

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 5 DECEMBER 2013
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2012/2194/FP

WELWYN HATFIELD LEISURE SERVICES, CAMPUS WEST, THE CAMPUS;
WELWYN GARDEN CITY, AL8 6AJ

RETENTION OF EDGE PROTECTION TO THE ROOF OF ROLLERCITY

APPLICANT: Welwyn Hatfield Borough Council, Corporate Property

(Handside)

1 Site Description

- 1.1 The application site relates to the roof area of 'Roller City', a building within Campus West, the wider Campus located on the corner with Digswell Road. Within the east of this wider site is a library, the central part of the site contains a cinema, meeting rooms and the Council Chamber, whilst the west of the site is occupied by 'Roller City'.

2 The Proposal

- 2.1 The application seeks planning permission for the retention of the railings and ladders recently installed to the roof of Roller City. The railings and ladders have been installed to both the roof area and rear of the site. Steel edge protection in the form of blue railings already exists on the roof of the library at the eastern section of the site.

3 Planning History

- 3.1 No relevant planning history

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
D1: Quality of Design
D2: Character and Context
- 4.3 Supplementary Design Guidance, February 2005

5 Constraints

- 5.1 The site lies within the Central Welwyn Garden City Conservation Area 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. One objection has been received from Scholars Mews. This may be summarised as;

- The railings are out of place with the building's existing railings and the Conservation Area, due to their colour and design.
- The proposed railings positioning in relation to the roof's profile is out of keeping.

7 Consultations Received

- 7.1 **Welwyn Hatfield Borough Council Environmental Health Department (EH) – No Comments**

8 Discussion

- 8.1 This application is presented to the Development Management Committee because the Council is the applicant and an objection has been received.

- 8.2 The main issues to be considered are:

- 1. Impact on the character and appearance of the Central Welwyn Garden City Conservation Area**
- 2. Protected species**
- 3. Sustainable development**
- 4. Other material considerations**

- 1. Impact on the character and appearance of the Central Welwyn Garden City Conservation Area**

- 8.3 Section 72 of the Listed Buildings and Conservation Areas Act states that "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*" It is now accepted case law that preserving the character or appearance of a conservation area can be achieved not only by a positive contribution to preservation, but also by development which leaves the character or appearance of the area unharmed.

8.4 Chapter 12, paragraph 131 of the National Planning Policy Framework (NPPF) states, '*In determining planning 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;*
- *The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- *The desirability of new development making a positive contribution to local character and distinctiveness'*

8.5 The railings recently erected are relatively small in comparison to the scale and massing of the host building although because of the siting they are visible from the wider Campus. This is demonstrated by the fact that the height of the building where the edge protection has been installed is between 7.3 and 7.7 metres and the height of the edge protection itself is only 1.3 metres at its highest point.

8.6 With regard to the edge protection which has been installed, its design is symptomatic of its function and is required for Health and Safety purposes. The design of the railings are also similar in appearance to the edge protection which has been installed previously on the roof of the library. The railings above the library are not part of this application but have been noted in the objection that was received for this application. However, the railings and ladder would blend in more appropriately if they were painted an appropriate shade of blue as per other railings that exist on the building. This is suggested to be secured by condition if planning permission is approved.

8.7 The proposed retention of the railings, subject to their painting would have a generally neutral effect on both the building and the wider Conservation Area in which it is located, and would preserve the form of the host building. As a result the development does not harm the Conservation Area in terms of its character and appearance. The proposal would therefore accord with the NPPF and local plan policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

Finally, and with specific reference to the concerns raised by the objector which are not dealt with above, the concerns raised are not sufficient to justify the refusal of the application. This is by virtue of the existing design and form of similar railings on this group of buildings and that the railings are required for Health and Safety purposes. It is therefore necessary for the railings to follow the profile of the roof. The neighbour's objection also raised concerns about the railings on the library which are outside the scope of this application.

2. Protected Species

8.8 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

8.9 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).

8.10 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.”

8.11 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)

- 8.12 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.
- 8.13 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.
- 8.14 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
- 8.15 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 have occurred. It is therefore not necessary to consider the Conservation Regulations 2010 or (Amendment) Regulations 2012 further.

3. Sustainability

- 8.16 The railings that are under consideration by this application are considered to be sustainable development because they allow safe access to the roof space of Roller City. This access is required from time to time, for maintenance purposes and safe access is essential. Without the installation of these railings there would be a requirement for temporary protection to be installed on every occasion that such maintenance was required which is thought to be unsustainable.

4. Other Material Considerations

- 8.18 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.

- 8.19 In relation to this scheme it is believed that the painting of the railings in a blue paint would be an appropriate and reasonable condition. It is believed that the painting of the railings will help to preserve the character and appearance of the Conservation Area.

9 Conclusion

- 9.1 The proposed retention of the steel edge protection is not considered to cause any significant harm to the character or appearance of the Conservation Area subject to their painting in an appropriate colour. The proposed development is considered to be in accordance with policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and the requirements of the Supplementary Design Guidance (Statement of Council Policy) as well as the National Planning Policy Framework.

10 Recommendation

- 10.1 1. The development shall not be completed other than in accordance with the approved plans:
- Site Location Plan & MC01 CW EP & Edge Rails and Ladders received and dated 20 August 2013
2. Within three months of the date of this permission the railings and ladders hereby approved shall be painted blue. Details of the paint and the shade of blue shall be submitted to and agreed in writing with the Local Planning Authority prior to the commencement of the works. Subsequently the railings and ladders shall be retained as approved.

REASON: To preserve the character and appearance of the Central Welwyn Garden City Conservation Area in accordance with Policy D1 of the Welwyn Hatfield District Plan, 2005.

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).

William Myers, (Strategy and Development)

Date: 26/10/13

