

**WELWYN HATFIELD BOROUGH COUNCIL  
EXECUTIVE DIRECTOR - PLANNING, PUBLIC PROTECTION AND GOVERNANCE**

**DELEGATED APPLICATION**

**Application No:** 6/2020/2155/FULL  
**Location:** Land adjacent to 45 Kentish Lane Brookmans Park Hatfield AL9  
 6NG  
**Proposal:** Erection of dwelling  
**Officer:** Mr David Elmore

**Recommendation:** Granted

6/2020/2155/FULL

<b>Context</b>	
<b>Site and Application description</b>	<p>The application site comprises an undeveloped and well landscaped plot between dwellings on the western side of Kentish Lane, close to its junction with Great North Road.</p> <p>Planning permission is sought for the erection of a single dwelling. There is an existing vehicular access to the site from Great North Road and this would be utilised.</p>
<b>Constraints (as defined within WHDP 2005)</b>	<p>GB - Greenbelt - Distance: 0</p> <p>PAR - PARISH (HATFIELD) - Distance: 181.28</p> <p>PAR - PARISH (NORTH MYMMS) - Distance: 0</p> <p>Wards - Brookmans Park &amp; Little Heath - Distance: 0</p> <p>FM00 - Flood Zone Surface Water 1000mm (7618803) - Distance: 0</p> <p>FM00 - Flood Zone Surface Water 1000mm (7661738) - Distance: 0</p> <p>HEN - No known habitats present (high priority for habitat creation) - Distance: 0</p> <p>HEN - No known habitats present (medium priority for habitat creation) - Distance: 0</p> <p>SAGB - Sand and Gravel Belt - Distance: 0</p>
<b>Relevant planning history</b>	<p>Application Number: 6/2020/0985/PA            Decision: Granted            Decision Date: 02 July 2020            Proposal: Erection of 1 x dwelling</p> <p><u>Summary of advice:</u></p> <ul style="list-style-type: none"> <li>Acceptable subject to bat surveys being undertaken and satisfied prior to determination of a planning application</li> </ul> <p>Application Number: 6/2019/2654/PA            Decision: Refused            Decision Date: 06 February 2020            Proposal: Pre application advice for the erection of 1x dwelling with associated</p>

	<p>landscaping works</p> <p><u>Summary of advice:</u></p> <ul style="list-style-type: none"> <li>• Recommended that the building line is flush with No. 45 and shape altered to prevent the dwelling appearing unduly dominant or resulting in loss of natural light from neighbouring properties</li> <li>• Also advised a more traditional design and for glazing to be refined on the front elevation</li> <li>• Further information required to advise on biodiversity impact</li> </ul> <p>Application Number: S6/2004/1104/FP  Decision: Refused  Decision Date: 10 September 2004  Proposal: Erection of one new dwelling</p>		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 0	Object: 0	Other: 0
<b>Publicity</b>	Site Notice Display Date: 17 September 2020 Site Notice Expiry Date: 8 October 2020		
<b>Summary of neighbour responses</b>	No representations received		
<b>Consultees and responses</b>	North Mymms Parish Council – Comment that existing trees on the site should be TPO'd in order to maintain appearance of the front in a Green Belt setting. Hertfordshire Ecology – Conditions advised		
<b>Relevant Policies</b>			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input checked="" type="checkbox"/> GBSP1 <input checked="" type="checkbox"/> GBSP2 <input checked="" type="checkbox"/> M14 <input checked="" type="checkbox"/> Supplementary Design Guidance <input checked="" type="checkbox"/> Supplementary Parking Guidance <input checked="" type="checkbox"/> Interim Policy for car parking and garage sizes Others: Policies SD1, H2, R11, R17, D8 & RA10 of the District Plan			
<b>Main Issues</b>			
<b>Principle of development</b>	<p>The site has not been allocated in the District Plan for additional housing supply and as such comes forward as a windfall residential site where Policy H2 of the District Plan applies. This policy states that all applications for windfall residential development will be assessed for potential and suitability against the following criteria:</p> <ol style="list-style-type: none"> <li>The availability of previously-developed sites and/or buildings;</li> <li>The location and accessibility of the site to services and facilities by transport modes other than the car;</li> <li>The capacity of existing and potential infrastructure to absorb further development;</li> <li>The ability to build new communities to support infrastructure and provide demand for services and facilities;</li> <li>The physical and environmental constraints on development of land.</li> </ol> <p>The site has not been previously developed, however this does not mean it cannot be built-on in any circumstances. Although the site is not a priority for development, the need to make efficient use of land remains a policy objective.</p> <p>The separation distance between the application site and nearest well-served</p>		

	<p>settlement, and extent of services within close walking distance, means that it is likely that use of the private car as a mode of transport would be predominant in this case. However, having regard to the close proximity of the site to the edge of the specified settlement of Brookmans Park and suitable routes for walking and cycling, it is considered that the site is a reasonably sustainable location for residential development of this scale.</p> <p>Existing infrastructure can absorb this development and the proposal would not undermine the delivery of allocated sites in the overall strategy. Subject to there being no physical or environmental constraints to development on the land, it is considered that the principle of the development would be acceptable.</p>
<p><b>Green Belt</b></p>	<p>The application site is washed over by the Metropolitan Green Belt. Policy GBSP1 of the District Plan states that the Green Belt will be maintained in the Borough as defined on the proposals map.</p> <p><i>Appropriateness</i></p> <p>Paragraph 145 of the NPPF outlines that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, apart from a limited number of exceptions. Exception (e) 'limited infilling in villages' is relevant in this case.</p> <p><i>Does the site lie in a village?</i></p> <p>Although the site is situated outside of a settlement boundary of Brookmans Park in both the District Plan and Council's Emerging Local Plan, it has been established in case law (Julian Wood v SoS and Gravesham Borough Council [2015]) that the term "village" is not necessarily the same as a settlement boundary, and that there is a need to consider the facts on the ground.</p> <p>The site is located within a long ribbon of large detached dwellings on the northern side of Kentish Lane that extends outward to the north-east beyond the settlement boundary. The character of this part of Kentish Lane is not dissimilar to that within the settlement boundary on the opposite side of Great North Road and there is no distinct gap in built-form. On the ground, the site is read as part of the village of Brookmans Park.</p> <p><i>Would the development represent limited infilling?</i></p> <p>Limited infilling is not defined in the NPPF or District Plan. Policy SADM34 of the Council's Emerging Local Plan however outlines that limited infill development will be permitted in villages within the Green Belt provided:</p> <ol style="list-style-type: none"> <li>i. It is within a continuous built up frontage;</li> <li>ii. It does not extend the existing 'built up' area of the village into the open countryside;</li> <li>iii. It would not result in the loss of a view or vista which makes a significant contribution to the character of the settlement; and</li> <li>iv. It is small scale and would not result in the provision of more than four dwellings (net)</li> </ol> <p>Whilst the hearing session including Policy SADM34 has taken place in February 2018 and there are no unresolved objections concerning this policy, the Emerging Local Plan has yet to be examined and found sound. Therefore, it attracts limited weight as a material consideration. However, in the absence of any other local standards, it provides a suitable benchmark for assessing the development.</p>

	<p>The proposal is small scale and would fill a gap between a continuous built up frontage. It would not extend the existing 'built up' area of the village into the open countryside or result in the loss of a view or vista which makes a significant contribution to the character of the settlement.</p> <p>Taking account of the above, the proposal would represent limited infilling in a village and be appropriate development in the Green Belt.</p> <p>The Courts have held that appropriate development in the Green Belt is not harmful to Green Belt openness or the purposes of including land within it.</p>
<p><b>Design (form, size, scale, siting) and Character (appearance within the streetscene)</b></p>	<p>District Plan Policies D1 and D2 of the Local Plan require the standard of design in all new development to be of a high quality and that all 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). The SDG outlines, amongst other things, that new development should respond to building forms and patterns of existing buildings in the detailed layout and design to reinforce a sense of place; and that the scale, height, massing, and space around the new development in relation to the adjoining buildings is considered.</p> <p>The NPPF places a clear emphasis on high quality design and explains that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way in functions, taking into account any local design standards or style guides in plans or supplementary planning documents.</p> <p>The proposed dwelling would feature a crown roof with gable flanks. This style of crown roof is witnessed in the area and therefore represent an acceptable form of development in this location. Notwithstanding this, in terms of visual amenity and quality of design, some crown roofs are not attractively designed and can significantly detract from the appearance of a dwelling and the overall character of the area. Provided that the flat roof is stepped down and concealed behind the surrounding pitched roof, its impact in terms of visual amenity would be limited.</p> <p>The proposed dwelling would respect the established building line and be appropriately spaced from the side boundaries. Its scale would also reflect other large dwellings on this part of Kentish Lane. Subject to precise details of external materials and crown roof being agreed, it is considered that this proposal would represent an acceptable standard of design in keeping with the area's character.</p>
<p><b>Impact on neighbours</b></p>	<p>The proposed dwelling would not appear unduly dominant or result in any adverse loss of natural light, having regard to its height, length of projection or proximity to boundaries.</p> <p>The upper floor side elevation of the proposed dwelling would be blank. Also, the recessed design of the rear balconies would not adversely affect the privacy of neighbours. The degree of overlooking would consistent with that generally expected between neighbouring properties.</p>

<p><b>Access, car parking and highway considerations</b></p>	<p><u>Access and highways</u></p> <p>The existing access would be retained. Hertfordshire Highways have no objection to its utilisation in this case.</p> <p><u>Car Parking</u></p> <p>The Council's 2004 parking standards (now treated as guidelines) states that a dwelling with four or more bedrooms should have provision for three on-site parking spaces.</p> <p>The proposed site plan annotates a new driveway but its size has not been shown. Notwithstanding this, the frontage is large and could accommodate a driveway serving three or more cars. Precise details of hard landscaping feature can be secured through planning condition to ensure that an appropriate balance of soft to hard landscaping which respects the area's character is achieved.</p>
<p><b>Landscaping</b></p>	<p>Policy D8 of the District Plan states that all development, other than changes of use of buildings, should include landscaping as an integral part of the overall design. The retention and enhancement of existing key landscape features such as trees will be expected where feasible; where this is not possible, replacement planting should be carried out. This policy also states that planning conditions may be used to ensure continued future protection of trees.</p> <p>Paragraph 127 of the NPPF outlines that planning decisions should ensure that developments are visually attractive as a result, in part, by appropriate and effective landscaping.</p> <p>The site is currently very well screened to its front boundary and shared side boundary with number 37 Kentish Lane and many trees exist within the site. The only trees which would be removed are those located in the position of the proposed dwelling or close to it. The submitted landscaping plan includes appropriate compensatory planting sufficient for the scale of the proposal. This planting will mitigate the loss of existing trees and the tree protection plan and method statement is acceptable.</p> <p>Planning conditions are required to ensure: implementation of the landscaping scheme; retention of planting for an extended period and; adherence with the tree protection plan and method statement.</p>
<p><b>Other considerations</b></p>	<p><u>Biodiversity</u></p> <p>Policy R11 of the District Plan states that all new development will be required to demonstrate how it would contribute positively to the biodiversity of the site.</p> <p>The NPPF outlines that planning decisions should protect and enhance biodiversity and, when determining planning applications, local planning authorities should ensure that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated against, or, as a last resort, compensated for, then permission should be refused.</p> <p>An Ecological Appraisal (by Cherryfield Ecology, 7 April 2020) and Emergence and Activity Bat Survey (by Cherryfield Ecology, 17 August 2020) have been submitted.</p> <p>The site was initially visited in April 2020 in order to determine whether there will be any impacts on habitats or species of conservation significance (including those protected by law); and to specify adequate avoidance, mitigation or compensation measures where necessary.</p>

	<p>Hertfordshire Ecology have been consulted for this application and describe the site as comprising uncut (but not rough) amenity grassland, scattered trees, tall ruderal / colonising vegetation, introduced scrub and Leylandii hedging.</p> <p>Follow-up bat activity surveys of a tree with high bat roosting potential, which is proposed for removal, were undertaken in July and August. Although bats were recorded flying close to the tree and into the site, no bats were recorded emerging from or re-entering the tree. No roosts are confirmed, and no further surveys are considered necessary. On this basis Hertfordshire Ecology consider there to be sufficient information to fully consider bats.</p> <p>Proposed re-planting with native species is proposed and will compensate for this loss. Hertfordshire Ecology advise that any tree/shrub removal or significant works should however be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest. This can be secured through planning condition.</p> <p>Hertfordshire Ecology have highlighted that the site has potential to support reptiles and badgers, as well as nesting birds. It is advised that the recommendations in the Ecological Appraisal for an appropriately timed reptile survey and pre-commencement badger walkover survey should be followed. This can be secured through planning condition.</p> <p>The submitted Ecological Appraisal includes acceptable biodiversity enhancements for hedgehogs, bats, nesting birds, invertebrates, native-species hedgerow planting. These recommendations can be secured by condition to ensure biodiversity net-gain as required by the NPPF.</p> <p>The Ecological Appraisal also includes details of lighting which should be used to minimize the impact it has on potential bat roosting and commuting. This mitigation measure can be secured by condition.</p> <p><u>North Mymms Parish Council (NMPC) representation</u></p> <p>NMPC have commented requesting a condition for TPO's on existing trees in order to maintain appearance of the front in a Green Belt setting.</p> <p>The quality of trees within the site are either B1, B1/B2, C1, C1/C2 or U category. The Council's Tree Officer has been informed of this request and will make an assessment as to whether any trees within the site are worthy of protection.</p>
<p><b>Conclusion</b></p>	
<p>Subject to the suggested conditions, the proposed development would accord with all relevant local and national planning policies.</p>	

**Conditions:**

1. Prior to commencement of the development (including vegetation clearance), an on-site reptile survey must be carried out by a suitably qualified and experienced ecologist to check for reptile activity.

If reptiles will be impacted by the development, appropriate mitigation to safeguard them must be submitted to and approved in writing by the Local Planning Authority

before commencement of the development (including vegetation clearance). The development must be carried out in accordance with the approved mitigation measures.

REASON: To ensure reptiles are protected from harm during the development in accordance with Policy R11 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

2. Prior to commencement of the development (including vegetation clearance), a badger walk-over survey of the site and 30m of adjacent land (access permitting) must be carried out by a suitably qualified and experienced ecologist to check for badger activity.

If badgers will be impacted by the development, appropriate mitigation to safeguard them must be submitted to and approved in writing by the Local Planning Authority before commencement of the development (including vegetation clearance). The development must be carried out in accordance with the approved mitigation measures.

REASON: To ensure badgers are protected from harm during the development in accordance with Policy R11 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

3. No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby granted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and 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 and the National Planning Policy Framework.

4. No development above ground level shall take place until details of the proposed crown roof have been submitted to and approved in writing by the Local Planning Authority. The details, including; a roof plan, elevations and sections, in either 1:50 or 1:100 scale must clearly show that the flat roof is stepped down and concealed behind the surrounding pitched roof. The pitched roof must use ridge tiles. Subsequently the development must be carried out in accordance with the approved details.

REASON: The proposal contains insufficient information in regards to the detailed design of the roof and this is required in the interests of quality of design and visual amenity in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005, Supplementary Design Guidance 2005 (Statement of Council Policy) and the National Planning Policy Framework.

5. No development above ground level shall take place until details of hard surfacing on a 1:250 scaled plan of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. The details must include the type, location and extent of hard surfacing. The development shall not be carried out other than in accordance with the approved details.

REASON: The landscaping of this site is required in order to respect the existing visual character of the area and to reduce the visual and environmental impacts of

the development hereby permitted in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

6. Prior to occupation of the dwelling hereby approved, the enhancement measures in Table 14 of the submitted Ecological Appraisal (by Cherryfield Ecology, 07/04/2020) including: Bat, bird and insect box enhancement; Hedgehog highways and small mammal connectivity, and; Swift nest boxes, must be implemented and retained permanently thereafter.

REASON: To ensure that the development contributes positively to the biodiversity of the site and to provide net gains for biodiversity, in accordance with Policy R11 of the Welwyn Hatfield District Plan and the National Planning Policy Framework.

7. The landscaping comprised in the submitted Soft Landscape Plan (drawing number: 4024.Brookmans.TD.LSP) shall be carried out in the first planting and seeding seasons following occupation of the dwelling or the completion of the development (whichever is the sooner): and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the area in accordance with Policies D1, D2 and D8 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

8. The Arboricultural Method Statement contained in the submitted Arboricultural Implications Assessment and Method Statement (by Andrew Belson Arboricultural Consultant, 17th April 2020) and the submitted Tree Protection Plan (drawing number: 4024.Brookmans.TD.TPP) must be fully adhered to from start to completion of the development.

REASON: To protect existing retained trees and in the interest of the amenity value of the area in accordance with Policies D1, D2 and D8 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

9. Any tree/shrub removal should be undertaken outside the nesting bird season (March to August inclusive) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than two days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.

REASON: To protect biodiversity in accordance with Policy R11 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework

10. Any external lighting on the site must follow the mitigation specification in Table 13 of the submitted Ecological Appraisal (by Cherryfield Ecology, 07/04/2020).

REASON: To minimize the impact it has on potential bat roosting and commuting, in accordance with Policy R11 of the Welwyn Hatfield District Plan and the National Planning Policy Framework.

DRAWING NUMBERS



11. The development/works shall not be started and completed other than in accordance with the approved plans and details:

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
4024.Brookmans.TD.TPP		Tree Protection Plan	24 August 2020
TDC043/PL/001		Location Plan & Proposed Site Plan	24 August 2020
4024.Brookmans.TD.AIP		Arboricultural Implications Plan	24 August 2020
4024.Brookmans.TD.LSP		Soft Landscape Plan	24 August 2020
TDC043/PL/200		Proposed Front Elevation	28 August 2020
TDC043/PL/201		Proposed Rear Elevation	28 August 2020
TDC043/PL/202		Proposed Side 1 Elevation	28 August 2020
TDC043/PL/203		Proposed Side 2 Elevation	28 August 2020
TDC043/PL/100		Proposed Ground Floor Plan	28 August 2020
TDC043/PL/101		Proposed First Floor Plan	28 August 2020
TDC043/PL/102		Proposed Loft Floor Plan	28 August 2020
TDC043/PL/103		Proposed Roof Plan	28 August 2020

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

1. **POSITIVE AND PROACTIVE STATEMENT**

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 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 viewed on the Council's website or inspected at these offices).

**Informatives:**

1. 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. Fire Officer, Health and Safety Executive, Environment Agency (water interest etc.) Neither does this permission negate or override any private covenants or legal interest (easements or wayleaves) which may affect the land.

2. In addition, and separate to your planning permission, for the majority of schemes, you are required by law to appoint a building regulator who will inspect your property at various stages during the course of your building project. This is to ensure it is compliant with the Building Regulations and the Building Act 1984.

The checks the building regulator will carry out include, but are not limited to, the structure, foundations, fire precautions and escape routes, electrical and plumbing compliance and other issues such as drainage and insulation. The objective of these checks is to ensure that your building is safe to live in, accessible and environmentally sustainable.

Once all build stages are checked and the works are finished, a Completion Certificate is issued confirming that these objectives have been met. You will also need the Completion Certificate, should you sell the property, as it will confirm to future owners that the work has been carried out in compliance with the Regulations.

As the owner of the property, you are responsible for Building Regulations compliance so we would urge you to decide which regulator to use, as opposed to leaving your builder or architect to make the choice. This is so that you can be sure the building regulator is truly independent and working to protect you from any breach or omission during the works.

Hertfordshire Building Control Limited are a Company wholly owned by eight local authorities in Hertfordshire including Welwyn Hatfield Borough Council. Please contact them on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) to discuss the process and all that is involved. Or alternatively refer to the Homeowner Information section on their website at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk)

3. The development will involve the numbering of properties and/or the naming of new streets. The applicant MUST contact Welwyn Hatfield Borough Council, Environmental Services (01707 357 000) before any name or number is proposed. This is a requirement of the Public Health Act 1875 and Public Health (Amendment) Act 1907.
4. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, 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.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.
5. Parking and Storage of materials: The applicant is advised that all areas for parking, storage, and delivery of materials associated with the construction of this 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: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-anddeveloper-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

6. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-andpavements.aspx> or by telephoning 0300 1234047.

**Determined By:**

Mrs Sarah Smith  
6 November 2020