

**ITEM NUMBER: 5c**

<b>22/00603/FUL</b>	<b>Retention of a storage building</b>	
<b>Site Address:</b>	<b>Land to the rear of 76-78 Belswains Lane, Hemel Hempstead</b>	
<b>Applicant/Agent</b>	<b>Mr Wingrove</b>	
<b>Case Officer:</b>	<b>Robert Freeman</b>	
<b>Parish/Ward:</b>	<b>Hemel Hempstead</b>	<b>Apsley and Corner Hall</b>
<b>Referral to Committee:</b>	<b>The application is referred to the Development Management Committee in accordance with Section 2.3.2 (1) of the Constitution and at the request of Councillor Peter. Councillor Peter is concerned with the impact of development upon the street scene and highways safety. He is also concerned that the proposal has caused damage to a tree on the site and resulted in an over development of the site.</b>	

**1. RECOMMENDATION – That planning permission is GRANTED**

**2. SUMMARY**

- 2.1 The construction of an outbuilding for domestic residential use is acceptable within a residential area in accordance with Policies CS1 and CS4 of the Core Strategy.
- 2.2 The building constructed is considered to be appropriate in terms of its design and siting and would not detract from the overall character and appearance of the site and its surroundings in accordance with Policies CS11 and CS12 of the Core Strategy.
- 2.3 The building has no significant impact upon the residential amenities of neighbouring properties and is acceptable in accordance with Policy CS12 of the Core Strategy.

**3. BACKGROUND**

- 3.1 Planning permission was granted for the construction of two x three-bedroom dwellings under planning permission 4/00726/17FUL by the Development Management Committee at the meeting of the 17<sup>th</sup> August 2017.
- 3.2 A proposal to vary this planning permission (4/02726/18/ROC) was refused by the Development Management Committee on the 10<sup>th</sup> January 2019 contrary to the officer recommendation. This application was refused for the following reason:

“The proposed two units by reason of their bulk and mass would result in overdevelopment, eroding the spacious character of the area. This would also result in the proposal failing to achieve sufficient separation distances to neighbouring residents. As a result, the proposed dwellings would appear cramped within its plot and would fail to maintain or enhance the quality anharacter of the surrounding area and fail to secure good standards of amenity for existing and future occupiers of land and buildings. The development is, therefore, contrary to Saved Appendix 3 of the Dacorum Local Plan (2004) and Policies CS11 and CS12 of the Core Strategy (2013), the National Planning Policy Framework (2018)”

A subsequent planning appeal (APP/A1910/W/19/3221620) was granted on the 11<sup>th</sup> June 2019.

- 3.3 The applicants commenced construction of development in May 2021 in breach of conditions 3 (Contamination) and 5 (Landscaping) attached to appeal decision

APP/A1910/W/19/3221620. These dwellings under construction were also not being constructed in accordance with the approved plans for either 4/00726/17/FUL or 4/02726/18/ROC.

- 3.4 The site has been subject to enforcement investigations (E/21/00181/BOC and E/21/00343/NAP).
- 3.5 Conditions 3 and 5 (iv), (v), (vi) and (vii) only were approved under application 21/02321/DRC in August 2021. This approval did not extend to landscaping details reserved by condition 5, points (i), (ii), (iii) and (viii) identifying root protection areas of retained trees on or adjacent to the site, areas for protective fencing and type, and finished levels and contours will need to be fully shown on any future landscape plan.
- 3.6 At the meeting of the Development Management Committee of the 10th February 2022, members subsequently approved application 21/04265/ROC for a variation to the approved plans for these properties. This plan incorporated two storey side extensions to both of the previous dwellings approved under 4/00726/FUL.
- 3.7 It has subsequently been identified that the buildings constructed at the site are not constructed in accordance with 21/04265/ROC, but are in fact constructed further away from each other and approximately 1m closer to the neighbouring dwellings at Belswains Cottages. This is subject to a separate application pending consideration.

#### **4. PROPOSALS**

- 4.1 This application seeks planning permission for the retention of an outbuilding that has been constructed between 78 Belswains Lane and the footpath between Belswains Lane and Ebbens Road. This would be used by the occupants of proposed plot 1 on this application site.
- 4.2 The outbuilding has the dimensions of a domestic double garage (5.5m x 4.8m) is single storey with an eaves height of 2.3m and a ridge height of approximately 4.8m. The outbuilding has a hipped roof extending to a full gable at the rear of the building.

#### **5. REPRESENTATIONS**

##### Consultation responses

- 5.1 These are reproduced in full at Appendix A.

##### Neighbour notification/site notice responses

- 5.2 These are reproduced in full at Appendix B.

#### **6. CONSIDERATIONS**

##### Policy and Principle

- 6.1 The construction of outbuildings within the curtilage of properties within the town of Hemel Hempstead is considered to be acceptable in accordance with Policies CS1 and CS4 of the Core Strategy. Indeed in many instances these would not require planning permission in accordance with Schedule 2 Part 1 Class E of the Town and Country Planning (General Permitted Development) Order 1995 (As Amended), however this storage outbuilding has been constructed in advance of any dwelling being located upon the site and in breach of a number of height restrictions thereto.

- 6.2 It therefore falls to the local planning authority to determine whether it is an acceptable form of development having regard to its impact upon the character and appearance of the area and its impact on residential amenity.

#### Layout and Design

- 6.3 The proposed outbuilding is considered to be acceptable in terms of its layout, site coverage, design, bulk, scale and height and does not result in any significant harm to the overall character and appearance of the area in accordance with Policies CS11 and CS12 of the Core Strategy. It is discretely located to the rear of an existing substation constructed between the flank elevation of 78 Belswains Lane and a public footpath from Belswains Lane to Ebberns Road. The building is barely visible from the public footpath with only its eaves and roof visible when approached from the eastern end of the path.

#### Impact on Residential Amenity

- 6.4 The proposed outbuilding may be conditioned in terms of its use to that ancillary or incidental to the use of the dwellings at land to the rear of 76-78 Belswains Lane to ensure that its use is not beyond that associated with a domestic adjunct nor detrimental to the amenities of these properties or neighbouring units. This has been discussed with the applicant who has agreed that the building should be used in association with plot 1 thereon.
- 6.5 The outbuilding does not impede access to the properties under construction at the rear of 76-78 Belswains Lane nor would it reduce the amenity space associated with these properties.
- 6.6 For these reasons, it would be concluded that the proposed building is not considered to be harmful to the residential amenities of the dwellings in accordance with Policy CS12 of the Core Strategy and Saved Appendices 3 and 7 of the Local Plan 1991-2011.

#### Impact on Neighbouring Properties

- 6.7 The outbuilding has no significant impact on the amenities of neighbouring properties in accordance with Policy CS12 of the Core Strategy and Saved Appendix 3 of the Local Plan 1991-2011.
- 6.8 Although it is located close to the boundary of the application site and the adjacent footpath, it does not result in any harm to the amenities of either 1 or 2 Belswains Cottages in view of its limited height and roof pitch. The building itself is screened by an existing boundary fence, such that the guttering and roof is visible above the fence line. This is not considered to result in any loss of light to neighbouring properties nor any significant visual intrusion to those properties.
- 6.9 Furthermore the outbuilding is not considered to result in visual intrusion or an excessive enclosure to the use of the public footpath. The path is already enclosed by the boundary treatment to the application site and neighbouring properties including a high wall to 1 Belswains Cottages. The outbuilding does not significantly increase the sense of enclosure thereto as there is a limited projection above the boundary fence. The path is well lit and subject to overlooking from the properties at Belswains Cottages and as such it is considered that the proposals would not exacerbate any crime safety concerns with the use of the path.

### Impact on Trees

- 6.10 Although there are a number of trees around the perimeter of the site and to neighbouring land, none of these appear to be subject to a Tree Preservation Order and as such their protection under planning legislation is limited. It is evident that works have already been undertaken at the application site without adequate tree protection measures having been provided and that the proposed storage building extends within the root protection area (RPA) of trees to the rear of the existing substation.
- 6.11 The Trees and Woodlands section have been consulted in relation to this application and have expressed a view that the outbuilding's incursion into the RPA of trees is unlikely to have resulted in significant damage thereto. As such the proposals must be considered to be acceptable under Policies CS12 and CS26 of the Core Strategy.

### Access and Parking

- 6.12 The application that has been submitted indicates that the building will be used for storage purposes and it has further been clarified by the agent that its use would be associated with the dwelling on plot 1. It does however have the appearance of a double garage leading neighbouring properties to question its intended use.
- 6.13 The building itself does not appear to be accessible by vehicles as the hard standing area associated with the dwellings does not extend up to its entrance upon the site plan. It would not be appropriate to speculate regarding the applicants intentions for the use of the building, however were the building used as garaging associated with the dwellings on this site, it is unlikely that the Council would raise an objection to this use.
- 6.14 The entrance to the site is capable of accommodating the vehicular movements associated with these dwellings and is subject to planning conditions requiring the provision and retention of visibility splays in the interests of highways safety. On this basis, I would conclude that there are no grounds to restrict the use of the outbuilding beyond that ancillary to the use of the dwellings on this site. If the building is used as garaging, the vehicle movements associated with such use would not be detrimental to highways safety in accordance with Policies CS8 and CS12 of the Core Strategy.

### Neighbours Comments

- 6.15 The comments from neighbouring parties have been addressed above with the exception of those regarding drainage.
- 6.16 The property appears to have been constructed entirely within the application site and I am satisfied that any run-off from the roof will drain within the curtilage of the property.
- 6.17 Further advice has been requested from UK Power Networks (UKPN) in relation to the proximity of the development to the substation and its enclosure. Permission may be required from UKPN in relation to this matter.

### Conditions

- 6.18 The building has been constructed and the application is retrospective. We have concluded that its use as storage is only appropriate if this is in connection with the dwellings under construction on this plot. As such it is considered necessary and reasonable to restrict the use of the building as being incidental to the use of plot 1 on the site via a planning condition.

**7. RECOMMENDATION.**

7.1 That planning permission be GRANTED subject to the following conditions:

Condition:

- 1. **The development hereby permitted shall only be used for purposes incidental to the use of the dwelling shown as plot 1 on drawing 76LHH-SITE REV C.**

Reason: In the interests of the residential amenities of neighbouring properties.

**APPENDIX A: CONSULTEE RESPONSES**

Consultee	Comments
Contaminated Land Officer	<p>Having reviewed the documents submitted in support of 22/00603/FUL I have no objection for the following reasons:</p> <ul style="list-style-type: none"> <li>1) The application form states that the outbuilding for which permission is being sought has been completed.</li> <li>2) The nature and use of the building (that is already present) for which permission is being sought does not, within the wider residential development permission already granted under 4/02726/18/ROC, have any implications in terms of the introduction of receptors sensitive to the presence of contamination, or of pathways by which exposure to contamination might be exacerbated,.</li> </ul> <p>However, I am concerned that the residential development (conditionally permitted by 4/02726/18/ROC) is stated to be underway in the absence of an agreed Remediation Method Statement (RMS), as required by the first part of Condition 4 of that permission.</p> <p>Condition 3 was recommended for discharge in a memo dated 16<sup>th</sup> July 2021, but that memo also stated that Condition 4 should remain in place because there was a need for a RMS to be submitted and agreed due to the presence of contamination within the upper layers of the ground.</p> <p>With this in mind please would you contact the applicant to:</p> <ul style="list-style-type: none"> <li>a) inform them that they are in breach of Condition 4</li> <li>and</li> <li>b) advise them to submit a RMS as a matter of urgency.</li> </ul> <p><i>CASE OFFICER RESPONSE: An agreed approach to site remediation has subsequently been agreed in consultation with the Contaminated Land Officer. The relevant condition is not able to be</i></p>

	<i>discharged at this stage.</i>
Trees and Woodlands Officer	There is a small incursion into the Root Protection Area associated with the location of the single storey garage and adjacent tree. However, the structure will have a negligible impact owing to the shallow foundation required. It being only a small incursion it should not lead to a significant detrimental impact to the tree.

## APPENDIX B: NEIGHBOUR RESPONSES

Address	Comments
2 Belswains Cottages	<p>We object to this proposal for the following reasons:</p> <p>1. Damage to trees: The development is within the root protection zone of a large tree on adjoining land.</p> <p>2. Too close to footpath: The building is very close to the footpath which will add to the sense of enclosure and will make users of the footpath feel unsafe. The crime prevention officer commenting on a previous application on the same site noted:  "There is an alleyway at the side of the proposed development, which is already has a sense of enclosure from dwellings already at the side of the alleyway. The proposed development will add to that sense of enclose of the alleyway, and may make users have a sense of a fear of crime."  <a href="https://democracy.dacorum.gov.uk/documents/s10595/DMC-17-08-2017-Item%205c-Land%20ro%2076-78%20Belswains%20Lane.pdf">https://democracy.dacorum.gov.uk/documents/s10595/DMC-17-08-2017-Item%205c-Land%20ro%2076-78%20Belswains%20Lane.pdf</a></p> <p>3. Too close to neighbouring property: The building is so close to the neighbouring property that the roof overhangs and rainwater from the roof will be deposited on the neighbour's land. Planning advice for outbuildings states:  "Please be aware that any runoff from the building should be onto your own land."  <a href="https://www.stalbans.gov.uk/advice-outbuildings">https://www.stalbans.gov.uk/advice-outbuildings</a></p> <p>4. Misleading application: The application describes the development as a "storage outbuilding", when it is obviously a garage. Presumably this is to avoid issues regarding vehicle access. It is a criminal offence to make a deliberately misleading planning application.  <a href="https://questions-statements.parliament.uk/written-questions/detail/2018-06-21/156410">https://questions-statements.parliament.uk/written-questions/detail/2018-06-21/156410</a></p>
74 Belswains Lane	If it looks like a duck, swims like a duck, and quacks like a duck, then

it probably is a duck. In the case of the outbuilding already built, it has 2 openings the size of garage doors, it is the size of a double garage (4.8 metres x 5.5 metres) and can be accessed by vehicles, so it probably is a garage (not just for storage). If it is subsequently used to accommodate vehicles will that require a change of use? Given the outbuilding can accommodate vehicles, which will mean more vehicles using the site access, please will you follow up with Herts Highways to determine if the current access Conditions (visibility splay of 2.4 metres x 43 metres to the East - toward Watford) is adequate, and if a visibility splay of 2.4 metres x 43 metres should again be required to the West - toward Hemel. Furthermore please will you check with Dacorum's Building Control to determine what they believe is being built on the site and confirm the details to me prior to the Development Management Meeting?

The storage/garage base and foundations are less than 1 metre from the boundary. The submitted plan does not properly state the location of a 15m high poplar tree in relation to the storage/garage. The poplar tree roots were protected by Condition in the original application and the storage/garage construction is within that protected root area. During the excavation for the base/foundations around half of the tree's roots were removed to a significant depth. The remaining roots are of course limited by the adjacent public footpath, substation and 78 Belswains Lane. I would then ask you to obtain a report from Dacorum's Trees and Woodlands expert to determine what damage has been done to the poplar tree and the remedy. I believe the storage/garage should be demolished and the ground reinstated to allow the roots to regrow. Furthermore if the poplar tree has to be removed then the storage/garage should be demolished and the Applicant should of course be required to replant a mature tree.

The storage/garage has significantly changed the street scene. The style and design, having a gable at one end and hips at the other, looks poor and obtrusive. The roof material (grey concrete tiles) is not in keeping with its surroundings which are red clay. At least 80% of the site's green space is already covered by dwellings, car parking and access road, which I believe constitutes over development, the storage/garage is then adding to an already overdeveloped site.

Are there any planning rules or Dacorum policies regarding the proximity of new buildings to substation equipment?

SITE\_PLAN-1279405.pdf (76BLHH-SITE REV A) does not show the required access visibility splay of 2.4 metres x 43 metres to the East (toward Watford). It does not show the correct position of the poplar tree in relation to the storage/garage. Also it does not show the correct position of storage/garage, which is built parallel to the public footpath. Please will you then reject the site plan and request a corrected plan before considering the application further?

The application form is not completed correctly.

- 1, Is the site currently vacant? Applicant has said "no" when there are currently no residents;
- 2, Land which is known to be contaminated. Applicant has said "no"

	<p>when we know there is a Condition to remove contamination from the site;  3, Land where contamination is suspected for all or part of the site.</p> <p>Applicant has said "no" when we know there is a Condition to remove contamination from the site.</p>
209 Ebbens Road	<p>Objection. The prior decision that saw two modest houses approved to become two executive homes stated that speculation on future use could not be considered, an extraordinary statement from a department called Planning. The fact that this structure has already been built without featuring on any prior plan is barely credible. As is the need for a double garage sized storage space for houses that are twice as large as those initially approved. Previous objections have centred on over development in an enclosed space and concerns over vehicular movement and access. Creating more parking spaces is making this situation worse. This structure should be removed or if it is to remain should be restricted in such a way that it is not permitted for car parking.</p>