

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 19 JULY 2018  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

**Appeal Decisions 11/06/2018 to 05/07/2018**

6/2017/1900/FULL	
<b>DCLG No:</b>	APP/C1950/W/17/3189521
<b>Appeal By:</b>	Mr K Savine
<b>Site:</b>	2 New Road Welwyn Garden City AL8 7TX
<b>Proposal:</b>	Erection of 4 x apartments following demolition of existing workshop
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	12/06/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The two appeals at 2 New Road have been considered together by the Inspector on the basis that they are, in essence, for the same development on the same site. The Inspector noted that the site is located in the Green Belt where inappropriate development is, by definition, harmful. It is noted that paragraph 89 of the Framework sets out a number of exceptions to this, including the limited infilling or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt, or the purposes of it, than existing development. The Inspector noted that, at present, the site consists of two fairly long barn type single storey industrial/commercial units and an area of hardstanding. The Inspector agreed that, although the proposed buildings would be taller, they would be considerably shorter, and so would not have a greater impact on the openness of the Green Belt. The main issues therefore were the design of the proposed buildings and their effect on the character and appearance of the street scene, as well as matters of overlooking and privacy. The Inspector found that New Road consists of semi-detached and detached properties along the southern side of the road, with development being much more sparse on the northern side. The Inspector considered that, due to the proposed range of materials, and the industrial appearance of the proposed buildings, they would appear at odds with the residential character of the area. As a result, it was concluded that the proposals would have an adverse effect upon the character and appearance of the surrounding area and would fail to take the opportunity to enhance the local area. With regard to overlooking, the Inspector also found that the proposed lounge windows on the upper floor of block 1 would result in overlooking of 2 New Road, failing to achieve a good standard of living conditions.</p>

**6/2017/1901/FULL**

<b>DCLG No:</b>	APP/C1950/W/17/3189522
<b>Appeal By:</b>	Mr M White
<b>Site:</b>	2 New Road Welwyn Garden City AL8 7TX
<b>Proposal:</b>	Erection of 4 x apartments following demolition of existing workshop
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	12/06/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The two appeals at 2 New Road have been considered together by the Inspector on the basis that they are, in essence, for the same development on the same site. The Inspector noted that the site is located in the Green Belt where inappropriate development is, by definition, harmful. It is noted that paragraph 89 of the Framework sets out a number of exceptions to this, including the limited infilling or complete redevelopment of previously developed sites, whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt, or the purposes of it, than existing development. The Inspector noted that, at present, the site consists of two fairly long barn type single storey industrial/commercial units and an area of hardstanding. The Inspector agreed that, although the proposed buildings would be taller, they would be considerably shorter, and so would not have a greater impact on the openness of the Green Belt. The main issues therefore were the design of the proposed buildings and their effect on the character and appearance of the street scene, as well as matters of overlooking and privacy. The Inspector found that New Road consists of semi-detached and detached properties along the southern side of the road, with development being much more sparse on the northern side. The Inspector considered that, due to the proposed range of materials, and the industrial appearance of the proposed buildings, they would appear at odds with the residential character of the area. As a result, it was concluded that the proposals would have an adverse effect upon the character and appearance of the surrounding area and would fail to take the opportunity to enhance the local area. With regard to overlooking, the Inspector also found that the proposed lounge windows on the upper floor of block 1 would result in overlooking of 2 New Road, failing to achieve a good standard of living conditions.</p>

**6/2017/2865/HOUSE**

<b>DCLG No:</b>	APP/C1950/D/18/3197026
<b>Appeal By:</b>	Mr K Piggott
<b>Site:</b>	Homerswood Cottage 7 Digswell Hill Welwyn AL6 9AH
<b>Proposal:</b>	Erection of single storey side and rear extension
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	15/06/2018
<b>Delegated or DMC Decision:</b>	Delegated

<b>Summary:</b>	<p>The main issues were identified as whether the proposal was inappropriate in the Green Belt, the effect of the proposal on the openness of the Green Belt and, if inappropriate, was this harm and any other harm outweighed by other considerations such as to amount to very special circumstances. The Inspector noted the advice in the National Planning Policy Framework (NPPF) that the construction of new buildings in the Green Belt should be regarded as inappropriate development, subject to specified exceptions. One such is the extension or alteration of a building, provided it does not result in disproportionate additions over and above the size of the original building. The Inspector found that the proposed extensions would amount to disproportionate development in this case, and were therefore inappropriate in the Green Belt. However, the Inspector noted that the courts have ruled that openness of the Green Belt has both spatial and visual dimensions. In this particular case, there would be buildings where previously there were none, however the main part of the extensions would be to the rear, not visible from the public domain and so the effect on openness was considered to be slight. The Inspector therefore considered whether there were any very special circumstances. It was noted that the property had been subject to a number of Lawful Development Certificates over recent years and that, were these to be implemented, they would have almost the same effect as the appeal scheme. The reason that the appeal scheme would not fall under permitted development was because they two elements of it would adjoin. In these circumstances, the Inspector found that the fall-back position was a material consideration which afforded significant weight in favour of the proposal such as to justify very special circumstances. The appeal was therefore allowed with conditions.</p>
-----------------	---

**6/2017/2554/HOUSE**

<b>DCLG No:</b>	APP/C1950/D/18/3198372
<b>Appeal By:</b>	Mrs J Titmus
<b>Site:</b>	22 Brocket Road Welwyn Garden City AL8 7TY
<b>Proposal:</b>	Erection of single storey rear flat roof extension including two rooflights.
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	15/06/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The main issues were whether the proposal would be inappropriate development in the Green Belt, the effect of the proposal on the openness of the Green Belt and whether any other considerations would amount to very special circumstances. The Inspector noted that the appeal property was part of a built up frontage of detached and semi-detached dwellings within the Green Belt on the east side of Brocket Road. The construction of new buildings in the Green Belt is normally inappropriate development, subject to certain exceptions including the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building. "Original" is defined in the Framework as a building as it existed on 1 July 1948 or, if constructed after that date, as it was originally built. The Inspector noted that the original house has already been extended by the addition of two-storey side and rear extensions and a ground floor extension to the front. The Inspector accepted the Council position that the house is about twice the size of the original and that the proposal would</p>

increase this further to 140%, which was disproportionate in the Inspector's view. With regard to openness, the Inspector found very limited effect given the location of the proposed extension. The Inspector noted that there were similar extensions to number 24 but found that the appeal property had been extended by a significantly greater amount. The Inspector found that no very special circumstances existed to outweigh the identified harm, and so upheld the refusal of planning permission.

**S6/2014/2003/FP**

<b>DCLG No:</b>	APP/C1950/D/18/3196930
<b>Appeal By:</b>	Mr N Johnson
<b>Site:</b>	Flint Cottage Blackhorse Lane Potters Bar EN6 3NB
<b>Proposal:</b>	Alterations to extended dwelling to include: Removal of 5no. Dormer windows, removal of first floor side extension, replacement of two storey front extension with single storey entrance porch and retention of single storey rear extension
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	18/06/2018
<b>Delegated or DMC Decision:</b>	Committee
<b>Summary:</b>	<p>And The main issues identified were whether the proposal would be inappropriate development in the Green Belt, whether there would be any other harm to the Green Belt, whether there are any other considerations and whether, if the proposal was inappropriate development in the Green Belt, that this is clearly outweighed by other considerations so as to amount to very special circumstances. The Inspector noted that a survey drawing dated 1977 showed the appeal building as a pair of cottages and that this was accepted as accurate in a previous appeal. The planning history shows that the most recent permissions for extensions were granted in 1994 and 2004 and that in granting permission for these extensions, the Council must have found that they did not represent disproportionate additions. However, the extensions permitted by these permissions do not now represent the original building for assessing the proportionality of the appeal proposal. The appropriate assessment for this is against the 1977 survey drawing. The Inspector noted that, whilst the appeal proposal (to reduce the size of the building currently in situ) in itself would result in an increase of only approximately 10 square metres, this would be almost double that of the original building. Overall, the magnitude of the increase in footprint was considered disproportionate. Similarly, the magnitude of additions to the roof was also found to be disproportionate. Overall, the Inspector found that the appeal proposal would result in significantly larger building with a much bulkier appearance when compared to the original building and thus a harmful effect on the openness of the Green Belt. The Inspector noted that only limited weight could be afforded to other considerations and that these would not be sufficient to outweigh the identified harm. The appeal was dismissed.</p>

**6/2017/2001/FULL**

<b>DCLG No:</b>	APP/C1950/W/17/3189898
<b>Appeal By:</b>	Mr & Mrs Brunt

<b>Site:</b>	Warrenwood Manor Stables Building, Warrenwood Manor Stud, Hornbeam Lane Brookmans Park Hatfield AL9 6JF
<b>Proposal:</b>	Change of use of part of first floor stables building to residential flat for use by visiting family members and relatives
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	03/07/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The Inspector considered that the main issue was whether the proposal would represent a suitable use for the site, given the location of the building and the provision of amenity space and car parking. The Inspector found the site is essentially located in the heart of the countryside and, despite the presence of the Manor, is located in an isolated location where the majority of day to day needs would require the use of the private car. The Inspector considered at length whether the proposed use of the upper floor of the building would constitute an ancillary use to that of the Manor house. The Inspector found that, whilst there is clear space between the Manor and the stables building, the areas are necessarily separate and due to the nature of the lane that runs between them they have separate addresses but are clearly interlinked by their hard landscaping. The Inspector noted that when on site, the areas are clearly interlinked and interrelated by their proximity, both spatially and visually, their shared fundamental access and the design and detailing of the sites, as well as the equestrian use forming part of the Manor's estate. The Inspector found that, given the ancillary use proposed, occupiers of the flat would have access to the amenity space of the Manor, and that there would be sufficient space for car parking to be provided. The Inspector therefore concluded that, subject to conditions, the proposal would represent a suitable use for the site. The Inspector found only very minor harm to the Green Belt as a result of the proposed car parking, and that the use of the upper level of the stables, which are of permanent and substantial construction complied with the requirements of paragraph 90 of the NPPF. The appeal was allowed, subject to conditions.</p>
<b>6/2016/2339/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/17/3190002
<b>Appeal By:</b>	Mrs M Harvey
<b>Site:</b>	23 Park Street Hatfield
<b>Proposal:</b>	Change of use from Restaurant (A3) to residential (C3) and the erection of single storey and first floor rear extension and subdivision into four flats
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	03/07/2018
<b>Delegated or DMC Decision:</b>	Committee
<b>Summary:</b>	<p>The main issue, reflecting the Council's reason for decision, was whether the development would harm the viability and vitality of Old Hatfield and whether a planning obligation is necessary in relation to car parking. The Inspector noted that no development plan policies were cited in the reason for refusal and rather the Council relied upon paragraph 23 of the National Planning Policy Framework</p>

(NPPF). However, the Inspector noted that this wide ranging paragraph relates to plan making and, amongst other things, states that planning policies should promote competitive town centre environments and that residential development can play an important role in ensuring the vitality of town centres. Whilst the Inspector was not clear that the appeal site was located in a designated town centre or not, they noted that no assessment of its health in general, or Park Street in particular had been provided. It was noted that the restaurant had been closed since 2016 and no evidence had been provided to suggest a detrimental effect on Old Hatfield in the intervening period. The Inspector concluded on this issue by stating that “as the Council has manifestly failed to substantiate its reason for refusal, I conclude that the development would not unacceptably harm the viability and vitality of Old Hatfield”. With regard to car parking, the Inspector noted that ample car parking was available at the time of their site visit, including in the public car park to the rear of the site. Whilst it was accepted that this was only a snapshot, no evidence had been provided to demonstrate that the area suffers from parking stress. The applicant had provided evidence to show that the area could accommodate the low level of additional parking that would be generated by the appeal proposal. The Inspector found that the site occupies an accessible town centre location with excellent connectivity to local services, shops and public transport. Based on all of this, the Inspector consider that the proposal would not have an unacceptable effect on on-street parking and so the planning obligation is unnecessary. The appeal was therefore allowed, subject to conditions.

### **Costs Decision**

This appeal was also subject to an application for costs to be awarded against the Council. In considering this claim the Inspector considered the guidance set out in the Planning Practice Guidance (PPG) which sets out that costs may be awarded if a party has acted unreasonably and that this behaviour has directly resulted in unnecessary expense in the appeal process. Examples of unreasonable behaviour noted by the Inspector include a failure to produce evidence to substantiate each reason for refusal and the use of vague, generalised or inaccurate assertions about a proposal’s impact, which are unsupported by any objective analysis. The essence of the appellants’ claim was that the Council had indeed behaved in these ways. The Inspector noted that the decision had been made contrary to the advice of the Council’s own professional officers. It was noted that, whilst it is a fundamental principle of local decision making that a planning committee is not bound to follow the advice of its officers, there is a reasonable expectation that where this occurs, it should show reasonable planning grounds for taking a contrary decision and produce sounds, substantive and defensible evidence on appeal to support the decision in all respects. This clearly did not happen in this instance. As well as this, the Inspector stated that they were deeply concerned at the way in which issues raised during the first hearing of the application at committee were resolved, only for new issues to be subsequently introduced. The inspector found this to be both unfair and contrary to the positive and proactive approach embodied in the NPPF. In these circumstances a full award of costs against the Council was ordered.