

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 9 DECEMBER 2021
REPORT OF THE HEAD OF PLANNING

Appeal Decisions 09/10/2021 to 25/11/2021

6/2021/0349/LAWP	
DCLG No:	APP/C1950/X/21/3274514
Appeal By:	Mr Vasile Tanasa
Site:	34 Haseldine Meadows Hatfield AL10 8HB
Proposal:	Certificate of lawfulness for the erection of new vehicle hard standing x2 cars
Decision:	Appeal Dismissed
Decision Date:	15/10/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal was in regards to a refused proposed certificate of lawfulness for a hard standing to park two vehicles.</p> <p>In this case, it was considered that the hard surface at the front of the property did not appear to be large enough to accommodate vehicle parking. Therefore, the means of access was not required for its stated purpose – the parking of two vehicles. As such it was considered that the proposal failed to meet the requirements of Class B, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.</p> <p>The Inspector considered that the site of the hardstanding did not currently fall within the curtilage of application dwelling and therefore the hardstanding did not amount to ‘the provision within the curtilage of a dwellinghouse of a hard surface’. The Inspector felt that the appellant had not demonstrated, on the balance of probabilities, that the hardstanding would be permitted development under Class F.</p> <p>The Inspector continued, stating that the formation of a means of access under Class B is conditional upon it being in connection with development permitted by any Class in Schedule 2 such as Class F. The appellant was unable to demonstrate that the construction of the means of access to the hardstanding is permitted development under Class B.</p> <p>The Inspector concluded that the Council’s refusal to grant a certificate of lawful use was well-founded, albeit for a different reason.</p> <p>The appeal was dismissed.</p>

6/2021/0380/HOUSE

DCLG No:	APP/C1950/D/21/3274437
Appeal By:	Mr Paul Wilson
Site:	21 The Ridgeway Cuffley Potters Bar EN6 4BB
Proposal:	Erection of front boundary wall, railings, piers and installation of entrance gate
Decision:	Appeal Allowed
Decision Date:	21/10/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal concerned a new hard boundary treatment consisting of a brick wall with railings above, piers and a gate. The Council refused the application due to harm to the Green Belt (inappropriateness and loss of openness) and harm to the character and appearance of the area.</p> <p>There is some background leading up to this case. An enforcement notice was served in March 2020 requiring the existing hard boundary treatment be removed. A few months later, in June 2020, we refused an application proposing changes to the existing structure which simply involved removal of parts of the solid wall with a wall and railings above. Both matters were dealt with under a joint appeal. The Inspector upheld the enforcement notice and dismissed the appeal for the same reasons as above.</p> <p>The application subject to this appeal sought to modify the existing hard boundary treatment by lowering the walls with railings above, lowering the piers (save for those supporting the gates), removing a solid screen behind the gates and facing the retained walling and piers with brickwork. 2m high Firethorn hedging would also be planted along the front of the wall and railings. The Inspector agreed that the proposal would harm the Green Belt. However, he disagreed with regard to harm to the character and appearance of the area mainly by reason of the presence of other similar hard boundary treatment in the area.</p> <p>The appellant's VSC rested on the combination of an unimplemented/expired planning permission from back in 2016 for gates and piers, supplemented with a 1m wall under the provisions of permitted development. The Inspector took the view that this fall-back would have a similar spatial impact and greater visual impact than the appeal scheme and gave it sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and any other harm. The appeal was therefore allowed.</p>

6/2020/1587/FULL

DCLG No:	APP/C1950/W/21/3272746
Appeal By:	Zayo Group UK Ltd
Site:	Cromer Hyde Farm Cromer Hyde Marford Road Lemsford Welwyn Garden City AL8 7XD
Proposal:	Creation of a compound and the installation of 2x telecommunications equipment containers, electric meter cabinet and associated fencing, hoop barriers and removable bollard.

Decision:	Appeal Dismissed
Decision Date:	28/10/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal following the refusal of a full application for the creation of a compound and the installation of 2x telecommunications equipment containers, electric meter cabinet and associated fencing, hoop barriers and removable bollard.</p> <p>The planning application was refused for the following two reasons:</p> <ul style="list-style-type: none"> • The proposed development would constitute inappropriate development, causing harm to the openness and purposes of including land in the Green Belt, which is by definition harmful to the Green Belt. Additionally further harm is caused to the visual amenities of the Green Belt. • The proposed development fails to improve the character and quality of the area and the way it functions because it would neither conserve, maintain, enhance nor strengthen the character of the wider surrounding area. <p>The appeal site forms part of an existing yard area of a farmstead and comprises of hard surfacing. Apart from some open storage of vehicles and trailers, it is free of any significant development.</p> <p>Despite the yard being largely enclosed by existing buildings of various sizes and the limited public vantage points, the Inspector considered that the extent of proposed new development and the permanency associated with it would reduce the spatial openness of the yard and therefore harm the openness of the green belt.</p> <p>In terms of the visual impact of the development, the Inspector stated that the proposal has been sympathetically designed with sufficient screening and its scale and siting would not unacceptably detract from the character and appearance of the area.</p> <p>Whilst the Inspector did note that there would be some economic, social and environmental benefits arising from the proposed communications infrastructure, consideration was given to the fact that Policy R21 steers telecommunications development away from the Green Belt unless it can be demonstrated that sites outside these areas cannot be used. Due to the limited information provided, the Inspector was not satisfied that the development cannot be located within an urban setting outside of the Green Belt. As such the other considerations did not clearly outweigh the harm identified and the very special circumstances necessary to justify the development did not exist.</p> <p>The appeal was therefore dismissed.</p>
6/2020/2689/PN15	
DCLG No:	APP/C1950/W/21/3273698
Appeal By:	Mr Paul Agnew

Site:	Cromer Hyde Cromer Hyde Farm Marford Road Lemsford Welwyn Garden City AL8 7XD
Proposal:	The creation of a small secure compound area and the installation of 1no. telecommunications equipment container, a small electric meter cabinet and generator
Decision:	Appeal Allowed with Conditions
Decision Date:	28/10/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal is in regards to a refused prior approval application for the creation of a small secure compound area and the installation of 1no. telecommunications equipment container, a small electric meter cabinet and generator.</p> <p>The application site is located within the yard area at Cromer Hyde Farm. The farm consists of a dwellinghouse and a number of agricultural buildings located centrally and surrounded by fields and within the Green Belt and the De Havilland Plain Landscape Character Area.</p> <p>In this case, it was considered that the development would not be compliant with Schedule 2, Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016 by failing to comply with condition A.1 (9) (a), as it was considered that the application site does not contain the telecommunication infrastructure which the applicant has stated that it would be ancillary to.</p> <p>Additionally, it was considered that the development would result in an unsympathetic and incongruous feature within the rural landscape and character of the site, as well as the surrounding rural character, with the result that it would fail to conserve or enhance the landscape character area which the site is within.</p> <p>The Inspector noted there is an existing long-haul fibre optic network which is laid within Marford Road, which the application site extends to. The appellant has acquired a fibre duct within this network and the development in this appeal would comprise an In-Line Amplifier (ILA) which would transmit signals along the new fibre route. Schedule 2, Part 16, Class A of the GPDO permits development 'under' land controlled by that operator or in accordance with the electronic communications code. The proposed ILA compound would be connected to the existing network along the B653 via below ground cables utilising land controlled by the appellant. The Inspector therefore found the development would be ancillary to the use of other electronic communications apparatus and therefore in accordance with part A.1 (9) (a) of Schedule 2, Part 16, Class A of the GPDO. The Inspector considered that the development would be of a functional and modest design, located close to the existing built development near the site with screening and finished in shades of dark green to match some of the existing built development. As such, the Inspector found no conflict with Policies, D1, D2, RA10, R21 of the Welwyn Hatfield District Plan 2005 in regards to matters of siting and appearance.</p> <p>The Inspector added a condition that the development must be carried out no later than 5 years from the date the local authority received the application, and must be</p>

	<p>removed as reasonably practicable once no longer required for electronic communication purposes.</p> <p>The appeal was allowed with the aforementioned condition.</p>
6/2020/0310/FULL	
DCLG No:	APP/C1950/W/21/3273644
Appeal By:	Mr Ketan Shah
Site:	2 Darby Drive Welwyn AL6 9TE
Proposal:	Retrospective subdivision of the property from single dwelling house to 4 No. dwellings, erection of single storey conservatory extension, new external staircase; alteration to fenestrations and sub-division of single garden into 4 No. garden
Decision:	Appeal Dismissed
Decision Date:	11/11/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal against a retrospective planning application for the subdivision of a property from one single dwelling to four dwellings and works to facilitate the subdivision. The application was refused for being inappropriate in the Green Belt, for being in an unsustainable location and for failing to improve the character and quality of the area.</p> <p>Firstly, the Inspector noted that amended plans had been submitted at appeal stage but not accepted, citing the following from the Procedure Guide for Planning Appeals:</p> <p>“the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people’s views were sought.”</p> <p>The Inspector found that there would be a limited visual and spatial impact on the openness of the Green Belt which would not be excessive. However, it was still viewed to have a greater impact than existing and conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.</p> <p>In terms of sustainability, the Inspector gave weight to the properties being located on a narrow, unmade road which is some distance from shops or facilities required for day to day living. It was noted that the use of electric vehicles cannot be mandated and the quality of the road network was not particularly favourable to cycling. Therefore, occupiers would be likely to rely on private vehicles. The location was thus found to be unsuitable, having regard to the accessibility of services and facilities.</p> <p>The proposed intensification of the use of the site was found to have a limited impact on the character of the area, with the Inspector concluding that it would have an acceptable effect overall.</p>

	<p>In the planning balance, moderate weight was given to elements of the scheme which could be implemented using permitted development rights. Some weight was also given to the site being used in a more efficient way in land use terms and that it would contribute to the diversity of housing tenure in the locality. However, it was concluded the benefits of the scheme would be outweighed by the resultant adverse impact overall.</p> <p>The appeal was dismissed.</p>
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6/2021/1389/HOUSE

DCLG No:	APP/C1950/D/21/3279900
Appeal By:	Mr Owen Evans
Site:	315 Knightsfield Welwyn Garden City AL8 7NJ
Proposal:	Installation of solar panels to the front elevation of the property
Decision:	Appeal Allowed
Decision Date:	18/11/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal against 18 solar panels on the front of a property on Knightsfield. The application was refused on design grounds for dominating the front roofslope and failing to complement and reflect the design and character of the existing dwelling. An Estate Management application was also refused for this proposal.</p> <p>In their decision, the Inspector has referred to Part 14, Class A of the General Permitted Development Order (GPDO) which allows the installation of solar equipment on domestic premises under permitted development, without the need to make a planning application. This is subject to the relevant conditions and limitations. This was not addressed in the officer report and the proposal was assessed against the relevant national and local planning policies as a planning application was submitted instead of a certificate of lawfulness.</p> <p>The Inspector found the solar panels would change the appearance of the property, but suggested change is not the same as harm. Weight was also given to the Council's SDG which states that sustainable development should be supported. The Inspector noted good design encompasses more than just architecture and it was concluded the siting and scale of the solar panels would not result in any harm to the character and appearance of the dwelling or surrounding area.</p> <p>The appeal was allowed.</p>

6/2021/0569/PN10

DCLG No:	APP/C1950/W/21/3278400
Appeal By:	Joe Gumble

Site:	7 Normans Lane Welwyn AL6 9TQ
Proposal:	Prior approval for a change of use from an agricultural building to a single dwellinghouse
Decision:	Appeal Dismissed
Decision Date:	22/11/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to a prior approval application for a change of use from an agricultural building to a single dwellinghouse. The application was refused for the following two reasons:</p> <ul style="list-style-type: none"> • The Council were unable to establish if the building which was the subject of the application had a lawful use, and considered it did not exist in 20th March 2013 for the purposes of the application; and • the location or siting of the building would make it undesirable for the building to be used as a C3 residential dwellinghouse due to adjacent buildings being used to house poultry and machinery which would potentially create issues with noise, odour and privacy. <p>The planning history confirmed that in 2008, permission was granted for two agricultural stables. In 2019 a new application was submitted to convert a building (singular) into a residential dwelling. This proposal was refused and dismissed at appeal. In the appeal documents for that application, the appellant referred to a singular L-shaped building numerous times instead of two separate buildings, stating it had been built as one structure and existed on site for approximately 12 years. When the prior approval application was submitted earlier this year, the building had been separated into two buildings. It was therefore concluded the building which had been applied for could not have been the same building which existed on 20th March 2013 as it was previously part of a larger structure which was viewed to be unlawful.</p> <p>In relation to the lawfulness of the building, the Inspector accepted the appellant's position that because no openings were created by the two buildings (which were joined via lean to structures) the buildings could still be considered separately. As such, they were satisfied the appeal building existed since at least 2010 with minor works occurring around it instead.</p> <p>In terms of living conditions, the Inspector stated the level of activity for poultry and storage was relatively low. Furthermore, the majority of openings would face away from that part of the site, reducing adverse impacts from poultry, machinery or vehicles using the hardstanding. It was therefore concluded the location and siting of the building was acceptable and adequate living conditions would be achieved.</p> <p>Despite the points above, the Inspector found that the appeal building was not used solely for an agricultural use as part of an established agricultural unit, by virtue of the evidence provided by the appellant. This was largely due to the building never being used for agricultural stabling as intended and because it did not demonstrate a trade or business had been undertaken.</p> <p>For the above reason, the appeal was dismissed.</p>

6/2021/0729/HOUSE

DCLG No:	APP/C1950/D/21/3279777
Appeal By:	Craig Percival
Site:	52 Attimore Road Welwyn Garden City AL8 6LP
Proposal:	Erection of a single storey side extension, entrance porch and part single part two storey rear extension, with associated alterations to openings, following the demolition of existing side extension and porch
Decision:	Appeal Allowed with Conditions
Decision Date:	23/11/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This application was for the erection of a single storey side extension, entrance porch and part single part two storey rear extension, with associated alterations to openings, following the demolition of existing side extension and porch. It was refused for failing to preserve or enhance the character and appearance of the Welwyn Garden City Conservation Area or respect the existing dwelling.</p> <p>The proposal followed refused application 6/2020/2655/HOUSE. Only minor alterations had been made between that proposal and this one. These included the following changes:</p> <ul style="list-style-type: none">• Two storey rear extension set in by approximately 200mm to either side• Height of front extension reduced in height by approximately 200mm• Alteration of front door design• Tile creasing and brick on edge capping of front extension• Alteration to design of proposed side window <p>The Inspector gave weight to a two storey rear extension at a neighbouring property which was of a similar scale to the appeal proposal. They also considered the 200mm set in either side to be sufficient and suggested the spacing between dwellings would retain the limited glimpsing views to trees behind the houses. They also considered the replacement single storey extensions at the side and front would improve and enhance the appearance of the dwelling. The different heights of these features were thought to be acceptable in light of the varying heights of single storey extensions elsewhere on Attimore Road and because they would not unbalance the appearance of the dwelling.</p> <p>The appeal was allowed with conditions. At the end of the appeal decision it states a suggested condition requiring an obscure glazed and fixed window at first floor was unnecessary as there were no windows proposed in either side elevation of the proposed development. It is important to note that although there are no first floor side windows in the proposed extension, the condition was recommended as a new first floor side window is proposed in the side elevation of the existing building. The plans label this window to be obscure glazed but not fixed below a certain height. This condition was not imposed on the decision.</p>

6/2021/0847/HOUSE

DCLG No:	APP/C1950/D/21/3280056
Appeal By:	Gavin Jones
Site:	16 Waterbeach Welwyn Garden City AL7 2PT
Proposal:	Erection of a two storey front infill extension
Decision:	Appeal Dismissed
Decision Date:	23/11/2021
Delegated or DMC Decision:	Delegated
Summary:	<p>This was a proposal for a two storey front infill extension. It was refused as the scale and poor design features were considered to represent an incongruous and disjointed addition, particularly when viewed from public vantage points on Waterbeach and Lysander Way.</p> <p>The Inspector agreed that the extension would appear awkward and disjointed due to the wall height and eaves not matching the existing property or the rest of the development. They also agreed the scale, bulk and mass would result in a loss of symmetry from viewpoints on Lysander Way and Waterbeach, which would have a detrimental impact on the open and spacious nature created by the planned low level design of this part of the road.</p> <p>Limited weight was given to other examples of extensions in the area provided by the appellants. However, it was noted that on a different plot the proposal may have been acceptable where the symmetry of the street and public views to the rear were less prominent.</p> <p>The appeal was dismissed.</p>