

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 12 JANUARY 2023
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

Appeal Decisions 18/11/2022 to 31/12/2022

6/2021/1207/FULL	
DCLG No:	APP/C1950/W/21/3286231
Appeal By:	Mr M Karachristou
Site:	Tylers Cottage Tylers Causeway Newgate Street Hertford SG13 8QN
Proposal:	Erection of a dwelling following demolition of the existing
Decision:	Appeal Dismissed
Decision Date:	21/11/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal for a replacement dwelling. The application site is partially in Welwyn Hatfield Borough Council and partially in East Herts District Council. The application was refused as its notable increase in depth and bulk (particularly at two storey level) and increase in roof volume compared to the existing two storey dwelling would have appeared larger and much more prominent than the existing dwelling, therefore it would represent inappropriate development in the Green Belt and result in a material loss of Green Belt openness.</p> <p>The Inspector agreed that there would be a material increase in both internal and external floorspace compared to the existing dwelling, therefore it would be materially larger in a numerical sense. Although the replacement dwelling would occupy less of the plot width, it was noted that it would have a noticeably larger depth than existing and would be entirely at two storey level. The Inspector said that the proposal would not fall under exception 149(g) either as there would be a greater impact on openness than existing, particularly as the appeal proposal would be perceived as a more substantial dwelling than that on the site at present due the increased depth and substantial roof structure. The proposed timber framed pergola and parking court were considered to further reduce openness.</p> <p>In weighing up whether there were any very special circumstances, the prior approval 'fallback' position of an 8m depth single storey rear extension was found to be realistic but would not result in a similar increase in mass and bulk to the proposed replacement dwelling. Due to the harm to the openness of the Green Belt which had been identified, this was also found to not confer a benefit as the harm would not be avoided. The improvements to living conditions for future occupants were attributed limited weight too due to being a private benefit.</p>

	The appeal was dismissed.
6/2021/2501/HOUSE	
DCLG No:	APP/C1950/D/21/3289994
Appeal By:	Mr Z Sales
Site:	2 Barlow Close Hatfield AL10 9GZ
Proposal:	Retention of summer house and sliding gate
Decision:	Appeal Allowed
Decision Date:	25/11/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal for the retention of a summer house and sliding gate.</p> <p>The summer house is attached to the side of the dwelling and so was referred to as a side extension in the delegated report. The development was refused based on the design and siting of the side extension.</p> <p>Following this refusal, a separate application for the sliding gate only was submitted and approved (application 6/2021/3553/HOUSE). The appellant therefore withdrew the sliding gate element from the appeal, and the Inspector determined the appeal in relation to the side extension only. However the Inspector refers to the side extension as a summer house to remain consistent with the application form and decision notice.</p> <p>The Inspector stated that the summer house was clearly subordinate in scale towards the application dwelling and was mostly screened from public view. The Inspector stated that the material choices for the summer house are a muted shade which is not unduly conspicuous within the wider street scene with similar shades found both on the application dwelling and wider area. While the Inspector acknowledged the design of the summer house in some respects contrasts with that of the dwelling, the summer house was considered to be sufficiently complementary to avoid harm to the character and appearance of the dwelling and its surroundings.</p> <p>The appeal was allowed.</p>
6/2021/0072/MAJ	
DCLG No:	APP/C1950/W/21/3287854
Appeal By:	LW Developments Ltd
Site:	Northaw House Coopers Lane Northaw Potters Bar EN6 4NG
Proposal:	Repair, refurbishment and conversion of Northaw House to form 11 apartments (including refurbishment of existing single caretaker's flat) and underground parking area, the Ballroom Wing to form 2 dwellings, the Stable Block to form 1 dwelling, refurbishment of existing dwelling at Oak Cottage, construction of 2 new Gate Lodge dwellings, 4 new dwellings on the East Drive, 3 new dwellings within

	the Walled Garden, 7 new dwellings within the Settlement Area, refurbishment of the Walled Garden, refurbishment of access routes and reinstatement of old route, provision of hard and soft landscaping, car parking and supporting infrastructure.
Decision:	Appeal Dismissed
Decision Date:	28/11/2022
Delegated or DMC Decision:	Delegated
Summary:	See summary below for both planning and LB appeals
6/2022/0132/LB	
DCLG No:	APP/C1950/Y/22/3298284
Appeal By:	Mr Lee Williamson
Site:	Northaw House Coopers Lane Northaw Potters Bar EN6 4NG
Proposal:	Repair, refurbishment and conversion of Northaw House to form 11 apartments (including refurbishment of existing caretaker's flat) and underground parking area, the Ballroom Wing to form 2 dwellings, the Stable Block to form 1 dwelling, refurbishment of existing dwelling at Oak Cottage, construction of 2 new Gate Lodge dwellings, 4 new dwellings on the East Drive, 3 new dwellings within the Walled Garden, 7 new dwellings within the Settlement Area, refurbishment of the Walled Garden, refurbishment of access routes and reinstatement of old route, provision of hard and soft landscaping, car parking and supporting infrastructure.
Decision:	Appeal Dismissed
Decision Date:	28/11/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal related to the erection of 31 dwellings within the Green Belt, including the restoration of heritage assets within the site. The applicant considered that the development amount enabling development because they believed that it would the minimum necessary to allow for the restoration of Northaw House and the Stables, which are both Grade 2 Listed Buildings in their own right, as well as the Walled Garden (curtilage listed), and to place the site into its optimum viable use. This application followed the granting of permission a smaller scheme for 25 dwellings which was found in 2019 to be the minimum level of development required to enable the restoration of the heritage assets and to place them into their optimum viable use. It is important to note that prior to the submission of the application for 31 dwellings works had already commenced on the 25-dwelling permission.</p> <p>The appellant argued as part of their applications that the 25-dwelling scheme granted previously was not viable and would fail to secure the restoration of the heritage assets within the site, with the result that the additional six dwellings were required to achieve a viable scheme which would allow for the restoration of the heritage assets.</p> <p>As part of the application the applicant's viability position was assessed but it was found that there was no financial justification for the additional dwellings and that the 25 dwellings were sufficient to secure the restoration of the heritage assets, as</p>

well as delivery a reasonable return for the developer.

The below 3D CGIs of the site illustrate the difference between the consented scheme (left) and the proposed scheme (right).

The application was refused on three grounds. The first was because the proposed development would be inappropriate development within the Green Belt which would result in a substantial loss to the openness of the Green Belt, as well as being contrary to purposes of the Green Belt, specifically (c) and (e) of para. 138 of the NPPF, with no very special circumstances to overcome this harm. The second was because the development would result less than substantial harm to the significance of the heritage assets within the site as well as the setting of these heritage assets and that there were no public benefits from the proposed development which clearly outweigh this harm. The third reason was that as no S106 had been submitted or agreed the development failed to secure an appropriate level of infrastructure to support the needs generated from the development.

As part of the appeal the appellant sought to argue that officers had failed to properly assess the impact of the additional dwellings on the Green Belt, including the ability of future planting to screen the new dwellings from viewpoints. It was argued because the appellant had provided a Landscape Visual Assessment as part of their application and the Council had not appointed any specialist in this area that the Council position on Green Belt harm should carry only limited weight. In response officers made clear that assessing a development's impact on Green Belt is a planning judgement and that there is guidance on how to assess such impacts within the NPPG and relevant case law. In addition, officers referred to the fact that the land to the East of Northaw House, where five of the additional dwellings would be located, had been considered as part of the Council's Stage 3 Green Belt Review (2019), which found that this land made a significant contribution to the aims of the Green Belt with regard to encroachment and that its release for development would lead to a high degree of harm to the Green Belt.

The Inspector agreed with officers that the development would be inappropriate in the Green Belt by definition and that the proposed development would result in a significant of harm to the openness of the Green Belt. The Inspector also noted the appellant's position that the Council's Green Belt assessment should be given limited weight because it was not in accordance with the professional advice the appellant had received but agreed with officers that the assessment openness in planning terms, and in this context, does not require specialist assessment in the form of a LVIA. The Inspector also found that contrary to the appellant's position the proposals would have a harmful impact on the Northaw Common Parkland landscape character area through the intrusion of substantial dwellings into what is historic and open parkland which would fail to conserve and strengthen the character and appearance of the area.

With regards to heritage, the appellant argued that while the additional dwellings would change the setting of Northaw House this change would not result in any heritage harm. In addition, the appellant argued that without these additional units they would be unable to facilitate the restoration of Northaw House, and other heritage assets, because the consented scheme did not generate sufficient returns to achieve this. The appellant also stated that Northaw House had further

deteriorated since the consented scheme, although the appellant did not provide any additional detailed documentation to demonstrate the extent, or cost, of the deterioration of Northaw House. It is important to note that the appellant confirmed at the Hearing works on the consented scheme had commenced several months prior to the submission of these application.

The Inspector fundamentally disagreed with the appellant approach to the heritage harm which would result from the development, and also went further than the Council in terms of the level of harm which would result from the development. This is because the Inspector found that the additional dwellings would result in a significant level of harm to the setting of Northaw House, with the Inspector finding that this harm was at the top of less than substantial harm and almost sufficient to amount to substantial harm. In addition, the Inspector identified less than substantial harm to the Conservation Area in Northaw, which officers had not identified.

With regards to viability, the Inspector had concerns about the accuracy of the appellant's position because it appeared the appellant's costs were not based on a detailed assessment of the works which were necessary to restore the heritage assets within the site and it appeared that the appellant had been selective in the costs they included. The Inspector also noted the appellant's point in relation to the deterioration of the heritage assets but found that although it was argued by the appellant that the assets had deteriorated since the viability appraisals were undertaken, the cost estimates used in the appeal were the same as those that supported the consented scheme. As a result, this added to her concerns that the construction costs were not necessarily a true reflection of the funds required to carry out the current extent of required work. Consequently, the Inspector found that she was unable to reach the conclusion that the revenue generated by those consented new dwellings would not provide the minimum level of enabling development which would be sufficient to safeguard the designated heritage assets. Importantly the Inspector also found that even if the number of dwellings was the minimum necessary that given the harms discussed above this would be insufficient to outweigh these harms.

Turning to the third reason for refusal which related to the lack of an appropriate obligation to secure the necessary infrastructure to support the development, prior to the Hearing the appellant produced a S106 which sought to secure all requested financial contributions although it did not include any mechanism for affordable housing. It is worth noting that within the draft S106 the appellant included HCC's revised figures on contributions which had gone up since the planning application was refused. The Inspector found that as an executable obligation had been submitted as part of the appeal that if the appeal was to be allowed, these contributions would mitigate the effect of the development on local services. Whilst the Inspector referred to the Council's point about the lack of affordable housing provision within the S106, she decided that as the appeal was being dismissed anyway it was not necessary to consider this aspect of the obligation.

An interesting point to note from the appeal decision is how the Inspector describe the stage that she considered the Emerging Local Plan to be at and the weight that the Inspector gave to relevant policies from the Emerging Local Plan. With regards to the position of the Emerging Local Plan, the Inspector describe it as being at a fairly advanced stage of examination with the result that its policies carry reduced

	<p>weight.</p> <p>In conclusion, the Inspector found that the proposed development would result in significantly greater harms to the Green Belt and heritage assets, both within and outside the site, to that of the consented scheme. As a result, she found that there were clear reasons to refuse the development and therefore in accordance with Paragraph 11(d) of the NPPF the titled balance was not engaged. Furthermore, the Inspector concluded that the other considerations that might amount to very special circumstances sufficient to outweigh the harm to the Green Belt did not exist.</p> <p>Both the Planning and LB appeals were dismissed.</p>
6/2021/2527/PN15	
DCLG No:	APP/C1950/W/22/3291322
Appeal By:	CK Hutchison Networks (UK) Ltd
Site:	WEH18827 - Shoplands Streetworks Shoplands Knightsfield Digswell AL8 7RH
Proposal:	Installation of a 15 metre high monopole supporting 6 no. antennas and 2 no. transmission dishes, 4 no. equipment cabinets and development works ancillary thereto.
Decision:	Appeal Allowed
Decision Date:	13/12/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to the proposed installation of a 15 metre high monopole and associated equipment at Shoplands, Knightsfield.</p> <p>The prior approval application was refused as the proposed monopole, by virtue of its siting and appearance, would detract from and cause harm to the character and appearance of this area of the Garden City.</p> <p>In this case, the Inspector acknowledges that the proposed development would result in an increase in built form by reason of the height of the proposed monopole given that it would be notably taller than the existing buildings. As a result there was considered to be a degree of conflict with the more open character that is a feature of the vicinity. However, the Inspector states that the effects of the development would be relatively limited owing to the generally narrow proportions of the monopole and with it being relatively well screened from views by existing trees and buildings within the surrounding area which would render it less prominent. Furthermore, the Inspector considers that the proportions and siting of cabinets would be relatively discreet being viewed against the backdrop of different items of street furniture and buildings. This part of the scheme was therefore not considered to have an adverse effect on the character and appearance of the surrounding area.</p> <p>Substantial weight had been given by the Inspector to the proposed delivery of improved telecommunications infrastructure in the area as it would generate benefits to residents and businesses in the form of increased availability and</p>

	<p>reliability of electronic communications, an approach supported by Paragraph 114 and 115 of the NPPF. The Inspector also mentioned that it has been demonstrated that there is limited number of locations in the surrounding area that could accommodate the proposed development in a less harmful manner than the appeal site.</p> <p>Overall, it was concluded that the limited harm to the character and appearance of the surrounding area arising from the siting and design of the proposal would be outweighed by the economic and social benefits that would stem from the proposed upgrade which would not be realised if the development were not to proceed in this location.</p> <p>The appeal was therefore allowed.</p>
ENF/2019/0131	
DCLG No:	APP/C1950/C/21/3285021/APP/C1950/C/21/3285031
Appeal By:	Mr & Mrs Chris Parsons
Site:	21 Oaklands Avenue Brookmans Park Hatfield AL9 7UH
Proposal:	Erection of dormer roof extension
Decision:	Appeal Allowed
Decision Date:	22/12/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to an enforcement notice which was served for the erection of a dormer roof extension without planning permission.</p> <p>An Enforcement Notice was served on 24th September 2021 and was later appealed by the appellant, on the basis that the works were constructed under PD.</p> <p>In this case, the inspector acknowledges that for the appeals to succeed, the onus was on the appellants to demonstrate, on the balance of probabilities, that the erection of the dormer roof extension to the detached appeal dwellinghouse was not in breach of planning control. The appellants explained to the inspector that the house originally had a hipped roof and that has been altered to form a gable roof with rear dormer and therefore the inspector specified that the original roof space is the cubic content of the pre-existing hipped roof.</p> <p>The inspector stated that, without any measurements being provided by the Council and on the balance of probabilities, the rear dormer (and the hip to gable extensions) were permitted development under Schedule 2, Part 1, Class B of the GPDO.</p> <p>Overall, it was concluded that the appeals should succeed and the enforcement notice was quashed.</p>
6/2021/2335/FULL	
DCLG No:	APP/C1950/W/22/3295566

Appeal By:	Mr John Dunning
Site:	Woodman Inn 21 Warrengate Road North Mymms Hatfield AL9 7TT
Proposal:	Erection of a single storey rear extension.
Decision:	Appeal Dismissed
Decision Date:	23/12/2022
Delegated or DMC Decision:	Delegated
Summary:	<p>The Woodman Inn is a public house and restaurant situated west of Brookmans Park within the Green Belt. It is also a Grade II Listed Building.</p> <p>The development proposed the erection of a single storey rear extension to accommodate four additional en-suite guest bedrooms.</p> <p>The main issues where:</p> <ul style="list-style-type: none"> • whether the proposal would be inappropriate development in the Green Belt; • the effect on the openness of the Green Belt; • if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it; and • the effect of the proposal on the listed building, the Woodman Inn, and its setting. <p>The Inspector found that the scale, bulk and mass of the proposed extension when combined with the existing extensions would be disproportionate in relation to the size and footprint of the original building. The extension would therefore not accord with paragraph 149(c) of the NPPF or policies RA3 of the district plan and SADM 34 of the emerging plan and would therefore be inappropriate development which is, by definition, harmful to the Green Belt. Whilst the loss of openness would be limited, harm to the Green Belt would still occur.</p> <p>In terms of very special circumstances, the Inspector accepted that the proposed extension would screen the existing flat roofed modern extension, that the provision of accommodation at the Inn would enable the business to diversify and expand and could benefit the health and wellbeing of visitors and staff. However, these benefits were considered to be limited and not sufficient to outweigh the identified harm.</p> <p>Turning to the effect of the proposal on the listed building, the Inspector accepted that the extension, through the use of materials and design features, has been designed to reflect the original building and the rural location. However, it would be of a size, scale, bulk and height that when combined with the existing extensions would overwhelm the original building. As a result, it would detract from the listed building and its setting. The harm to significance would be less than substantial and where this is the case paragraph 202 of the NPPF requires that such harm should be weighed against the public benefits of the proposal. The Inspector considered the benefits that would be delivered by the proposal would be</p>

limited and as such they would be insufficient to outweigh the harm to the listed building. As a result, the works would fail to preserve the Woodman Inn and its setting for which a clear and convincing justification has not been provided. The works would therefore not comply with the requirements of Section 16(2) of the Planning (Listed Building and Conservation Areas) Act 1990, policy SADM 15 of the emerging plan, which states that proposals that result in less than substantial harm will be refused unless the benefits significantly outweigh the harm to the heritage asset, and the provisions of the NPPF.

The appeal was dismissed.