

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 8 October 2020  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING  
AND GOVERNANCE)

**Appeal Decisions 25/06/2020 to 15/09/2020**

6/2019/2229/HOUSE	
<b>DCLG No:</b>	APP/C1950/D/19/3241749
<b>Appeal By:</b>	Mr A Payne
<b>Site:</b>	West End Manor West End Lane Essendon Hatfield AL9 6AZ
<b>Proposal:</b>	Erection of poolhouse
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	26/06/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This was an appeal following the refusal of an application for a pool house that would replace the existing pool house on the site that is to be demolished as part of the approved scheme for the replacement dwelling on the site. The proposed pool house would measure approximately 5m by 10m and 4m high at the ridge. The application was refused on the grounds that the development would have an adverse impact upon the Green Belt.</p> <p>The Inspector considered that as the proposed replacement pool house would be of a substantial size and located in a different position, further away from the dwelling than the existing pool house, it would be materially larger in terms of height, footprint and cubic volume than the existing pool house. It would not meet the test of paragraph 145 d) – that the new building not be materially larger than the one it replaces.</p> <p>The Council's case highlighted that the replacement dwelling on the site was materially larger than the previous dwelling there (the footprint and size of the original pool house was considered in the Green Belt calculations for the replacement dwelling), any further development would have a materially greater impact upon the openness of the Green Belt. This was exacerbated in this case by the proposed pool house being 17m from the house and quite a bit larger than the existing pool house.</p> <p>The previous dwelling on the site had been demolished at the time of the Inspector's visit. The Inspector did comment that if there is no building currently existing on site, it cannot be assessed whether or not the proposed replacement building would be materially larger than the</p>

existing building to be replaced (the baseline), and paragraph 145 d) of the Framework cannot apply if there is no building to be replaced. However, it was acknowledged that the enlarged replacement dwelling and the larger pool house would cumulatively significantly increase the quantum of built form on the site. The proposal would amount to a materially larger building than the one it would replace.

The Inspector noted that paragraph 145 does not make specific reference to outbuildings and that the appellant considered the proposal should be viewed as an extension to the dwelling. There is case law to this effect. However, as the pool house would be 17m from the dwelling with no physical attachment or visual or functional relationship to the dwelling, the Inspector considered it could not reasonably be thought of as an extension to the dwelling.

Even if it were considered as an extension to the dwelling, the NPPF does not define the term of disproportionate. The replacement dwelling on the site would be a significant greater size than the one it replaced, and the proposed development would add further built development at the site and alone would substantially increase the floor space of that dwelling by some 50sqm. The proposed development would therefore not be of a limited scale or a proportionate addition when compared to the original dwelling.

The proposal is therefore inappropriate development, contrary to paragraph 145.

The proposal would also result in a loss of openness, given that it would be larger than the existing pool house and well distanced from the dwelling on the site. The Inspector also noted that as the site is on elevated land from the surrounding countryside and is visible from surrounding footpaths, the proposal would result in additional built development on the site and the loss of garden land, and it would unavoidably result in a loss of openness.

The appeal was dismissed.

**6/2019/0864/LAWP**

<b>DCLG No:</b>	APP/C1950/X/19/3242732
<b>Appeal By:</b>	Mrs L Maggs
<b>Site:</b>	41 The Avenue Welwyn AL6 0PW
<b>Proposal:</b>	Certificate of lawfulness for the erection of a single storey rear extension
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	13/07/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	This appeal for the above property has been dismissed for the following reasons:

	<p>1. The angle between the proposed side facing eastern extension and the highway would be less than 45 degrees and would front the highway contrary to Class A.1 (eii) . The existing side elevation is approx. 40m from the highway. The Inspector said, 'Regardless of the distance it is clear that the side elevation of the property, facing towards the road has a direct relationship with the private road. Furthermore, the land between the dwelling and the private road falls within the same ownership and curtilage of the appeal property. In my opinion based on the above considerations, the proposed side extension, facing towards the road, would extend beyond a wall which fronts a highway, and forms a side elevation of the original dwellinghouse.'</p> <p>2. The appellant proposed to erect a 6.5m side/rear extension without first obtaining prior approval. The Inspector agreed that without prior approval this element would fall foul of Class A.1 (f) (i).</p> <p>3. No details were provided by the appellant to confirm whether the colour of the windows frames in the extensions would be of a similar appearance to those used in the existing house. The Inspector agreed with the Council by commenting, 'As such, the Council was correct to say that insufficient information was submitted to determine whether the windows in the extension would be of a similar appearance to those used in the existing dwellinghouse, and it would be premature to grant a certificate of lawful use or development in the absence of this information.'</p> <p>The Inspector did not agree with the Council that the height of the eaves on the extension would exceed the height of the eaves on the existing house. The Inspector stated, 'from my reading of the plans, the eaves of the proposed extension would not exceed the height of the eaves of the existing dwellinghouse.'</p>
<b>6/2019/3153/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/20/3250534
<b>Appeal By:</b>	Mr & Mrs Gumble
<b>Site:</b>	7 Normans Lane Welwyn AL6 9TQ
<b>Proposal:</b>	Conversion of existing barn to residential dwelling
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	18/08/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	This was an appeal following the refusal of an application for the conversion of a barn to a dwelling. The application was refused on the grounds that it would be inappropriate development and would affect the openness and purposes of the Green Belt, as it was in an unsustainable location and it because it would have an adverse impact

	<p>on the character and quality of the landscape and surrounding area.</p> <p>The Inspector considered that the creation of a residential curtilage around the new dwelling would cause some loss of visual openness to the Green Belt due to the change in use of the site. It would also result in encroachment into the countryside through the loss of agricultural land and introduction of a residential curtilage. A Permitted development fallback put forward by the appellant for the conversion of the building to residential was not accepted by the Inspector.</p> <p>It was noted that the unmade and unlit nature of Normans Lane, combined with the distance from nearby facilities and services resulted in a proposal which would be unsustainable.</p> <p>The Inspector also considered the effect of the appeal proposal on the landscape character area to be minor, but noted that there would still be harm from the change of the use of the site to residential. The removal of householder permitted development rights to control this was not considered to overcome the harm identified.</p> <p>The appeal was dismissed.</p>
<b>6/2019/3135/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/20/3250656
<b>Appeal By:</b>	Mr Kempster
<b>Site:</b>	Danecroft Riding Stables 1A Vera Lane Digswell Welwyn AL6 0EW
<b>Proposal:</b>	Conversion of barn into 1 x dwelling
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	19/08/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This was an appeal following the refusal of an application for the conversion of a barn to a dwelling. The application was refused on the grounds that it would be inappropriate development and would affect the openness and purposes of the Green Belt, as it was in an unsustainable location and it because it would have an adverse impact on the character and quality of the landscape and surrounding area.</p> <p>The Inspector considered that the creation of a residential curtilage around the new dwelling, the extent and regular size and siting of the proposed glazing would result in a more residential character to the building that would be out of keeping for a barn conversion. The change of use to a dwelling would therefore result in encroachment of the countryside, contrary to one of the purposes of including land within the Green Belt.</p> <p>It was noted that the unmade and unlit nature of Vera Lane, combined with the distance from nearby facilities and services resulted in a</p>

	<p>proposal which would be unsustainable.</p> <p>The Inspector also considered the effect of the appeal proposal on the character and appearance of the area and considered that it would be modest harm from the introduction of a residential use in this rural location given that the site is visually separated from the closest residential properties.</p>
<b>6/2019/1330/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/20/3248395
<b>Appeal By:</b>	The Wheat Quarter
<b>Site:</b>	Former Shredded Wheat Factory Welwyn Garden City AL8 6UN
<b>Proposal:</b>	Alterations and amendments to planning permission 6/2018/0171/MAJ, for the erection of a five-storey community bridge building (1,257m <sup>2</sup> ) for flexible use (b1/d1/d2 use classes), incorporating a minimum of 338 square metres of D2 use class floor space, the removal of the skate park.
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	20/08/2020
<b>Delegated or DMC Decision:</b>	Committee
<b>Summary:</b>	<p>The appeal concerned the erection of a 5-storey Community Bridge Building (1,257m<sup>2</sup>) for flexible use (B1/D1/D2 Use Classes)'. The application was refused on the following grounds (i) the implications of the proposal for parking; and (ii) the effects of the proposal on the provision of space for older children and teenagers to spend time within the vicinity of the appeal site, with particular reference to the provision of a skate park.</p> <p>In terms of the first reason for refusal, the Inspector considered that the applicant had not demonstrated that parking is available in the vicinity of the development and no parking is proposed within the site. The Inspector concluded that the proposal would not be accessible for people with disabilities, contrary to Policies D1, D9 and M14 of the District Plan which require development to be well-designed, accessible and provide disabled parking spaces. These policies are consistent with paragraphs 105, 108 and 127 of the Framework which, amongst other things, advise that local parking standards should take into account the accessibility of development and that suitable access to sites can be achieved for all users.</p> <p>However, with regard to the second reason for refusal, the Inspector considered there to be sufficient youth provision within the 2018 planning permission approved at Shredded Wheat.</p> <p>When considering the planning balance the Inspector recognised that the proposal would make efficient use of brownfield land and create</p>

	<p>jobs in a location which is accessible for many people and could also provide an uplift in employment floorspace in the borough. The Inspector continued stating that the building would be visually attractive and the proposed D2 floorspace would likely benefit the wider community. However, the Inspector did not find that these matters outweigh the harm identified.</p> <p>The appeal was dismissed.</p>
<b>ENF/2015/0169</b>	
<b>DCLG No:</b>	APP/C1950/C/19/3241022
<b>Appeal By:</b>	Mr V Vasiliou
<b>Site:</b>	6B Hill Rise Cuffley Potters Bar EN6 4EE
<b>Proposal:</b>	Works being carried out without permission
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	27/08/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The breach of planning control as alleged in the notice is without planning permission the construction of a detached garage.</p> <p>The appeal was dismissed on ground: a). The owner has 6 months to comply with the requirements – 27 February 2021.</p> <p>Planning permission ref:6/2019/0866/HOUSE to retain the garage with a crown roof height of 3.6m was granted but the roof had not been lowered in accordance with the approved plans and was therefore it remained unauthorised development.</p> <p>The main issue is the effect of the proposed development on the living conditions of the occupiers of Nos. 7 and 8 Orchard Close, with particular regard to outlook and the effect on daylight and sunlight conditions.</p> <p>Living conditions - outlook</p> <p>The garage is located close to the boundary with the rear gardens of Nos. 7 and 8 Orchard Close and the Inspector agreed that it has an intrusive, overbearing and dominant presence, resulting in a significantly detrimental impact on the outlook from the rear windows and gardens of Nos. 7 and 8.</p> <p>In concluding the Inspector stated that the development has an adverse impact on the outlook from the rear windows and gardens of Nos. 7 and 8 Orchard Close, resulting in significant harm to their living conditions.</p> <p>Living conditions – daylight and sunlight</p>

	<p>The Inspector made reference to the submitted report noting that the report uses modelling that is based on estimated heights and photographs of the site rather than a topographical survey, and hence recognises that some inaccuracy should be expected. It also does not make any analysis of the effect of the appeal building on light and sunlight to the garden areas.</p> <p>The Inspector considered whether planning conditions, including in respect of boundary treatment, would adequately mitigate the identified harm to the living conditions of the neighbouring occupiers, but conclude there are none that would do so.</p> <p>The appeal was dismissed and notice upheld.</p>
<b>6/2019/2667/HOUSE</b>	
<b>DCLG No:</b>	APP/C1950/D/20/3247301
<b>Appeal By:</b>	Mr & Mrs M Bissmire
<b>Site:</b>	8 Dudley Hill Close Welwyn AL6 0QQ
<b>Proposal:</b>	Erection of a two storey side extension and single storey rear extension following demolition of existing detached garage, rear conservatory and outbuildings
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	04/09/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This was an appeal following the refusal for a two storey side extension and single storey rear extension.</p> <p>The streetscene consists predominantly of two storey properties which are separated by single storey garages/extensions, maintaining the spacing between them at first floor level. The application was refused as the proposed two storey side extension would result in a loss of spacing to the side which would detract from the character and spaciousness of the site and the street scene.</p> <p>The Inspector considered that the variation in different types of dwellings (in terms of footprint, scale, siting and design) resulted in a lack of consistency on the road and as the extension would only readily be viewed from the area directly in front of the existing dwelling, it would not affect the wider streetscene. The Inspector also considered the gap between the application site and the neighbouring property would not play a significant role in the definition of the area's character.</p>
<b>6/2019/2228/LAWP</b>	
<b>DCLG No:</b>	APP/C1950/X/20/3245554



<b>Appeal By:</b>	Mr & Mrs Georgiou
<b>Site:</b>	Just House Coopers Lane Northaw Potters Bar EN6 4NJ
<b>Proposal:</b>	Certificate of lawfulness for an outbuilding
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	09/09/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal concerned a Lawful Development Certificate (LDC) for the construction of an outbuilding to house a swimming pool at the bottom of the garden. The Council refused the application on the basis that the outbuilding would exceed the limitations of Schedule 2, Part 1, Class E of the Town and County General Permitted Development (England) Order 2015 (as amended) by reason of its height and position forward of the principal elevation.</p> <p>A 2.5m level is marked on the elevation drawing, taken from the ground level to the underside of an overhanging canopy. However, for the purposes of measuring eaves height any roof overhang is excluded. As a result, the eaves height is shown as exceeding 2.5m and on this basis the development is not permitted development under Class E</p> <p>The Inspector also found that the proposed building would be in front of a hypothetical line drawn through the principal elevation to the boundary and development would not be permitted under Class E in this location.</p>
<b>6/2019/0142/LAWE</b>	
<b>DCLG No:</b>	APP/C1950/X/19/3232236
<b>Appeal By:</b>	Mrs L Demetriou
<b>Site:</b>	12 Danesbury Park North Ride Welwyn AL6 9SA
<b>Proposal:</b>	Certificate of lawfulness for replacement of windows
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	09/09/2020
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal related to an existing certificate of lawfulness which was for the replacement of the windows and doors within the application dwelling. It is important to note that permitted development rights were removed when permission was granted for this house, and the other houses within the development, as part of the redevelopment of the former Danesbury Park hospital site.</p> <p>The occupier of the property replaced their windows and doors with new ones which were materially different in appearance to the</p>



windows and doors which were previously present without seeking consent from the Council to do so. An existing certificate of lawfulness was submitted for these works after they had been completed. The Council refused the application on the basis that the works constituted development, because of their material difference in appearance from the previous windows, and as a consequence of the fact that as Class A permitted development rights had been removed it was not possible for them to be permitted development.

The Inspector agreed with the Council and concluded that the replacement windows were materially different and that while the development may have been permitted under Class A, as this had been removed, it was not necessary to make an assessment of this within the appeal.

As a consequence of the above the appeal was dismissed.