

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 4 DECEMBER 2023  
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

**Appeal Decisions 01/09/2023 to 23/11/2023**

6/2022/0787/OUTLINE	
<b>DCLG No:</b>	APP/C1950/W/23/3316898
<b>Appeal By:</b>	Wattsdown Limited and Wattsdown Development Ltd
<b>Site:</b>	Land adjacent to 52 London Road, Knebworth, Woolmer Green SG3 6JD
<b>Proposal:</b>	Outline planning application for up to 25 residential dwellings (Class C3), with all matters reserved except layout and access
<b>Decision:</b>	Appeal Withdrawn
<b>Decision Date:</b>	07/09/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	
6/2023/0297/VAR	
<b>DCLG No:</b>	APP/C1950/D/23/3324345
<b>Appeal By:</b>	Mr Shailen Patel
<b>Site:</b>	50 Plough Hill Cuffley Potters Bar EN6 4DS
<b>Proposal:</b>	Variation of condition 2 (drawing numbers) on planning permission 6/2021/1144/VAR
<b>Decision:</b>	Appeal Allowed with Conditions
<b>Decision Date:</b>	14/09/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to a proposal for the variation of condition 2 (drawing numbers) on planning permission 6/2021/1144/VAR. The alterations include amendments to the front boundary treatment, which had been implemented before the submission of the application.</p> <p>This appealed application was refused on the basis that the design and scale of the implemented boundary treatment would appear obtrusive and incongruous within its immediate surroundings and would therefore harm the character and appearance of the area.</p> <p>The Inspector stated that although the gates were amongst the widest and highest in the area, they did not appear to be materially higher or wider than others nearby.</p>

	<p>The Inspector acknowledged that the features of the boundary treatment, including ornate ironwork and gold paint on the gates and railings, were noticeable and unusual, however concluded that these elements were not unique to the area and did not justify dismissing the appeal.</p> <p>The appeal is therefore allowed.</p>
<b>6/2022/1575/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/22/3311392
<b>Appeal By:</b>	Mr Theo Orphanides
<b>Site:</b>	61 Moffats Lane Brookmans Park Hertfordshire AL9 7RT
<b>Proposal:</b>	Demolition of existing bungalow and erection of four bedroom detached bungalow.
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	14/09/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to a proposal for the erection of a detached bungalow following demolition of an existing bungalow. The proposed development would result in the increase in ridge height and an increase in the massing with the addition of a crown roof, two box dormers on the front and rear elevation. The application dwelling forms part of a group of bungalows which are modest in size and appearance.</p> <p>The property is located to the west of a pair of listed buildings; the Grade II* listed Moffats Farmhouse dating from the fifteenth century, and the mid-nineteenth century Grade II listed Granary to the rear of the former farmhouse. No. 61 is one of a group of bungalows on the north side of Moffats Lane and is separated from the listed building by No. 63.</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>i) the effect of the proposed development upon the character and appearance of the area; and</li> <li>ii) whether the proposed development would preserve the setting of the listed farmhouse.</li> </ul> <p>The Inspector concluded that the proposal would result in a significant increase in massing over and above the existing dwelling and neighbouring properties, which would be detrimental to the visual amenities of the street scene. Even allowing for the mixed character in the locality, the Inspector ruled that the proposed dwelling would be a prominent and incongruous addition to the street scene.</p> <p>Owing to the incongruous appearance of the proposal within the street scene, the Inspector concluded that the proposed dwelling would have a notable increase in visual presence within the setting of the listed farmhouse when compared to the existing bungalow. Consequently, the Inspector found that the proposal would materially harm the setting, and thereby the significance, of this listed building, although the harm would be less than substantial.</p>

	<p>The Appellant contended that the Council had behaved unreasonably both procedurally and substantively and sought a full award of costs for the following reasons:</p> <ul style="list-style-type: none"> <li>• Lack of judgement and understanding as to the context of the area and the extant permission;</li> <li>• The proposal complied with local and national policy and that sustainable and good design were irrationally ignored;</li> <li>• Amendments negotiated;</li> <li>• The heritage representative and senior planning officer did not visit the site; and</li> <li>• Delays in the planning process.</li> </ul> <p>However, the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, had not been demonstrated and the application for an award of costs must fail.</p> <p>The appeal was therefore dismissed with no costs.</p>
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<b>6/2022/1990/PN6</b>
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<b>DCLG No:</b>	APP/C1950/W/23/3314648
<b>Appeal By:</b>	Mr Julian Konti
<b>Site:</b>	The Rafters Vineyards Road Northaw Potters Bar EN6 4PG
<b>Proposal:</b>	Prior approval for the erection of 8.5m x 6m private road access of the nearby farmland
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	28/09/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to a prior approval application for the erection of 8.5m x 6m private road access of the nearby farmland.</p> <p>The main issue is whether the development in question is permitted development as defined in Schedule 2, Part 6, Class B of the GPDO.</p> <p>The appeal site is a roughly rectangular parcel of land with a narrow frontage onto Vineyards Road. At the time of the Inspector's site visit, the site was overgrown and did not appear to be in productive use. Although there are larger agricultural fields outside the appeal site boundaries, the Inspector did not find any evidence in the application that this additional land is within the appellant's ownership or that it forms part of a related agricultural holding.</p> <p>The appeal site is less than 0.4 hectares in area and there is no evidence that it forms part of a larger agricultural unit. On that basis, the Inspector concluded that the development fails to comply with the limitation contained in Class B.1(a).</p> <p>The Inspector highlighted that the access as detailed in the application would introduce a larger and more clearly defined gap in the hedgerow and highway verge, with the gravel surface extending to the edge of the carriageway. Therefore,</p>

	<p>even if there had historically been some form of access in this position, the removal of vegetation combined with introduction of a graded, gravel surface would, in combination, amount to a material change in the appearance of the site, contrary to the limitation in Class B.1(b).</p> <p>The proposed access would include land immediately adjacent to the metalled surface of Vineyards Road (a classified Road). The development would also fail to comply with the limitation in Class B.1(c) which excludes development within 25 metres of a metalled part of a classified road from the definition of permitted development.</p> <p>It was concluded that the development in question does not constitute permitted development for agricultural purposes, as defined in Schedule 2, Part 6 of the GPDO..</p> <p>The appeal was dismissed</p>
<b>6/2021/1675/LAWE</b>	
<b>DCLG No:</b>	APP/C1950/X/22/3296178
<b>Appeal By:</b>	Mr and Mrs Adam Sewell
<b>Site:</b>	Garden Cottage Danesbury Park Road Welwyn AL6 9SE
<b>Proposal:</b>	Certificate of lawfulness for the existing stables within the site of the dwelling.
<b>Decision:</b>	Split Decision - Part Allowed and Part Dismissed
<b>Decision Date:</b>	27/10/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This relates to two appeal decisions for certificates of lawfulness at the same site:</p> <p>6/2021/1674/LAWE (3296181) – Certificate of lawfulness for existing residential one-bedroom annex.</p> <p>6/2021/1675/LAWE (3296178) – Certificate of lawfulness for existing stables within the site of an existing dwelling.</p> <p>A separate appeal for a householder application is still awaiting a decision. This proposal relies on the lawfulness of the existing stables and annex to form part of the Green Belt fallback (6/2021/1644/HOUSE (3296366)).</p> <p>Background</p> <p>Garden Cottage is a residential dwelling which was approved in 1999 under application N6/1999/0192/FP, for a demolition and re-build of the previous house. As the application site is in the Green Belt, permitted development rights for Classes A, E and F of the GPDO were removed, and the residential curtilage of the site was restricted to an area outlined in green on the site location plan. The Council were unable to locate a coloured copy of the historic plan demarcating the residential curtilage during the application/appeal process. Only a black and white version with a label about the curtilage was located and a black and white site location plan (please see below). The use of the land surrounding the residential</p>

curtilage is not specified on these plans. The appellant considers this land to also be residential. The site plan submitted with both applications is attached to this email.

A site visit was only made from public vantage points due to the restrictions in place from the Covid-19 Pandemic. Some photos were also provided by the applicant.

6/2021/1674/LAWE (3296181) – Certificate for existing residential one-bedroom annex

This application was refused because the use of the building as an annex was contingent on the building itself being lawful, and limited information was submitted which supported the structure being in place for the relevant time period. It was also considered that there was limited evidence provided to support the use of the building being an annex for the required time period.

The Inspector agreed that the submitted aerial images were unclear, but two of the images showed a shape which was not inconsistent with the location of the annex. Although there were two buildings on the site which could potentially be considered an annex, additional evidence provided by the appellant during the appeal process (sales particulars for the house) described one building as a log cabin/games room and another as containing a kitchen, living room, double bedroom and shower room with WC and a veranda. On site, two timber buildings were noted by the Inspector which fit the descriptions of the sales particulars. The Inspector found that the annex style building was weathered and the fittings and fixtures inside were aged in a way which one would expect for a building dating from 2015. It was concluded that on the balance of probabilities, the annex building had been there for at least the required 4-year period.

However, the appellants also claimed that the annex was part and parcel of the use of the house as a dwelling. The Inspector found that the annex is not within the historic green edge site plan and it is not clear that it is within the black inner edge of the historic location plan. Therefore, due to the lack of clarity in respect of the plans, the 1999 planning permission cannot be relied upon to demonstrate that the annex is within the same planning unit as the main dwelling. The additional evidence did not demonstrate this either.

Summary: The Inspector concluded that the appeal should be partly allowed on the basis of the operational development (the building), but that the Council's refusal to grant a certificate for the use of the building as residential was well founded, therefore it was partly dismissed for this reason.

6/2021/1675/LAWE (3296178) – Certificate for existing stables within the site of an existing dwelling

This application was refused because whilst there was some evidence of a building being in situ for four years or more, the second part of the description had regard to the use of the land forming the site of the existing dwelling (Garden Cottage) and the evidence did not support this. Where operational development is

“part and parcel” of a material change of use, the four year period will not necessarily apply.

The appellant’s view was that the planning unit at the time of the original application (N6/1999/0192/FP) was established by the larger black line on the historic site location plan and the residential planning unit had not been altered, ceased, reduced, or been interrupted by any other lawful use of the land since the date of the implementation of planning permission referenced N6/1999/0192/FP.

The Inspector stated the term “curtilage” is not the same as the planning unit and it was the planning unit and the use of the land that were relevant in this case. Discussing the drawings, the Inspector sympathised with the appellant as the Council were unable to provide coloured versions of the historic plans, but confirmed that the onus was on the appellant to provide the evidence for a certificate. The Inspector was not persuaded that the 1999 planning permission defined the land where the stable is situated as being within the same planning unit of the dwelling.

The appellant also claimed that the land had been used as an equestrian use and for the storage of building materials in connection with the appellants’ business, and that these uses were incidental to the primary residential use of the house. The Inspector was not satisfied that any substantive evidence had been provided which supported the view that the land benefitted from a lawful residential use.

Summary: The Inspector found that the appeal should be partly allowed on the basis of the operational development (the stable building) but that the Council’s refusal to grant a certificate for the use of the land as residential was well founded, therefore it was also partly dismissed for this reason.

#### Conclusion

The Inspector concluded that on the balance of probabilities, both buildings have been substantially complete in excess of 4 years and the buildings themselves are lawful. However, the Council’s refusal to grant a certificate of lawful use or development in respect of the use of the land and the use of the annex as residential was well-founded, and that the appeals in respect of those elements should fail. Both appeals were therefore partly allowed (operational development) and partly dismissed (use of the building/land), resulting in a split decision.

### 6/2021/1674/LAWE

<b>DCLG No:</b>	APP/C1950/X/22/3296181
<b>Appeal By:</b>	Mr and Mrs Adam Sewell
<b>Site:</b>	Garden Cottage Danesbury Park Road Welwyn AL6 9SE
<b>Proposal:</b>	Certificate of lawfulness for the existing residential one bedroom annex.
<b>Decision:</b>	Split Decision - Part Allowed and Part Dismissed
<b>Decision Date:</b>	27/10/2023
<b>Delegated or DMC Decision:</b>	Delegated

**Summary:**

This relates to two appeal decisions for certificates of lawfulness at the same site:

6/2021/1674/LAWE (3296181) – Certificate of lawfulness for existing residential one-bedroom annex.

6/2021/1675/LAWE (3296178) – Certificate of lawfulness for existing stables within the site of an existing dwelling.

A separate appeal for a householder application is still awaiting a decision. This proposal relies on the lawfulness of the existing stables and annex to form part of the Green Belt fallback (6/2021/1644/HOUSE (3296366)).

**Background**

Garden Cottage is a residential dwelling which was approved in 1999 under application N6/1999/0192/FP, for a demolition and re-build of the previous house. As the application site is in the Green Belt, permitted development rights for Classes A, E and F of the GPDO were removed, and the residential curtilage of the site was restricted to an area outlined in green on the site location plan. The Council were unable to locate a coloured copy of the historic plan demarcating the residential curtilage during the application/appeal process. Only a black and white version with a label about the curtilage was located and a black and white site location plan (please see below). The use of the land surrounding the residential curtilage is not specified on these plans. The appellant considers this land to also be residential. The site plan submitted with both applications is attached to this email.

A site visit was only made from public vantage points due to the restrictions in place from the Covid-19 Pandemic. Some photos were also provided by the applicant.

6/2021/1674/LAWE (3296181) – Certificate for existing residential one-bedroom annex

This application was refused because the use of the building as an annex was contingent on the building itself being lawful, and limited information was submitted which supported the structure being in place for the relevant time period. It was also considered that there was limited evidence provided to support the use of the building being an annex for the required time period.

The Inspector agreed that the submitted aerial images were unclear, but two of the images showed a shape which was not inconsistent with the location of the annex. Although there were two buildings on the site which could potentially be considered an annex, additional evidence provided by the appellant during the appeal process (sales particulars for the house) described one building as a log cabin/games room and another as containing a kitchen, living room, double bedroom and shower room with WC and a veranda. On site, two timber buildings were noted by the Inspector which fit the descriptions of the sales particulars. The Inspector found that the annex style building was weathered and the fittings and fixtures inside were aged in a way which one would expect for a building dating from 2015. It was concluded that on the balance of probabilities, the annex building had been there for at least the required 4-year period.

However, the appellants also claimed that the annex was part and parcel of the use of the house as a dwelling. The Inspector found that the annex is not within the historic green edge site plan and it is not clear that it is within the black inner edge of the historic location plan. Therefore, due to the lack of clarity in respect of the plans, the 1999 planning permission cannot be relied upon to demonstrate that the annex is within the same planning unit as the main dwelling. The additional evidence did not demonstrate this either.

Summary: The Inspector concluded that the appeal should be partly allowed on the basis of the operational development (the building), but that the Council's refusal to grant a certificate for the use of the building as residential was well founded, therefore it was partly dismissed for this reason.

6/2021/1675/LAWE (3296178) – Certificate for existing stables within the site of an existing dwelling

This application was refused because whilst there was some evidence of a building being in situ for four years or more, the second part of the description had regard to the use of the land forming the site of the existing dwelling (Garden Cottage) and the evidence did not support this. Where operational development is "part and parcel" of a material change of use, the four year period will not necessarily apply.

The appellant's view was that the planning unit at the time of the original application (N6/1999/0192/FP) was established by the larger black line on the historic site location plan and the residential planning unit had not been altered, ceased, reduced, or been interrupted by any other lawful use of the land since the date of the implementation of planning permission referenced N6/1999/0192/FP.

The Inspector stated the term "curtilage" is not the same as the planning unit and it was the planning unit and the use of the land that were relevant in this case. Discussing the drawings, the Inspector sympathised with the appellant as the Council were unable to provide coloured versions of the historic plans, but confirmed that the onus was on the appellant to provide the evidence for a certificate. The Inspector was not persuaded that the 1999 planning permission defined the land where the stable is situated as being within the same planning unit of the dwelling.

The appellant also claimed that the land had been used as an equestrian use and for the storage of building materials in connection with the appellants' business, and that these uses were incidental to the primary residential use of the house. The Inspector was not satisfied that any substantive evidence had been provided which supported the view that the land benefitted from a lawful residential use.

Summary: The Inspector found that the appeal should be partly allowed on the basis of the operational development (the stable building) but that the Council's refusal to grant a certificate for the use of the land as residential was well founded, therefore it was also partly dismissed for this reason.

Conclusion

	The Inspector concluded that on the balance of probabilities, both buildings have been substantially complete in excess of 4 years and the buildings themselves are lawful. However, the Council's refusal to grant a certificate of lawful use or development in respect of the use of the land and the use of the annex as residential was well-founded, and that the appeals in respect of those elements should fail. Both appeals were therefore partly allowed (operational development) and partly dismissed (use of the building/land), resulting in a split decision.
<b>6/2022/2681/HOUSE</b>	
<b>DCLG No:</b>	APP/C1950/D/23/3326432
<b>Appeal By:</b>	Mr & Mrs V Tuakkar
<b>Site:</b>	15 High Dells Hatfield AL10 9JD
<b>Proposal:</b>	Erection of first floor rear extension
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	27/10/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>The application was refused because the proposed development, by reason of its scale, siting and appearance, would fail to complement and reflect the design of the host dwelling and would result in harm to the character of the area.</p> <p>The Inspector agreed "although the roof would be set down slightly below the terrace's ridgeline, given its expanse it would have a significant bulk. As a result, although the extension would be only 3 metres deep, it would not be entirely subordinate to the host dwelling, and its hipped roof would have a contrasting form. Additionally, the expanse and form of the scheme would sit very awkwardly alongside the narrower, slightly shorter, gabled rear projection at 17 High Dells ('No 17'), and it would be very much at odds with the simple gabled roofs, which are so characteristic of the area. Notwithstanding the scheme's rearward location and the projection at No 17, and the proposed use of matching materials, the harm that would be caused to the character and appearance of the host property and to the area would be visible in the streetscene in angled views between trees and landscaping from High Dells. It would also be apparent from the rear gardens of the terrace to the west".</p> <p>The Inspector also referred to the recently adopted local plan: "Policy SP 9 of the LP sets out the need for high quality design, which relates well to its context and to the character and proportions of the existing building. For the above reasons, the scheme would conflict with that approach, and with the similar requirement in the National Planning Policy Framework 2023 for good design which is sympathetic to local character. It would also conflict with the Council's Supplementary Design Guidance 2005, which sets out at paragraph 5.2 that extensions should complement and reflect the design and character of the dwelling, and be subordinate to it in scale".</p> <p>The appeal was therefore dismissed.</p>

**6/2023/0594/HOUSE**

<b>DCLG No:</b>	APP/C1950/D/23/3325119
<b>Appeal By:</b>	Gardiner
<b>Site:</b>	36 Kingsmead Cuffley Potters Bar EN6 4AN
<b>Proposal:</b>	Installation of rear dormer window and conversion of roof from hipped to gabled, erection of single storey, part two storey rear extension and erection of single storey basement extension
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	06/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to the installation of a rear dormer and conversion of roof from hipped to gabled, erection of single storey, part two storey rear extension and erection of single storey basement extension at 36 Kingsmead, Cuffley. The application was refused on the basis of the design, size and scale of the proposed dormer and an under provision of on-site car parking.</p> <p>The appellant submitted a drawing demonstrating amendments to the internal layout, resulting in a reduction of bedrooms within the proposed dwelling from five to three. The Inspector then concluded that a three bedroom dwelling with the two retained car parking spaces would not have an unacceptable impact on highway safety.</p> <p>Turning to the design and scale of the proposal, the Inspector stated that the scale of the proposed roof would not be subordinate to the host dwelling, resulting in the dwelling to have a substantial three storey bulk and very rectilinear form. The Inspector stated that the scheme failed to complement the character and appearance of the host dwelling and would unbalance the semi-detached pairing the dwelling is within.</p> <p>The appeal was therefore dismissed.</p>

**6/2023/0566/HOUSE**

<b>DCLG No:</b>	APP/C1950/D/23/3325886
<b>Appeal By:</b>	Mr & Mrs Palmer
<b>Site:</b>	2 Mannicotts Welwyn Garden City AL8 7BW
<b>Proposal:</b>	Erection of part single - part double-storey rear extension and changes to fenestration following demolition of existing garage
<b>Decision:</b>	Appeal Allowed
<b>Decision Date:</b>	06/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	This application was for planning permission for the erection of a part single/part double storey rear extension, and changes to the fenestration following demolition

of the existing garage at 2 Mannicotts, WGC.

The Inspector noted that: No 2 has a considerably smaller footprint compared to many of the other properties in Mannicotts, many of which have had significant extensions to the rear. That includes Nos 3 and 4, both of which have large two storey rear projections. Whilst some extensions may pre-date the adoption of the Council's Supplementary Design Guidance 2005 ('SDG'), they nonetheless form part of the area's prevailing character.

He noted that the proposed extensions would be mainly sited to the rear on this large plot and that the longer of the two storey extensions would be set in slightly from the host's southern flank wall, thus providing a degree of articulation, and both it, and the shorter two storey extension to the north, would be set down below its ridgeline. He said they would be broadly similar to the extensions at number 3 next door.

He considered the materials to be acceptable. The application was refused because it included changes to the fenestration that did not reflect the general design nearby, but the Inspector said that changes to the fenestration to the front and sides would remain "broadly unchanged". He said: I observed on my visit that the windows and other openings in Mannicotts are varied in terms of their detailed design and materials. From the limited evidence before me on this matter, I am not persuaded that the proposed fenestration would be unsuitable".

The Inspector concluded that the proposals would not harm neither the character and appearance of the host property, nor the area. Having regard to the statutory test and the Framework, the scheme would preserve the character and appearance of the WGCCA when considered as a whole.

The appeal was allowed.

#### 6/2023/0526/PN15

<b>DCLG No:</b>	APP/C1950/W/23/3323859
<b>Appeal By:</b>	MBNL (EE UK Ltd & Hutchison UK Ltd)
<b>Site:</b>	Welwyn Garden City Ambulance Station Ascots Lane Welwyn Garden City AL7 4HL
<b>Proposal:</b>	Proposed MBNL 20m High HEL Phase 5 Tower on D9-4 roof foundation, 3.no equipment cabinets and associated works
<b>Decision:</b>	Turned Away (other reason)
<b>Decision Date:</b>	06/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	

#### 6/2023/0066/PN27

<b>DCLG No:</b>	APP/C1950/D/23/3322362
<b>Appeal By:</b>	Mr Young

<b>Site:</b>	Woodhurst Cattlegate Road Northaw Enfield EN2 8AU
<b>Proposal:</b>	Prior approval for the construction of an additional storey to facilitate the enlargement of the dwellinghouse to a maximum of 12 metres in height
<b>Decision:</b>	Appeal Allowed
<b>Decision Date:</b>	09/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to a prior approval application for the construction of an additional storey to facilitate the enlargement of the dwellinghouse to a maximum of 12 metres in height.</p> <p>The main issues considered in the appeal were whether prior approval should be granted having regard to paragraphs AA.2 (3)(a) (i) and (ii) of the GPDO with particular regard to the external appearance of the building and the impact of the proposal on the amenity of the surrounding properties.</p> <p>The appeal property is a two storey detached dwelling, located at the junction of Cattlegate Road and Coopers Lane Road, in a predominantly rural location. It lies within a large, landscaped plot of land, and is set back from the adjoining highways by a significant distance. Properties in the locality, including Woodlands, Ridge House Farm, and Woodhurst Cottage, are sparsely distributed. They are two storeys in height, and individually designed.</p> <p>When assessing the merits of the proposal, the Inspector took into account the judgements made in the High Court and the Court of Appeal regarding the interpretation of Class AA of Part 1 of the GPDO. In particular these judgements indicate that control of the external appearance are not limited to the impact on the subject property itself, but also includes impacts on neighbouring premises and the locality. Furthermore, consideration of impacts on amenity should not be limited to properties that immediately about the host property.</p> <p>The Inspector concluded that the proposal would not cause harm to the external appearance of the host property or its immediate surroundings. It was also concluded that the proposal would not adversely affect the amenity of neighbouring properties.</p> <p>The appeal was allowed.</p>
<b>6/2022/1266/FULL</b>	
<b>DCLG No:</b>	APP/C1950/W/23/3321104
<b>Appeal By:</b>	Mrs Amy Pattison
<b>Site:</b>	Annex at 51 School Lane Welwyn AL6 9PL
<b>Proposal:</b>	Change of use of annex to separate Class C3 dwellinghouse
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	10/11/2023

<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal discusses our current Local Plan, the impact of character and appearance and housing land supply.</p> <p>The application was for ‘Change of use of annex to separate Class C3 dwellinghouse’ and has a long and complex planning and enforcement history. There have been two appeals prior to this appeal. These two appeals were considered as material considerations by the Planning Inspectorate.</p> <p>The first appeal related to the change of use of an outbuilding to a self-contained one bedroom dwelling, which was dismissed on 28 January 2020. The Inspector concluded, at that time, that the proposal would significantly harm the character and appearance of the area, contrary to saved Policy D1 of the Welwyn Hatfield District Plan 2005.</p> <p>The second appeal followed the service of an enforcement notice, which alleged that a detached outbuilding and associated engineering operations had taken place without the benefit of planning permission. The enforcement notice was quashed and planning permission granted. That said, the Inspector made it clear in her decision, at paragraph 21, that the enforcement notice did not relate to the use of the outbuilding and the deemed planning application only related to the operational development. Moreover, in paragraphs 22 and 23 she indicated that the use of the outbuilding could be argued to be physically and functionally connected with the use of the house and a new planning unit would not be created. She indicated that in the event that there was a material change of use to create a separate dwelling then another grant of planning permission would be required.</p> <p>On the site visit, the outbuilding was set up as two bedrooms dwelling contrary to the submitted plans. The Planning Inspectorate confirmed the outbuilding was being used as a separate dwelling. However didn’t go as far as to confirm if the use was permanent or temporary or was being used as the Air B and B (we have evidence of consistent Air B and B use).</p> <p>Reason for refusal</p> <p>The application was refused on the effect of the proposal on the character and appearance of the area. The Planning Inspectorate discusses the plot size, and subdivision of the plot into two and its impact on spatial features and character of the area. The appeal discusses the size of the outbuilding and its plot. The Planning Inspectorate also discusses the lack of an active frontage which is a key characteristic of School Lane.</p> <p>The agent has discussed the new local plan policy for density. The Planning Inspectorate states: ‘Whilst acknowledging that density can be used as a tool to analyse a sites character and context, other factors including its surroundings, the wider townscape and landscape, also need to be taken into account. In this regard, for the reasons set out above, and in the absence of substantive evidence regarding the density of development in the locality of the site, I find that density is not the determinative factor when assessing this appeal’.</p> <p>Housing Land Supply.</p>

	<p>The agent also made the argument on housing land supply. However the Planning Inspectorate has stated that 'The provision of 1 additional dwelling would provide a benefit which weighs in favour of the development. However, any benefit would be limited when considered against the overall shortfall that has been identified'.</p> <p>Amended plans during course of a live appeal</p> <p>There is a particularly useful paragraph about the acceptance of amended plans during the course of a live appeal.</p> <p>The appeal was dismissed</p>
<b>6/2023/0444/COND</b>	
<b>DCLG No:</b>	APP/C1950/W/23/3327042
<b>Appeal By:</b>	Ms Fiona Flaherty
<b>Site:</b>	Land to the north east of King George V Playing Fields Northaw Road East Cuffley EN6 4RD
<b>Proposal:</b>	Submission of details pursuant to condition number 6 (surface water drainage), on planning permission S6/2015/1342/PP
<b>Decision:</b>	Appeal Withdrawn
<b>Decision Date:</b>	14/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	
<b>6/2023/0445/COND</b>	
<b>DCLG No:</b>	APP/C1950/W/23/3327043
<b>Appeal By:</b>	Ms Fiona Flaherty
<b>Site:</b>	Northaw And Cuffley Bowling Club King George V Playing Field Northaw Road East Cuffley Potters Bar EN6 4RD
<b>Proposal:</b>	Submission of details pursuant to condition 19 (flood risk) on planning permission S6/2015/1342/PP
<b>Decision:</b>	Appeal Withdrawn
<b>Decision Date:</b>	14/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	
<b>6/2022/2266/HOUSE</b>	
<b>DCLG No:</b>	APP/C1950/D/23/3314411
<b>Appeal By:</b>	Mr Laurence Penn
<b>Site:</b>	19 The Avenue Welwyn AL6 0PW
<b>Proposal:</b>	Erection of a part single storey/ part two storey side and rear extension, alterations

	to the roof including the re- design of the existing front dormer window and the insertion of two new front dormer windows
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	15/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to a refusal of planning permission for the erection of a part single storey/ part two storey side and rear extension, alterations to the roof including the re- design of the existing front dormer window and the insertion of two new front dormer windows.</p> <p>It is of note that the appeal proposal was assessed under the new LP policies. The Council provided the revised policies, and the appellant was given the opportunity to make further comments. The Inspector was satisfied that no party was prejudiced by their consideration of the appeal proposal against the policies of the newly adopted LP.</p> <p>The proposal was refused for two reasons, inappropriate development within the Green Belt; and poor design.</p> <p>With regard to impact on the Green Belt the Inspector commented that the original dwelling has already been extended to the side and rear and that the further extension of the property would result in the original dwelling being engulfed by extensions. They concluded that the proposed development would result in disproportionate additions over and above the size of the original building.</p> <p>The Inspector concluded that in addition, there would be a loss of openness to the Green Belt and therefore harm to the Green Belt would result.</p> <p>In terms of design the Inspector noted that there would be an increase in the scale and mass of the host property when considered as a whole. Furthermore, the proposal would reduce the gap between the host property and its neighbours, at first floor and roof level, thereby presenting a less spacious feel to the property within its grounds. They did not take issue with the design of the proposed triangular dormer windows on the front elevation where it was concluded that they would not have a significant adverse impact on the character and appearance of the property or the area.</p> <p>The appellant referred to several examples of other extensions to dwellings in The Avenue, which also fall within the Green Belt. But the Inspector considered these to be “subtly different from the appeal proposal, in terms of their siting and design”. They mentioned that each application must be considered on its own merits. The Inspector concluded that the proposal would be contrary to policy SP 9 of the LP and the SPG (SDG).</p> <p>In considering very special circumstances the appellant provided evidence of two extensions that could be built at the property under The Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO). The appellant said that both of the ‘permitted’ extensions could be built, as they would not touch, and therefore they represent a realistic fall-back position in the</p>

event that the appeal is dismissed.

The Inspector noted that “Even if both ‘permitted’ development schemes could be built without the need for further consent, the appeal proposal would have a greater bulk and massing than them, as it proposes a greater quantum of development at first floor level”. They noted that the ‘permitted’ developments would maintain a greater degree of openness to the site, by retaining low level structures, and as a consequence would allow more extensive views, between the dwellings, of the vegetation to the south.

The Inspector considered there to be a fine balance between the merits of the appeal scheme when compared to the “permitted” developments. But overall although the fall-back position is a material consideration, it only attracts limited weight in favour of the proposal.

The proposal would be inappropriate development, would harm openness of this part of the Green Belt and would harm the character and appearance of the dwellinghouse and the area.

The appeal was dismissed.

**6/2022/0195/FULL**

<b>DCLG No:</b>	APP/C1950/W/23/3315097
<b>Appeal By:</b>	Mr & Mrs Rowe
<b>Site:</b>	The Cottage Foxes Lane Hatfield AL9 7BA
<b>Proposal:</b>	Erection of 1 x single storey, 4-bed detached dwelling with basement extension and ancillary development, involving demolition of existing outbuilding
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	21/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to the replacement of existing lawful outbuilding with residential dwelling, including basement extension and ancillary development.</p> <p>The main issues were:</p> <ul style="list-style-type: none"> <li>• whether the proposal would be inappropriate development in the Green Belt, including its effect on the openness of the Green Belt, having regard to local and national policy;</li> <li>• whether the appeal site would be a suitable location for the proposed development, in respect of local and national policy;</li> <li>• the effect of the proposal on the character and appearance of the area; and</li> <li>• whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, including the fallback so as to amount to the very special circumstances necessary to justify development.</li> </ul>

### Site

The appeal site comprises an area of land adjacent to The Cottage and is partially enclosed by mature hedges and fencing. There are several outbuildings of varying scale.

A lawful development certificate has been provided for a substantial outbuilding. Whilst the construction has commenced, it is not substantially built or apparent on the site.

The appeal site fronts the highway with a narrow field gate as well as access onto an area of hardstanding.

### Green Belt

The Inspector assessed the proposal against exception paragraph 149 g)- the limited infilling or the partial or complete redevelopment of previously developed land, which would not have a greater impact on the openness of the Green Belt than the existing development.

Having visited the site, the Inspector agreed that the appeal site comprises previously developed land as defined by the Framework.

In respect of openness, the appeal proposal would result in the removal of several of the outbuildings and their replacement with a bungalow, including a basement. Although single storey above ground level, the footprint of the bungalow would be substantial, and it would spatially and visually fill a large proportion of the appeal site. The proposal would result in a more intensive use of the site. Although already in domestic use, the proposal would introduce a second dwelling, with additional occupiers and increased numbers of comings and goings, spatially altering. There would also be greater pressure for domestic paraphernalia. Consequently, the proposal would cause a moderate loss to the openness of the Green Belt when compared to the existing situation.

Overall, the proposal would be inappropriate development in the Green Belt, including its effect on the openness of the Green Belt, having regard to local and national policy. It would conflict with Policies SADM1, SADM16, SADM34 and SP9 of the Welwyn Hatfield Borough Council Local Plan 2016-2036 (October 2023) (WHLP) and the NPPF.

### Location

The appeal site constitutes previously developed land, however as described above, the proposal would not accord with WHLP Policy SADM 34 and as such is not a location where development would be permitted.

In addition, although the proposal would not be isolated, it would not be accessible via public transport and would be located a significant distance away from any services or facilities required for day-to-day living.

The appellant contends that a number of services and facilities would be within walking or cycling distance, however there are no dedicated footpaths, cycle lanes or streetlights for a substantial portion of the routes into Welham Green or Bell Bar. Further, Bulls Lane is primarily at the national speed limit and is unlikely to be a

particularly desirable route for pedestrians and cyclists.

Therefore, the Inspector concludes that the appeal site would not be a suitable location for the proposed development, in respect of local and national policy. The proposal would conflict with Policies SP1, SP3, SP9, SADM1 and SADM3 of the WHLP and the NPPF.

#### Character and Appearance

The area is rural, characterised by scattered, detached two-storey dwellings within substantial verdant, plots that are spacious and open.

The subdivision of the existing curtilage of The Cottage would result in an uncharacteristically small plot. Notwithstanding tree planting, the development of the site with a bungalow and associated features, including areas of hardstanding would urbanise the plot and would significantly diminish the contribution that it makes to its rural setting. Despite the use of natural materials and the proposal's low-profile, due to the large footprint, shallow roof and ad-hoc openings, the house would appear incongruous when viewed against the traditional residential dwellings and outbuildings in the area and would appear overbearing on the existing open space.

Consequently, the Inspector concluded that the proposal would harm the character and appearance of the area. It would conflict with WHLP Policies SP9, SP11, SADM11 and SADM16 and the NPPF.

#### Fallback

The proposed outbuilding which has been put forward as a fallback position and which is supported by a Lawful Development Certificate was considered by the Inspector. Although the outbuilding and the appeal scheme have similar footprints, the Inspector considered that due to the proposed change in levels, the height of the appeal proposal would be greater. In addition, to accommodate the level changes, stairs and/or ramps would be required. Although both schemes would be able to accommodate a large number of vehicles, the appeal proposal would introduce an external car lift with safety rails increasing the footprint and volume of development.

Consequently, due to the increased volume of development, the ad-hoc elevational detailing and the intensification in the use of the site, the Inspector found that the appeal proposal would have a significantly greater effect on the openness of the Green Belt and the character and appearance of the area than the fallback position. As such, very limited weight was afforded.

#### 5-Year Housing Land Supply

The Council can only demonstrate a 2.6-year housing land supply.

Whilst the proposal would provide an additional dwelling and would contribute to the districts housing supply, the Inspector concluded that one additional dwelling would make little difference to the overall supply of housing even given the substantial shortfall. Therefore, this benefit attracts moderate weight.

Other Matters

Whilst the proposal would utilise energy efficient design and technologies, minimal details have been provided. Although the Framework seeks to conserve and enhance the natural environment, due to the limited scale of the proposed enhancements there would be a negligible effect on air quality and wildlife in the area. Therefore, these benefits attract limited weight.

Green Belt Balance

The proposed development would be inappropriate development in the Green Belt, which is by definition, harmful. It would also result in a moderate loss of openness to the Green Belt. Furthermore, it would also conflict with the spatial strategy and be harmful to the character and appearance of the area.

Other considerations would not clearly outweigh the harm to the Green Belt arising from inappropriateness, loss of openness and other harm. Therefore, the very special circumstances required to justify the proposal do not exist.

The fact that the Council cannot demonstrate a 5-year housing land supply triggers the circumstances in paragraph 11 d) of the Framework. However, in this case, the application of policies in the Framework that protect land designated as Green Belt provide a clear reason for refusing the proposed development in accordance with paragraph 11d)(i). As such, the presumption in favour of sustainable development does not apply.

Conclusion

The proposal would conflict with the development plan as a whole, and there are no other considerations, including the provisions in the Framework, the fallback position and the benefits of the proposal, which indicate that the development should be determined other than in accordance with it.

Therefore, the appeal is dismissed.

**6/2022/1646/FULL**

<b>DCLG No:</b>	APP/C1950/W/23/3317489
<b>Appeal By:</b>	Mr J Thurley
<b>Site:</b>	6 The Brambles Welwyn AL6 0PG
<b>Proposal:</b>	Erection of detached two bedroom dwelling
<b>Decision:</b>	Appeal Dismissed
<b>Decision Date:</b>	21/11/2023
<b>Delegated or DMC Decision:</b>	Delegated
<b>Summary:</b>	<p>This appeal relates to the erection of a detached two bedroom dwelling at 6 The Brambles- Welwyn.</p> <p>The Inspector agreed with all 3 of the LPA's reasons for refusal.</p> <p>On Highway matters, they said that:</p>

The Council considered that there was insufficient information to demonstrate that the cutting back of an embankment and the formation of a retaining wall would adjacent to the A1 (M) would not have an unacceptable impact on highway safety, through consequent land instability issues. National Highways requested an outline structural design of the retaining wall for their approval, and confirmation that the structural integrity of the acoustic fence would not be undermined by the proximity of the retaining wall. No information was submitted.

The appellant suggested pre-commencement conditions to secure the full design and engineering details necessary to ensure the integrity of the fence and the embankment. However, the Inspector said that the grant of planning permission “would fix the position of the wall, its height, and its position in relation to the acoustic fence, the embankment and the road. Such a condition could only be appropriate if it secures the details of works which have already been assessed as being acceptable in principle, which is not the case here”.

They found the application contrary to Policy SADM2.

On Character and Appearance, they said that:

By infilling the space for the proposed dwelling, the development would erode the value of the appeal site as a gap. They said that the dwelling would not be separated by a garage from its neighbour and so would be “uncharacteristically close to No 6 and therefore appear cramped”. They concluded that the proposal would “introduce additional, tightly packed domestic paraphernalia to the site, such as parking, and waste storage facilities. Even with planting, the retaining/living wall, together with the acoustic fence, would present as a large, engineered structure uncomfortably close to the new dwelling, extenuating its confined appearance”.

They found the application contrary to Policy SP9.

On the living conditions of future occupiers, they said that:

The sheer scale of the proposed structures means that the proposals would be dominant and oppressive, resulting in significantly low levels of outlook.

They found that design of the proposed development would not create a sense of safety and security that is consistent with achieving welcoming places, contrary to Policy SP9 of the Welwyn Hatfield Local Plan 2023. It would also not provide a good standard of amenity for buildings and external open space, contrary to SADM 11 of the Welwyn Hatfield Local Plan 2023.

The appeal was dismissed.