

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 23 April 2020
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING
AND GOVERNANCE)

Appeal Decisions 13/02/2020 to 02/04/2020

ENF/2018/0303	
DCLG No:	APP/C1950/C/19/3223023
Appeal By:	Mr Mayil
Site:	Woodlands Coopers Lane Road Northaw Potters Bar EN6 4DJ
Proposal:	The formation of a hard surface
Decision:	Appeal Dismissed
Decision Date:	14/02/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>The breach of planning control as alleged in the notice is the unauthorised creation of a hard surface involving the importation of hardcore, scalpings and other hard surface materials; plus the siting of secure storage units and the erection of a gate.</p> <p>The appeal was dismissed on all grounds: a), c) and d). The owner has 3 months to comply with the requirements – 10 May 2020.</p> <p>The Inspector agreed that the works represented a breach of planning (ground c), that the breach did not benefit from immunity (ground d) and that application for deemed planning permission failed (ground a).</p> <p>With regard to ground a), the Inspector stated:</p> <p>‘The development is inappropriate development in the Green Belt which is harmful by definition and gives rise to substantial harm to openness. According to Paragraph 144 of the revised Framework substantial weight should be given to any harm to the Green Belt.</p> <p>There is substantial harm to the character and appearance of the area and from loss of ancient woodland.’</p>
ENF/2016/0054	
DCLG No:	APP/C1950/C/19/3219891 : 3219892
Appeal By:	Mr A Copsey
Site:	120 Moffats Lane Brookmans Park Hatfield AL9 7RW

Proposal:	Retention of a raised platform that facilitates a swimming pool and erection of soft landscaping and boundary fencing
Decision:	Appeal Dismissed
Decision Date:	17/02/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>The breach of planning control as alleged in the notice is without planning permission, the erection of a raised wooden decking, balustrade and swimming pool.</p> <p>The appeal was dismissed on all grounds: a), c) and f). The owner has 3 months to comply with the requirements – 17 May 2020.</p> <p>The Inspector agreed that the development constituted a breach of planning (ground c) as it was not permitted development within Class E to benefit from deemed consent.</p> <p>In relation to ground (a) the main issues were the character and appearance of the dwelling and the surrounding area; and the living conditions of neighbouring occupiers with particular reference to outlook and privacy.</p> <p>Character and appearance: The Inspector stated:</p> <p>“The raised platform with balustrade looks very bulky. Visually, it is a somewhat crude form of development which does not represent good design.</p> <p>The development has a material adverse effect on the character and appearance of the host dwelling and its immediate surroundings contrary to Policy D1 of the Welwyn Hatfield District Plan 2005”</p> <p>Living conditions: The Inspector stated:</p> <p>“Whilst I have found no material harm to outlook, that does not negate or alter the fact that the development is otherwise harmful from its effect on the character and appearance of the host dwelling and the privacy of neighbouring occupiers.”</p> <p>In relation to ground (f) the Inspector stated:</p> <p>“I consider that the requirements of the notice in this case do not exceed what is necessary to remedy the breach and injury to amenity.”</p>
6/2019/1741/HOUSE	
DCLG No:	APP/C1950/D/19/3241043
Appeal By:	Mr & Mrs C Davies
Site:	5 Pentley Park Welwyn Garden City AL8 7RT

Proposal:	Erection of a single storey side infill, single storey part two storey side/rear extensions following demolition of existing conservatory and Installation of 2x side dormer windows and alterations to openings
Decision:	Appeal Dismissed
Decision Date:	25/02/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal for a single storey side extension and an infill extension to a covered side area, a single storey/ part two storey side/ rear extension following the demolition of the existing conservatory and alterations to the openings to include the erection of two side facing dormers.</p> <p>The main issue in the appeal was whether or not the proposal would preserve or enhance the character or appearance of Welwyn Garden City Conservation Area and the host property. The appeal property is a modest linked detached dwelling in a street of similar dwellings that retain much of their original design.</p> <p>Though the footprint of the rear extension would not be much larger than the existing extensions, the scale and mass of the extension would be much greater than the existing. Given its scale and mass, the proposal would not be a subordinate or sympathetic addition to the host dwelling and would significantly detract from its original form and appearance. It would be detrimental to the character and appearance of the host property and the character of the wide area.</p> <p>Moreover, inconsistency in the detailing of the fenestration between the ground and first floors - bi- fold doors and eight casements in the large ground floor window and five casements in the large first floor window - would detract from the appearance of the property. As both the ground and first floor windows would be significantly larger than the original windows in the dwelling (though the proposed windows would respect the host property in that the ground floor window would be taller than the first floor one), they would not respect its scale and proportions. The high level windows on the side elevation of the extension would also be out of keeping. The side dormers though would be acceptable.</p> <p>As the proposed extensions would be to the rear of the property there would be limited visibility of them in the street scene. However, whilst a lack of visibility means that the impact the proposal would have on the appearance of the Conservation Area is more limited, character is a more intrinsic quality that does not depend on visibility. The impact of the proposal on the Conservation Area would be much more severe. Though nearby and neighbouring dwellings have rear extensions, they are all smaller than that proposed at the appeal property. Accordingly, the appeal proposal would harm the Conservation Area.</p> <p>The appeal was dismissed.</p>

6/2019/1268/FULL	
DCLG No:	APP/C1950/W/19/3239713
Appeal By:	Ms S Coley
Site:	55 Roe Green Close Hatfield AL10 9PF
Proposal:	Erection of a 1 x dwelling with associated parking and private amenity space
Decision:	Appeal Dismissed
Decision Date:	25/02/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal concerned the erection of a 3-bedroom dwelling with associated parking and private amenity space within the rear garden of 55 Roe Green Lane, Hatfield.</p> <p>The main issues were i) the effect of the proposed development on the character and appearance of the area with regard to trees and ii) whether the site is an appropriate location for development, with particular regard to land stability.</p> <p>The Inspector found that the development would be dominant and intrusive due to its height and full gable to the front elevation when viewed from the private road/public footpath off College Lane. Whilst providing an adequate garden for its occupiers, due to its shape, it would appear cramped in its plot in comparison with other properties on Roe Green Close and College Lane. In addition, it was found that the orientation of the proposed dwelling would be inconsistent with the pattern of development around the site and it would fail to enhance and contribute to the legibility of the area.</p> <p>With regard to the protected oak tree, the appellant suggested that the entrance to the site would be a 'no dig' zone, however no evidence was submitted to indicate the extent of the root protection area nor the potential effect of compact of the root zone arising from vehicles accessing and parking on site. The Inspector found that the appellant failed to demonstrate that the proposed development would not cause harm to the tree, with consequent harm to the character and appearance of the area.</p> <p>In terms of land stability, the Inspector found that the details provided by the appellant proposing a raft foundation to provide a stable sub-structure did not evidence that such foundation would ensure the stability of the proposed dwelling nor that the site is suitable for a dwelling taking into account the chalk mining risks associated with the area.</p> <p>The appeal was dismissed.</p>

DCLG No:	APP/C1950/W/19/3225810
Appeal By:	Mr M Kempster
Site:	94 Harmer Green Lane Digswell Welwyn AL6 0EP
Proposal:	Installation of stand alone solar PV panels, associated planting and ground works
Decision:	Appeal Allowed
Decision Date:	26/02/2020
Delegated or DMC Decision:	Committee
Summary:	<p>The Inspector found that the solar panels would be inappropriate, there was also a degree of harm arising from the loss of openness and from being contrary to one of the purposes of including land within the Green Belt. She however found that bearing in mind the degree of containment and enclosure of the site and the proposed landscaping, the proposal would only have a slight adverse impact on the landscape character of the area, however the harm arising from this would be outweighed by other material consideration, including the fact that it is temporary and reversible.</p> <p>Paragraph 147 of the Framework accepts that very special circumstances will need to be demonstrated if renewable energy projects are to proceed in the Green Belt. It states that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Although modest in scale, the appeal scheme would make a valuable contribution to cutting greenhouse gas emissions, and this attracts substantial weight.</p> <p>National policy advises that renewable energy projects should be located where impacts are, or can be made, acceptable. I consider that the location of the array within a hollow, together with the existing and proposed landscaping means that this would be the case here.</p> <p>Therefore, the Inspector found that the environmental benefits of the proposal and the fact that the impacts can be made acceptable, are sufficient to outweigh the harm to the Green Belt. Consequently, the very special circumstances necessary to justify the proposal do exist and the scheme would not conflict with Policy GBSP1 of the WHDP or the Framework.</p> <p>The Inspector found that the proposal would not have an unacceptable impact on the outlook from them.</p> <p>The Inspector allowed the appeal.</p>

DCLG No:	APP/C1950/C/19/3236057
Appeal By:	Mr I Kabala
Site:	111 The Ryde Hatfield AL9 5DP
Proposal:	Without planning permission, the sub-division of a dwellinghouse into five self-contained flats.
Decision:	Notice Quashed
Decision Date:	26/02/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>The Inspector found that four of the units, described as 'bedsits' on the submitted drawings, are self-contained in that they each have their own beds, living areas, toilets, showers, basins and kitchen areas, including cookers, sinks, storage areas and worktops.</p> <p>Two first floor rooms are described on the plans as Bedrooms 01 and 02. These rooms do not incorporate their own kitchens, toilets or showers. However, both have access to a first floor 'Bathroom' (which actually contains a shower rather than a bath), together with a kitchen on the ground floor.</p> <p>The Inspector outlined that a building can also meet the definition of an HMO if it meets 'the converted building test' in s254(4). In order to meet that test, the building must, amongst other things, contain one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats). The appeal property meets that requirement. It is also a converted building and appears to meet the other requirements of 'the converted building test'. The current (unauthorised) use can therefore be regarded as an HMO.</p> <p>The Inspector quashed the notice because he considered the property to be in use as an HMO, not sub-divided into 5 flats.</p>
ENF/2019/0054	
DCLG No:	APP/C1950/C/19/3231451
Appeal By:	Mrs Hazel Macarthur
Site:	21 Lemsford Village Welwyn Garden City AL8 7TN
Proposal:	Fence erected without planning permission
Decision:	Appeal Dismissed
Decision Date:	02/03/2020
Delegated or DMC Decision:	Delegated
Summary:	The Inspector found that the fenced represented inappropriate development in the Green Belt, caused some loss of openness and its incongruous appearance harms the character of the area.

	The owner is required to remove the fence by 2 May 2020.
6/2019/1617/PN8	
DCLG No:	APP/C1950/D/19/3239398
Appeal By:	Mrs H Bower
Site:	61 Wellfield Road Hatfield AL10 0BY
Proposal:	Prior approval for the erection of single storey rear extension measuring 4M deep, 2.9M height and 2.9M to the eaves
Decision:	Appeal Dismissed
Decision Date:	02/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal related to a PN8 application where the original rear elevation was stepped. The application was therefore refused on the basis that the PN8, which would extend off the whole rear elevation, would have amounted to an extension which would have had a width which would have been greater than half the width of the original dwellinghouse, with the result that it would fail the limitations set out within Part 1, Class A of the GPDO.</p> <p>An application for costs was also made, however the Inspector found that the Council had not behaved in an unreasonable manner which had resulted in unnecessary or wasted expense by the appellant. As a result the application for costs by the appellant was refused.</p>
2015/0105	
DCLG No:	APP/C1950/C/19/3226882 : 3226883
Appeal By:	Mr Gareth Isaacs
Site:	Land at Friday Grove Farm Cottage Hawkshead Lane North Mymms Hatfield AL9 7TF
Proposal:	Provision of car parks
Decision:	Appeal Dismissed
Decision Date:	12/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>The breach of planning control as alleged in the notice is without planning permission the material change of use of the land to a car park and unauthorised hardstanding.</p> <p>The appeal was dismissed on all grounds: a) and c) and f) the compliance period varied. The owner has 4 months to comply with the requirements – 12 July 2020.</p>

	<p>With regards to the ground c) appeal the Inspector stated:</p> <p>‘The appellants have failed to discharge the burden of proof and I find as a matter of fact that a material change of use of land has taken place with hardstanding laid in breach of planning control.’</p> <p>The Inspector noted that in relation to the ground a) appeal the appellant does not seek permission for the development which was there when the notice was issued, but for an access which involves other works. What is proposed is a different development comprising the construction of a two-line track (of a different specification) rather than part of a hardstanding. The Inspector refused to grant planning permission as it would intrinsically alter the nature of the deemed planning application. It goes beyond the scope of what can be granted permission under a ground (a) appeal.</p> <p>In relation to the ground f) appeal the Inspector stated:</p> <p>‘Conditions cannot be imposed for the approval of details or for landscaping under ground (f). That could only occur under ground (a), but as already established that cannot be achieved when the development sought differs in key respects from that enforced against. Thus, there is no obvious alternative to complete removal that could be undertaken at less cost and disruption.’</p> <p>‘It is not disproportionate or excessive to require removal of works that facilitate the breach.’</p>
ENF/2015/0105	
DCLG No:	APP/C1950/C/19/3226878
Appeal By:	The College for Animal Welfare
Site:	Friday Grove Farm Hawkshead Lane North Mymms Hatfield AL9 7TF
Proposal:	Change Of Use - agricultural field being used as a commercial car park
Decision:	Appeal Dismissed
Decision Date:	12/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>The breach of planning control as alleged in the notice is without planning permission the material change of use of the land to a car park and unauthorised hardstanding.</p> <p>The appeal was dismissed on grounds: b) and d) and the compliance period varied. The owner has 4 months to comply with the requirements – 12 July 2020.</p> <p>The Inspector confirmed that the appellant had confirmed in his statement that the presence of the hard surfacing is clearly acknowledged and the Council’s photographs, the hardstanding is</p>

	<p>evident along with parking by several cars. The fact that a retrospective planning application¹ was made for the temporary change of use of the land for student car parking along with associated hardstanding which facilitated that use reinforced the Inspectors views and that a breach of planning control had occurred (ground b) . The planning application was refused in October 2018.</p> <p>It was mentioned by the Inspector that there was a hidden (ground c) appeal with regards to the hardstanding having been for agricultural purposes and therefore permitted development but the Inspector confirmed that no substantive evidence had been submitted to demonstrate that the hardstanding was laid for agricultural purposes.</p> <p>With regard to ground d), the Inspector stated:</p> <p>‘There is no evidence that the hardstanding as enforced against was laid for any other separate or lawful purpose. On the evidence, those works to lay the hardstanding facilitated and were part and parcel of the breach of control for a material change of use to a car park. As such, the 10-year immunity period applies to the hardstanding rather than the 4 years applicable if there were a separate act of operational development without planning permission.’</p> <p>Although no appeal was made in relation to ground f) the Inspector found that the requirements were not excessive.</p>
6/2018/2242/FULL	
DCLG No:	APP/C1950/W/19/3227950
Appeal By:	Mr & Mrs C Pocock
Site:	Land rear of Nos 10-18 Mymms Drive Brookmans Park Hatfield AL9 7AF
Proposal:	Erection of a detached dwelling and two replacement bridges following the demolition of existing buildings
Decision:	Appeal Dismissed
Decision Date:	12/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal concerned the demolition of existing buildings and erection of a detached dwelling and replacement of two bridges at Land to the rear of Nos 10-18 Mymms Drive, Brookmans Park.</p> <p>The site comprises several rural buildings including stables, sheds and a corrugated iron clad storage building which overlook a paddock, located to the rear of a linear row of residential properties along Mymms Drive. The site is located within the Green Belt and Gobions Grade II Registered Park and Garden, adjacent to Gobions Wood Nature Reserve. It is accessed by a track off Mymms Drive which crosses two timber bridges, one of which is used to enter GWNR and</p>

the RPG.

The main issues were: 1) whether the proposal is inappropriate development in the Green Belt and whether this can be outweighed by other considerations and 2) whether the proposal would result in harm to Grade II Registered Park and Garden of Gobions (RPG) and if there are any public benefits that outweigh this.

Green Belt

The Inspector found that bridge 1 would be larger and more prominent than the existing bridge, with views from the GWNR and into the RPG, reducing the openness of the Green Belt and resulting in inappropriate development in the Green Belt.

It was common ground that the site falls within previously developed land due to its former equestrian use and Para 145(g) of the NPPF relevant. He found that the new dwelling would be larger in footprint, volume and increase in height due to the two storey element and would appear more substantial in terms of construction and appearance in comparison to the existing stables, storage building and shed which are rural in nature and unobtrusive in the landscape, resulting in a greater impact on the openness of the Green Belt. The Inspector found this harm to be exacerbated by the domestic use of the site and related attributes of residential use. He gave consideration to the removal of PD rights for additional structures and boundary treatments, however considered that there would still be associated domestic paraphernalia in the garden that could not be reasonably controlled by condition. Very special circumstances do not exist as the harm to the Green Belt is not clearly outweighed by other considerations.

Heritage

The Inspector found that the scale, location and nature of the development would diminish the current open, undeveloped character of the area which would affect the appreciation, setting and significance of the Registered Park and Garden. The harm was found to be less than substantial and it was concluded that public benefits do not individually or cumulatively outweigh the identified harm to the heritage asset.

The appeal was dismissed.

6/2019/1185/FULL

DCLG No:	APP/C1950/W/19/3242180
Appeal By:	Mr A Brodin
Site:	Emmanuel House Travellers Close Welham Green Hatfield AL9 7LD
Proposal:	Retention of portakabin installed at first floor over existing with balcony & enclosed staircase structure

Decision:	Appeal Allowed with Conditions
Decision Date:	24/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal concerned the retention of a first floor portakabin with associated balcony, staircase and staircase screen. The application was refused at DMC (contrary to officer recommendation) by reason of poor design and harm to the area's character.</p> <p>The site comprises a commercial business within a designated employment area in Welham Green. Adjoining the site to the west is residential development. The Inspector considered that the application site and employment area is utilitarian in character and distinguishable from the adjacent housing. The development is read as part of the industrial area and its design and appearance is sympathetic to local character. For these reasons, the appeal was allowed.</p>

6/2019/2546/HOUSE

DCLG No:	APP/C1950/D/20/3245710
Appeal By:	Mr Andrew Gray
Site:	35 Templewood Welwyn Garden City AL8 7HS
Proposal:	Erection of first floor side extension and installation of new window to rear elevation
Decision:	Appeal Dismissed
Decision Date:	30/03/2020
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal following the refusal of an application for a first floor side extension and a new rear window to a dwelling elevated above the road in the WGC Conservation Area. The character of the surrounding area comprises of a variety of residential properties with a bespoke appearance many of which are linked together with attached garages. The application was refused on the grounds of adverse neighbour impact, adverse impact upon the street scene and the Conservation Area and shortfall of parking.</p> <p>The Inspector considered that due to the elevated and prominent location of the dwelling, and the spacious nature of the street scene and the Conservation Area, that the extension, though set back in the site, would have a harmful impact upon the street and the Conservation Area and would not respect the spacious nature of the immediate area.</p> <p>By virtue of the proximity of the proposed extension to the boundary with the neighbouring property at 33 Templewood, where habitable rooms windows face and a patio for the property is located, the Inspector also considered that proposal would harm the amenity of the</p>

occupiers of this dwelling.

The extension would result in there being an additional bedroom at the dwelling, requiring an additional parking space to maintain compliance with the Council's parking standards. However, there are no spaces present within the curtilage of the dwelling currently and through one could be provided, it would have a harmful impact upon the character and appearance of the property, the street scene and the Conservation Area.

The appeal was dismissed on all three counts therefore.