

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

DELEGATED APPLICATION

Application No: 6/2020/2821/HOUSE
Location: 1 Northaw Place Coopers Lane Northaw Potters Bar EN6 4NQ
Proposal: Construction of a domestic tennis court with surround fencing
Officer: Ms Kirsty Shirley

Recommendation: Refused

6/2020/2821/HOUSE

Context	
Site and Application description	<p>The application site is a Grade II* listed house dating to c.1690 with alterations made throughout the 19th century. It is an imposing three storey neo-classical mansion with a large, square porch supported on Doric columns. The house is surrounded on the north, east and south sides by a large garden. To the west are former outbuildings and a late 17th century stable block.</p> <p>Planning permission is sought for the erection of a tennis court with surround fencing.</p>
Constraints (as defined within WHDP 2005)	<p>LBC - LISTED BUILDING Garden walls on S side of Northaw Place. Late - Distance: 0 LBC - LISTED BUILDING House. Formerly residential school. Circa 1690. - Distance: 0 AAS - Area of Archaeological Significance Area of Archaeological Significance : AAS43 - Distance: 0 GB - Greenbelt - Distance: 0 LCA - Landscape Character Area (Northaw Common Parkland) - Distance: 0 PAR - PARISH (NORTH MYMMS) - Distance: 162.67 PAR - PARISH (NORTHAW AND CUFFLEY) - Distance: 0 ROW - FOOTPATH (NORTHAW 004) - Distance: 0.86 Wards - Northaw & Cuffley - Distance: 0 A4D - ARTICLE 4 DIRECTION - Distance: 0 HPGU - Northaw Place Gardens - Distance: 0 HPGU - Northaw Place - Distance: 0</p>
Relevant planning history	<p>Application Number: E6/1973/2700/ Decision: Granted Decision Date: 08 August 1973 Proposal: Two hutted classroom units</p> <p>Application Number: E6/1973/4672/ Decision: Granted Decision Date: 05 November 1973 Proposal: Hutted classroom (details).</p> <p>Application Number: S6/1980/0369/ Decision: Approval Subject to s106</p>

Decision Date: 02 October 1980
Proposal: Conversion into 10 residential units

Application Number: S6/1982/0120/
Decision: Refused
Decision Date: 13 May 1982
Proposal: Change of use from institutional to office

Application Number: S6/1985/0363/FP
Decision: Approval Subject to s106
Decision Date: 01 September 1985
Proposal: C.O.U. from institutional to private residential & conversion of existing buildings into 6 houses with double garages and extension of lodge

Application Number: S6/1985/0368/LB
Decision: Approval Subject to s106
Decision Date: 01 September 1986
Proposal: Refurbishment and division of existing buildings into 6 residential units and extension of lodge

Application Number: S6/1986/0970/LB
Decision: Approval Subject to s106
Decision Date: 25 August 1987
Proposal: Extensions and alterations and partial demolition to form 4 dwellings

Application Number: S6/1986/0971/FP
Decision: Approval Subject to s106
Decision Date: 25 August 1987
Proposal: Change of use from institutional to residential to form 4 dwellings and erection of 5 dwellings with garages

Application Number: S6/1987/1013/LB
Decision: Granted
Decision Date: 04 April 1988
Proposal: Rebuilding of former stable block for use as dwelling with garage

Application Number: S6/1988/0293/FP
Decision: Refused
Decision Date: 13 May 1988
Proposal: Erection of three detached dwellings with integral double garages

Application Number: S6/1988/1249/FP
Decision: Granted
Decision Date: 03 March 1989
Proposal: Amendments to S6/0971/86/FP - extra dormers on rear of garages to each dwelling & 2 single storey conservatories on rear of houses type A

Application Number: S6/1989/0474/FP
Decision: Refused
Decision Date: 25 July 1989
Proposal: Erection of two dwellings

Application Number: S6/1997/1028/FP
Decision: Refused
Decision Date: 02 March 1998

Proposal: Installation of a 2.4 metre pole mounted satellite dish

Application Number: S6/2009/2702/LB

Decision: Granted

Decision Date: 04 March 2010

Proposal: Alterations include: new window in the west wing north elevation, 1st floor; roof lantern in flat roof of west wing; formation of two access hatched to roof gutters internal alterations to second floor to rearrange bathrooms; redesign of 20th century staircases to 2nd floor and west wing, reopen blocked doorway between original dining room and morning room, alterations to 20th century cornices, door surrounds in entrance hall, replace 20th century floor boards on ground floor, stripout bathroom on first floor and reinstate south east room , replan kitchen and bathroom in basement

Application Number: S6/2010/0273/LB

Decision: Granted

Decision Date: 17 March 2010

Proposal: Alterations include:-conversion and extension of existing east wing (garage & kitchen) to form new kitchen and swimming pool, shower area and mezzanine and 1st floor bathroom over kitchen, linked by new staircase to swimming pool. Construction of new conservatory. Associated service installations. works to main house east elevation 1st floor; installation of new door to replace modern door and build up window formed in 1988; reinstatement of porch and replacement of modern door on south elevation

Application Number: S6/2010/2898/LB

Decision: Granted

Decision Date: 27 April 2011

Proposal: Alterations include (from approved applications S6/2009/2702/LB; S6/2010/0273/LB; S6/2010/0110/MA:- Modern partition in mezzanine w wing; half glazed double doors to 1st floor landing. Roof access hatch on west wing roof; conservation roof light on main roof inner pitch. Painted timber screens on proposed conservatory to have double doors. Roof light over kitchen proposed extension; glazed doors to proposed pool room to be powder coated aluminium, replacement door into earlier opening on 1st floor

Application Number: S6/2010/3094/LB

Decision: Granted

Decision Date: 27 April 2011

Proposal: Erection of new brick piers on footings to stabilise existing wall and alterations & repairs to wall

Application Number: S6/2010/3095/MA

Decision: Granted

Decision Date: 27 April 2011

Proposal: Erection of single storey garage

Application Number: 6/2016/2660/LB

Decision: Granted

Decision Date: 27 February 2017

Proposal: Extending the existing mezzanine floor internally above the pool

Application Number: 6/2019/0918/HOUSE

Decision: Refused

Decision Date: 11 June 2019

	<p>Proposal: Formation of a new vehicular access following removal of existing close boarded boundary fence and erection of post and rail boundary fence and hedge with timber gate</p> <p>Application Number: 6/2020/1211/HOUSE Decision: Refused Decision Date: 24 July 2020 Proposal: Formation of new vehicular access following removal of existing close-boarded fence and erection of post and rail boundary fence and hedge with timber gate</p>		
Consultations			
Neighbour representations	Support: 1	Object: 0	Other: 0
Publicity	<p>Neighbour notification letter Site Notice Display Date: 10 November 2020 Site Notice Expiry Date: 1 December 2020 Press Advert Display Date: 18 November 2020 Press Advert Expiry Date: 9 December 2020</p>		
Summary of neighbour responses	<p>12 Moreton Avenue: <i>"I researched the garden at Northaw Place for the Hertfordshire Gardens Trust. The area chosen for the tennis court was once part of the park surrounding the house. The main and important part of the garden has always been to the south of the house. The owners have consulted my survey and used the historic information to restore and design a garden sympathetic to the house and the addition of a tennis court will not destroy anything of historic value."</i></p>		
Consultees and responses	<p>Hertfordshire County Council - Historic Environment Advisor: <i>"The proposed tennis court is some distance from the 17th century house, and is unlikely to have any impact on archaeological remains"</i></p> <p>The Gardens Trust: <i>"The landscape of Northaw Place was historically open to the north of the house, and is largely intact. We consider that a tennis court with associated fencing, of whatever colour, would compromise the historic integrity of the views of the mansion and thus harm the significance of both mansion and landscape"</i></p> <p>Conservation Officer – <i>Objection on the basis that the development would cause less than substantial harm to the heritage asset</i></p> <p>Northaw & Cuffley Parish Council – no response</p> <p>HCC Rights of Way – no response</p> <p>The Ramblers' Association – no response</p> <p>Joint Committee of the National Amenity Societies – no response</p>		
Relevant Policies			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input checked="" type="checkbox"/> GBSP1 <input type="checkbox"/> GBSP2 <input type="checkbox"/> M14 <input checked="" type="checkbox"/> Supplementary Design Guidance <input type="checkbox"/> Supplementary Parking Guidance <input type="checkbox"/> Interim Policy for car parking and garage sizes Others: RA10 of the District Plan and Policy SADM15, SADM34 of the Draft Local Plan			

Main Issues

Impact on the character and setting of the listed building

Policy background

Section 66(1) of the Listed Buildings and Conservation Areas Act states that the local planning authority shall have “*special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*”.

The specific historic environment policies within the National Planning Policy Framework (NPPF) are contained within paragraphs 184-202. Paragraph 192 of the NPPF states: “*In determining applications, local planning authorities should take account of:*

- a) *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) *the desirability of new development making a positive contribution to local character and distinctiveness.”*

Paragraph 193 of the NPPF outlines that, when considering the impact of a proposed development on the significance of a designated heritage asset, ‘great weight’ should be given to the asset’s conservation and the more important the asset the greater the weight it should be given. Paragraph 195 of the NPPF states that where proposed development will lead to substantial harm or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm.

Where the harm is considered less than substantial Paragraph 196 states that this should be weighed against the public benefits of the proposal. The NPPF therefore does allow for a degree of harm to a heritage asset in particular circumstances.

Policy SADM15 is similar in these aims, where successive small scale changes that lead to a cumulative loss or harm to the significance of the asset or historic environment should be avoided.

Assessment

The application concerns a Grade II* Listed mansion of outstanding historical interest and national importance, with landscape of Northaw Place remaining historically open. The proposed tennis court is located to the north east of the house on land which has always been within the wider gardens of the house and has historically remained open and free of development.

The proposed tennis court and fence will introduce a large, modern feature into the garden which would detract from the setting of the listed building. While the features of the tennis court have been designed in consideration of the surroundings and seek to cause minimal interruption to the area, the tennis court and fencing will still be visible as a modern feature and will undermine the appreciation of the listed building in its garden setting

	<p>With regards to the NPPF, the harm is considered to be ‘less than substantial’ and paragraph 196 should be applied. Where the harm is considered less than substantial Paragraph 196 states that this should be weighed against the public benefits of the proposal.</p> <p>Paragraph 20 of the Planning Practice Guidance for the historic environment states <i>“Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit.”</i></p> <p>It is clear from the application documents that the proposed tennis court is for private domestic use. Whilst no direct public benefit has been identified, the Design and Access Statement, which accompanied the application, states: <i>“The proposed development of a new tennis court would provide a sports facility which would help to enhance the health and well being of the users”</i>. This can be considered a social benefit, albeit limited to a small number of users of the domestic tennis courts. The Design and Access Statement later states <i>“One of the benefits that the tennis court would bring would be to reduce the need for the applicant’s family to travel away from the property in order to be able to play tennis. This reduction in car travel would help to reduce CO2 emissions.”</i> Whilst a reduction in travel can be considered an environmental benefit, no detail of the means of transport, distance, or number of trips involved have been provided. It is therefore considered that the environmental benefit would be negligible and one which is likely to be far outweighed by the environmental cost associated with construction of the tennis court.</p> <p>When weighed against the great weight afforded by the NPPF to the conservation of heritage assets, it is not considered that the identified benefits of the development would outweigh the harm to the listed building.</p> <p>The proposal would therefore be contrary to the provisions of the NPPF, District Plan Policy SADM15 and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special regard should be given to the desirability of preserving listed buildings or their settings.</p>
<p>Green Belt</p>	<p>The site is located within the Metropolitan Green Belt as defined by District Plan Policy GBSP1.</p> <p>The proposal seeks to erect a fence to surround the tennis court, which is approximately 2.75m in height and would enclose approximately 595m² of land. The term ‘building’ is not defined in the NPPF but the definition in the Town and Country Planning Act 1990 refers to ‘any structure or erection’. As a result, it is considered that the proposed fencing should be treated as a ‘building’ for the purposes of the NPPF.</p> <p><i>Appropriateness</i></p> <p>Paragraph 143 of the NPPF advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the NPPF explains that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions. One relevant exception is the provision of appropriate facilities for outdoor sport and outdoor recreation, provided the facilities</p>

preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

Openness

The essential characteristics of Green Belts are their openness and their permanence.

There is no definition of openness in the NPPF but, in the context of the Green Belt, it is generally held to refer to freedom from, or the absence of, development. However, assessing the impact of a proposal on the openness of the Green Belt requires a judgment based on the circumstances of the case. Openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant. The specific characteristics of the proposal and its setting are also relevant in this case when making an assessment.

Draft Local Plan Policy SADM34 states proposals for appropriate facilities for outdoor sport and recreation will need to demonstrate that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.

While the fencing has been designed to be in keeping with the landscaped area, the height and scale of the fencing would create an incongruous protrusion within the lawn landscaped garden. Additionally, the creation of a significant amount of hardstanding to facilitate the tennis court would result in the alteration of a significant portion of land which would impact on both the physical and visual openness of the Green Belt. The development would therefore have a harmful impact on the openness of the Green Belt, contrary to the NPPF.

Purposes

Paragraph 134 of the NPPF outlines the five purposes Green Belts serve, which includes safeguarding the countryside from encroachment. Whilst the development would be entirely within the residential curtilage of the application property, the proposed development increases the built urban form within this area resulting in an encroachment of development into the countryside, conflicting with the purposes of including land within the Green Belt.

For this reason, it is considered that the proposed development would conflict with the purposes of the Green Belt as identified at paragraph 134 of the NPPF, in particular safeguarding the countryside from encroachment.

Accordingly the proposed development is not considered to fall within any of the exceptions identified in paragraphs 145 and 146 of the NPPF and is inappropriate development in the Green Belt, which by definition would result in harm and should not be approved except in very special circumstances. As outlined at paragraph 144 of the NPPF, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt.

The key issue therefore is whether very special circumstances exist to outweigh the harm caused, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations. An assessment of whether very special circumstances exist is carried out at the end of this

	<p>report.</p> <p><i>Effect on the visual amenity of the Green Belt and character of the area</i></p> <p>With regards to the visual amenity of the Green Belt, the NPPF at paragraph 141 seeks to retain and enhance landscapes, visual amenity and biodiversity. Policies D1 and D2 of the District Plan aim to ensure a high quality of design and that development respects and relates to the character and context of the locality. In addition to the above, the NPPF sets out the view of the Government in respect of good design, indeed this is noted as forming a key aspect of sustainable development as it can contribute positively to making places better for people. In particular paragraph 130 outlines that <i>'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 it functions'</i>.</p> <p>The site is within the Northaw Common Parkland Landscape Character Area having regard to the District Plan Policy RA10. The Northaw Common Parkland Landscape Area is characterised by parkland features, with landscapes that have been created through the historic development of these parklands and estates. The area is predominantly rural in character with formal parkland. The NPPF states that developments should be sympathetic to landscape setting.</p> <p>The proposal seeks to construct a tennis court within the sizeable application site, which would be positioned in the north-east portion of the application site adjacent to trees and hedging. The tennis court would be located within a lawned garden area and the synthetic grass surface of the tennis court would integrate well with the lawned garden. The tennis court would be surrounded by open mesh dark fencing which would be in keeping with the existing trees and hedging.</p> <p>While the tennis court would not be seen from a public vantage view, the overall scale of the development is substantial and would occupy a considerable amount of the open landscaped garden. The proposed fence encloses approximately 595m² of land, with the tennis court occupying approximately 258m² of land, the standard size for a double tennis court. Furthermore, the hardstanding to facilitate the tennis court would be built on previously undeveloped land which is currently free from built form and which contribute to the open and landscaped characteristic of the site. The tennis court would introduce a large, modern development which would detract from the character of the historical, open landscaped area.</p> <p>Further to the above, it is therefore considered that the proposed tennis court, fencing and associated hardstanding would not be in keeping with its surroundings and would be out of keeping with character of the area. The proposal is therefore, contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.</p>
<p>Impact on neighbours</p>	<p>The proposed tennis court is located a substantial distance from the adjoining neighbours and would be screened by trees and hedging. The tennis court would not be overtly visible to the neighbours, nor appear unduly dominant to neighbours. The development would therefore not result in a harmful impact to the neighbours.</p>

Access, car parking and highway considerations	The proposed development does not alter access or car parking, or affect the highway, and therefore these are not material considerations for this application.
Landscaping Issues	No significant impacts
Any other issues	<p><i>Site Visit</i></p> <p>A site visit has not been undertaken in an attempt to decelerate the spread of Covid-19. Photographs of the site have been submitted to assist in determining the application.</p>
Very Special Circumstances	<p>Paragraph 143 of the NPPF outlines that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 outlines that ‘<i>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</i>’.</p> <p>It is accepted in case law that there is no prescribed list of what might constitute very special circumstances. It may be that a single aspect of a proposal may itself be a very special circumstance (VSC) sufficient to justify development or it may be that a number of circumstances may cumulatively amount to very special circumstances. As Lord Justice Pill said in <i>South Bucks District Council v Secretary of State for Transport, Local Government and the Regions</i> [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): “<i>It is of the essence of very special circumstances that the applicant establishing them is in a very special category.</i>” However, by their nature the existence of very special circumstances must relate to a particular site.</p> <p>The applicant has not advanced very special circumstances for this application. It is considered that further to the above analysis within this report that there are no very special circumstances that outweigh the harm to the Green Belt that was identified above.</p>
Conclusion	
<p>When weighed against the great weight afforded by the NPPF to the conservation of heritage assets, it is not considered that the identified benefits of the development would outweigh the harm to the listed building. The proposal would therefore be contrary to the provisions of the NPPF, District Plan Policy SADM15 and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special regard should be given to the desirability of preserving listed buildings or their settings.</p> <p>The development represents inappropriate development in the Green Belt and causes a loss of Green Belt openness. In addition to this harm, there is also conflict with the purpose of including land within the Green Belt in that the development would fail to assist in safeguarding the countryside from encroachment. Consequently, the development fails to accord with the NPPF and Local Plan Policy SADM34.</p> <p>The proposal has also been considered in terms of the Northaw Common Parkland Landscape Character Area and found to be visually intrusive and out of keeping with the appearance and character of the area, contrary to policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.</p>	

Reasons for Refusal:

1. When weighed against the great weight afforded by the NPPF to the conservation of heritage assets, it is not considered that the identified benefits of the development would outweigh the harm to the listed building. The proposal would therefore be contrary to the provisions of the NPPF, District Plan Policy SADM15 and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which states that special regard should be given to the desirability of preserving listed buildings or their settings.
2. The development represents inappropriate development in the Green Belt and causes a loss of Green Belt openness. In addition to this harm, there is also conflict with the purpose of including land within the Green Belt in that the development would fail to assist in safeguarding the countryside from encroachment. Consequently, the development fails to accord with the NPPF; District Plan Policy GBSP1; and Local Plan Policy SADM34.
3. The development of this site is considered to result in an unacceptable erosion of the demonstrable physical attributes within the Landscape Character Area and would neither conserve, maintain, enhance nor strengthen the character of the wider surrounding area. As such, the proposal is not considered to comply with Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005; Policies SP9 and SADM16 of the Council's Draft Local Plan Proposed Submission 2016; and the National Planning Policy Framework.

REFUSED DRAWING NUMBERS

4.

Plan Number	Revision Number	Details	Received Date
1		Location Plan	3 November 2020
2		Block Plan	28 October 2020
3		Fence Elevations	28 October 2020
3A		Fence Elevations	3 November 2020
7		Proposed Floor Plan	14 December 2020

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).

Determined By:

Mr William Myers

22 December 2020