

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 6 DECEMBER 2018  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

**Appeal Decisions 25/10/2018 to 26/11/2018**

6/2017/0848/MAJ	
<b>DCLG No:</b>	APP/C1950/W/17/3190821
<b>Appeal By:</b>	Taylor Wimpey North Thames
<b>Site:</b>	Entech House London Road Woolmer Green Knebworth SG3 6JE
<b>Proposal:</b>	Erection of 72 residential units consisting of 46 houses (12 x 3 bed and 34 x 4 bed) and 26 flats (4 x 1 bed and 22 x 2 bed), 657 sqm retail floor space (A1) and 485.1 sqm office floor space (B1)a)) with associated landscaping, parking and infrastructure, involving demolition of existing industrial (B2) buildings and residential units.
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	26/10/2018
<b>Delegated or DMC Decision:</b>	Committee
<b>Summary:</b>	<p>This appeal was heard by way of a Public Inquiry. The key issues identified were weight to be afforded to the emerging Local Plan, prematurity and housing land supply.</p> <p>On the first of these issues the Inspector concluded that the emerging Local Plan is a material consideration and that the proposal would conflict with policy SADM 10. However, the Inspector found that the plan is not yet at an advanced stage and so only limited weight can be attributed to the conflict with that policy. In reaching this decision, the Inspector also dealt with the second issue, that of prematurity, and stated that because the emerging Local Plan is not at an advanced stage and a decision to grant planning permission would not undermine the plan-making process through pre-determination, the development would not be premature.</p> <p>With regard to housing land supply, the Inspector heard extensive evidence on the issue and concluded that the Council cannot show a five year supply of deliverable housing sites and that the scale of supply falls considerably well short of 5 years. In these circumstances, the second limb of paragraph 11 to the NPPF is engaged. This says that permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the NPPF taken as a whole. The Inspector concluded that there are no constraints that would delay this development and as such granting planning permission would, in line with the clear objectives of NPPF paragraph 59, provide for a material contribution to meeting housing need in the Borough.</p>

	Planning permission was granted, accompanied by a legal agreement and a suite of planning conditions.
<b>6/2017/2158/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/18/3196087
<b>Appeal By:</b>	Ms L Edwards
<b>Site:</b>	Beavers Lodge Farm Tylers Causeway Newgate Street Hertford SG13 8QN
<b>Proposal:</b>	Retention of an extended and altered building
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	02/11/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The main issues were whether the development is inappropriate development for the purposes of the National Planning Policy Framework (NPPF), effect on the openness of the Green Belt and, if the development is inappropriate, whether any very special circumstances apply.</p> <p>The Inspector noted that the extension had effectively doubled the footprint of the original building and that the extension fairly and squarely fell within the definition of 'disproportionate addition' as defined in policy SADM34. The Inspector noted that that whilst this policy does not carry full weight they were satisfied that it was an appropriate benchmark to use. For this reason the Inspector found that the extension fell foul of paragraph 145 © of the NPPF and that the development is therefore harmful to the Green Belt, by definition. It was found that due to the effective doubling of the size of the building the development has undoubtedly led to a loss of openness in spatial and visual terms, a minor loss overall. The Inspector noted the use of the building in connection with a dog rescue business, but found no evidence to suggest that the removal of the building would result in the closure of the business. Overall, the Inspector only afforded limited weight to the other considerations set out by the appellant and found that they were not sufficient to amount to very special circumstances that would outweigh the identified harm. The appeal was dismissed. An application for costs by the appellant was also refused.</p>
<b>6/2017/2666/PN11</b>	
<b>DCLG No:</b>	APP/C1950/W/18/3199414
<b>Appeal By:</b>	F Magerou
<b>Site:</b>	Inspira House Martinfield Welwyn Garden City AL7 1GW
<b>Proposal:</b>	Prior Approval for change of use for offices (B1) to residential use (C3) creating 4 additional residential units (58 in total)
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	21/11/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	The appeal related to the proposed permitted change of use of part of a building that already had prior approval for conversion from office to residential use. The

main issues identified by the Inspector were whether the proposal would constitute permitted development under the provisions of Class O and the effect on the living conditions of future occupiers of the development with regard to noise from commercial premises. The Inspector found that Schedule 2, Part 3, Class O of the General Permitted Development Order sets out that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices), to a use falling within Class C3 (dwellinghouses) is permitted subject to various limitations and conditions. One such limitation is that development is not permitted if the building was not used for a use falling within Class B1(a) on 29 May 2013 or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use. There was no dispute that that on 29 May 2013 the building was in Class B1(a) use. However the Inspector noted that for the permitted development right to apply, the building must be offices. It was noted that when the Inspector visited the site conversion of the building was well under way and there were show apartments open to viewing and consequently these parts of the building are no longer in Class B1(a) use. The Inspector said that there was little evidence to indicate that the whole building should not be treated as a single planning unit and so the proposed change of use would not satisfy the relevant requirements. With regard to living conditions, it was agreed that an acceptable environment could be created with the use of planning conditions. The appeal was dismissed.

6/2017/2467/FULL

<b>DCLG No:</b>	APP/C1950/W/18/3199270
<b>Appeal By:</b>	Mr L Holder
<b>Site:</b>	50 Wild Hill Hatfield AL9 6DS
<b>Proposal:</b>	Erection of 2 x 4-bedroom dwellings with detached garages, following demolition of existing buildings and structures
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	23/11/2018
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The main issues in this application related to the various reasons for refusal of the planning application and included, whether the proposal would be inappropriate development in the Green Belt including the effect on openness, the effect on the character and appearance of the area, living conditions of neighbouring occupiers, flood risk, protected species and whether any very special circumstances exist. The Inspector considered it a matter of planning judgement as to whether or not Wild Hill is a village or not for the purposes of Green Belt policy. It was found that the settlement does constitute a village, albeit a small one. The Inspector afforded emerging policy SADM 34 moderate weight in the absence of any other local standards and found this to be an appropriate benchmark by which to assess whether the proposal is limited infill. The Inspector found that the proposal is not a gap in a continuous built up frontage and that this side of the road did not display the line of ribbon development in evidence on the opposite side of the road. With regard to openness it was noted that the proposal would involve the construction of 2 2-storey dwellings with rooms in the roof and 2 double garages. Whilst some views would be obscured at some times of year the Inspector considered that the dwellings would visually and spatially have a greater impact on the openness of</p>

the Green Belt. In the circumstances the Inspector found that the proposal would be inappropriate development in the Green Belt.

It was also found that the proposed dwellings would be of an architectural style and of materials that would be sympathetic to the vernacular of the area, however the dwellings would have a substantially greater footprint and depth than the majority of nearby dwellings. In particular it was noted that the height of the buildings would only be achieved by the use of a 'crown roof' that would have a central flat area and would be indicative of the substantial depth of the dwellings and highlights their overall size. Large areas of solid brickwork were also criticised. The Inspector found that the dwellings would result in a jarring and incongruous form of development and would result in significant harm to the character and appearance of the area.

The Inspector found that the majority of the two storey elevation of the dwelling on plot 2 would face towards the front elevations of nos.42 and 44 at a distance of approximately 11 and that this would be substantially taller than the existing boundary hedge. It was found that this would severely curtail the outlook presently enjoyed by the occupiers of these properties and would be harmful to their living conditions, contrary to Policy D1 of the District plan.

With regard to Flood Risk, it was noted that the appeal site is partially located within Flood Zones 2 and 3 and that no Flood Risk Assessment (FRA) had been submitted. In the circumstances the Inspector found that evidence was not available for them to conclude that this was an acceptable form of development, having regard to the location. In terms of protected species, the Inspector found that there was sufficient evidence of them to be satisfied on this issue.

Finally, the Inspector noted the appellant's argument that they could significantly extend the existing dwelling without the need for planning permission but gave the majority of this little weight. The Inspector also noted that the Council was found to be unable to demonstrate a five year supply of housing land in the recent Entech House appeal and that in these circumstances paragraph 11 of the NPPF is engaged. However, given the identified harm to the Green Belt, and the other harm identified, the lack of five year supply did not outweigh this harm.

The appeal was dismissed.

## **Costs Award**

In the case of the last of these appeal decisions a partial award of costs was made against the Council due to an administrative error during re-consultation in relation to a bat report. On application by the appellant, the Inspector found that the appellant had been put to unnecessary expense in seeking to defend that specific reason for refusal, even though the application was to be refused for other reasons. In the circumstances, the appellant is invited to submit details of their costs in this specific matter to the Council for consideration.