

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

**DELEGATED APPLICATION**

**Application No:** 6/2016/1067/FULL  
**Location:** Oshwal Centre, Coopers Lane Road, Northaw, Potters Bar, EN6  
 4DG  
**Proposal:** Erection of storage building following demolition of existing structures  
**Officer:** Mr S Dicocco

**Recommendation:** Refused

<b>Context</b>	
<b>Site and Application description</b>	<p>The site is part of a wider plot containing a grade II listed building (Oshwal House (Formerly Hook House)), a Temple, a children’s play area, car parking, a large community centre and some associated storage buildings. The site outlined in this application is isolated around the community centre and existing storage facilities within the north-west corner of the wider plot ownership.</p> <p>The site’s topography is such that the land slopes down from south to north. This is identifiable by the community centre’s single storey appearance when viewed from the south, and subsequent two storey appearance with a third floor accommodated by roof dormers when viewed from the east. The community centre was approved in 1986, with a subsequent two storey addition to the east facing elevation approved in 2013.</p> <p>The subject of this application is the collection of outbuildings used for storage to the north east of the community centre. The planning statement submitted with the application states that the existing storage building “pre-dates the first occupation of the estate by the Association and was a remnant of the former equestrian business”. The planning statement continues to state that double height storage containers, alongside two single height storage containers have supplemented the existing storage building since the early 1990s.</p> <p>The proposal is for the consolidation of the existing storage facilities into a single storage building. The proposed storage building would be of bespoke design, with two curved, lean-to green roofs facing Oshwal House (south) with one, small curved lean-to roof facing north with metal panel material. The outer walls of the proposed storage building would be facing brick. In terms of fenestration, the outer walls where the two lean-to roofs meet will be glazed to let light into the building. The entrances to the building within the south and east facing elevations would be sets of double doors. There would be one small door within the north facing elevation.</p>
<b>Constraints (as defined within WHDP 2005)</b>	<p>LBC - LISTED BUILDING House 1839 Asymmetrical Tuscan Style villa within 4.26m of the site boundary (approximately 45m from the proposed building)</p> <p>GB - Greenbelt</p> <p>LCA - Landscape Character Area (Northaw Common Parkland)</p> <p>PAR - PARISH (NORTHAW AND CUFFLEY)</p>

	Ward6 - Northaw & Cuffley		
<b>Relevant planning history</b>	Application Number: S6/2013/0916/FP      Decision: Granted      Decision Date: 16 May 1986 Proposal: Demolition of existing outbuildings and replacement with new community building in association with use of Hook House Application Number: S6/1986/0234/FP      Decision: Granted      Decision Date: 28 June 2013 Proposal: Erection of two storey side extension		
<b>Consultations</b>			
<b>Neighbour representations</b>	Support: 0	Object: 1	Other: 0
<b>Publicity</b>	Site Notice Display Date: 12 April 2017 Site Notice Expiry Date: 03 May 2017 Press Advert Display Date: 17 August 2016 Press Advert Expiry Date: 31 August 2016		
<b>Summary of neighbour responses</b>	<ul style="list-style-type: none"> <li>Mr D Gunner      17 Firs Wood Close      Comment: Having just moved into Firs Wood Close we have only just been made aware of the works being proposed. We object to the works being carried out due to the excess noise that will be made during the construction of the building. The proposed area of the works is directly behind our dwelling approx 20 metres away. It will also impact on sunlight in the winter months when the sun is at its lowest. The works will also impact on the wildlife living in the trees and hedgerows close by of which there is many.</li> </ul> <p>The noise made from the metal doors slamming whilst in use will also cause a noise nuisance every time they are used.</p>		
<b>Consultees and responses</b>	<ol style="list-style-type: none"> <li>Northaw and Cuffley Parish Council – No response</li> <li>Councillor Bernard Sarson – No response</li> <li>Councillor George Michaelides – No response</li> <li>Councillor Irene Dean – No response</li> <li>Conservation Officer – No objection subject to conditions</li> </ol>		
<b>Relevant Policies</b>			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input checked="" type="checkbox"/> GBSP1 <input type="checkbox"/> GBSP2 <input type="checkbox"/> M14 Others    Supplementary Design Guidance			
<b>Main Issues</b>			
<b>Is the development within the Green Belt?</b>			
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			
<b>Would the development represent appropriate development within the Green Belt, or, in the event that the proposal is not appropriate, do very special circumstances exist which outweigh identified harm to the Green Belt?</b>			
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
<b>Comment</b> (if applicable): The fourth exception to inappropriate development within the Green Belt described within paragraph 89 of the National Planning Policy Framework states that the replacement of a building, provided the new building is in the same use and not materially larger			

than the one it replaces should be considered as excepted from the general presumption that new buildings be regarded as inappropriate within the Green Belt. The judgement of David Elwin QC within *Tandridge District Council v Secretary of State for Communities and Local Government* [2015] EWCH 2503 (Admin), wherein it was held that the underlying purpose of the exception, defined within *R. (on the application of Heath and Hampstead Society) v Camden LBC* [2008] 3 All E.R. 80 had not changed, means that, provided the relationship between the buildings has been judged to be reasonably strong in terms of proximity and use, a building can replace those buildings. The purpose of the exception is to preserve openness, and so long as the building is no materially larger than the building, or buildings, which it replaces, the impact on the Green Belt is acceptable.

Whilst the Local Planning Authority hold some evidence contrary to the planning statements information in regards to the length of time the 'buildings' proposed to be demolished/removed have been in place, there is no evidence available to refute that the 'buildings' have been in their existing position for the four year period required to be immune from enforcement action as operational development.

The accumulation of existing 'buildings' are not entirely used for storage in association with the plots wider use. The double height shipping containers located between the building and the boundary to the north west are not used for storage purposes, nor are they shipping containers. The structures seem to provide ventilation for the community centre. Notwithstanding concern over where the mechanical ventilation will be housed elsewhere within the site if this structure were to be removed, the principle of its removal to be integrated within the new building would not be at odds with the fundamental aim of Green Belt policy, to keep land permanently open, and the structure falls within the same ancillary use to the community centre.

Over time, the definition of 'buildings' as an erection or structure (section 336(1) of the Town and Country Planning Act 1990) has been refined in law. The latest refining cases are *R (Save Woolley Valley Action Group Ltd) v Bath and North East Somerset Council* [2012] EWHC 2161 (Admin) and *Skerritts of Nottingham Limited v SSETR* [2000] 2 P.L.R. 102. *Skerritts* refines the three tests of structures, being size, permanence and physical attachment. In regard to permanence, *Skerritts* defines this as being a sufficient length of time to be of significance in the planning context. *Woolleys* goes further in refining permanence in that the visual and landscape impact of the units is not affected to any material extent by any periodic changes to their position within the plot. Another relevant consideration raised in *Woolleys* is whether the construction falls within the residual category in section 55(1), namely, "other operations in, on, over or under land". The judgement as to whether operational development has occurred is on a fact and degree basis.

The shipping containers identified on the plans are not fixed to the ground. They are not of a size commensurate to a building or structure, and in terms of permanence, while not moveable without lifting and placing upon a vehicle, can be, and to an extent are designed to be, mobile. It is not felt that the shipping containers fall within the residual category of "other operations in, on, over or under land". Therefore, on a fact and degree basis, it is not considered likely that the shipping containers are operational development by virtue of not falling within the court refined definitions of "erection" or "structure", thereby not representing a 'building' for the purposes of the Town and Country Planning Act 1990.

The planning statement measures the existing buildings, including the shipping containers, as having a floor space of 278 square metres; a functional footprint of 297 square metres by virtue of unusable space between 'buildings'; and the floor space of the proposed building at 314 square metres. These measurements have been verified within the plans provided, and are not refuted by the Local Planning Authority. However, by virtue of the above discussion, the calculations must be adapted in line with the removal of the shipping containers as they are not 'buildings'. Additionally, the calculations in relation to 'functional footprint' are given no weight in relation to whether the proposed building would be materially larger than the existing buildings, although, may be relevant in relation to the test of the openness of the Green Belt. Accordingly, the existing buildings have a floor space of 252 square metres, and a functional footprint of 264 square metres.

In arithmetic terms, in relation to floor space, proposed site building represents a 24% increase in

floor space. Alongside this, the proposed building would be higher than majority of the existing structures upon the site. The proposed building's apex would measure 0.9m higher than the existing storage building and approximately 0.95m lower than the double storey ventilation structures. In terms of volume, the existing site contains approximately 934 cubic metres of form, and the proposed building would contain approximately 1339 cubic metres. This represents an approximate 43% increase in volume as a result of the development

Size is the primary test in regards to whether the replacement building is materially larger than those which it replaces. Notwithstanding the increases in size indicated above, increases "may be significant or insignificant in planning terms, depending on such matters as design, massing and disposition on the site" (Heath and Hampstead). In this case, whilst there are some circumstances such as design and landscaping which mitigate the impact of the proposed building, it cannot be said that the proposed building would not appear materially larger than the existing structures within the site. As such, it is not considered that the proposal represents appropriate development within the Green Belt.

Inappropriate development within the Green Belt is, by definition, harmful, and substantial weight should be given to any harm to the Green Belt.

### **Openness**

The openness of the Green Belt is best defined as the absence of built form. In this case, the building's design will mitigate the impact of the building on the openness of the Green Belt. The sloped roof would host a green roof. Landscaping works around the proposed building attempts to obscure some of the building, although, this is only given very limited weight as the landscaping cannot be guaranteed in perpetuity, and nor does it reduce the amount of built form. The building would be consolidated and appear more uniform and purpose built as opposed to the existing ad-hoc nature of the storage area. Finally, whilst the shipping containers are not buildings for the purposes of the definition of development, they have a negative impact on the openness of the Green Belt by virtue of their presence and enclosed nature. Notwithstanding this, as the storage containers are not buildings for the purposes of section 55 of the Town and Country Planning Act 1990, there are few powers available to the Local Planning Authority to ensure the containers are removed from the site and not simply placed elsewhere on the site, thereby not improving the openness of the Green Belt. As such, the removal of the storage containers holds very limited weight in regards to the openness of the Green Belt. It is considered that, by virtue of the above discussion, the proposed building would negatively impact on the openness of the Green Belt.

### **The purposes of the Green Belt**

It is not considered that the proposed replacement building would fail to check the unrestricted sprawl of large built up areas, result in neighbouring towns merging into one another, harm the setting or special characteristic of historic towns or fail to assist in urban regeneration.

Notwithstanding the proposed building being materially larger than those structures to which it would replace, and the resultant impact on the openness of the Green Belt, it is not considered that the development would be considered encroachment by virtue of falling within a broadly similar footprint within a site which could be considered previously developed.

### **The visual amenity of the Green Belt**

As discussed throughout this recommendation, it is considered that the proposed building would improve the visual amenity of the site, and thereby, the visual amenity of part of the Green Belt.

### **Very Special Circumstances**

'Very special circumstances' will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, or any other harm, is clearly outweighed by other considerations. There is no other harm identified within this report as a result of the proposed development. Accordingly, the very special circumstances must clearly outweigh the harm by way of inappropriateness, as well as the associated harm to the openness of the Green Belt.

As assessed above, the proposal has been judged not to cause harm to the purposes of the Green

Belt. This matter results in there being no additional harm to that arising from the inappropriate development. Limited weight has been attached to this matter in terms of very special circumstances as this is simply compliance with another Green Belt policy requirement, falling short of the 'very special' threshold.

The site lies within a wider site, which has a strong community use. The building would be used for storage of landscaping equipment as well as the equipment required for the adjoining community centre. The provision of a consolidated storage building would promote the efficient use of the community facility, which provides both an economic and social benefit in this case. The benefit of supporting the existing social role through the economic benefits of the development holds moderate weight in favour of the proposed development.

An additional consideration is the setting of the listed building which, following negotiation in relation to the orientation of the building and green roofing, would be improved as a result of the proposed development. The enhancement of the setting of a listed building holds limited weight in terms of very special circumstances as this is simply compliance with another policy requirement.

In accordance with the above discussion, it is considered that combinations of moderate weight in favour of the proposed development fails to clearly outweigh the substantial weight which must be afforded to the harm by reason of inappropriate development and harm to the openness of the Green Belt. Other than supporting the community use of the site, the above very special circumstances arise from compliance with other policies within the Local Plan as well as the National Planning Policy Framework, and as such, should only be afforded limited weight by virtue of not being 'very special'.

**Would the development maintain the the setting of the listed building in as much as the setting contributes to the significance of the heritage asset?**

Yes  No

**Comment** (if applicable): The site contains the former large country house known as Hook House, Regency Period, begun in 1839 of white painted stucco and generally with low-pitched slate roofs. The North elevation was partly extended in the late C20th with a single storey flat roofed part and a two storey pitched roof element. It is clear, from the architectural quality of the windows and other features, that the house was designed to be seen from all sides, in an open parkland setting.

To the south west of the listed building towards the main entrance is a landscaped area that also contains extensive car parking and to the South East is the new, traditionally built temple, some distance away and of smaller size than the listed building. To the North East and much closer to the listed building is the new Oshwal Centre, a large community building which is at least twice the size of it and quite close to it. To the rear of this is the site for the proposed building, which is to replace the current storage facilities which comprise a small, low brick built building of no particular merit and a couple of shipping containers which are detrimental to the setting of the listed building. The existing facilities are set down on land that falls away from the listed building and are also of relatively low height.

By virtue of the green roof proposed, alongside the topography of the area and proposed landscaping, the building has been designed to be as inconspicuous as possible. Given the harm that results to the setting of the listed building as a result of the existing site, it is considered that the proposed replacement outbuilding would improve the setting of the heritage asset subject to conditions requesting further details in regards to the mitigating factors in this case (detailed later within this report).

**Would the development reflect the character of the area?**

Yes  No

**Comment** (if applicable): The site hosts a variety of built forms. The proposed building would add another form of building. The proposed building would be of high quality design which has been thoroughly thought through in order to meet the sites constraints and make use of the topography of the area. Additionally, the building would not be an intrusive addition which would invade upon the character of the area from public vantage points. In accordance with the above, as well as the fact

that the proposed development meets the higher threshold of being designed of sufficient quality so as to preserve the setting of a listed building, there are no concerns in regards to the character of the area.

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

Yes  No  N/A

**Comment** (if applicable): A neighbour comment has been received from a resident of Firs Close in regards to the impact of the proposed development upon residential amenity. In relation to neighbouring amenity, the comment made reference to the noise of construction, access to sunlight and shading as well as the noise of the use of the buildings. A discussion on the impacts of the proposed outbuilding follows in this light.

The trees and shrubbery along the boundary of the site and the adjoining residential properties to the north is such that the residential dwellings are not visible from the site. The site plans provided do not indicate that the built forms would encroach closer to the residential buildings than the existing building. The increase in height of the buildings is stated previously within the report, averaging approximately 1m higher than the existing buildings. It is not considered that the proposed additional height would cause significant additional loss of light, nor would the proposed building appear unduly dominant by virtue of the spacing and intercepting tall soft landscaping. By virtue of the existing soft landscaping informing this issue, it would be relevant to include a condition ensuring further details are submitted in this regard. There are no concerns in regards to loss of privacy by virtue of the use of the building proposed.

In terms of noise from construction, this is not a material planning consideration, and thereby is afforded no weight. In regards to noise arising from the use of the building (*metal doors slamming*), the use is existing. Noise resulting from the use of doors and the storage use of the proposed building would be the same as the noise of the use of the doors and storage in the existing building. Accordingly, it is considered that the impact as a result of noise on neighbouring amenity would be neutral in this case.

**Any other issues**

In terms of conditions, it is considered that further landscaping details are required in order to ensure the protection of the setting of the listed building as well as to ensure sufficient soft landscaping is retained to mitigate the impact of the new built form on the occupiers of adjoining premises. The response from the Conservation Officer requested a condition requesting further details of the roof eaves, verges, glazing and doors, however, it is felt that these details would go beyond what is considered reasonable or required in order to find the proposed development acceptable in regards to the impact on the setting of the listed building. If this application were to be recommended approval, by virtue of the sensitive setting, as well as a desire to ensure the quality of the green roof proposed, a condition to ensure the submission of materials would be considered to meet the six tests of conditions laid out in paragraph 206 of the National Planning Policy Framework.

**Conclusion**

The proposed building would, upon completion of both an arithmetic as well as more subjective visual test, be materially larger than the 'buildings' which it would replace. Accordingly, the development fails to fall within one of the exceptions to buildings being considered inappropriate within the Green Belt defined within paragraph 90 of the National Planning Policy Framework. It is considered that the 'very special circumstances' associated with the proposed development fails to clearly outweigh the substantial weight given to harm by reason of inappropriateness as well as the resultant harm to the openness of the Green Belt. As such, the development fails to accord with the National Planning Policy Framework.

**Reasons for Refusal:**

1. By virtue of the shipping containers not representing a building or structure for the purposes of the Town and Country Planning Act 1990 (as amended) the proposed building would be materially larger than buildings it would replace. As such, the new building should be regarded as inappropriate development within the Green Belt. The 'very special circumstances' advanced in this case are considered to fall short of clearly outweighing the substantial weight given to any harm to the Green Belt by reason of inappropriateness as well as harm to openness. Accordingly, it is considered that the proposal fails to accord with paragraphs 79-92 of the National Planning Policy Framework 2012.

**REFUSED DRAWING NUMBERS**

- 2.

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
6842-32	P0	Site Plan	31 May 2016
6842-28	P0	Site Location Plan	4 August 2016
6842-29	P2	Existing & proposed Plans & Allocations	31 January 2017
6842-30	P1	Existing & proposed Fronts & Sections	31 January 2017

1. **POSITIVE AND PROACTIVE STATEMENT**

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 Council's website or inspected at these offices).

**Determined By:**

Mr C Carter  
12 May 2017