

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 7 NOVEMBER 2013
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

S6/2013/1338/FP

68 WALKER GROVE, HATFIELD, AL10 9PL

CHANGE OF USE FROM A DWELLINGHOUSE (USE CLASS C3) TO A HOUSE IN
MULTIPLE OCCUPATION (USE CLASS C4)

APPLICANT: Dr V Gosnell

(Hatfield Villages)

1. Site Description

- 1.1 The application site is situated within the redeveloped former Hatfield Aerodrome site known as Salisbury Village. The site consists of a three storey detached dwelling, including accommodation within the roofspace, a garage and front and rear gardens. The surrounding area and street scene are residential in character although Ellenbrook Park is situated opposite the application site.

2. The Proposal

- 2.1 This application seeks full planning permission for the change of use from a five bedroom dwellinghouse (use class C3) to a six bedroom house in multiple occupation (use class C4). No external alterations are proposed to the application building. Internally it is proposed to partition the existing lounge to provide the additional bedroom and a larger kitchen/dining room.

3. Planning History

- 3.1 None relevant

4. Planning Policy

- 4.1 National Planning Policy Framework
Circular 03/09: Costs Awards in Appeals and Other Planning Proceedings
- 4.2 Welwyn Hatfield District Plan 2005
SD1: Sustainable Development
GBSP2: Towns and Specified Settlements
R3: Energy Efficiency
R5: Waste Management
R19 Noise and Vibration Pollution
D1: Quality of Design
D2: Character and Context
D7: Safety by Design
D8: Landscaping

D9: Access and Design for People with Disabilities

4.3 Supplementary Design Guidance, February 2005

4.4 Supplementary Planning Guidance, Parking Standards, January 2004

4.5 Houses in Multiple Occupancy Supplementary Planning Document, February 2012

5. **Constraints**

5.1 The site lies within the town of Hatfield as designated in the Welwyn Hatfield District Plan 2005.

6. **Representations Received**

6.1 This application has been advertised by site notice and neighbour notifications. Five objections have been received from neighbouring occupiers within Walker Grove. Below is a summary of the objections to the proposal:

- Including the application property, 54% of properties within 50m have multiple occupants
- Not all the parking spaces can be accessed independently
- Insufficient communal accommodation proposed
- Insufficient parking provision
- Existing HMOs (Houses in Multiple Occupation) in the area create noise and rubbish (no specific details provided)

7. **Consultations Received**

7.1 **Hertfordshire Fire and Rescue:** No objection

7.2 **Welwyn Hatfield Borough Council Environmental Health:** No objection

7.3 **Welwyn Hatfield Borough Council Client Services:** No response

7.4 **Welwyn Hatfield Borough Council Private Sector Housing:** No response

8. **Town Council Representations**

8.1 Hatfield Town Council: *“Hatfield Town Council object to the proposed change of use considering Hatfield and this area to be already heavily populated with House of Multiple Occupancy.”*

9. **Discussion**

9.1 This application is presented to the Development Management Committee because Hatfield Town Council object to the proposed change of use.

10. **Background to this Application**

10.1 The main issues to be considered are:

1. **Impact on the character of the property and the surrounding area**
2. **Impact upon the residential amenity of the locality**
3. **Amenity standards for the future occupants**

4. Car parking and cycle parking provision
5. Other material planning considerations

1. Impact on the character of the property and the surrounding area

- 10.2 The Department for Communities and Local Government Circular 08/2010 identifies potential issues that could occur as a result of an overconcentration of houses in multiple occupation (HMOs) in a neighbourhood. The application site is within an area covered by an Article 4 Direction restricting permitted changes of use from a dwellinghouse to a HMO, in line with the guidance offered in paragraph 15 of the Circular. The Council's position is further set out in a supplementary planning document (SPD), wherein criterion HMO1 sets a methodology for assessing whether there is an overconcentration of HMOs within an area.
- 10.3 The Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets out objectives and explains the reasons why the Council aims to retain a balance of different housing types. To retain an appropriate balance of housing the permitted development rights for changes of use from use class C3 (dwellinghouses) to C4 (houses in multiple occupation) have been withdrawn by an Article 4 Direction over a large area in Hatfield.
- 10.4 Within Welwyn Hatfield, HMOs form an important part of the housing stock, providing a valuable supply of privately rented accommodation. HMOs provide accommodation for a variety of occupiers including; students, professionals in employment and those in receipt of housing benefit. HMOs are one of the most affordable forms of accommodation in the private rented sector.
- 10.5 Welwyn Hatfield has a variety of stock of HMOs, some of which is occupied by students. Information from council tax records shows that 92% of student exempt properties within the borough are located in Hatfield and those properties that have student exemption from council tax account for 9.7% of all properties within Hatfield.
- 10.6 The number of student exempt properties has more than doubled over an 11 year period, with an increase of 793 properties, or 110%. In 2001 there were 722 student exempt properties and in 2011 there were 1515 student exempt properties in Welwyn Hatfield. This increase coincides with the University of Hertfordshire opening a new campus in Hatfield and closing campuses at other locations within Hertfordshire and moving the facilities to campuses in Hatfield. The University of Hertfordshire now has two main campuses and both of these are in Hatfield; one at College Lane and one at de Havilland.
- 10.7 There are particularly high concentrations of HMOs in Hatfield within the redeveloped former Hatfield Aerodrome site (known as Salisbury Village), throughout the South Hatfield area and surrounding the University of Hertfordshire's College Lane Campus. Concentrations of HMOs in some areas of Hatfield are as high as 50%.
- 10.8 This high concentration is changing the character of parts of Hatfield which can clearly have a detrimental effect on surrounding residents and the wider local area. A key national housing objective is the creation of mixed, sustainable and inclusive communities, which contain a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The presence of a high

concentration of HMOs in areas of Hatfield results in a lack of mix and imbalance within local communities, is not inclusive and does not create sustainable communities.

- 10.9 The usage of a HMO is considered to be very different to that of a family dwellinghouse. Due to the proximity of The University of Hertfordshire, if planning permission is granted for a change of use to a C4, there is considered to be a reasonable likelihood that the application property would be occupied by students. Individual occupants would therefore be transient in nature and unlikely to form a long term commitment to the area. Students often have different lifestyles to permanent residents and this can on occasion result in unneighbourliness and anti-social behaviour, particularly with regard to boisterousness and noise.
- 10.10 To ensure that an appropriate ratio of HMOs and dwellinghouses is maintained it is necessary that applications comply with criterion HMO1 of the SPD. This particular criterion states that applications will not be permitted where the proportion of HMOs would exceed 20% of the total number of dwellings within a 50m radius of the application property. To assess the proportion of HMOs within a 50m radius the Council has drawn on the following information sources; licensed HMOs, council tax records for student exemption, resident representations and its database of HMOs. The information sources show that there is one existing HMO within a 50m radius of the application site (at No.35 Walker Grove). When combined with the proposed change of use, the number of HMOs would increase to two within the 50m radius. Within the same area there are 14 dwellings in total, if two were HMOs this would create a proportion of 14% which would not exceed 20% of the total number of dwellings.
- 10.11 No information has been provided within the neighbour representations detailing which properties they consider are occupied as HMOs. Without this information and being able to verify its validity, it is not possible to consider this information further. The proposal therefore complies with criterion HMO1 of the HMO SPD.

2. Impact upon the residential amenity of the locality

- 10.12 The impact upon the residential amenity of the locality is likely to come from the change in use of the property from a dwellinghouse to a HMO as no external alterations are proposed to the application building.
- 10.13 Although an objection was received from the occupiers of the adjacent property, No.70 Walker Grove, the grounds for objection did not relate to issues of residential amenity. Objections from the occupiers of No.16 and 56 Walker Grove referred to noise in relation to existing HMOs, but no details were given to explain the source of noise or the harm that had occurred. Neither of the objections explained what impact the proposed change of use would have in terms of noise or how this would harm the residential amenity of neighbouring occupiers. The Council's Environmental Health Team was consulted on this application and did not object.
- 10.14 There is insufficient evidence to imply that six individuals living in the application property would be likely to generate materially more activity than a large family unit or cause an unacceptable level of noise or disturbance to neighbours through comings and goings or through their lifestyle. It is relevant to note that occupation of the property by more than six individuals would fall outside the defined parameters of Use Class C4 and that an increase in occupancy above

six individuals would require planning permission for a Sui Genris use. In consequence, it is concluded that the proposed change of use would have no materially harmful effect on the living conditions of neighbouring residential occupiers with respect to noise and disturbance and thus no conflict with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

3. Amenity standards for the future occupants

- 10.15 The proposed layout would be acceptable in terms of the entrance which would open on to a hall as required by criterion HMO5 of the HMO SPD. Although there is not an allocated drying area within the plans, the rear garden is a sufficient size to accommodate an area for drying clothes. The garden area would exceed the minimum requirement of 23m² set out in the SPD, this area would be private and readily accessible to all occupants.
- 10.16 Bedroom 3 would be smaller than the minimum 8m² set out in the SPD, being approximately 6.5m². However, the SPD is based upon the housing legislation for room sizes (as set out at Appendix 2) and the housing legislation provides for more flexibility, which is considered relevant in this particular case. Firstly, where adequate communal areas exist the bedroom standard can be reduced to 6.5m². Although no separate living room is provided at the application dwelling, the communal facilities are generous and include a large kitchen/diner and a conservatory. The kitchen/diner measures approximately 22.2m² which comfortably exceeds the minimum space required of 12.5m² and is sufficient to provide kitchen facilities as well as a dining table that would seat all six occupants at once. It is considered that the dwelling as an HMO would comfortably accommodate six people in accordance with criterion HMO5 of the HMO SPD and the broad objectives designed to protect residential amenity in Local Plan Policy D1.

4. Car parking and cycle parking provision

- 10.17 The car parking requirement for a six bedroom HMO is three parking spaces to be provided within the curtilage of the application site. The submitted application form states that there are four parking spaces, however, their location has not been identified on the Block Plan. Notwithstanding this, it was clear from the site visit that there are three off street parking spaces in addition to one garage space. Two spaces are situated in front of the garage, whilst a single parking space is provided by a lay-by (dedicated to No.68) towards the north west of the application site.
- 10.18 Criterion HMO2 of the HMO SPD states that all parking spaces should be capable of being used independently of one another. Whilst it is acknowledged that of the four parking spaces available at the application property, only two spaces could be used independently (the lay-by and one of the spaces in front of the garage), this is insufficient grounds on its own to justify refusal of planning permission. Moreover, criterion HMO2 states that regard will also be had to the existing parking situation in the area. In this case, there is no substantive evidence to demonstrate that there is any significant pressure for car parking in the area of the site. In this regard it is relevant that there are a considerable number of private garages nearby, as well as off-street parking spaces, and there are very few parking restrictions on the roads. Furthermore, on street parking appeared to be controlled by permits, which should ensure that it is available for use by local residents.

10.19 It is also relevant to consider how accessible the site is by means of transport other than the private car. In this regard, the site is located within convenient walking distance of The University of Hertfordshire, bus stops, local shops, leisure facilities and the Galleria shopping centre. Taking into account all of the above, it is considered that the change of use would not have a harmful effect on car parking or highway safety in the area in accordance with criterion HMO2.

5. Other material planning considerations

- 10.20 **Cycle parking provision:** There is no information regarding cycle storage on the submitted application drawings and the relevant section of the application form has not been completed. Nonetheless, there is sufficient storage opportunities within the garage or the rear garden to accommodate the spaces required. Therefore, if the application is to be approved additional details illustrating appropriate storage could be agreed by condition. If the garage is used for storage, there would still be three off street parking spaces (two spaces in front of the garage and a single space on the lay-by) which accords with the requirement for a six bedroom HMO.
- 10.21 **Refuse and recycling storage:** The application site does not currently have a designated bin store and there is no information regarding bin storage on the submitted application drawings. Nonetheless, there is sufficient storage opportunities within the garage or the rear garden to accommodate the number of bins required. Therefore, if the application is to be approved additional details illustrating appropriate storage could be agreed by condition.
- 10.22 **Protected Species:** The presence of protected species is a material consideration, in accordance with the National Planning Policy, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.
- 10.23 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).
- 10.24 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010) and as amended through The Conservation of Habitats and Species (Amendment) Regulations 2012. Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(1) of the Amended Conservation Regulations 2012, which states:
- “a competent authority must exercise their functions which are relevant to nature conservation, including marine conservation, so as to secure compliance with the requirements of the Directives.”*
- 10.25 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise
- “Deliberate capture or killing or injuring of an EPS”
 - “Deliberate taking or destroying of EPS eggs”

- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

10.26 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

10.27 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

- (a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
- (b) If the answer is yes, consider whether the three “derogation” tests will be met.

10.28 A LPA failing to do so would be in breach of Regulation 9(1) of the Amended Conservation Regulations 2012 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

10.29 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 or (Amendment) Regulations 2012 further.

10.30 **Sustainable Development:** Policy R3 states that the Council expects all development to include measures to maximise energy conservation through the design of buildings, site layout and provision of landscaping. Furthermore, Policy

SD1 states that development proposals will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. This application relates to the change of use of an existing building, therefore, little can be done to maximise energy conservation or demonstrate that the principles of sustainable development are satisfied.

10.31 **Conditions:** Circular 11/95 governs the use of conditions in planning and the power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. Conditions should only be imposed where they are both necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. In considering whether a particular condition is necessary, both Officers and Members should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.

11. **Conclusion**

11.1 The proposal would maintain a balance of different housing types within 50m radius of the application site in accordance with criterion HMO1 of the Houses in Multiple Occupation Supplementary Planning Document. The proposal would not significantly increase the intensity and concentration of occupation over-and-above the existing situation and would provide satisfactory living conditions for its intended occupants in accordance with criterion HMO5 and the broad objectives designed to protect residential amenity in Local Plan Policy D1.

11.2 Whilst it is acknowledged that of the four parking spaces available at the application property only two spaces could be used independently, this is insufficient grounds on its own to justify refusal of planning permission. Given the accessible location of the application site and the fact that there is no substantive evidence to demonstrate a significant pressure for car parking in the area of the site, on balance it is considered that the change of use would not have a harmful effect on car parking or highway safety in the area in accordance with Policy M14 of the Welwyn Hatfield District Plan 2005.

12. **Recommendation**

12.1 It is recommended that planning permission be approved subject to the following conditions:

1. C.2.1 – Time Limit
2. C.13.1 – The development/works shall not be started and completed other than in accordance with the approved plans and details 1:1250 Site Location & 1:500 Block Plan & 1226 received and dated 02 September 2013.
3. Prior to occupation details of the location, design and specification of the refuse bin and recycling materials storage bins and areas to serve the residential units shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the refuse and recycling materials storage bins and areas shall be made available for use of the units within two months

of approval and the development shall not be occupied other than in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure a satisfactory standard of refuse and recycling provision and to protect the visual amenity of the area and the residential amenity of adjoining and future occupiers in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the Houses in Multiple Occupancy Supplementary Planning Document, February 2012.

4. Prior to occupation details of the location, design and specification of secure cycle storage on site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within two months of approval and the development shall not be occupied other than in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that there is adequate bicycle storage provision, encouraging alternative modes of transport, in accordance Policy M14 of the Welwyn Hatfield District Plan 2005 and Supplementary Planning Guidance Parking Standards 2004 and the Houses in Multiple Occupancy Supplementary Planning Document, February 2012.

Summary of reasons for grant of permission:

The decision has been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 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 Councils website or inspected at these offices).

Informatives:

1. INF9 – Chalk mining
2. INF1 – Other Legislation
3. Management Regulations/Health and Safety/Licensing/Landlord Accreditation for Houses in Multiple Occupation

This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. All Houses in Multiple Occupation must comply with the Management Regulations 2006 under the Housing Act. Further information is available from the Welwyn Hatfield Borough Council Private Sector Housing Team, Housing and Community Services by email housingandcommunity@welhat.gov.uk or by telephone 01707 357672.

This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. All rented property must comply with the Housing Health and Rating System under the Housing Act. This requires all rented accommodation to be free of category 1 hazards in any of the 29 prescribed categories. Further information is available from the Welwyn Hatfield Borough Council Private Sector Housing Team, Housing and Community Services by email housingandcommunity@welhat.gov.uk or by telephone 01707 357672

This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Under the Housing

Act 2004, a house in multiple occupation is required to be licensed by statute where: the house in multiple occupation or any part of it comprises three storeys or more and is occupied by five or more persons living in two or more single households. For licensing contact the Welwyn Hatfield Borough Council Private Sector Housing Team, Housing and Community Services by email housingandcommunity@welhat.gov.uk or by telephone 01707 357672

Partnership Accreditation for Landlords Code of Standards is a Welwyn Hatfield Borough Council and University of Hertfordshire initiative to recognise good Landlords and Agents. Further information is available at: www.PAL-online.org.uk

Mark Peacock (Strategy and Development)

Date: 14/10/2013

Background papers: None

