

**WELWYN HATFIELD BOROUGH COUNCIL
ASSISTANT DIRECTOR (PLANNING)**

DELEGATED APPLICATION

Application No: 6/2023/2036/HOUSE
Location: Wing 2 Warren Wood Kentish Lane Hatfield AL9 6JQ
Proposal: Erection of front portico with alterations to fenestration, detached granny annexe, detached garage and hard and soft landscaping works following the demolition of existing front extension and outbuildings
Officer: Ms Elizabeth Mugova

Recommendation: Refused

6/2023/2036/HOUSE

Context	
Site and Application description	<p>The application dwelling is a two-storey house within a terrace of properties. The application dwelling and neighbouring properties are sited within a spacious private setting with an open access to the front. The site lies within the Metropolitan Green Belt and the West End - Brickendon Wooded Slopes Landscape Character Area as designated in the Welwyn Hatfield Borough Council Local Plan.</p> <p>The applicant seeks permission for the erection of a front portico with alterations to fenestration following the demolition of existing front extension, as well as the erection of a detached granny annexe, detached garage, including associated hard and soft landscaping works, following the demolition of two existing buildings.</p> <p>The proposed granny annexe and garage would be located north-west of the host dwelling (approx. 40m away). It is important to note that in 2012, a certificate of lawfulness for alterations to basement was granted permission (planning reference S6/2012/2580/FP). The site location plan attached with the granted permission outlined the residential curtilage of the dwelling in red (see Appendix 1). Comparing the plan granted permission in 2012 and the current application, it is clear that the red line in this application did not extend to the area where the granny annexe would be situated. Furthermore, a review of the Council's planning records for the application site does not indicate that the land to the north west of the application dwelling has been granted permission to be used in association with the application property. As a result of this planning history, and in the absence of an application under Section 191 of the Town and Country Act 1990 to prove otherwise, it is reasonable to conclude that the land where the granny annex would be situated does not benefit from planning permission to be used in association with the application dwelling and it is situated outside the residential curtilage of this dwelling.</p> <p>As a result of the above, the proposal constitutes change of use of the piece of land where the granny annexe would be located. It is therefore considered that a full application should have been submitted instead of a householder application as submitted because the scope of development within this</p>

	application cannot fall within the limits of a householder application.		
Constraints	LBC - LISTED BUILDING C1860.Yellow brick with polychrome brick - Distance: 7.74 SAG - 0 - Distance: 0 GB - Greenbelt - Distance: 0 LCA - Landscape Character Area (North Mymms Common and Newgate Street Farmed Plateau) - Distance: 0 LCA - Landscape Character Area (West End - Brickendon Wooded Slopes) - Distance: 0 PAR - PARISH (ESSENDON) - Distance: 69.25 PAR - PARISH (HATFIELD) - Distance: 0 Wards - Brookmans Park & Little Heath - Distance: 0		
Relevant planning history	Application Number: S6/2012/2580/LUP Decision: Granted Decision Date: 01 February 2013 Proposal: Certificate of lawfulness for alterations to basement		
Consultations			
Neighbour representations	Support: 0	Object: 3	Other: 0
Publicity	Site Notice Display Date: 18 October 2023 Site Notice Expiry Date: 8 November 2023 Neighbour letters		
Summary of neighbour responses	Summary of objections received from Coach House, Courtyard Cottage and Gable House <ul style="list-style-type: none"> • Concerned that when the annexe is no longer required for the use as detailed in para 3.2, that the annexe could be rented to a third party or for example used as an “Air B&B rental”. Should the Council apply a condition restricting the occupation of the annexe and preventing it from being rented or sold independently from the host dwelling as any grant of permission, we would withdraw the objection • understand that the applicant intends to use their own private drive but they also have right of way over Warrenwood Mews. However, concerned that access to Warrenwood Mews might be used for deliveries and general site traffic and strongly object to this use for the following reasons: <ul style="list-style-type: none"> ○ poor visibility in both directions because it is sited on the inside of a near 90-degree bend where traffic often travels at high speed. ○ noise and pollution ○ inconvenience caused to the residents of Warrenwood Mews by the size of lorries and volume of traffic using such a narrow drive. ○ wear and tear damage that would be caused to the drive • If all site traffic uses the applicant’s private drive, then would withdraw the objection 		
Consultees and	WHBC Client Services – No objection		

responses	
Relevant Policies and Guidance	
National Planning Policy Framework	
<p>The Welwyn Hatfield Borough Council Local Plan 2016-2036:</p> <ul style="list-style-type: none"> • SP1 Delivering Sustainable Development • SP3 Settlement Strategy and Green Belt Boundaries • SP9 Place Making and High Quality Design • SP10 Sustainable Design and Construction • SADM2 Highway Network and Safety • SADM11 Amenity and Layout • SADM12 Parking, Servicing and Refuse • SADM15 Heritage • SADM16 Ecology and Landscape • SADM34 Development within the Green Belt <p>Planning Guidance:</p> <ul style="list-style-type: none"> • Supplementary Design Guidance 2005 • Supplementary Planning Guidance Parking Standards 2004 • Interim Policy for Car Parking Standards and Garage Sizes 2014 • Planning Practice Guidance 	
Main Issues	
Green Belt	
<p>National Planning Policy Framework (NPPF) paragraph 152 advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 154 of the NPPF explains that construction of new buildings should be regarded as inappropriate in the Green Belt unless they meet one of the exceptions listed within this paragraph. Paragraph 155 of the NPPF goes on to list other forms of development which may not be considered inappropriate development within the Green Belt, provided that they preserve its openness and do not conflict with the purposes of including land within it. Policy SADM34 of the Council's Local Plan, which echoes Green Belt policy in the NPPF, is also applicable.</p> <p><i>Appropriateness</i></p> <p>As discussed above, it would appear from the Council's planning records that the proposed granny annexe and garage would be located on land which has never been granted planning permission to be used in association with the application property. The proposal therefore seeks permission for the erection of the proposed buildings and the change of use of the majority of the land which is located to the north west of the front elevation of the application dwelling. In addition, the proposed buildings would be materially larger than the existing buildings in the site which they would replace.</p> <p>As the proposals for the granny annexe and its garage, do not relate to agriculture or forestry, the provision appropriate facilities for outdoor sport, the extension or alteration to an existing building and they would be materially larger than the ones they replace, as well as being within a different use, it is considered that these proposals fail to meet exceptions (a), (b), (c) & (d) of paragraph 154 of the NPPF. With regards to exceptions (e) & (f) (NPPF paragraph 154 of the NPPF, as the application site is located outside of the village and would not provide affordable housing it is considered that these proposals fail to meet these exceptions.</p> <p>Furthermore, exception (g) first bullet point states that construction of new buildings should be regarded as appropriate in the Green Belt where complete redevelopment of previously developed</p>	

land would not have a greater impact on the openness of the Green Belt than the existing development. As discussed above, there is uncertainty as to the lawfulness of the use of the land the proposed annexe and garage would be situated on, as well as the buildings which would be demolished and amended. Land and permanent structures used in association with an unlawful use cannot be PDL. However, if the site was, (for hypothetical purposes) considered to be PDL, its redevelopment should only be permitted where it would not have a greater impact on the openness of the Green Belt. As the proposed granny annexe and garage would be substantially larger than the two buildings which they would replace in terms of volume, height and footprint. The proposal would therefore have a greater impact on openness of the Green Belt and it would not meet the requirement of exceptions (g) of paragraph 154 of the NPPF. The impact of the development on openness is discussed further below.

Taking account of the above, the proposed granny annexe and garage does not fit into any of the exceptions listed within Paragraph 154 of the NPPF. Furthermore, it is not considered that the proposed development falls within any of the exceptions listed within paragraph 155 of the NPPF. It is therefore concluded that these elements of the proposal would represent inappropriate development in the Green Belt, with the result that it is necessary to assess the impact that these elements have on the openness of the Green Belt and the purposes of the Green Belt.

In terms of the proposed front portico and alterations to fenestration, the existing front extension which measures approximately 18m² would be replaced with a stone portico to provide cover to the front door. This element of the proposal would result in a significant reduction in volume and area and would constitute appropriate development within the Green Belt. Furthermore, the front portico and alterations to fenestration would not have a visual impact upon the openness of the Green Belt

Openness

Following on from the above, it is necessary to consider the impact which the proposed development would have on the openness of the Green Belt. Paragraph 142 of the NPPF identifies openness and permanence as the essential characteristics of the Green Belt with the fundamental aim of Green Belt policy to keep land permanently open and thereby prevent urban sprawl.

The concept of openness means the state of being free from built development; the absence of built form as opposed to the absence of visual impact (*R (Lee Valley RPA) v Epping Forest DC* [2016] EWCA Civ 404, Treacy, Underhill, Lindblom LJJ, para. 7). Whilst the physical presence of any above ground development would, to some extent, diminish the openness of the Green Belt regardless of whether or not it can be seen, openness also goes beyond physical presence and has a visual aspect. In the visual sense, openness is a qualitative judgement.

Indeed, in line with *Turner v Secretary of State and East Dorset Council* [2016] EWCA Civ 466 (para.14), the concept of openness should not be limited to a volumetric approach comparing the size, mass and physical effect of openness before and after development. Such an approach would be far too simplistic and ignore the wider aspects of openness which goes beyond the physical effect of buildings or structures. Factors relevant include how built up the Green Belt is now and how built up would it be after development has taken place. As further confirmed in *R (Samuel Smith Old Brewery (Tadcaster)) v North Yorkshire CC* [2020] UKSC 3 (para.22), the concept of “openness” is a broad policy concept.

It is important to note that this approach is supported within National Planning Practice Guidance (NPPG) through the amendments which were made to this document in July 2019. This guidance also makes clear that it is reasonable as part of an assessment of openness to assess the degree of activity likely to be generated by the proposed development.

The proposed granny annexe and garage would be substantially larger than the two existing buildings which it would replace in terms of their scale, volume and footprint, with the result that the

proposed building form would have a greater impact on the openness of the Green Belt to the existing. In addition, they would facilitate a materially different level of activity to that of the existing buildings. This is because unlike the existing buildings the proposed granny annexe would permit the residential occupation of the annexe, as well as this part of the site, including its associated garden, both during the day but also at the evening and at nighttime. This use would therefore be materially different from the existing use, and type of activity within this part of the site to that which currently exists. Furthermore, due to the design and the proposed fenestration detailing of the building the impact of this change would be exacerbated at in the evening and nighttime when the building would be internally, and potentially externally, illuminated with the result that there would be light spillage from the building out into the site, as well as the wider countryside. In addition, the proposed change of use of the other land discussed above which has not previously been granted planning permission to be used in association with the application property would result in a further loss openness of the Green Belt because it would allow for the spread of residential paraphernalia into this area.

As such, the proposed granny annexe, and its garage, as well as the change of use of land within this application would result in a significant harm to openness to the Green Belt in this location, in both a spatial and visual sense. This is because of the physical impact of the development and the activity which would result from the development.

With regards to the purposes of the Green Belt, paragraph 143 states that the Green Belt serves five purposes which are:

- “(a) to check the unrestricted sprawl of large built-up areas;*
- (b) to prevent neighbouring town merging into one another;*
- (c) to assist in safeguarding the countryside from encroachment;*
- (d) to preserve the setting and special character of historic towns;*
- (e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

The development would not, by virtue of its scale and location, lead to the sprawl of a large built up area, result in neighbouring towns merging into one another, or fail to preserve the setting and special character of historic towns. As a result, it is not considered that the proposed development would be contrary to the Green Belt purposes (a), (b), (d), or (e).

When considering whether development would result in encroachment into the countryside it is important to consider the characteristics of the site at present and then consider how these would be changed if the proposed development were to be implemented.

Whilst it is acknowledged that the granny annexe, and its garage, would replace some existing built form. For reasons discussed above, the new buildings would be materially greater in size than the existing buildings they would replace. In addition, the proposals would result in the material change of use of a substantial amount of land through the land directly associated with the granny annexe but also the wider area of land discussed above. As a result of these factors, it is considered that these elements of the proposed development by virtue of its residential design, appearance and layout would introduce an urban form of development into this part of the countryside, with the resultant loss of the site's open and undeveloped character. It is therefore considered, for the reasons discussed above, that the proposed development would fail to safeguard the countryside from encroachment, in clear conflict with purpose (c) of paragraph 143 of the NPPF.

For reasons discussed above, it is concluded that the proposal would result in significant harm to the openness and visual amenity of the Green Belt, while also failing to serve the purposes of including land within the Green Belt. This harm is in addition to the substantial harm resulting from the development being inappropriate within the Green Belt for the reasons identified above.

Is the development within a conservation area?

Yes No

Would the significance of the designated heritage asset be preserved or enhanced?

Yes No N/A

Comment (if applicable): Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 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”. Paragraph 203 of the NPPF states that in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Policy SADM15 is consistent with the objectives above and it requires proposals to respect the character, appearance and setting of the asset and historic environment in terms of design, scale, materials and impact on key views.

The proposed granny annexe would be located west of the Coach House, a Grade II Listed Building. However, due to the single storey nature of the proposal and the separation distance from the listed building, as well as the manner in which the land within this location has been developed in recent years, it is considered that the proposal would not have a material impact on the setting of Coach House.

Would the development reflect the character of the area?

Yes No

Comment (if applicable): Paragraph 131 of the NPPF clearly advises that the creation of high quality, beautiful and sustainable 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. At paragraph 135, the NPPF further advises that decisions should ensure developments will function well, be visually attractive, sympathetic to local character and establish a strong sense of place. Paragraph 139 states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

The above objectives are broadly consistent with Policies SP1 and SP9 of the Council’s Local Plan. Local Plan Policy SP1 states the need to deliver sustainable development whilst ensuring development is built to high design standards reflecting local character. Policy SP9 emphasises the need for new development proposals that are informed by an analysis of the site’s character and context so that they relate well to their surroundings and local distinctiveness, including the wider townscape and landscape, and enhance the sense of place. In addition, Policy SADM16 states that proposals will be expected to help conserve and enhance the borough’s natural landscape and sit comfortably within the wider landscape setting. The Council’s Supplementary Design Guidance (SDG) includes guidance that the impact of a development to be assessed giving regard to the bulk, scale and design of the proposal and how it harmonises with the surrounding area.

The National Design Guide states that well-designed places have individual characteristics which work together to create its physical character. Context is one of the ten characteristics relevant to this proposal. Context is the location of the development and the attributes of its immediate, local and regional surroundings. It means that a proposal must be well grounded in its locality and more likely to be acceptable to existing communities. Creating a positive sense of place helps to foster a sense of belonging and contributes to well-being, inclusion and community cohesion. Well-designed places are:

- integrated into their surroundings so they relate well to them
- influenced by and influence their context positively

The application site is within a rural setting and the immediate surrounding dwellings are two storey

terraced properties. Although the detailed design the proposed granny annexe and garage would appear well balanced, due to the siting of the proposal, it would be the first building viewed on the approach to the host dwelling and it would be dominant and overly prominent. As such, the proposal would result in a significant departure from the prevailing character and wider pattern of development within the surrounding area.

Given the single storey nature of the granny annexe, it would not appear prominent within the countryside and from Kentish Lane. However, what is important to the character of an area is not limited to what can be seen from the public domain and wider countryside. It also encompasses the characteristics of the area as experienced and appreciated from nearby houses and their gardens. The introduction of a granny annexe and garage in an area of generally larger properties set within generous gardens, would highlight the incongruity between the character of the proposal and the character of development that surrounds it. Moreover, the site lies within the Brickendon Wooded Slopes Landscape Character Area; as such, the proposal would fail to conserve or improve the prevailing landscape quality, character and condition.

It is important when assessing applications of this nature to consider whether there is a clear functional link between the granny annexe and the main dwelling. Functional link is defined as the clear sharing of facilities / links with the main building. This can include the sharing of garden space, kitchen or bathroom facilities, site access and the retention of internal links.

It is stated by the applicant that the granny annexe would provide accommodation for the applicant's elderly father and his carer, and the Council has no reason to dispute this claim. It is proposed that the granny annexe would include two bedrooms, open plan kitchen/living/dining area, shower/wc, separate access, garden area, a garage and one additional parking space in front of the garage. The proposed granny annexe would therefore have all the necessary facilities required for independent living.

The proposed granny annexe and the garage would be physically detached from the host property (approx. 40m away from the front elevation) and would be sited within an area enclosed by an existing hedge. Its scale, layout and design of these buildings mean that they would have the appearance of modest dwelling, with an associated garden and garage. In addition, for the reasons discussed already in this report the proposed annexe would not fall within the permitted residential use of the application dwelling and it is considered that it would be outside the residential curtilage of the dwelling within the site. Furthermore, although the annexe and host dwelling would share vehicular access route from Kentish Lane, it is unclear from the submitted details what else they would share as the proposed granny annexe would have its own garden, garage and all the facilities required for independent living. In addition, whilst they would share an access, due to the positioning of the granny annexe within the site, the sharing of this access would be more akin to that of an access shared by independent dwellings instead of a building with an ancillary use to the primary use of the site.

As a result, it is not considered that the proposed granny annexe, and its garage, would have a clear functional link with the existing dwelling on the site. This is because for the reasons discussed the granny annexe and main dwelling would be physically and functionally separate, with the granny annexe being outside the residential curtilage of the main dwelling and outside the permitted residential plot for this dwelling. As a result, the proposed granny would be capable of being lived in, in a manner entirely separate from the existing dwelling on the site.

Turning to the proposed front portico and fenestration, this element of the proposal would not detract from the character of the host dwelling. The proposed changes would result in the property appearing as a more cohesive piece of architecture, enhancing the immediate setting. The proposed external materials would fit in well with the surrounding properties and the rural setting. In the event of an approval external materials can be secured through a condition.

In conclusion, whilst there are no objections to the proposed works to the main dwelling. However, it is considered that due to the nature of the proposed granny annexe, its location and its relationship to the main dwelling that this aspect of the proposal would not be acceptable, and it would fail to conserve or enhance the nature landscape or reflect the local distinctiveness of the of the surrounding area. Consequently, the proposed development would harm the character and appearance of the area contrary to local and national policies.

Would the development reflect the character of the dwelling?

Yes No N/A

Comment (if applicable): See above.

Would the development maintain the amenity of adjoining occupiers? (e.g. privacy, outlook, light etc.)

Yes No N/A

Comment (if applicable): Policy SADM11 provides the local policy framework for assessing the impact of development on the residential amenity and living conditions of neighbouring properties and aims to ensure adequate amenity for future occupiers of the proposed development.

The granny annexe and garage would be positioned at appropriate distances away from neighbouring properties and each other, which negates the possibility of adverse overshadowing, and are oriented to prevent unneighbourly overlooking.

Policy SADM11 requires all proposals for C3 dwellings to meet the Nationally Described Space Standard (NDSS), unless it can be robustly demonstrated that this would not be feasible or viable. The Standards outline the minimum requirements for floor space and storage for new dwellings. The Gross Internal Area and the bedroom sizes of the proposed granny annexe meets the minimum standards requirements set out in the NDSS. The proposal is therefore acceptable in this regard.

Overall, the living conditions of the adjoining and future occupiers would be maintained to an acceptable level in accordance with local and national policies.

Would the development provide / retain sufficient parking?

Yes No N/A

Comment (if applicable): It is considered that sufficient parking would be provided on site.

Very Special Circumstances

It is necessary to undertake a balancing exercise to establish whether there are very special circumstances that outweigh the harm to the Green Belt that would be caused by the proposed development, which for the reasons set out above, constitute inappropriate development. The NPPF indicates that substantial weight must be attached to inappropriate development by reason of its inappropriateness.

As set out above, the proposed development amounts to inappropriate development in the Green Belt, which by definition is harmful to the Green Belt. Substantial weight attaches to any harm to the Green Belt. Moreover, as set out above the proposed development would result in a significant loss of openness to the Green Belt and would result in built form encroaching into the countryside, which would result in further substantial harm to the Green Belt.

Paragraph 152 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 153 outlines that '*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*'.

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 *South Bucks District Council v Secretary of State for Transport, Local Government and the Regions* [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): *'It is of the essence of very special circumstances that the applicant establishing them is in a very special category.'* However, by their nature the existence of very special circumstances must relate to a particular site.

The applicant has not advanced very special circumstances, and none have been identified by the Local Planning Authority. Accordingly, the harm to the Green Belt is not clearly outweighed by other considerations and therefore the very special circumstances necessary to justify the development do not exist.

Any other issues

Refuse and recycling

It is considered that the refuse and recycling arrangements would be unaffected.

Access concerns

Concerns have been raised by neighbours regarding access to the site via Warrenwood Mews. However, the Planning Statement clearly states that the existing vehicular access to the site from Kentish Lane will be used in association with the proposed development. In addition, it was observed during a site visit that there is an access gate at No 4 Wing Warren Wood which would restrict access to the application site via Warrenwood Mews. Furthermore, access onto Kentish Lane provides a satisfactory level of visibility in both directions, which allows for vehicles to safely access and egress the site.

Conclusion

Overall, for the reasons given above, it is concluded that the proposal would conflict with the development plan as a whole, and there are no other considerations, including the provisions in the NPPF and the benefits of the proposal, which indicate that the development should be determined other than in accordance with it. It is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against local and national policies. It is therefore recommended that planning permission is refused.

Reasons for Refusal:

1. The proposed development, which is located on land designated as Metropolitan Green Belt, would constitute inappropriate development, which is by definition harmful to the Green Belt and would also cause harm to the openness and purposes of including land in the Green Belt. No very special circumstances appear to exist which outweigh the potential harm of the development to the Green Belt by reason of inappropriateness, and the other harm identified. Accordingly, the proposal would conflict with Policies SADM1 and SADM34 of the Local Plan and the National Planning Policy Framework.
2. By virtue of the use, scale, layout, design and siting of the proposed granny annexe and garage they would have an adverse impact upon the character and appearance of the site and surrounding landscape. The proposal therefore fails to comply with Policies SP1, SP9 and SADM16 of the Welwyn Hatfield Borough Council Local Plan; Supplementary Design Guidance; and the National Planning Policy Framework.

REFUSED DRAWING NUMBERS

3.

Plan Number	Revision Number	Details	Received Date
002		Existing And Proposed Site Plans	4 October 2023
003		Existing floor Plans	4 October 2023
004		Proposed Plans	4 October 2023
005		Existing Elevations	4 October 2023
006		Proposed Elevations	4 October 2023
007		Granny Annexe and Garage	4 October 2023
001		Site Location Plan	4 October 2023

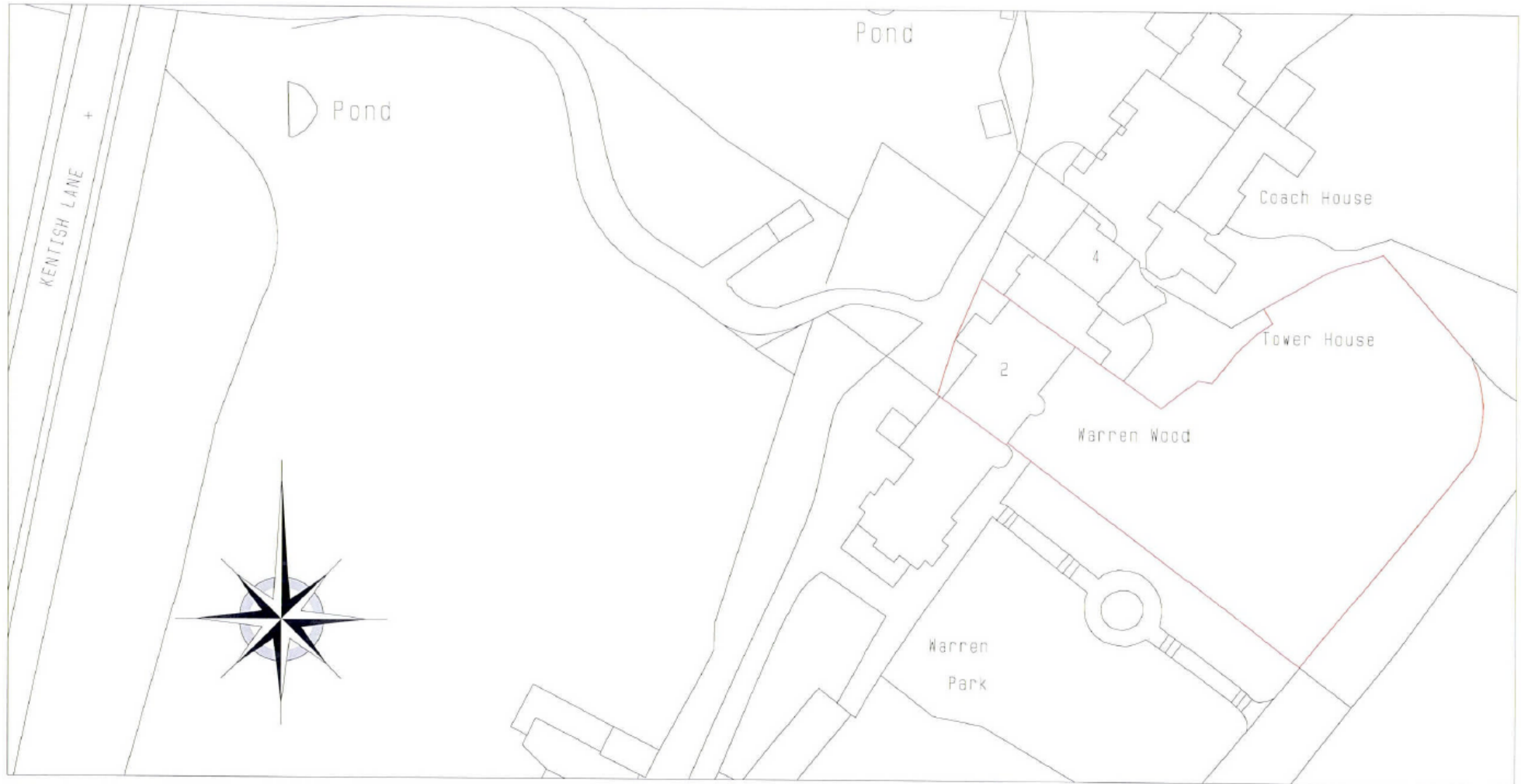
1. **POSITIVE AND PROACTIVE STATEMENT**

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
26 March 2024

**APPENDIX 1:
S6/2012/2580/LUP - Site Location Plan**





**WELWYN
HATFIELD**