where they reasonably relate to the impact of the development on the amenity of adjoining premises.

2. C.13.3 – in accordance with plans and drawings: 1:1250 Site Location Plan & (GE)11 Rev PL1 & (GE)10 Rev PL1 & (GA)02 Rev PL1 & (GA) 01 Rev PL1 & (GA)00 Rev PL2 & (EX)10 Rev PL1 & (EX)01 Rev PL1 & (EX)00 Rev PL2 & (EX)04 Rev PL1
3. The development hereby permitted must be completed on or before the 30th May 2019.
4. The developer must notify the local planning authority of the completion of the development as soon as reasonably practicable after completion.

Informatives

Development is not permitted by Class A where –

1. The property is not a dwellinghouse.
2. Permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use).
3. As a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse).
4. The height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse.
5. The height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse.
6. The enlarged part of the dwellinghouse would extend beyond a wall which—
 - (i) Forms the principal elevation of the original dwellinghouse; or
 - (ii) fronts a highway and forms a side elevation of the original dwellinghouse.
7. Subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
 - (ii) exceed 4 metres in height;
8. Until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
 - (ii) exceed 4 metres in height;
9. The enlarged part of the dwellinghouse would have more than a single storey and—
 - (i) extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
 - (ii) be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;
10. The enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

11. The enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

- (i) exceed 4 metres in height,
- (ii) have more than a single storey, or
- (iii) have a width greater than half the width of the original dwellinghouse; or

12. It would consist of or include—

- (i) the construction or provision of a verandah, balcony or raised platform,
- (ii) the installation, alteration or replacement of a microwave antenna,
- (iii) the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
- (iv) an alteration to any part of the roof of the dwellinghouse.