

ITEM NUMBER: 5c

24/00368/FHA	Reinstatement of existing 3.5m wide gated access to western end of rear garden. New 5 rail timber field gate.	
Site Address:	Spring Lodge, Hollybush Close, Potten End, Berkhamsted, Hertfordshire, HP4 2SN	
Applicant/Agent:	Mr & Mrs Mark & Janet Tibbles	Mr Greg Basmadjian
Case Officer:	Martin Stickley	
Parish/Ward:	Nettleden With Potten End Parish Council	Ashridge
Referral to Committee:	Applicant is DBC employee	

1. RECOMMENDATION

1.1 That planning permission be granted.

2. SUMMARY

2.1 Very special circumstances exist to justify the proposed fence, which is considered inappropriate in the Green Belt. The replacement gate and hardstanding are acceptable in principle and would preserve Green Belt openness and not conflict with its defined purposes.

3. SITE DESCRIPTION

3.1 Spring Lodge is a chalet bungalow sited on a corner plot between Hollybush Close and Water End Road, Potten End. The property is on a broadly rectangular plot, which backs onto a wooded area associated with the property 'Hollybush Wood' to the rear.

4. PROPOSAL

4.1 Planning permission is sought for access gates, fencing and hardstanding. This would provide a vehicular access from Water End Road and parking area in the rear garden of the property.

5. PLANNING HISTORY

Planning Applications:

4/00114/93/FHA - Detached single garage - *Granted - 25th February 1993*

6. CONSTRAINTS

Advert Control
CIL Zone: 1
Green Belt
Parish: Nettleden with Potten End CP
RAF Halton and Chenies Zone: Red (10.7m)
Parking Standards: Zone 3
EA Source Protection Zone: 2 and 3

7. REPRESENTATIONS

Consultation responses

7.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

8. PLANNING POLICIES

Main Documents:

National Planning Policy Framework (December 2023)
Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)
Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Relevant Policies:

Dacorum Borough Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS5 - Green Belt
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS26 - Green Infrastructure
CS29 - Sustainable Design and Construction
CS32 - Air, Soil and Water Quality

Dacorum Borough Local Plan (DBLP) (Saved Policies)

Policy 99 - Preservation of Trees, Hedgerows and Woodlands
Policy 102 - Sites of Importance to Nature Conservation
Policy 103 - Management of Sites of Nature Conservation Importance

9. CONSIDERATIONS

9.1 There are a number of main considerations relevant to this application, including:

- (a) The principle of development;
- (b) The impact on the character and appearance of the area;
- (c) Highway safety; and
- (d) Any other material planning considerations.

Principle of Development

9.2 The application site is located within the Green Belt, outside of the defined small village of Potten End. Therefore, Policy CS5 of the Dacorum Borough Core Strategy (2013) applies. This policy notes that the council will apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. The policy also highlights that within the Green Belt, certain forms of small-scale development will be permitted, provided that it has no significant impact on the character and appearance of the countryside. Residential gates, fencing and hardstanding are not included.

- 9.3 Paragraphs 154 and 155 of the National Planning Policy Framework (December 2023) highlight inappropriate forms of development within the Green Belt. This includes fencing, which would be considered as a 'new building'. The fencing would be associated with a residential use, which is considered as an inappropriate use in the Green Belt. Paragraph 152 explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved in 'very special circumstances'. In this case, it appears that Spring Lodge retains its permitted development rights and therefore a one-metre fence could lawfully be constructed without planning permission. As such, it is considered that very special circumstances exist.
- 9.4 Regarding the proposed gate, Para. 154 (d) notes that the replacement of a building may be acceptable if it is in the same use and not materially larger than one it replaces. The agent has stated that the proposals would be re-instating an existing gate. The local planning authority's (LPA) historic aerial images, Google Streetview and Google Earth Pro do not show any gate present, or at least that none that are particularly prominent or visible. However, there are wooden posts in place, which appear to be around one metre in height. The agent has provided photographic evidence of this. Although the entire historic gate is not in-situ, it appears that the proposals would involve the replacement of a gate (building) that is not materially larger than the historic gate. In addition, it is likely that the provision of a small (one-metre tall) gate could also be considered permitted development. Therefore, no specific objections are raised to the proposed gates.
- 9.5 The proposed hardstanding would be an 'engineering operation'; is considered would preserve Green Belt openness and would not conflict with its purposes. It may also be considered permitted development. For these reasons, the principle of the hardstanding is considered acceptable.

Character and Appearance

- 9.6 The proposed development originally comprised a retrospective application for two-metre fencing (see superseded plans). Prior the installation of the fencing the site was bound by a mature hedgerow. This provided soft, verdant boundary treatment, which benefitted the character and overall rural aesthetic of Water End Road. The two-metre fencing resulted in a suburbanising impact on the rural character of the road. In turn, this has degraded the rural character of the area.
- 9.7 Concerns were initially raised with the fencing and the agent has pointed to examples within the vicinity, such as the fencing opposite. This fencing is lower and may have been constructed under permitted development rights. It was also considered that the other examples of higher fencing illustrated the harm to the character and appearance of Water End Road, which is an attractive rural lane and positively contributes to the surrounding area/countryside.
- 9.8 The proposals to retain the larger fencing were considered unacceptable and therefore the proposals were amended to reduce the fencing to one-metre in height (see amended plans). Whilst it is still considered that the proposed fencing and removal of the hedgerow have resulted in some negative impacts on the character and appearance of Water End Road, considering that the proposals could be accomplished via permitted development rights, it is not felt that any objections could be raised in this regard.

Highway Safety

- 9.9 The Highway Authority at Hertfordshire County Council have reviewed the proposals on highway safety terms and have not raised an objection. Subject to the suggested conditions, it is not considered that there would be any unacceptable impacts on highway grounds.

Other Considerations

9.10 There are no other significant planning considerations that would pose a restraint to the development proposals.

10. CONCLUSION

10.1 The proposed fencing is inappropriate development within the Green Belt as per the definitions laid out in Policy CS5 of the Dacorum Borough Core Strategy (2013) and Paragraphs 154 and 155 of the National Planning Policy Framework (December 2023). However, as the property retains its permitted development rights and the fencing could be constructed without planning permission, it is considered that very special circumstances exist.

10.2 The proposed replacement gate and hardstanding are considered acceptable under the provisions of Paragraph 154 (d) and Paragraph 155 (b), respectively. The proposals would preserve Green Belt openness and not conflict with its defined purposes as set out in Paragraph 143.

11. RECOMMENDATION

11.1 It is recommended that planning permission be granted subject to the conditions below.

Condition(s) and Reason(s):

- 1. The development hereby permitted shall begin before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

MJT/102 (B) - Proposed Site Plan
MJT/103 (C) - Swept Path Details, Car Parking and Visibility
MJT/104 (B) - Street Scene

Reason: For the avoidance of doubt and in the interests of proper planning.

- 3. Prior to the first use of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing MJT/103 (B) in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority in the form of a dropped kerb access. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.**

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with saved Policy 51 of the Dacorum Borough Core Strategy (2004), Policies CS8 and CS9 of the Dacorum Borough Core Strategy (2013) and Paragraph 115 of the National Planning Policy Framework (2023).

- 4. Prior to the first use of the development hereby permitted a visibility splay shall be provided in full accordance with the details illustrated on the approved drawing number MJT/102 (B). The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.**

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with saved Policy 51 of the Dacorum Borough Core Strategy (2004), Policies CS8 and CS9 of the Dacorum Borough Core Strategy (2013) and Paragraph 115 of the National Planning Policy Framework (2023).

- 5. Prior to the first use of the development hereby permitted any access gate, bollard, chain or other means of obstruction shall be installed to open inwards, set back, and thereafter retained (in perpetuity) at a minimum distance of 6 (may be reduced to 5.5) metres from the edge of the highway.**

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with saved Policy 51 of the Dacorum Borough Core Strategy (2004), Policies CS8 and CS9 of the Dacorum Borough Core Strategy (2013) and Paragraph 115 of the National Planning Policy Framework (2023).

Informatives:

1. Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.
2. New or amended vehicle crossover access (section 184): Where works are required within the public highway to facilitate a new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration.

Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.

3. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.
4. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public

right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence.

5. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway.

APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Environmental And Community Protection (DBC)	Having reviewed the application submission and the Environmental and Community Protection Team records I am able to confirm that there is no objection on the grounds of land contamination. Also, there is no requirement for further contaminated land information to be provided, or for contaminated land planning conditions to be recommended in relation to this application.
Parish/Town Council	<p>No objection.</p> <p>Like Highways we question whether this is a "re-instatement" and we were initially concerned at introducing another driveway on this busy and fast road where parish speed surveys show that approximately 25% of vehicles travel in excess of 35 mph, regardless of the 30mph limit. But we are re-assured by Highways comments.</p>
Hertfordshire Highways (HCC)	<p>Recommendation</p> <p>Interim</p> <p>This is an interim to enable more information to ensure the site is safe. Firstly the 2.4 x 4.3 metre visibility splay will need to be from the back of the kerb line whereas it appears to be from the middle of the carriageway . Secondly as the adjacent highway network is a classified C local Distributor route, vehicles must be able to turn on site to enter and exit the highway network in forward gear as per HCC's Design guide. As there is proposed to be two parking spaces on the new hardstanding a vehicle will need to be able to turn on site while another vehicle is parked. Therefore, the 2.4 x 4.8 metre parking spaces will need to be illustrated within the drawings. The swept path for the vehicles must use a large estate car for the tracking.</p> <p>Once this has been provided then HCC Highways can make an informed recommendation for the site.</p>

Further comments received

Recommendation

Notice is given under article 22 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1) Prior to the first use of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number 103 A in accordance with details/specifications to be submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority in the form of a dropped kerb access. Prior to use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

2) Provision of Visibility Splays - Dimensioned on Approved Plan

Prior to the first use of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved drawing number 102 A.

The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: To ensure that the level of visibility for pedestrians, cyclists and vehicles is satisfactory in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

3) Access Gates – Configuration

Prior to the first use of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be installed to open inwards, set back, and thereafter retained (in perpetuity) at a minimum distance of 6 (may be reduced to 5.5) metres from the edge of the highway.

Reason: To enable vehicles to safely draw off the highway before the

gate(s) or obstruction is opened and/or closed in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

Highway Informatives

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

AN 1) New or amended vehicle crossover access (section 184): Where works are required within the public highway to facilitate a new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration.

Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.

AN 2) Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the County Council website at: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 3) Obstruction of highway: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or

partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 4) Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

Comments

The amendments are in relation to the application form which does not change the highway matters for the site.

The proposal is regarding amendments for the reinstatement of existing 3.5m wide gated access to western end of rear garden. New 5 rail timber field gate at Spring Lodge, Hollybush Close, Potten End. The new access will be onto Water End Road, a 30 mph classified C Local distributor route.

HCC Highways would note that only until recently there was an existing small gate covered with vegetation and there has not been an access over the footway for at least 15 years and therefore the word reinstatement is deemed to just be for a pedestrian gate and not an access onto the highway network.

HCC Highways previously requested that a swept path be produced to ensure that any vehicles can turn on site to access the highway network in forward gear which is required as per HCC's Design guide for a local distributor route. This has now been illustrated on drawing number 103 A which HCC Highways is satisfied with. The applicant has also illustrated a visibility splay of 43 metres which is required for a 30 mph route - shown in drawing number 102 A. HCC Highways has included condition 1 to ensure the access is created in a dropped kerb style to ensure the pedestrian footway is maintained in line with HCC's Local Transport Plan policies. This dropped kerb should be completed

	<p>under a section 184 agreement with HCC Highways - see informative 1. The dropped kerb should be completed to standards stipulated in HCC's Dropped Kerb Policy found on our website.</p> <p>There is no exiting access for this property onto the adopted highway network, only onto a private road and therefore it is deemed that this would not be a second dropped kerb onto the highway network which is not permitted within HCC Dropped kerb policy.</p> <p>In conclusion, HCC Highways would not wish to restrict a grant of permission of this proposal subject to the inclusion of the aforementioned conditions and informatives.</p>
<p>Environmental And Community Protection (DBC)</p>	<p>With reference to the above planning application, please be advised the Environmental Health Pollution Team have no objections or concerns re noise, odour or air quality. However I would recommend the application is subject to informatives for waste management, construction working hours with Best Practical Means for dust, and Invasive and Injurious Weeds which we respectfully request to be included in the decision notice.</p> <p>Working Hours Informative</p> <p>Contractors and sub-contractors must have regard to BS 5228-2:2009 "Code of Practice for Noise Control on Construction and Open Sites" and the Control of Pollution Act 1974.</p> <p>As a guideline, the following hours for noisy works and/or deliveries should be observed: Monday to Friday, 7.30am to 5:30pm, Saturday, 8am to 1pm, Sunday and bank holidays - no noisy work allowed.</p> <p>Where permission is sought for works to be carried out outside the hours stated, applications in writing must be made with at least seven days' notice to Environmental and Community Protection Team ecp@dacorum.gov.uk or The Forum, Marlowes, Hemel Hempstead, HP1 1DN. Local residents that may be affected by the work shall also be notified in writing, after approval is received from the LPA or Environmental Health.</p> <p>Works audible at the site boundary outside these hours may result in the service of a Notice restricting the hours as above. Breach of the notice may result in prosecution and an unlimited fine and/or six months imprisonment.</p> <p>Construction Dust Informative</p> <p>Dust from operations on the site should be minimised by spraying with</p>

	<p>water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, produced in partnership by the Greater London Authority and London Councils.</p> <p>Waste Management Informative</p> <p>Under no circumstances should waste produced from construction work be incinerated on site. This includes but is not limited to pallet stretch wrap, used bulk bags, building materials, product of demolition and so on. Suitable waste management should be in place to reduce, reuse, recover or recycle waste product on site, or dispose of appropriately.</p> <p>Invasive and Injurious Weeds - Informative</p> <p>Weeds such as Japanese Knotweed, Giant Hogweed and Ragwort are having a detrimental impact on our environment and may injure livestock. Land owners must not plant or otherwise cause to grow in the wild any plant listed on schedule 9 of the Wildlife and Countryside Act 1981. Developers and land owners should therefore undertake an invasive weeds survey before development commences and take the steps necessary to avoid weed spread. Further advice can be obtained from the Environment Agency website at https://www.gov.uk/japanese-knotweed-giant-hogweed-and-other-invasive-plants</p>
Trees & Woodlands	According to the information submitted no trees will be detrimentally affected by the proposal. Subsequently I have no objections to the application being approved.
Parish/Town Council	No objection.

APPENDIX B: NEIGHBOUR RESPONSES

Number of Neighbour Comments

Neighbour Consultations	Contributors	Neutral	Objections	Support
10	0	0	0	0

Neighbour Responses

Address	Comments

