

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

**DELEGATED APPLICATION**

**Application No:** 6/2020/3185/HOUSE  
**Location:** 6B Hill Rise Cuffley Potters Bar EN6 4EE  
**Proposal:** Retrospective planning application for the retention of detached garage, window opening and a proposed reduction in the height of the existing roof of garage.  
**Officer:** Mr Sukhdeep Jhooti

**Recommendation:** Granted

6/2020/3185/HOUSE

<b>Context</b>	
<b>Site and Application description</b>	<p>The application site is located on the eastern side of Hill Rise, to the rear of No. 6 Hill Rise. The site is accessed via a private road to the side of No. 6. The site comprises a two storey dwelling and detached garage. This detached garage is the subject of this planning application.</p> <p>The surrounding area is residential in character and the site is bounded on all sides by detached and semi-detached residential properties in Hill Rise and Orchard Close.</p> <p>The natural ground level on the site gradually slopes in a downward direction from south-west to north-east. Land levels however drop considerably at the site's north-eastern boundary abutting the rear gardens of a number of dwellings on Orchard Close which are set at a lower level.</p> <p><u>Background</u></p> <p>Planning permission reference: S6/2002/0470/FP granted consent on 11 April 2003, for the application dwelling now known as 6B Hill Rise. This consent also granted approval for a detached garage to serve the dwelling now known as 6B Hill Rise. The detached garage would measure 5.55m wide by 5.55m deep with a height of 2.4m to the eaves and 4.3m to the ridge. It would be sited to the rear of the site, adjacent to the rear garden boundaries of No's 7 and 8 Orchard Close.</p> <p>Planning permission reference: S6/2004/0437/FP which granted consent on 4 June 2004, made changes to the design of the application dwelling now known as 6B Hill Rise and to the detached garage which would serve this dwelling. No changes were made to the siting of the garage as part of this planning application. However, the garage would now have an increase in the ridge height from 4.3m to 5.15m.</p> <p>The garage was built on site but not in compliance with the above planning approval. It would have a ridge height of 5.3m and an eaves height of 2.6m. An enforcement investigation was opened following this breach of planning control.</p> <p>A planning application was subsequently submitted planning application reference: 6/2016/0038/HOUSE. Under this planning application, revised plans were submitted reducing the ridge height by 1.9m so it would measure 4.3m on</p>

the rear elevation and 3.6m to the front elevation due to level changes. The eaves height would be reduced by 1.1m to 2.3m when measured from the application site. Planning permission was granted on 6 April 2016 for this scheme.

Following the above approval, some alterations such introducing a crown roof compared with the previous dual pitched roof. The ridge height of the building would be 4.1m at its highest point. A subsequent planning permission was submitted under planning application reference: 6/2016/1934/HOUSE. This would reduce the height of the garage from the highest ground level to approximately 3.9m. This would result in an increased in the eaves height by 1.5m approximately compared with the eaves height approved under decision reference: 6/2016/0038/HOUSE.

Planning application:6/2016/1934/HOUSE was subsequently refused for the following reason:

*'The development, by virtue of its siting, height, design and bulk, causes loss of light and is unduly dominant from the rear windows and rear gardens of No. 7 Orchard Close and No. 8 Orchard Close, detrimental to the living conditions enjoyed by the occupiers of these neighbouring properties. There are no material considerations which would outweigh the harm resultant from the failure to accord with development plan. Accordingly the development is contrary to Policy D1 of The Welwyn Hatfield District Plan 2005, Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005 and National Planning Policy Framework 2012.'*

This decision was appeal by the applicant and was dismissed by the planning inspectorate under appeal reference: APP/C1950/W/17/318782. The inspectors comments are as follows:

*'During my site inspection, I was able to see that there is a significant and noticeable difference in ground levels between 6b Hill Rise and the dwellings on Orchard Close to the east. The proposal seeks a garage with a total height of around 3.9 metres. However, when this height is considered in the context of rear gardens of Nos 7 and 8 Orchard Close, the result is an outbuilding that would dominate the outlook from these properties. This is further exacerbated by the proximity of the garage, which would be very close to the shared boundaries with these dwellings.*

*The Appellant has sought to mitigate the visual impact of the garage through the use of an evergreen lleylandii style hedge. However, I share the Council's concerns over controlling this hedge in the long term. What is more, such a hedge is unlikely to provide effective long-term screening without either growing to the height of the garage and/or blocking out day and sun light.*

*The combination of the garages height of 3.9 metres (almost twice the height of a typical close boarded fence panel height), the difference in ground levels to the east which would be especially compounded for the occupiers of No 7 due to the width and length of the garden serving that dwelling, and the proximity to the shared boundary results in a proposal which would have an adverse impact on the occupiers of the dwellings at Nos 7 and 8 Orchard Close. In particular, these features would result in a building which would unduly dominate the outlook from the rear of these dwellings and are likely to unacceptably reduce both sun and day light into them and their gardens.*

*I therefore conclude that the proposal would have an adverse impact on living conditions of neighbouring occupiers. The proposed development is therefore contrary to Saved Policy D1 of the Welwyn Hatfield District Plan 2005, which seeks to ensure high quality design, as supported by the Supplementary*

*Design Guidance of the Welwyn Hatfield District Plan 2005. It would also conflict with one of the key principles of the National Planning Policy Framework in that planning should always seek to secure a high quality design and a good standard of amenity for all existing and future occupiers of land and buildings.*

*For the reasons given above, I conclude that the appeal should be dismissed'.*

Following the above appeal dismissal, a subsequent planning application was submitted under planning application reference: 6/2019/0866/HOUSE. This granted approval for an amended scheme which would show the height of the garage being reduced by 400mm to 3.6m with a crown roof. The eaves height would be 2.5m. This was akin to what was granted under decision reference 6/2016/0038/HOUSE. Planning permission was granted on 19 June 2019.

Condition 1 of decision reference 6/2019/0866/HOUSE was not complied with. This condition reads as follows:

*'1. The roof of the garage shall be reduced in height in accordance with the approved plans within three months of the date of this notice.*

*REASON: In the interests of the amenities of the occupiers of the neighbouring properties, in accordance with Policy D1 of the Local Plan and the National Planning Policy Framework 2019'.*

An enforcement notice was served and appealed. The appeal was dismissed by the Planning Inspectorate under appeal reference: APP/C1950/C/19/3241022 which upholds the enforcement notice.

The inspectors comments in his appeal decision are as follows:

*'The appeal building was originally constructed with a different roof form having a maximum ridge height of approximately 5.3 metres. Since then the appellant has altered the roof form, lowered its maximum height to approximately 4.1m, and submitted planning applications for its retention. A planning application (6/2016/1934/HOUSE) to retain the building at a maximum height of 3.9m was refused planning permission and later dismissed at appeal. More recently the Council granted planning permission (6/2019/0866/HOUSE) to retain the garage with a crown roof height of 3.6m.*

*The main issue is the effect of the proposed development on the living conditions of the occupiers of Nos. 7 and 8 Orchard Close, with particular regard to outlook and the effect on daylight and sunlight conditions.*

*It is also argued that the reduction in roof height, sloping away from the neighbouring properties to the rear, would make little or no difference to their amenity. I disagree. The height of the roof is fundamentally integral to the perception of the building's overall scale and bulk, and thus reduction in its height would be key to mitigating the harm to the outlook of occupiers of neighbouring properties to an acceptable level.*

*The appellant has planted conifer trees along the boundary with Nos. 7 and 8. However, they would only screen the height of the existing roof if they grew and were maintained at a corresponding height. Notwithstanding that they would be difficult to permanently maintain without becoming an amenity problem in themselves, I consider that such boundary treatment simply highlights the failure in design of the prominent and obvious over-height of the building, its effect on outlook that I have described, and the need for its reduction.*

*For these reasons I conclude that the development has an adverse impact on the outlook from the rear windows and gardens of Nos. 7 and 8 Orchard Close,*

	<p><i>resulting in significant harm to their living conditions. As such, the development conflicts with saved Policy D1 of the Welwyn Hatfield District Plan (2005) which seeks to ensure that new development is of a high quality of design. It also conflicts with the National Planning Policy Framework (2019) which sets out that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development.</i></p> <p><i>The appellant's submitted daylight and sunlight report analyses the effect of the appeal building, including against the comparison of having no building at all. It concludes that there would be little or no significant loss in amenity values of daylight and sunlight to the rear windows of neighbouring properties.</i></p> <p><i>However, the report uses modelling that is based on estimated heights and photographs of the site rather than a topographical survey, and hence recognises that some inaccuracy should be expected. It also does not make any analysis of the effect of the appeal building on light and sunlight to the garden areas.</i></p> <p><i>Based on the report's analysis, and notwithstanding any inaccuracies, I accept that in comparing the existing building with a height of 3.6m (permitted under application ref 6/2019/0866/HOUSE) any reduction in amenity due to loss of light and sunlight is not likely to be so significant as to justify by itself dismissal of the appeal. However, this finding does not mitigate the significant and unacceptable level of harm to the outlook of occupiers of Nos. 7 and 8 Orchard Close previously described.</i></p> <p><b><u>Current proposal</u></b></p> <p>As part of this current planning application, planning permission was sought for the retention of the detached garage with a reduction in the height of the existing roof from 4.16m to 4m. The garage will retain its crown roof form and the eaves will remain 2.5m. It will remain sited in the same position as per existing.</p> <p>During the course of this application, plans have since been amended so that the garage would have a height of 3.8m. It will retain its crown roof form and the eaves will remain 2.5m. It will remain sited in the same position as per existing.</p> <p>Note: Plans have been amended so the proposed plans are labelled correctly as 'proposed' and not as 'existing' as was previously the case.</p>
<p><b>Constraints (as defined within WHDP 2005)</b></p>	<p>PAR - PARISH (NORTHAW AND CUFFLEY) - Distance: 0  Wards - Northaw &amp; Cuffley - Distance: 0  A4D - ARTICLE 4 DIRECTION - Distance: 0</p>
<p><b>Relevant planning history</b></p>	<p>Planning:</p> <p>Application Number: S6/2002/0470/FP  Decision: Granted  Decision Date: 11 April 2003  Proposal: Partial Demolition of existing dwelling and erection of two detached dwellings.</p> <p>Application Number: S6/2004/0437/FP  Decision: Granted  Decision Date: 04 June 2004  Proposal: Partial demolition of existing dwelling and erection of two detached</p>

	<p>dwellings and garages (amended scheme to S6/2002/0470/FP involving revisions to the size and height of the garages serving No.6 Hill Rise and new dwelling on Plot 1.</p> <p>Application Number: 6/2016/0038/HOUSE Decision: Granted Decision Date: 06 April 2016 Proposal: Retention of detached garage, and alterations to roof to reduce the height.</p> <p>Application Number: 6/2016/1934/HOUSE Decision: Appeal Dismissed Decision Date: 28 July 2017 Proposal: Retention of detached garage, and alterations to roof to reduce the height</p> <p>Application Number: 6/2019/0866/HOUSE Decision: Granted Decision Date: 19 June 2019 Proposal: Retention of detached garage with a reduction in the height of the existing roof</p> <p>Enforcement:</p> <p>Enforcement reference number: ENF/2015/0169 Decision: Appeal Dismissed Decision Date: 27/08/2020 Proposal: Works being carried out without permission.</p>		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 0	Object: 0	Other: 0
<b>Publicity</b>	Neighbour letters		
<b>Summary of neighbour responses</b>	None received		
<b>Consultees and responses</b>	Northaw & Cuffley Parish Council – No representations received at the time of this report.		
<b>Relevant Policies</b>			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input 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 : SP9, SADM11, SADM12			
<b>Main Issues</b>			
<b>Design (form, size, scale, siting) and Character (appearance within the streetscene)</b>	It is noted that previous iterations of the proposal have not been refused on design grounds. A crown roof has been previously accepted, the materials would be traditional to match the main house and the proposal would not be readily visible from the general streetscene as per the existing situation. The siting of the proposal will remain as existing. A height of 3.8m which would be a 0.2m increase compared with the permission granted under decision reference 6/2019/0866/HOUSE and would be a reduction compared with the current 4.16m height. This height increase is acceptable as the proposal would still		

	<p>remain subservient to the main house in terms of its footprint, siting, external appearance and scale. Landscaping is being retained which is important to the characteristics of the area. The proposal would safeguard the character and appearance of the existing house and surrounding area.</p>
<p><b>Impact on neighbours</b></p>	<p>Under the proposals, the crown roof design will remain as existing and the eaves height will be retained at 2.5m. The height of the garage will be 3.8m from 4.16m. This would be 0.2m higher than what has recently been approved under decision reference 6/2019/0866/HOUSE. Although it is much lower than the height of 5.15m under planning approval reference: S6/2004/0437/FP. This was granted prior to the current local plan which was adopted in 2005 but it is an important material consideration and some weight can be attached to this previous permission.</p> <p>It is noted that the eaves height would remain at 2.5m which is 0.5m higher than a permitted boundary fence/wall. The building would remain in ancillary use. Planting around the building would be retained and conditioned for the purposes of protecting neighbour amenity.</p> <p>The proposed garage would appear less dominant compared with what has historically been approved on this site i.e. the 5.15m high garage approved under decision reference S6/2004/0437/FP. The inspector under the enforcement appeal reference APP/C1950/C/19/3241022 stated the following: <i>'The appellant's submitted daylight and sunlight report analyses the effect of the appeal building, including against the comparison of having no building at all. It concludes that there would be little or no significant loss in amenity values of daylight and sunlight to the rear windows of neighbouring properties'</i>. Under this current application, it is felt that reducing the garage to 3.8m which is 0.2m higher than the 3.6m previously approved would not cause significant loss of light, outlook or privacy when viewed from the habitable room glazing and garden areas of adjoining properties.</p> <p>The inspector as part of the above appeal decision mentions the following: <i>'It is also argued that the reduction in roof height, sloping away from the neighbouring properties to the rear, would make little or no difference to their amenity. I disagree. The height of the roof is fundamentally integral to the perception of the building's overall scale and bulk, and thus reduction in its height would be key to mitigating the harm to the outlook of occupiers of neighbouring properties to an acceptable level'</i>.</p> <p>The height has been reduced to 3.8m compared to the 4.16m which was refused at appeal.</p> <p>With the reduction in height and the retention of existing planting around the building, it is felt that the proposed building would not result in excessive harm to the living conditions of Nos. 7 and No. 8 Orchard Close in terms of impact on their light, outlook, privacy and overshadowing when viewed from their habitable room glazing and rear garden area.</p> <p>No other neighbours are affected by the detached garage by virtue of its siting in relation to them.</p> <p>Overlooking to the neighbouring properties would not be an issue due to the presence of the property's boundary treatments.</p> <p>It is felt that the proposal would on balance safeguard the living conditions of neighbours and has overcome the previous reasons for refusal under decision reference 6/2016/1934/HOUSE and concerns raised by the inspector as part of the latest appeal decision reference: APP/C1950/C/19/3241022 .</p>

<b>Access, car parking and highway considerations</b>	None.
<b>Landscaping Issues</b>	It is considered necessary to retain the hedge on the rear boundary of the site in order to enhance the visual amenity of the site and the development. This can be secured by condition.
<b>Any other considerations</b>	It is considered necessary to require the amendments to the roof of the garage to be made within nine months of the date of this permission which takes into account the effects of the current covid-19 pandemic and the applicant's intentions to start work during the summer due to better weather conditions. This is in the interests of the amenities of the occupiers of the neighbouring. This can also be secured by condition.
<b>Conclusion</b>	
A reduction in the height of the garage to 3.8m would result in it having an acceptable impact upon the outlook and amenities of the properties to the rear at 7 and 8 Orchard Close. The amended garage would relate to the existing dwelling and the site as a whole in a satisfactory manner. The application is therefore recommended for approval.	

**Conditions:**

1. The roof of the garage must be reduced in height in accordance with the approved plans within six months of the date of this decision notice.

REASON: In the interests of the amenities of the occupiers of the neighbouring properties, in accordance with Policy D1 of the Local Plan and the National Planning Policy Framework 2019.

2. The hedge[s] marked on the attached plan numbered 33/19 3 Revision C shall be retained unless the Local Planning Authority gives its written consent to its removal or variation. Should any part of the hedge die, be removed or become seriously damaged or diseased, it shall be replaced during the following planting season by a hedge planted in accordance with a specification previously approved in writing by the Local Planning Authority.

REASON: To protect the existing planting in the interests of visual amenity in accordance with Policies D1 and D8 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework 2019.

**DRAWING NUMBERS**

3. 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>
33/19/1		Location Plan	26 November 2020
33/19/2		Block Plan	26 November 2020
33/19/3	C	Elevations and Layouts	2 February 2021
33/19/4		Sections	26 November 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. The granting of this permission does not convey or imply any consent to build upon or access from any land not within the ownership of the applicant.
3. 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.
4. Any damage to the grass verges caused by the development/works hereby approved is the responsibility of the applicant and must be re-instated to their original condition, within one month of the completion of the development/works. If damage to the verges are not repaired then the Council and/or Highway Authority will take appropriate enforcement action to remedy any harm caused.

**Determined By:**

Mr Mark Peacock  
9 February 2021