

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

DELEGATED APPLICATION

Application No: 6/2019/0918/HOUSE
Location: Northaw Place Coopers Lane Northaw
Proposal: Formation of a new vehicular access following removal of existing close boarded boundary fence and erection of post and rail boundary fence and hedge with timber gate
Officer: Mr William Myers

Recommendation: Refused

6/2019/0918/HOUSE

Context	
Site and Application description	The application site is to the west of Coopers Lane. It contains an area of open and undeveloped land, which includes mature trees, hedge and a small amount of highway land.
Constraints (as defined within WHDP 2005)	LBC - LISTED BUILDING Former bakery, now cottage. Large C17 bakers - Distance: 43.52 AAS - Area of Archaeological Significance Area of Archaeological Significance : AAS43 - Distance: 0 GB - Greenbelt - Distance: 0 LCA - Landscape Character Area (Northaw Common Parkland) - Distance: 0 PAR - PARISH (NORTHAW AND CUFFLEY) - Distance: 0 ROW - FOOTPATH (NORTHAW 004) - Distance: 0.69 Wards - Northaw & Cuffley - Distance: 0 A4D - ARTICLE 4 DIRECTION - Distance: 0 HPGU - Northaw Place Gardens - Distance: 0 HPGU - Northaw Place - Distance: 0
Relevant planning history	Application Number: S6/2010/3095/MA Decision: Granted Decision Date: 27 April 2011 Proposal: Erection of single storey garage Application Number: S6/2010/3094/LB Decision: Granted Decision Date: 27 April 2011 Proposal: Erection of new brick piers on footings to stabilise existing wall and alterations & repairs to wall Application Number: S6/2010/2898/LB Decision: Granted Decision Date: 27 April 2011 Proposal: Alterations include (from approved applications S6/2009/2702/LB; S6/2010/0273/LB; S6/2010/0110/MA:- Modern partition in mezzanine w wing; half glazed double doors to 1st floor landing. Roof access hatch on west wing roof; conservation roof light on main roof inner pitch. Painted timber screens on

	<p>proposed conservatory to have double doors. Roof light over kitchen proposed extension; glazed doors to proposed pool room to be powder coated aluminium, replacement door into earlier opening on 1st floor</p> <p>Application Number: S6/2010/0273/LB Decision: Granted Decision Date: 17 March 2010 Proposal: Alterations include:-conversion and extension of existing east wing (garage & kitchen) to form new kitchen and swimming pool, shower area and mezzanine and 1st floor bathroom over kitchen, linked by new staircase to swimming pool. construction of new conservatory. associated service installations. works to main house east elevation 1st floor; installation of new door to replace modern door and build up window formed in 1988; reinstatement of porch and replacement of modern door on south elevation</p>		
Consultations			
Neighbour representations	Support: 0	Object: 0	Other: 0
Publicity	Site Notice Display Date: 13 May 2019 Site Notice Expiry Date: 4 June 2019 Press Advert Display Date: 15 May 2019 Press Advert Expiry Date: 30 May 2019		
Consultees and responses	HCC, Transport Programmes and Strategy – Objection Conservation Officer (Place Services) – No objection subject to condition Northaw & Cuffley Parish Council – No objection WHBC Landscape and Ecology – No objection The Gardens Trust – No objection Cadent Gas Limited – No objection HCC Rights of Way (South) – No comment HCC Historic Environment Advisor – No comment HCC Rights of Way North – No comment The Ramblers' Association – No comment		
Relevant Policies			
<input checked="" type="checkbox"/> NPPF <input checked="" type="checkbox"/> D1 <input checked="" type="checkbox"/> D2 <input checked="" type="checkbox"/> GBSP1 <input type="checkbox"/> GBSP2 <input 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: SD1, D8, RA10, R17 <u>Emerging Local Plan Proposed Submission August 2016</u> SP1 Delivering Sustainable Development SP3 Settlement Strategy and Green Belt Boundaries SP9 Place Making and High Quality Design SP25 Rural Development SADM2 Highway Network and Safety SADM11 Amenity and Layout SADM12 Parking, Servicing and Refuse SADM16 Ecology and Landscape SADM34 Development in the Green Belt			

Main Issues	
<p>Whether development is appropriate in the Green Belt and the character of the area</p>	<p>The Government attaches great importance to Green Belts and this is reflected in the Policies of the National Planning Policy Framework 2019. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. In the Green Belt inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.</p> <p>It is important to note that the proposed development is within land that has not previously been shown as falling within land associated with the application property. In the absence of an application being made certificate of lawfulness under Section 191 of the Town and Country Planning Act 1990 (as amended) (TCPA), it is considered that this use of the land cannot be defined as being within a residential use in association with the application dwelling. This application therefore seeks permission for the material change of use of the land to a residential driveway which would serve the application dwelling. It appear the land is currently open and undeveloped, and is not within the residential curtilage of the application dwelling. This new use would be also be facilitated by the creation of the substantial area of hardstanding in the form of a gravel driveway.</p> <p><i>Appropriateness</i></p> <p>Paragraph 145 of the NPPF deals with the construction of new buildings in the Green Belt, and sets out a list of exceptions which may be considered as not being inappropriate. As the development under consideration does not relate to the erection or retention of a building it is considered that it does not fall within the exceptions set out within paragraph 145 of the NPPF.</p> <p>Paragraph 146 lists certain other forms of development that are also not inappropriate, provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This list includes engineering operations and the material change of use of land. As the development under consideration relates to the material change of use of land to a residential driveway, with an engineering operation to facilitate this use, it is important to assess whether the development preserves the openness of the Green Belt and whether it conflicts with the purposes of including land with the Green Belt.</p> <p><i>Openness and purposes</i></p> <p>There is no definition of openness in the NPPF, but in the Green Belt context, it is generally held to refer to freedom from, or the absence of development. In this case, the development would introduce a prominent new point of access from the highway and result in an extensive area of hardstanding which would cross an area of undeveloped land which is currently free from any built form, with the exception of the boundary fence. The driveway would be visible from public vantage points on Coopers Lane, through the gate and the breaks in the row of deciduous trees and hedgerow on the eastern side of the site. This would harm openness in a visual sense given that the proposal would result in a noticeable visual difference in how the Green Belt is experienced. As a consequence, the site would be noticeably more developed than the existing situation and as such would fail to preserve the openness of the Green Belt.</p>

With regards to the purposes for including land within the Green Belt, paragraph 134 of the NPPF states that the Green Belt serves five purposes:

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

The application site is not located within a large built up area and is not within close proximity of a historic town. The nature and location of the development would also ensure that the development does not result in neighbouring towns merging into one another and the development would not fail to assist in urban regeneration, by encouraging the recycling of derelict and other urban land. However, the development spreads built form into what was previously open land through the material change of use of undeveloped land into a residential driveway, with associated hardstanding. As such, the proposal fails to assist in the safeguarding of the countryside from encroachment, contrary to bullet point (c) of paragraph 134 of the NPPF.

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

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

Effect on the visual amenity of the Green Belt and character of the area

With regards to the visual amenity of the Green Belt, the NPPF at paragraph 141 seeks to retain and enhance landscapes, visual amenity and biodiversity. Policies D1 and D2 of the District Plan aim to ensure a high quality of design and that development respects and relates to the character and context of the locality. In addition to the above, the NPPF sets out the view of the Government in respect of good design, indeed this is noted as forming a key aspect of sustainable development as it can contribute positively to making places better for people. In particular paragraph 130 outlines that '*permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*'.

The site is within the Northaw Common Parkland Landscape Character Area. The Northaw Common Parkland Landscape Area is characterised by parkland features, with landscapes that have been created through the historic development of these parklands and estates. The area is predominantly rural in character with formal parkland and estate entrances being the norm. The recommended strategy for the area includes ensuring that historic hedged field

	<p>boundary patterns are retained and that any new planting improves the character of the area.</p> <p>The proposed development would create a new entrance within an existing defined boundary treatment which would negatively alter the character of this section of Coopers Lane by punching a hole in this defined mature boundary treatment along this part of Coopers Lane. The gated entrance to the application site from Coopers Lane would give clear views into the site and the hardstanding that would be create to facilitate the new use of this land as a residential driveway. Although no objection is raised to the proposed replacement fence, it is considered this would only have neutral impact.</p> <p>Further to the above, it is therefore considered that the proposed use and associated hardstanding would not be in keeping with its surroundings and would be visually intrusive and out of keeping with character of the area. The proposal is therefore, contrary to Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.</p>
Impact on neighbours	The site is a sufficient distance from the nearest residential neighbour to not have direct impacts upon them in terms of overbearing impact, loss of light, loss of privacy and noise.
Access, car parking and highway considerations	<p>As the proposed development would create a new access onto Coopers Lane, the Highways Authority were consulted as part of this application. In response the Highways Authority have objected to the proposed development on the basis that sufficient information has been submitted to enable them to make a decision as to whether the proposed development would have an acceptable or unacceptable impact on Highway Safety.</p> <p>As a consequence of the Highway Authority's objection it is considered that the proposed development would not accord with Policy SADM2 of the Emerging Local Plan 2016 and the NPPF.</p>
Landscaping Issues	<p>Local Plan Policy R17 seeks to protect existing trees whilst D8 requires landscaping to form an integral part of the overall design, and in this respect the high quality design required by Policy D1 and D2 would again be relevant. Landscaping is important in order to protect and enhance the existing character of the area and to reduce the visual and environmental impacts of the development.</p> <p>It is noted that an Arboricultural Method Statement has been submitted, which includes a tree survey. As part of the application the Council's Landscape team were consulted and they have raised no objection to the proposed development on the basis of the information provided within the Arboricultural Method Statement. As a consequence, subject to a condition being imposed on any approval which would require that the works are carried out in accordance with this information there is no objection to the proposal of this basis.</p>
Any other considerations	<p><i>Right of Way</i></p> <p>It is noted that concerns have been raised about the impact that the proposed development would have on a footpath to the north of the site. It is important to note that this application does not seek to alter and stop up this footpath, with the result that this has not been considered as part of this application. It is</p>

	<p>important to note that if the footpath is obstruct or stop up by the applicant that this would be a matter that would be dealt with under separate legislation.</p>
<p>Very Special Circumstances</p>	<p>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.</p> <p>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 lead to some loss of openness and would be an encroachment into the countryside, which adds to the harm to the Green Belt, albeit to a limited extent.</p> <p>Paragraph 144 of the NPPF outlines that as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 outlines that <i>'Very Special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'</i>.</p> <p>It is accepted in case law that there is no prescribed list of what might constitute very special circumstances. It may be that a single aspect of a proposal may itself be a very special circumstance (VSC) sufficient to justify development or it may be that a number of circumstances may cumulatively amount to very special circumstances. As Lord Justice Pill said in <i>South Bucks District Council v Secretary of State for Transport, Local Government and the Regions</i> [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): <i>'It is of the essence of very special circumstances that the applicant establishing them is in a very special category.'</i> However, by their nature the existence of very special circumstances must relate to a particular site.</p> <p>It is noted that the applicant has stated that the proposed development would reinstate a previous historic access to the site. Although this may be the case there is no evidence of this previous access because it has either blended into the landscape through time or it was previously removed. As a consequence, this former access no longer visible with the result that the land within the application site does not appear to be previously developed. As a consequence it is not judged that this argument represents and very special circumstances argument which would overcome the harm identified within this report.</p> <p>Further to the above analysis within this report there are no very special circumstances that individually or cumulatively outweigh the harm to the Green Belt and any other harm that was identified above.</p>
<p>Conclusion</p>	
<p>The site is located on land designated as Metropolitan Green Belt, where the development carried out without planning permission comprises inappropriate development in the Green Belt as it does not fall within any of the relevant criteria of paragraph 145 or 146 of the National Planning Policy Framework. Inappropriate development, causing harm to the openness and purposes of including land in the Green Belt is by definition harmful to the Green Belt. Additionally further harm would be</p>	

caused to the visual amenity of the Green Belt by the fact that the proposed development would not be in keeping with the character of the area. No very special circumstances exist to outweigh the potential harm of the development to the Green Belt.

The proposal has also been considered in terms of the Northaw Common Parkland Landscape Character Area and found to be visually intrusive and out of keeping with the appearance and character of the area, contrary to policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005.

Insufficient information has been provided as part of this application to enable the Local Planning Authority to fully assess the highway risks arising from the proposed development and to demonstrate that the development would not result in an unacceptable impact on highway safety. Accordingly the proposed development poses a risk to highway safety, contrary to proposed development would not accord with Policy SADM2 of the Emerging Local Plan 2016 and the National Planning Policy Framework.

Reasons for Refusal:

1. By virtue of its scale and appearance, the development spreads built form into what was previously undeveloped land and, as such, fails to assist in safeguarding the countryside from encroachment, contrary to paragraph 134 of the National Planning Policy Framework 2019. The formation of a driveway would also harm the openness and the appearance of the Green Belt in this location. The proposal is therefore inappropriate development in the Green Belt. Very special circumstances to outweigh the harm to the Green Belt do not exist as the harm to the Green Belt and other harms, are not clearly outweighed by other considerations. Accordingly, the development is contrary to Policies GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005; Policy SP3 and SADM34 of the Council's Draft Local Plan Proposed Submission 2016; and the National Planning Policy Framework 2019.
2. The development of this site is considered to result in an unacceptable erosion of the demonstrable physical attributes within the Landscape Character Area and would neither conserve, maintain, enhance nor strengthen the character of the wider surrounding area. As such, the proposal is not considered to comply with Policies D1, D2 and RA10 of the Welwyn Hatfield District Plan 2005; Policies SP9 and SADM16 of the Council's Draft Local Plan Proposed Submission 2016; and the National Planning Policy Framework 2019.
3. Insufficient information has been provided as part of this application to enable the Local Planning Authority to fully assess the highway risks arising from the proposed development and to demonstrate that the development would not result in an unacceptable impact on highway safety. Accordingly the proposed development poses a risk to highway safety, contrary to proposed development would not accord with Policy SADM2 of the Emerging Local Plan 2016 and the National Planning Policy Framework 2019.

REFUSED DRAWING NUMBERS

Plan Number	Revision Number	Details	Received Date
747/10		Existing Elevation To Coopers Lane	16 April 2019
747/11		Proposed Elevation To Coopers Lane	16 April 2019
S13-277-100		Topographical Survey	16 April 2019
747/SP3		Proposed Block Plan	16 April 2019
747/LP1		Site Location Plan	16 April 2019

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 Mark Peacock
11 June 2019