

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 15 JUNE 2023
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

Appeal Decisions 28/02/2023 to 02/06/2023

6/2021/3338/FULL	
DCLG No:	APP/C1950/W/22/3304004
Appeal By:	Mr C Kyriacou
Site:	44 Tolmers Road Cuffley Potters Bar EN6 4JF
Proposal:	Erection of 2 x detached dwellings involving demolition of existing detached dwelling
Decision:	Appeal Dismissed
Decision Date:	09/03/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to the proposed demolition of existing house and erection of two detached houses at 44 Tolmers Road, Cuffley.</p> <p>The planning application was refused as by virtue of the siting in relationship to the adjoining properties, scale and width of the proposed units, along with the reduction of spacing, the proposal would appear cramped within its site resulting over development which would poorly relate to the established character of the area.</p> <p>The Inspector states that although the design and materials of the proposed replacement dwellings would reflect the mixed architectural styles of buildings in the locality, the front facades of the proposed dwellings would be considerably narrower than the relatively wide front facades of the existing dwellings fronting Tolmers Road. Consequently it was judged that the proposed dwellings would be out of keeping with the broadly consistent scale and massing of the existing wide fronted facades of the dwellings that face Tolmers Road. Furthermore, it was considered that the proposed dwellings would occupy plots that are considerably narrower than nearly all other plots in the locality. As such, the proposed dwellings would appear incongruous within the street scene and they would erode the characteristic pattern of large wide fronted buildings set within commensurately wide plots that contribute positively to the strong built frontage to Tolmers Road. The Inspector did not deem that the mature trees at the frontage would be effective in hiding the incongruity of the proposed dwellings.</p> <p>The Inspector did however not find that the proposed dwellings would result in loss of the existing sense of spaciousness in the street scene or would appear cramped as it was considered that the spacings between the existing dwellings in the street</p>

	<p>scene are generally narrow and irregular.</p> <p>Only moderate weight was given to the net gain of one additional dwelling and the economic and social benefits attributed to the construction and occupation of it. This was not sufficient to outweigh the harm the development would cause to the character and appearance of the area.</p> <p>The appeal was therefore dismissed.</p>
6/2021/2982/PN15	
DCLG No:	APP/C1950/W/22/3299267
Appeal By:	Sir/Madam
Site:	Howlands The Commons Welwyn Garden City AL7 4SD
Proposal:	Prior approval for the installation of a 17.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.
Decision:	Appeal Allowed
Decision Date:	24/03/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to the proposed installation of a 17 metre high monopole and associated equipment at Howlands, The Commons.</p> <p>The prior approval application was refused as it was considered that 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 opposite the Conservation Area. In addition, the proposed equipment by virtue of its siting, would also impede upon the implementation of future Highway improvement schemes at an important strategic location along Howlands contrary to Policy 1 of Hertfordshire's Local Transport Plan 4 (2018).</p> <p>In this case, the Inspector acknowledges that the appeal site makes a positive contribution to the open character of the road frontage and that the siting of the proposal would erode the generally open character of the appeal site and surrounding area of road frontage. As such it was considered that the monopole would give rise to a modest amount of harm to the character and appearance of the area.</p> <p>However, the Inspector goes on to state that the effects of the development would be relatively limited given the prevalence of mature vegetation within the surrounding area whereby the development would be generally viewed against a backdrop of tree canopies, minimising its visual impact within the street scene and skyline. It was also considered that the sloping topography in the area of the appeal site would reduce perceived height and visual effects of the proposed monopole. Views of the proposed development from within the adjacent Conservation Area would also be obscured by the dense tree belt of tall, mature trees adjacent to the pedestrian footway at Howlands. As such the Inspector considers that the appearance of the proposal would not be unduly prominent or incongruous within the street scene.</p>

	<p>In terms of Highway issues, the Inspector states that the monopole would not be sited on the pedestrian footway and would not therefore impede pedestrian movement or access to busses. Furthermore, the Inspector states that there is no evidence to suggest any sustainable travel project would be forthcoming within LTP4's plan period therefore the siting of the monopole was not considered to hinder the future provision of highway infrastructure or prejudice vulnerable road users.</p> <p>In summing up the appeal, the Inspector states that it has been adequately 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. Overall, it was therefore concluded that, in the absence of suitable alternative sites, the limited harm identified to the character and appearance of the area would be outweighed by the need for the installation and the economic and social benefits that it would bring.</p> <p>The appeal was therefore allowed.</p>
6/2022/1901/HOUSE	
DCLG No:	APP/C1950/D/23/3315357
Appeal By:	Mr A Wood
Site:	14 The Reeds Welwyn Garden City AL7 3BN
Proposal:	Erection of a rear box dormer, the installation of roof lights to the front roof slope and the raising of the ridgeline of the existing dwelling to facilitate the conversion of the loft space into habitable accommodation
Decision:	Appeal Dismissed
Decision Date:	03/04/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>This was an appeal for the erection of a rear box dormer, the installation of roof lights to the front roof slope and the raising of the ridgeline of the existing dwelling to facilitate the conversion of the loft space into habitable accommodation. Whilst the dormer was considered to be in compliance with the majority of the requirements in the SDG, the application was refused as was considered insubordinate in size due to its width which would cover a large proportion of the roof slope and create a significant area of flat roof. It was also found to be uncharacteristic of the surrounding area and harmful as it would be partly visible from public vantage points.</p> <p>The Inspector acknowledged that so far as the insets from the eaves and side elevations were concerned, the dormer would comply with the SDG. However, by virtue of its width and flat roof, it would not be subordinate and would appear as an incongruous, heavy addition which would harm the appearance of the host property and the surrounding area.</p> <p>The appeal was dismissed.</p>

6/2021/1021/HOUSE

DCLG No:	APP/C1950/D/21/3283546
Appeal By:	Mrs T Flammia
Site:	51 Kentish Lane Brookmans Park Hatfield AL9 6NG
Proposal:	Erection of an outbuilding with external verandah for ancillary use in connection with the main dwelling house(retrospective)
Decision:	Appeal Allowed
Decision Date:	02/05/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>Appeal for retention of an outbuilding with external verandah for ancillary use in connection with the main dwelling house. The ancillary use is a studio/ room where the homeowner will display or create art.</p> <p>The main issue was whether the outbuilding constitutes inappropriate development within the Green Belt and, if it does, whether the harm to the Green Belt by way of that inappropriateness is outweighed by other considerations such that the very special circumstances necessary to justify the development exist.</p> <p>The reason the Council considered the outbuilding to be inappropriate development in the Green Belt was because it was not deemed a “domestic adjunct” (due to its long separation distance from the dwelling) and, therefore, did not fall within any of the exceptions to inappropriate development in the Green Belt (NPPF paragraph 149).</p> <p>The Inspector disagreed. He considered that the use of the outbuilding is a functional space of the type commonly found in residential properties and can be considered to fall within the description of a normal adjunct to the house. He also referred to Policy RA3 of the District Plan which says that extensions to dwellings in the Green Belt also applies to outbuildings and that, in his opinion, the explanatory text envisages that the policy will be applied to structures that may not be close or immediately adjacent to a dwelling. Recent caselaw was also referenced to support his view that the outbuilding can be considered as an extension to the main dwellinghouse under paragraph 149(c) and Policy RA3.</p> <p>Assessing the outbuilding alongside other existing non-original extensions/outbuildings, he concluded that it does not result in a disproportionate addition over and above the size of the original building, and, therefore, is appropriate development in the Green Belt. The appeal was therefore allowed</p>

6/2021/0079/FULL

DCLG No:	APP/C1950/W/22/3309087
Appeal By:	Mr Moe Harissa
Site:	8 Hill Rise Cuffley Potters Bar EN6 4EE
Proposal:	Erection of dwelling. Revisions to planning permission 6/2018/0383/FULL (retrospective)

Decision:	Appeal Allowed with Conditions
Decision Date:	09/05/2023
Delegated or DMC Decision:	Committee
Summary:	<p>Application was refused at Development Management Committee (contrary to Officer recommendation) for retrospective permission for a 5-bed, 3-storey dwelling following alterations to application 6/2018/0383/FULL. The reason for refusal read as follows:</p> <p>“The building, by reason of its excessive height, scale, bulk and massing, represents over-development; and front elevation windows, by reason of their excessive size, are over-dominant and represent a discordant form of development. The building consequently fails to relate satisfactorily to its context and the street scene and adversely affects the character and appearance of the area, contrary to saved Policies D1 and D2 of the Welwyn Hatfield District Plan 2005, the Council’s Supplementary Design Guidance 2005 and paragraph 134 of the National Planning Policy Framework.”</p> <p>The Inspector considered that the differences from the previously approved dwelling, neither individually nor collectively, adversely affect in any significant way the character and appearance of the area. Its height, size and scale were considered to be compatible with the surrounding properties and the window openings and details were not felt to be inappropriate within the setting of the building. The rear patio, while larger than the previously approved scheme, was deemed to be acceptable. The dwelling necessitated the need for taller boundary (retaining) walls, but the Inspector considered that they are not so high or so prominent as to detract from the character and appearance of the area. It was concluded that the development would accord with policies D1 and D2 of the Welwyn Hatfield District Plan 2005, with the Council’s Supplementary Design Guidance 2005 and with paragraph 130 of the National Planning Policy Framework 2021, all of which require good design appropriate to the character and appearance of the area. The appeal was therefore allowed.</p>
6/2022/2443/HOUSE	
DCLG No:	APP/C1950/D/23/3315941
Appeal By:	Mr and Mrs Philip Nicholas
Site:	21 Homewood Avenue Cuffley Potters Bar EN6 4QG
Proposal:	Erection of two storey rear, part single storey and part two storey side and front extensions, incorporating new roof structure with raised ridge height and associated alterations
Decision:	Appeal Dismissed
Decision Date:	12/05/2023
Delegated or DMC Decision:	Delegated
Summary:	This appeal relates to the erection of two storey rear, part single storey and part two storey side and front extensions, incorporating new roof structure with raised

	<p>ridge height and associated alterations.</p> <p>The main issue was the effect of the development upon the character and appearance of the area.</p> <p>The Inspector considers that the overall design of the roof, including the use of a hipped roof, would differ significantly from the general building form in the immediate area of straight gables, such that the overall result of the proposed development would be to affect the general style of the area significantly and adversely and therefore its character and appearance.</p> <p>Overall, the Inspector concludes that the proposed development would not accord with policies D1 and D2 of the Welwyn Hatfield District Plan 2005, with the Council's Supplementary Design Guidance 2005 and with paragraph 130 of the National Planning Policy Framework 2021, all of which require good design appropriate to the character and appearance of the area.</p> <p>The appeal was dismissed.</p>
6/2022/2668/HOUSE	
DCLG No:	APP/C1950/D/23/3317895
Appeal By:	Mr F Boyle
Site:	29 Hill Rise Cuffley Potters Bar EN6 4EH
Proposal:	Erection of single storey side and rear extension, raising existing boundary wall with metal railings and installation of metal railing sliding gate
Decision:	Appeal Allowed with Conditions
Decision Date:	15/05/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>This appeal relates to the erection of a single storey side and rear extension, raising existing boundary wall with metal railings and installation of metal railing sliding gate.</p> <p>The main issues are (i) the effect of the proposed boundary treatment upon the character and appearance of the area and (ii) the free flow of traffic and highway safety.</p> <p>Character and appearance</p> <p>Whilst there is a general absence of such boundary walling and fencing on Hill Rise, numbers 19,21 and 23 do have a boundary treatment of approximately 2 metres in height and as is now proposed for the appeal property. However, the character and appearance of these properties and their boundaries is somewhat different to the appeal property. They have an expanse of grassed open space in front of them whereas the appeal property boundary abuts the road.</p> <p>The LPA, in its officer report, refers to several applications affecting the appeal property which have included front boundary walling and fencing. Some have been</p>

refused on grounds of design and on highway safety, while application 6/2019/1629/HOUSE was approved on 28th of August 2019.

The LPA has commented that the brick piers to the approved scheme would be 1.7 meters high, the intervening wall/railings would be 1.5 metres high and there would be no gates. In comparison, the appeal proposal is for the brick piers to be some two metres high while the wall/railings would have a total height of approximately 1.8 metres. There would be a sliding gate of approximately 1.7 meters in height.

The Inspector gives significant weight to the above approval in the decision-making process and notes that while there would be differences between the two schemes in terms of heights, these would not be so great as to make a significant difference to the character and appearance of the area.

The Inspector concludes that the proposed development would accord with policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005 (DP), its Supplementary Planning Guidance 2005 (SPG) and paragraph 130 of the National Planning Policy Framework 2021 (the Framework), all of which require high quality design which reflects the character and appearance of the area.

Highway Safety

While the LPA states in its officer report that no comments were received from the highway authority (HA), comments were received, stating that the HA did not object to the proposed development.

The application was refused on the basis that the proposed development would adversely affect highway safety by a detrimental effect upon sight lines caused by the design and siting of the proposed gates. In so doing, the LPA relied on comments from the HA relating to earlier applications rather than to those received relating to the appeal proposal.

Upon visiting the site, the Inspector found that the proposal would not give rise to harm to the free flow of traffic in the area or have an unacceptable impact on highway safety, concluding that the proposed development would accord with LP policy D5 which requires all new development to take account of its impact upon existing and proposed movement patterns, and with paragraph 104 of the Framework which requires that transport issues shall be considered at the earliest stages of development proposals.

The appeal was allowed, subject to conditions.

Costs Appeal

An application for costs was made by the applicant against Welwyn Hatfield Borough Council, stating that the local planning authority (LPA) has acted unreasonably by refusing to approve the proposed development by virtue of the design and siting of the gates and because limited visibility would adversely affect the safety and free flow of traffic on the public highway.

The Inspector considers that it is not incumbent upon an LPA to accept the advice of consultees, including that of the HA, but it is a reasonable expectation for it to

	<p>consider the advice offered. In this case, there is no evidence that it did so. Indeed, by its comments in the officer report, it failed to do so.</p> <p>The LPA relied on the advice of the HA regarding earlier planning applications relating to the property. The HA has responsibility for highway safety matters and the failure of the LPA to consider the HA's advice relating specifically to the appeal proposal was unreasonable.</p> <p>The Inspector concluded that the Council has acted unreasonably in part, and, as a result, the applicant has been put to wasted time and expense in pursuing the appeal. Therefore, a partial award of costs is justified.</p>
6/2022/0534/HOUSE	
DCLG No:	APP/C1950/D/22/3300426
Appeal By:	Mrs Carol Hunt
Site:	Sawmill Cottage Waterend Lane Ayot St Peter Welwyn AL6 9BB
Proposal:	Change in size and style of rear and side dormer of an already approved application (ref: 6/2021/2843/HOUSE for the erection of a first floor extension).
Decision:	Appeal Dismissed
Decision Date:	25/05/2023
Delegated or DMC Decision:	Delegated
Summary:	<p>The application form describes the proposal as "Minor amendment of rear and side dormer to an already approved plan 6/2021/2843/HOUSE". After contacting me and the applicant about the poor quality of the drawings, the applicant provided an additional drawing at the request of the Inspector.</p> <p>The Inspector noted in his decision "if an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought".</p> <p>The Inspector noted that there were too many inaccuracies on the drawings. He concluded that: "I cannot be sure of how the proposed extension would look when completed. I therefore cannot assess the effect of the proposal on the character and appearance of the host dwelling and surrounding area with sufficient certainty. Consequently, I cannot conclude the proposal would not harm the character and appearance of the host dwelling or surrounding area. I therefore conclude that the proposal does not demonstrate compliance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 which, among other provisions, seek to ensure the standard of design in all new development is of a high quality and that it respects and relates to the character and context of the area in which it is proposed".</p> <p>The appeal was dismissed.</p>