

5e 3/10/0683/FP – Erection of enclosed observation platform (retrospective) at Paradise Wildlife Park, White Stubbs Lane, Bayford, EN10 7QA for Mr P. Sampson.

Date of Receipt: 14.04.2010

Type: Full - Minor

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION

a) That planning permission be **REFUSED** for the following reasons:-

1. The application site lies within the Metropolitan Green Belt as defined in the East Hertfordshire Local Plan wherein permission will not be given except in very special circumstances for development for purposes other than those required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation or other uses appropriate to a rural area. No such very special circumstances are apparent in this case to clearly outweigh harm caused by the development to the openness of the Green Belt and rural character and appearance of Woodhouse Lane contrary to policies GBC1 and ENV1 of the East Herts Local Plan Second Review April 2007.
2. The development is located in close proximity to trees, in particular a multi-stemmed hornbeam tree, protected by a woodland Tree Preservation Order, and no tree survey has been undertaken. Due to inadequate safeguarding distances for site working, and encroachment of tree rootplates, the development would prejudice the long-term health and retention of this tree. The loss and/or diminishment of this tree will exacerbate the erosion of this protected woodland, and be detrimental to the appearance of the site and surroundings. The proposal is therefore contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

b) That the Director of Neighbourhood Services, in consultation with the Director of Internal Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such further steps that may be required to secure the removal of the unauthorised observation platform building on site.

Period for compliance: 4 months

Reasons why it is expedient to issue an enforcement notice:

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1. The application site lies within the Metropolitan Green Belt, as defined in the East Hertfordshire Local Plan, where development will only be allowed for certain specific purposes. There is insufficient justification for the retention of this building, which impacts on the openness of the Green Belt and rural character of Woodhouse Lane. Its erection is therefore contrary to the aims and objectives of policies GBC1 and ENV1 of the East Herts Local Plan Second Review April 2007.
2. The development is located in close proximity to a protected hornbeam tree, and would prejudice the long-term health and retention of this tree. The loss and/or diminishment of this tree would be detrimental to the appearance of the site and surroundings. The development is therefore contrary to policies ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

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1.0 Background

- 1.1 The application site is shown on the attached OS extract and comprises an established wildlife park located in the Metropolitan Green Belt in the south of the district. The site includes a number of buildings and animal enclosures with car parking set in woodland surroundings. The site is covered by a woodland Tree Preservation Order.
- 1.2 This is a retrospective application for a two storey enclosed observation building located towards the east of the site within the wild cat area, and with views into the tiger enclosure. The building measures some 10.7m in length by 7.1m in width with a pitched roof to a height of 6.8m. The building connects into raised walkways that form the subject of an accompanying part retrospective application, 3/10/0981/FP.

2.0 Site History

3/08/1402/FP	Two storey ticket/office building.	Approved with Conditions 19-Nov-2008
3/08/1401/FP	Event marquee.	Approved with Conditions 22-Oct-2008
3/08/1400/FP	Two storey education, event and office building (retrospective).	Approved with Conditions 19-Nov-2008

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3/08/1390/FP	Overflow car park.	Approved with Conditions 22-Oct-2008
3/06/0167/FP	Single storey extension to house museum.	Approved with Conditions 22-Mar-2006
3/01/0065/FP	Single storey extensions, covered way and replacement covered area to terrace.	Approved with Conditions 13-Mar-2001
3/97/1145/FP	Single storey education centre.	Approved with Conditions 11-Feb-1998
3/97/0693/FP	Two storey rear extension to form additional bedrooms.	Approved with Conditions 04-Jul-1997

3.0 Consultation Responses

- 3.1 The Council's Landscape Officer recommends refusal on the grounds that the site is covered by a woodland Tree Preservation Order (TPO) and there is a multi-stemmed hornbeam within 2m of the structure in question with an asphalted footpath passing within inches of the base of this tree. The footprint for the structure is within the root protection area for the tree and significant root damage will have been caused.
- 3.2 There are also wider implications associated with this application for retrospective planning consent in that the entire site is the subject of a woodland TPO and the cumulative effect of previous developments has destroyed most of the original woodland over a prolonged period of time. What remains can best be described as remnant or relic trees that have survived from the original woodland and many of these show evidence of poor arboricultural management.
- 3.3 Environmental Health do not wish to restrict the grant of permission.
- 3.4 The County Council Archaeology Officer makes no comment; the proposal is unlikely to have an impact upon significant heritage assets.

4.0 Parish Council Representations

- 4.1 Brickendon Liberty Parish Council states that is totally opposed to any retrospective planning application, a point which was made quite clear to Mr. Sampson when Parish Councillors met with him in 2009. The proposed development is considered to be contrary to GBC1 of the East Herts Local Plan Second Review.

5.0 Other Representations

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification.
- 5.2 1 no. letter of representation has been received from Birch Farm commenting that this development supports the activities of the wildlife park and is in keeping with the surroundings.

6.0 Policy

- 6.1 The relevant saved Local Plan policies in this application include the following:-

GBC1	Appropriate Development in the Green Belt
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
BH1	Archaeology and New Development
LRC10	Tourism

- 6.2 In addition to the above it is considered that Planning Policy Statement 1, (Delivering Sustainable Development), Planning Policy Guidance 2 'Green Belts', and PPS5 'Planning for the Historic Environment' are considerations in determining this application.

7.0 Considerations

Principle of Development

- 7.1 The site lies within the Metropolitan Green Belt wherein inappropriate development will not be permitted. The proposed development does not fall within any category of appropriate development set out in policy GBC1 or PPG2 and therefore amounts to inappropriate development. Although the site already comprises a number of buildings and structures, it has not been designated as a Major Developed Site. The construction of any new buildings therefore amounts to inappropriate development and very special circumstances must be demonstrated that clearly outweigh the harm caused by reason of inappropriateness, and any other harm.

Very Special Circumstances and Impact

- 7.2 The observation platform has already been constructed and measures approximately 10.7m in length and up to 7.1m in width with connected external stairwells. The roof is hipped to a height of 6.8m and formed of a thatch style roof covering. The rest of the building is clad in timber boarding with substantial areas of glazing.
- 7.3 The floor plans indicate that the ground floor will be used as a visitor viewing area (including disabled viewing space), with the first floor labelled as the main observation area. This totals some 100m² of visitor viewing space. However, much of the ground floor lacks windows for viewing, whilst over half of the first floor does not overlook the tiger enclosure. The justification for this amount of viewing space is therefore questionable.
- 7.4 The applicant states that the tiger enclosure is a very important and well attended feature of the Park, and that poor weather conditions had previously made it difficult for visitors to properly observe the tigers. The provision of an enclosed structure could therefore be considered to be reasonable in principle and justifiable in terms of Green Belt policy and policy LRC10.
- 7.5 However, Officers are not satisfied that the full two storey 100m² floorspace is justified by this argument, and no further supporting justification has been provided. Further, it is understood that the applicant had previously applied for a license to conduct weddings in this building. This does not support the case put forward by the applicant and would also be considered inappropriate in the Green Belt.
- 7.6 It is noted that the Park is an important tourist attraction within the district and contributes to the economy of the area, and that Local Plan policy will support suitable proposals. While the location is an established site and appropriate for the purposes of LRC10, Officers do not consider that this is a reason to allow such a large observation building in the Green Belt that appears excessive and not entirely designed for its purpose. Officers therefore consider that there are no overriding very special circumstances in this case. Comments raised by the Parish Council are noted; however the application is not assessed any differently for being retrospective.

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- 7.7 The building is located to the east of the Park amongst a number of other smaller observation platforms. Raised walkways have also been part constructed to connect these buildings, with a ramp proposed for disabled access. This is the subject of a separate application contained within this agenda (3/10/0981/FP). Although the observation building is physically connected to these walkways, Officers understand that it would be possible to retain the developments independently.
- 7.8 The site is partly screened to the east by existing trees; however views remain through these trees to Woodhouse Lane, a rural lane comprising no other built development. Numerous structures along the eastern boundary of the site are gradually eroding this character, and this new structure in particular will impact on the openness of the Green Belt.

Impact on Protected Trees

- 7.9 The building has been constructed in close proximity (approximately 2m) to a multi-stemmed hornbeam tree that is protected by a woodland Tree Preservation Order that covers the entire site. No information has been submitted on this tree in the form of a tree survey, or other trees along the eastern boundary, and the submitted plans do not indicate the location of trees.
- 7.10 The Council's Landscape Officer has visited the site and determined that the approximately 18m high tree would be classed as a Category C tree of moderate quality and value with a lifespan of at least another 20 years. The structure has been built unacceptably close to this tree and will prejudice its long term health and retention. He also comments that numerous other developments have cumulatively eroded the woodland over time and that what remains can best be described as remnant or relic woodland. The loss of further trees, including this hornbeam, would therefore further impact on the appearance of the site and surrounding woodland area. The proposal is therefore considered to conflict with policies ENV2 and ENV11 of the Local Plan.

Other Matters

- 7.11 There will be no impact on neighbouring amenity given the distance to the nearest neighbouring property.
- 7.12 There are no highway implications as a result of this development.

Enforcement

- 7.13 Given that the development is retrospective, and results in harm to the Green Belt and a protected tree, Officers consider it expedient to pursue enforcement action to have the structure removed within a time period of 4 months. The reasons why it is considered to be expedient to pursue are set out at the head of this report.

8.0 Conclusion

- 8.1 Overall the development amounts to inappropriate development in the Green Belt and therefore very special circumstances must be demonstrated that clearly outweigh the harm to the Green Belt, and any other harm. Although Officers acknowledge the tourism benefits of the site, and the case for an observation area, it is not considered that a justification has been made for the much larger two storey building which does not appear to be designed for its purpose having, as it does, a limited amount of glazing for observation purposes. The development also results in harm to the openness of the Green Belt. No very special circumstances have been demonstrated that clearly outweigh the harm caused by reason of inappropriateness, and harm to protected trees.
- 8.2 The application is therefore recommended for refusal for the reasons set out above, and it is also recommended that authorisation be given to issue and serve a Planning Enforcement Notice with regard to the unauthorised building.