

**3/09/0488/FP - Construction of wildlife pond and changes to land levels at North Leys, High Street, Much Hadham for Mr S Jefcoate**

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**Date of Receipt:** 19.06.2009

**Type:** Full

**Parish:** MUCH HADHAM

**Ward:** MUCH HADHAM

**Reason for report:** contrary to policy

**RECOMMENDATION**

That planning permission be **GRANTED** subject to the following conditions:-

1. Three year time limit (1T12)
2. Tree retention (4P05)
3. Hedge retention (4P06)
4. No works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. These details shall include (a) proposed finished levels or contours (b) Planting plans (c) Written specifications (including cultivation and other operations associated with plant and grass establishment) (d) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate (e) Implementation timetables

**Reason:** To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

5. Landscape works implementation (4P13)
6. No excavated material created by the formation of this pond shall be removed from this site unless previously agreed in writing by the Local Planning Authority

**Reason:** To ensure that the Local Planning Authority retains control over the development.

7. The pond and surrounding land identified within the application site shall not be used as an extension to the residential curtilage of the house; for fishing nor for any commercial purposes.

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Reason: To restrict the use of the land to one compatible within the surrounding area, and in accordance with policy GBC3 of East Herts Local Plan Second Review April 2007.

#### 8. Withdrawal of Permitted Development (Part 2 Class A) (2E21)

##### Directive

1. If the development involves taking water from a surface source (e.g. stream, drain, etc) or from an underground strata (via borehole or well) then you may require an abstraction license. You are advised to contact the Environment Agency's Environmental Planning Team if this is the case. However, please note, a license is not required if you intend to excavate and allow the lake to fill naturally to existing ground water levels.

##### Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and East Herts Local Plan Second Review 2007), and in particular policies SD4, GBC2, GBC3, ENV1, ENV2, ENV9, ENV10, ENV11, ENV17, ENV18, BH1, BH2 and BH3. The balance of the considerations having regard to those policies is that permission should be granted.

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#### **1.0 Background**

- 1.1 The application site is shown on the attached OS extract. The plot of land is sited to the west of the residential property known as North Leys. The existing form of the land is rural in appearance with a mixture of grasses bounded by mature hedgerow and trees. There are as existing 3 modest sized ponds within the site.
- 1.2 The proposal includes the provision of a pond with an area of approximately 2000 square metres and sited approximately 140 metres from the rear of the dwelling. The depth of the pond varies, but is to a maximum of 2 metres. The applicant has stated that they wish to create a wildlife area so that they can watch the various birds etc living off the land. The applicant considers that having refurbished the existing house, he would like to landscape the surrounding land.

## **3/09/0488/FP**

### **2.0 Site History**

2.1 There is no relevant history relating to the specific plot of land. It is however pertinent to note that there is recent planning history relating to various extensions and improvements to the listed building known as North Leys.

- 3/06/0813/FP and 3/06/0814/LB: New vehicular access from garden into High Street (Approved with conditions)
- 3/08/1801/FP and 3/08/1802/LB: Erection of a new detached garage/store. New gable end to roof. Construction of a rear canopy. Construction of a retaining wall incorporating steps to rear of property. Minor internal alterations (Approved with conditions)

### **3.0 Consultation Responses**

3.1 The Environment Agency has no objection to the proposed development provided that a condition is imposed requiring a scheme to be agreed to provide and protect a landscaped 'buffer zone' alongside the pond edge.

### **4.0 Parish Council Representations**

4.1 Much Hadham Parish Council has commented that they do not object in principle to the proposed pond. However, further clarification is requested in respect of drainage issues of the pond once built and any related flooding issues at times of high rainfall.

### **5.0 Other Representations**

5.1 The application has been advertised by way of press, site notice and neighbour notification.

5.2 No letters of representation have been received at the time of writing this report.

### **6.0 Policy**

6.1 The policies of the East Herts Local Plan Second Review April 2007 that are considered most relevant to the consideration of the application are:

- SD4 Sustainable Development and Nature Conservation
- GBC2 The Rural Area Beyond the Green Belt
- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- ENV1 Design and Environmental Quality

- ENV2 Landscaping
- ENV11 Protection of Existing Hedgerows and Trees
- ENV17 Wildlife Habitats
- ENV18 Water Environment
- BH12 Setting of the Listed Building
- BH1 Archaeology and New Development
- BH2 Archaeological Evaluation and Assessment
- BH3 (Archaeological Conditions and Agreements)

## **7.0 Considerations**

- 7.1 The determining issue in this case is whether the construction of a pond and change in land levels is appropriate development at this site within the Rural Area.
- 7.2 The proposed pond and changes to land levels are not types of development specified in policy GBC3 as being appropriate and acceptable development within the Rural Area Beyond the Green Belt. It is therefore necessary to consider whether circumstances exist to warrant a departure from policy.
- 7.3 The application site which is sited to the west of the property known as North Leys is within the ownership of the occupiers of that property and its current use is considered to be meadow. The applicants have described the purpose of their proposal as being to create a wildlife area.
- 7.4 As existing, the site would appear to be largely under-utilised, but nevertheless complementary to the rural nature and openness of the locality. There are existing ponds within the plot. However those features are significantly smaller than that proposed in this application and are not particularly well managed or visible within the plot. It is considered that the proposed pond structure will complement those existing features within the site and provide a habitat to aid diversification in terms of the ecological value of the site and locality which, combined with an appropriate landscape scheme, will enhance this area further. The pond is proposed to be approximately 50 metres by 40 metres in size, and in the context of the overall site is considered to be of an appropriate size and scale. The pond, in my opinion would not be detrimental to the character and appearance of the site and is in fact a feature that might naturally be found within such a rural area.
- 7.5 The above considerations lead Officers to the view that the proposal will not have a detrimental impact on the rural openness of the locality that would warrant the refusal of the application. Moreover, the proposals are considered to encourage habitat creation and enhance the nature

conservation value and diversity of the site. These benefits assist in the achievement of the aims and objectives of many policies within the Local Plan, and more specifically policies SD4 and GBC3.

- 7.6 With regards to the impact on the setting of the listed building, taking into account the above comments, and with regards to the siting of the proposed pond some 100 metres or so from the curtilage of the listed building, Officers do not consider that the proposal will impact detrimentally on the setting of the listed building.
- 7.7 A condition is recommended to ensure that the site shall not be used as an extension to the residential curtilage of the dwellinghouse (condition 7) or for any commercial/fishing purposes. This is considered to be necessary as the use of such a significant proportion of land to residential curtilage would be contrary to the requirements of Policy ENV7. Similarly any organised fishing use (by fishing clubs or commercially for example) could lead to an unacceptable increase in general activity at the site which would be detrimental to the character of the area. This condition, combined with condition 8 (relating to means of enclosure on the site) will also ensure that future development on the site is controlled in interests of the rural character and appearance of the area.
- 7.8 Conditions also relating to tree and hedge protection combined with landscape design proposals and implementation will ensure that the proposed pond development will create a high standard of landscaping within the rural landscape, provision for potential wildlife habitat and buffer zone, as required in Policies ENV2, ENV11, ENV17 and by the Environment Agency also.
- 7.9 It is noted that the Parish Council have raised specific concerns regarding the potential impact of flooding from the pond. Those concerns relate to a consideration of the amount of water that the pond could potentially contain combined with the slope of land leading down to residential properties and the potential for surface run-off and flooding at time of high rainfall.
- 7.10 It is worth noting that the land currently benefits from ponds in this space as existing and, whilst they do not accommodate such a volume of water as is proposed in this application, no evidence or suggestion of flooding from those ponds has been raised by the Parish Council or any other statutory consultee. It is important for Members to note that the Environment Agency have not objected to the proposals on these grounds. In Officers opinion, taking into account the distance between the pond and residential properties, the degree of landscape features around the pond, combined with the comments from the Environment Agency, that the likelihood of flooding is remote and would not warrant the refusal of planning permission, in this case.

**8.0 Conclusion**

- 8.1 In summary the proposal by reason of its nature, size and scale is not considered to be detrimental to the character and appearance of the rural area, nor contrary to the overall aims and objectives of Rural Area policy.
- 8.2 Although the application has been referred to Committee as it represents a departure to the Councils Rural Area Policy, it is not considered that the development is of such a scale that warrants its referral to the Secretary of State. Accordingly it is recommended that planning permission be granted subject to the conditions contained at the commencement of this report.