

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 27 APRIL 2017
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION, PLANNING AND
GOVERNANCE

6/2016/0555/HOUSE

LODGE FARM, HARMER GREEN LANE, BURNHAM GREEN, AL6 0ET

CHANGE OF USE OF AMENITY LAND AND FORMATION OF NEW VEHICULAR
ACCESS

APPLICANT: Mr G Marshall

AGENT: Mr M Easton

(Welwyn East)

1. Site Description

- 1.1 The application site is located on the southern side of Harmer Green Lane. The application site which is subject of this application comprises of a detached dwelling set within large grounds in a rural setting, which is set back from the main road by approximately 41m. Whilst residential properties can be seen nearby which do have vehicular accesses onto Harmer Green Lane, the general streetscape is a rural setting with the residential dwellings being set back from the road frontage with hedgerows and soft landscaping forming a boundary between the highway and the residential plots. Additionally a large grassed verge can be seen immediately in front of the established hedgerow boundary to the dwelling and creates a spacious and well landscaped street scene dominated by soft landscaping. Large grassed verges are to the front of the hedgerows creating a well vegetated and soft landscaped area.
- 1.2 Access to the property is currently a shared vehicular access with the neighbouring residential dwelling to the east – a converted barn. This access is approximately 100m to the east of the proposed access sought under this application and is close to the junction of Harmer Green Lane and Orchard Road.
- 1.3 The barn that has been converted to a residential dwelling is outside of the application site, however the current arrangement means that the applicant is required to pass the neighbouring residential dwelling in order to have vehicular access into the site.

2. The Proposal

- 2.1 This application seeks a change of use to a small section of amenity land to residential land in order to form a new vehicular access onto Harmer Green Lane from the application property. The access would be in the form of two tracks (suitable for vehicles tyres) with a maximum width of 4m. The proposed access would only be used as a vehicular access to allow vehicles to pass across the land to the application dwelling and not as a driveway where vehicles could be

parked. Therefore the use of the amenity land would be retained with only the occasional vehicle utilising the access.

2.2 This application follows a previous application for the '*formation of a new vehicular access*' under reference 6/2015/2544/HOUSE; however this application was withdrawn as incorrect information was submitted.

2.3 The planning history also shows an application was approved in 2002 (reference N6/2002/1161/FP) for the formation of a new access in the same location as that under the current application.

3. Reason for Committee Consideration

3.1 This application is presented to Development Management Committee as Welwyn Parish Council has objected to the proposal.

4. Relevant Planning History

4.1 6/2015/2544/HOUSE- Formation of new vehicular access - Withdrawn – 10th March 2016

4.2 N6/2006/0692/FP – Erection of new front porch and gallery to barn (Revision to Planning Permission N6/2005/1149/FP Granted on 9/11/2005) – Refused 25th July 2006

4.3 N6/2002/1161/FP – Formation of New Access – Granted 23rd September 2002

4.4 N6/2002/0038/FP – Conversion and extension of existing barn to form residential dwelling and erection of garage/car port – Refused 8th February 2002

4.5 N6/2000/1489/FP – Stables – Granted 21st October 2002

4.6 N6/2000/1319/FP - Barn Conversion and detached garage – Granted 7th December 2000

4.7 N6/1993/0576/FP – Erection of two storey and single storey rear extensions – Granted 27th November 2011

5. Planning Policy

5.1 National Planning Policy Framework (NPPF) March 2012

5.2 Welwyn Hatfield District Plan 2005

6. Site Designation

6.1 The site lies within the Green Belt and Tewin Landscape Character Area as designated in the Welwyn Hatfield District Plan 2005.

7. Representations Received

7.1 The application was advertised by means of neighbour notification and site notice. One neighbour comment has been received.

7.2 Burnham Green Joint Management Committee - *'I write to you as Chairman of the Burnham Green Joint Management Committee (BGJMC). I am aware that you have had objections to the above access from Welwyn and Datchworth Parish Councils and that this has an element of repetition. However, the BGJMC is a body that looks after this green and it is comprised of both Welwyn and Datchworth councillors, as the green straddles the parish boundary. We therefore feel that we have a voice to be heard. As a body we are committed to maintaining the rural nature of this area and is concerned that this application would be in contravention of this. It is our understanding that this property already has, and makes use of an existing access route across the Green.'*

8. Consultations Received

8.1 **Hertfordshire County Council Transport, Programmes and Strategy** – No objections, recommends informatives

8.2 **Hertfordshire County Council Rights of Way** – The proposal is to surface over part of the common (CL055) which requires consent. The applicant needs to apply to Department for the Environment, Food and Rural Affairs (DEFRA) for permission to carry out works on the common. The application forms and further information are available on the gov.uk website. Unless this permission is obtained we would object to the application as surfacing over the common without consent is an offence under section 38 of the Commons Act 2006.

8.3 **Hertfordshire County Council Rural Estates** - In cases such as this, the grant of planning permission in itself does not enable you to construct the access, as the landowner's consent would also be required. The land at Burnham Green owned by the County Council is also common land. Under section 38 of the Common Act 2006, the consent of the Department for the Environment, Food and Rural Affairs (DEFRA) Planning Inspectorate is required to carry out restricted works on land registered as common land.

9. Parish Council Representations

9.1 Welwyn Parish Council has submitted an objection to the proposal stating:

"We would note that the proposal is to surface over part of Burnham Green Common (CL055) which Welwyn Parish Council leases along with Datchworth Parish Council from Hertfordshire County Council. In principle the parish council is committed to maintaining the rural nature of this area and is concerned that any application would be in contravention of this. Further we are aware of other areas where rights to pass over and crossovers have been misused as hard standing for vehicles to be parked. This would again have a significant impact on the area."

9.2 Datchworth Parish Council has submitted an objection to the proposal stating:

'We would note that the proposal is to surface over part of Burnham Green Common (CL055) which Datchworth Parish Council leases along with Welwyn Parish Council from Hertfordshire County Council. In principle the parish council is committed to maintaining the rural nature of this area and is concerned that this application would be in contravention of this, particularly as the property already has an access route across the Green. Further we are aware of other areas where rights to pass over and crossovers have been misused as

hardstanding for vehicles to be parked. This would again have a significant impact on the area.'

10 Analysis

10.1 The main planning issues to be considered in the determination of this application are:

- 1. Principle of development within the Green Belt (NPPF)**
- 2. The Impact on the Character and Appearance of the Area (D1, RA10 D2, D8, SDG & NPPF)**
- 3. Highway Safety (NPPF)**
- 4. Other Material Planning Considerations**

1. Principle of Development within the Green Belt

10.2 The site is located within the Green Belt where the government attaches great importance to the fundamental aim of Green Belt policy to prevent urban sprawl and keeping land permanently open.

10.3 Paragraph 90 of the National Planning Policy Framework (NPPF) is applicable and allows for certain forms of development which it considers are not *'inappropriate development'* in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. One of the categories listed is engineering operations which the proposed development would fall within.

10.4 The proposed change of use of a small strip of amenity land to residential use in order to facilitate the provision of vehicular access to an existing dwelling, would predominantly maintain the original land levels and would have no physical structure erected. By virtue of the development being at ground level it would not impact upon the openness or the purposes of including land within the Green Belt and therefore it is considered to be appropriate development in the Green Belt.

2. The Impact on the Character and Appearance of the Area

10.5 Local Plan Policies D1 (Quality of Design) and D2 (Character and Context) aim to ensure a high quality of design and to ensure that development respects and relates to the character and context of the locality, maintaining and where possible enhancing the character of the existing area. Policy RA10 requires development to contribute, as appropriate, to the conservation, maintenance and enhancement of the local landscape character of the area in which they are located. In addition, Chapter 7 of the NPPF emphasises the importance of good design in context and, in particular, paragraph 64 states permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions.

10.6 The proposed vehicular access from Harmer Green Lane is in the same location as that approved under planning reference N6/2002/1161/FP. The access would serve an existing dwelling. Presently the access into the site is via the adjoining dwelling, which is a converted barn granted planning permission under reference N6/2000/1319/FP, the vehicular access runs past that dwelling. Therefore this proposal would seem a logical way of providing access to the house and allow for

undisturbed access to both dwellings. The agent has stated that the applicant seeks to downsize from the large house to the adjacent Lodge Farm.

- 10.7 The proposed access would link to an existing gate seen within the hedgerow to the property and the access would cross the shortest distance possible over the amenity land. Whilst the removal of some of the grass verge and a section of the existing hedgerow would be required, the access is located in a discreet position close to existing trees, which would not be harmed and would help to shield any impact. The change of use would only affect a small portion of this amenity land and will not adversely affect the remainder of the land and its continued use as Common Land would not be affected. It is also noted that within the immediate vicinity there are a number of existing vehicular accesses to properties found along Harmer Green Lane. Additionally it is considered that the visual impact of the proposal of the character of the countryside would be limited due to the scale of the proposed access.
- 10.8 During the course of the application the applicant has submitted examples of the type of surfacing to be used in the construction of the vehicular access. The preferred method is for two linear lines (tyre) tracks to provide access. This would ensure the access would be in keeping with the rural character of the area and would not be a dominant feature on the landscape. It is expected that the precise materials and design to be conditioned as part of any permission in order for precise details to be agreed. However the surfacing to be used should be of a rural character in order to blend in with the context of its rural location.
- 10.9 Overall on the basis of the above, it is not considered that the proposal would adversely affect the predominantly rural character of the area to warrant a refusal of the application in this regard. The applicant has been made aware that the originally proposed tarmac material would not be acceptable and they have indicated that the 'finishing materials' are flexible and have suggested stabilised shingle could be used. These materials would have a more rural appearance and therefore are not considered to be unacceptable, although samples of this material would be required for approval prior to commencement of any development, a condition can be imposed to this effect.
- 10.10 Having regard to all of the above, the development therefore complies with policies D1, D2, RA10 and D8 of the adopted Welwyn Hatfield District Plan 2005 and the NPPF.

3. Highway Safety

- 10.11 The existing dwelling has suitable off street parking and the applicant has clarified that this would not alter.
- 10.12 The creation of a new access and dropped kerb is not objectionable and Hertfordshire County Council Transport, Programmes and Strategy do not wish to raise an objection in respect of the impact on highway safety. The officer notes that this revised application provides access by way of a dropped kerb with a prescribed kerb radius and an appropriate width of access for the single dwelling.
- 10.13 Should permission be granted, consent from Hertfordshire County Council would be necessary for the installation of the vehicle crossover which can be advised to the applicant via an informative on any permission given.

4. Other Material Planning Considerations

- 10.14 Comments received from Hertfordshire County Council Rights of Way and Hertfordshire County Council Rural Estates clarifies that should planning permission be granted, it does not enable the construction of the access without Hertfordshire County Council's consent. This is suggested as an informative in the event of an approval.
- 10.15 Additionally it should be noted that the boundary fronting Harmer Green Lane is characterised by mature vegetation, as already highlighted part of the existing vegetation along this boundary would be removed. It should be noted that existing trees that lie within the verge would not be removed, however regardless of this none of the trees are subject to a Tree Preservation Order and permission would be required from the land owner should any trees require any works.
- 10.16 Regardless of any planning permission granted at this site, as the proposal is to surface over part of the common (CL055) this requires a separate consent. An application would need to be made to the Department for the Environment, Food and Rural Affairs (DEFRA) for permission to carry out works on the common. Without this permission any works over the common would be an offence. An informative would be placed on any consent informing the applicant of their duty to apply for the consent.

11. Conclusion

- 11.1 The proposal would comply with policies D1, D2, D8, RA10 and the NPPF. The proposed development is considered to be appropriate development in the Green Belt where the proposal is not considered to detract unduly from the overall character of the area. As such the development is in accordance with the relevant policies of the adopted Welwyn Hatfield District Plan 2005 and with the NPPF.

12. Recommendation

- 12.1 It is recommended that planning permission be approved subject to the following conditions:
1. Notwithstanding the approved drawings, no development shall take place until precise plans showing the linear 'tyre' track have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with these plans and retained in accordance thereafter.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.
 2. No development shall take place until samples of the materials to be used in the construction of the access hereby granted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

3. No unbound material shall be used in the surface treatment of the vehicular access within 6 metres of the highway boundary.

REASON: To avoid displacement of loose material onto the highway in the interests of highway safety.

DRAWING NUMBERS

5. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
MAR/15/01 A		Plan	29 March 2016

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

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 inspected at these offices).

INFORMATIVES

1. For the new construction of hard-surfaced areas, or alteration/extension of existing lawful ones, for purely private benefit, then there may be a need to secure the deregistration and exchange of said lands under Section 16/17 of the Commons Act 2006. Further information <https://www.gov.uk/government/publications/common-landguidance-sheet-1a-consent-to-construct-works-on-common-land>. The applicant shall be responsible for applying to the Department for Environment, Food and Rural Affairs (DEFRA) for permission to carry out unlawful works on the common. Unless such permission is obtained, any surfacing placed on or over the common land without consent shall be an offence under section 38 of the Commons Act 2006.
2. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.
3. Any damage to the grass verges caused by the development/works hereby approved is the responsibility of the applicant and must be re-instated to their original condition, within one month of the completion of the development/works.

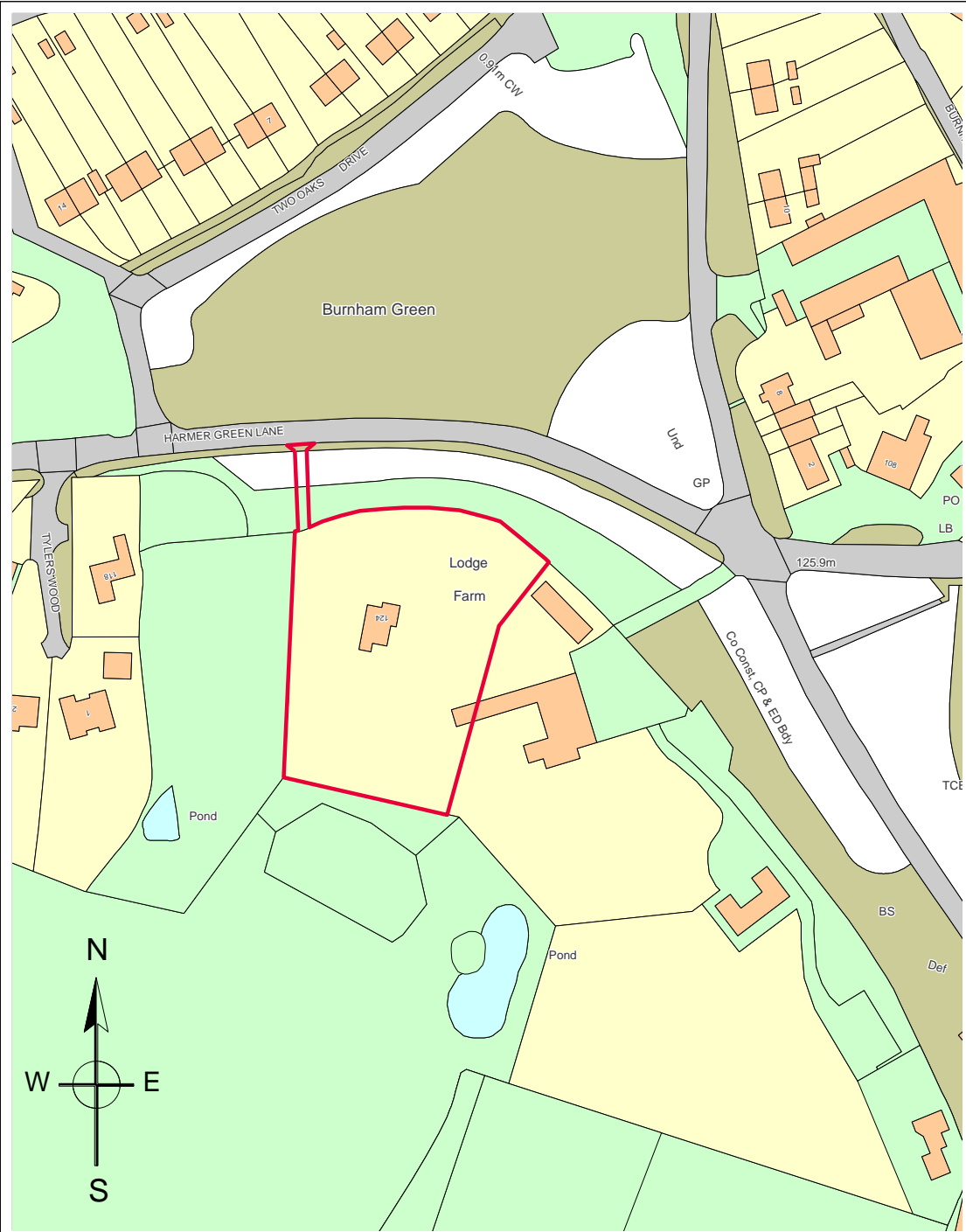
If damage to the verges are not repaired then the Council and/or Highway Authority will take appropriate enforcement action to remedy any harm caused.


4. For Birds, the removal of trees/hedges & shrubs should be avoided during the breeding season (March to September inclusive). If this is not possible then a search of the area should be made by a suitably experienced Ecologist and if active nests are found, then clearance must be delayed until the nesting period has finished.
5. Where works are required within the public highway to facilitate the new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.
6. The applicant is advised that this permission only grants consent for a vehicular access. If at any time the applicant wishes to use the access as a driveway then this would require planning permission and an application in that regard would need to be submitted to the Council which would then be assessed accordingly.

Rachael Collard, (Development Management)

Date 12/04/2017

Expiry 1/05/2017



 Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE	Title: Lodge Farm, Harmer Green Lane, Burnham Green		Scale: DNS
	Project: DMC Meeting		Date: 2016
	Drawing Number: 6/2016/0555/HOUSE		Drawn: Andrew Windscheffel
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