



MEETING : DEVELOPMENT MANAGEMENT COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 23 MARCH 2016
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE:

Councillor D Andrews (Chairman).

Councillors M Allen, K Brush, M Casey, M Freeman, J Goodeve, J Jones, J Kaye, D Oldridge, T Page, P Ruffles (Vice-Chairman) and K Warnell.

Substitutes:

Conservative Group: Councillors R Brunton, S Bull, B Deering and R Standley.

(Note: Substitution arrangements must be notified by the absent Member to the Committee Chairman or the Executive Member for Development Management and Council Support, who, in turn, will notify the Committee service at least 7 hours before commencement of the meeting.)

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:
 - must not participate in any discussion of the matter at the meeting;
 - must not participate in any vote taken on the matter at the meeting;
 - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
 - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
 - must leave the room while any discussion or voting takes place.
2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.
3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.
4. It is a criminal offence to:
 - fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
 - fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
 - participate in any discussion or vote on a matter in which a Member has a DPI;
 - knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

(Note: The criminal penalties available to a court are to impose a fine not exceeding level 5 on the standard scale and disqualification from being a councillor for up to 5 years.)

Audio/Visual Recording of meetings

Everyone is welcome to record meetings of the Council and its Committees using whatever, non-disruptive, methods you think are suitable, which may include social media of any kind, such as tweeting, blogging or Facebook. However, oral reporting or commentary is prohibited. If you have any questions about this please contact Democratic Services (members of the press should contact the Press Office). Please note that the Chairman of the meeting has the discretion to halt any recording for a number of reasons, including disruption caused by the filming or the nature of the business being conducted. Anyone filming a meeting should focus only on those actively participating and be sensitive to the rights of minors, vulnerable adults and those members of the public who have not consented to being filmed.

AGENDA:

1. Apologies

To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

4. Minutes – 24 February 2016

To confirm the Minutes of the meeting of the Committee held on Wednesday 24 February 2016 (Previously circulated as part of the Council Minute book for Wednesday 2 March 2016).

5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 7 – 10).

(A) 3/15/2556/VAR – Variation of Condition 2 (approved plans) of planning permission 3/15/0413/FUL: Erection of 120 residential units, 100 sqm of commercial floorspace, provision of a link road between Mill Road and Mead Lane and passenger interchange, associated car parking, landscaping and groundworks – Amendments to the layout of the central car parking area and parking area to the west of the Fitzroy houses. Creation of new access onto Mead Lane. Amendments to the Fitzroy houses and the depth of the amenity deck at Land Between Mill Road and Mead Lane, Hertford, SG14 1SA for Redrow Homes Ltd (Pages 11 – 56).

Recommended for Approval.

(B) 3/15/1584/FUL – Erection of six B1/B8 units to replace extant planning permission reference 3/06/1994/FP at Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY for Hadham Industrial Estates Ltd (Pages 57 – 74).

Recommended for Refusal.

- (C) E/15/0366/ENF – a) Unauthorised change of use of the building from hotel (C1 Use) to a wedding venue (Sui-Generis Use); b) Unauthorised operational development to change the levels of the land; erect light columns, security lighting poles and lights; and the erection of gate pillars and entrance gates; c) Unauthorised works to a listed building by way of the attachment of security lights and CCTV cameras at Briggens House Hotel, Briggens Park Road, Stanstead Abbots, Ware, SG12 8LD_ (Pages 75 – 82).

Enforcement.

- (D) E/08/0021/A – The erection of an unauthorised industrial style link building between a Grade II listed barn and a further agricultural building, and the unauthorised material change of use from agriculture to a cricket school at Tharbies Barns, Rook End, High Wych, Herts, CM21 0LL_ (Pages 83 – 106).

Enforcement.

6. Items for Reporting and Noting (Pages 107 – 192).

- (A) Appeals against refusal of Planning Permission/ non-determination;
- (B) Planning Appeals Lodged;
- (C) Planning Appeals: Inquiry and Informal Hearing Dates; and
- (D) Planning Statistics.

7. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration and is not likely to involve the disclosure of exempt information.

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EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 23 MARCH 2016

REPORT BY HEAD OF PLANNING AND BUILDING CONTROL

PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

WARD(S) AFFECTED: As identified separately for each application
and unauthorised development matter.

Purpose/Summary of Report:

- To enable planning and related applications and unauthorised development matters to be considered and determined by the Committee, as appropriate, or as set out for each agenda item.

<u>RECOMMENDATION FOR DEVELOPMENT MANGEMENT COMMITTEE</u>	
That:	
(A)	A recommendation is set out separately for each application and unauthorised development matter.

1.0 Display of Plans

1.1 Plans for consideration at this meeting will be displayed outside the Council Chamber from 5.00 pm on the day of the meeting. An Officer will be present from 6.30 pm to advise on plans if required. A selection of plans will be displayed electronically at the meeting. Members are reminded that those displayed do not constitute the full range of plans submitted for each matter and they should ensure they inspect those displayed outside the room prior to the meeting.

1.2 All of the plans and associated documents on any of the planning applications included in the agenda can be viewed at:
<http://online.eastherts.gov.uk/swiftlg/apas/run/wphappcriteria.display>

1.3 Members will need to input the planning lpa reference then click on that application reference. Members can then use the media items tab to view the associated documents, such as the plans and other documents relating to an application.

2.0 Implications/Consultations

- 2.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

Background Papers

The papers which comprise each application/ unauthorised development file. In addition, the East of England Plan, Hertfordshire County Council's Minerals and Waste documents, the East Hertfordshire Local Plan and, where appropriate, the saved policies from the Hertfordshire County Structure Plan, comprise background papers where the provisions of the Development Plan are material planning issues.

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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

Contribution to the Council's Corporate Priorities/ Objectives (delete as appropriate):	<p>People – Fair and accessible services for those that use them and opportunities for everyone to contribute</p> <p>This priority focuses on delivering strong services and seeking to enhance the quality of life, health and wellbeing, particularly for those who are vulnerable.</p> <p>Place – Safe and Clean</p> <p>This priority focuses on sustainability, the built environment and ensuring our towns and villages are safe and clean.</p> <p>Prosperity – Improving the economic and social opportunities available to our communities</p> <p>This priority focuses on safeguarding and enhancing our unique mix of rural and urban communities, promoting sustainable, economic opportunities and delivering cost effective services.</p>
Consultation:	As set out separately in relation to each matter if any are appropriate.
Legal:	As set out separately in relation to each matter if any are appropriate.
Financial:	As set out separately in relation to each matter if any are appropriate.
Human Resource:	As set out separately in relation to each matter if any are appropriate.
Risk Management:	As set out separately in relation to each matter if any are appropriate.
Health and wellbeing – issues and impacts:	As set out separately in relation to each matter if any are appropriate.

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DEVELOPMENT MANAGEMENT COMMITTEE – 23 MARCH 2016

Application Number	3/15/2556/VAR
Proposal	Variation of Condition 2 (approved plans) of planning permission 3/15/0413/FUL: Erection of 120 residential units, 100 sqm of commercial floorspace, provision of a link road between Mill Road and Mead Lane and passenger interchange, associated car parking, landscaping and groundworks – Amendments to the layout of the central car parking area and parking area to the west of the Fitzroy houses. Creation of new access onto Mead Lane. Amendments to the Fitzroy houses and the depth of the amenity deck.
Location	Land Between Mill Road and Mead Lane, Hertford, SG14 1SA
Applicant	Redrow Homes Ltd
Parish	Hertford
Ward	Hertford Castle

Date of Registration of Application	4 January 2016
Target Determination Date	4 April 2016
Reason for Committee Report	Major
Case Officer	Hazel Izod

RECOMMENDATION

That planning permission be **GRANTED** subject to a Deed of Variation of the legal obligation agreed under ref: 3/15/0413/FUL, and to the conditions set out at the end of this report.

1.0 Summary

- 1.1 This application proposes minor material amendments to a previously approved scheme of 120 residential units, 100m² of commercial space, and a new Link Road, which is currently being implemented. The amendments include alterations to the layout of the parking areas, provision of electronic gates, the size of the houses to the east of the site, an increase in height of the amenity deck, and the creation of a new access onto Mead Lane, instead of onto the new Link Road as approved previously. No changes are proposed to the number or tenure of units, bedroom numbers, or number of car parking spaces.
- 1.2 The changes are considered to be modest and will result in no harm to the character or appearance of the area, the setting of heritage assets,

highway safety, parking provision, or residential amenity. The proposal is therefore considered to be acceptable in relation to national and local planning policy.

2.0 Site Description

- 2.1 The application site is shown on the attached OS extract and comprises former railway land that has previously been used, in part, as a waste transfer station and builders' hire centre. The site was vacant for some time and is now under construction for an approved redevelopment scheme of 120 residential units, 100m² ground floor commercial space and a new link road (reference 3/15/0413/FUL).
- 2.2 To the south of the site lies the Grade II listed Hertford East Railway Station, to the north lies the former TXU site which has been developed as flats known as Elder Court, with two storey Victorian cottages adjacent, and to the west is the former Council depot site that has been developed as flats known as The Waterfront. Land to the east also lies vacant and comprises former railway land. A small strip of land along the southern boundary of the site lies within the Hertford Conservation Area.
- 2.3 The site forms part of an area identified in the Mead Lane Urban Design Framework 2014 for redevelopment for predominantly residential purposes.

3.0 Background to Proposal

- 3.1 Full planning permission was granted on 20 November 2015 for a development of 120 residential units with 100m² commercial floorspace and a new link road under reference 3/15/0413/FUL. This also followed an earlier consent for 107 units which was first implemented (the later scheme approved additional floors and no change in footprint). Construction is now well underway in accordance with 3/15/0413/FUL.
- 3.2 This application proposes a number of minor material amendments to the approved scheme through a variation of Condition 2 (approved plans condition). The amendments include to the layout of the parking areas, provision of electronic gates, the size of the houses to the east of the site, an increase in height of the amenity deck, and the creation of a new access onto Mead Lane. No changes are proposed to the number or tenure of units, bedroom numbers, or number of car parking spaces.

- 3.3 A number of non-material amendments have already been approved by Officers under a Section 96A non-material amendment application (reference 3/15/2586/NMA). This included changes to the substation appearance, ground floor arrangement of Blocks A1, A2, A3 and A5, and first floor of Block A4, and amendments to the southeast elevation of Block B3 and west elevation of Block A4.

4.0 **Key Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan
Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.	Consideration of Relevant Issues	Policy 5
Sustainability	Para 14	SD1, SD2
Housing delivery	Section 6	HSG1
Affordable Housing	Section 6	HSG3, HSG4
Transport and Access	Section 4	TR1, TR2, TR3, TR4
Parking provision	Section 4	TR7
Design and layout	Sections 7, 8	ENV1, ENV2, ENV3

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

5.0 **Emerging District Plan**

- 5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. Given its stage in preparation, little weight can currently be accorded to the emerging Plan.

6.0 **Summary of Consultee Responses**

- 6.1 The Highway Authority does not wish to restrict the grant of permission subject to conditions. They comment that there is no change to the number or type of residential units, the link road design, or the number of parking spaces. Their previous comments therefore still stand. In respect of the new access they comment that an additional 11 vehicles routing along Mead Lane in the peak hours would not be significant, and the access point is sufficiently spaced from the eastern car park

access. The plans show adequate visibility splays. Although the former TXU site access is almost directly opposite, the trip movements will not be sufficiently large enough to cause any real concern. The changes to on-site vehicle parking areas and gates are very minor and have no highway implications.

- 6.2 Herts Fire and Rescue comment that access and facilities for fire-fighting should be in accordance with the Building Regulations.
- 6.3 The Historic Environment Advisor comments that the site has already been subject to archaeological investigation which established that the site had already suffered extensive disturbance in the 19th and 20th centuries. It is therefore unlikely that this amended scheme will have an impact on heritage assets of archaeological interest.
- 6.4 Natural England makes no comment.
- 6.5 Affinity Water comment that the site is located within the groundwater Source Protection Zone of Port Hill pumping station.
- 6.6 National Grid comment that it has apparatus in the vicinity of the site and the contractor should contact National Grid to ensure that apparatus is not affected by the proposed works.
- 6.7 Historic England make no comment – the application should be determined in accordance with national and local policy guidance.
- 6.8 The Herts Constabulary Crime Prevention Design Advisor raises concerns with a lack of gates for all the parking areas – undercroft areas in particular could become crime generators. The blank gable walls of the Fitzroy houses could encourage graffiti – he therefore suggests additional windows or fake windows on these gable ends.
- 6.9 Environmental Services comment that individual properties must have sufficient space to store 3 x 240 litre bins or have access to communal bin stores. Any bin store must be accessible via flat ground and be no more than 25 metres from where the freighter can stop for collection. Bin stores must be of a sufficient size to house the correct number of bins – communal properties are allowed 200 litres of domestic refuse capacity per dwelling.

7.0 Town Council Representations

- 7.1 Hertford Town Council object on the grounds that they have long wanted to seek a reduction in traffic along Mead Lane, particularly given the conflict between pedestrians/cyclists and motorists in the Dicker Mill area, and further wishes to protect the amenity of the Victorian properties along Mead Lane. Therefore the creation of an additional entrance opposite Elder Court is not considered appropriate.

8.0 **Summary of Other Representations**

- 8.1 1 letter of representation has been received raising concerns over the impact of the development, in particular as the road already gets very busy in the peak hours and parking is very limited.

9.0 **Planning History**

Ref	Proposal	Decision	Date
3/15/2586/NMA	Non-material amendments to 3/15/0413/FUL: amendments to substation and ground floor arrangement of Blocks A1, A2, A3 and A5 and first floor of Block A4; amendments to south-east elevation of Block B3 and west elevation of Block A4.	Approved	14.01.2016
3/15/0413/FUL	Erection of 120 residential units, 100 sqm of commercial floorspace, provision of a link road between Mill Road and Mead Lane and passenger interchange, associated car parking, landscaping and groundworks.	Approved with Conditions	20.11.2015
3/14/0590/FP	Demolition of existing buildings and redevelopment of the site to provide 107 residential units, 100 sqm of retail floorspace, provision of a	Approved with Conditions	13.11.2014

	link road between Mill Road and Mead Lane and passenger interchange, associated car parking, landscaping and ground works.		
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10.0 **Consideration of Relevant Issues**

- 10.1 Given that this application proposes amendments to a previously approved scheme which is currently being implemented, this report will focus on consideration of the specific amendments. For detailed discussion on the original planning issues, please refer to **Essential Reference Paper 'A'** for the report relating to application 3/15/0413/FUL.
- 10.2 The main change proposed in this application relates to the access arrangements, with access to the central surface car park now proposed onto Mead Lane instead of the new Link Road as approved. This is in order to reduce the delay for cars exiting the site in peak hours as Mead Lane is expected to become less heavily trafficked than the Link Road. The previously approved access onto the Link Road will instead be blocked up with a wall and landscaping, similar to another approved surface car parking area to the east.
- 10.3 This change was discussed with the Highway Authority prior to submission of the application, and no objection has been raised by the Highway Authority, subject to conditions. They are satisfied that acceptable visibility splays can be achieved from this new access, and that the additional traffic generation of approximately 11 vehicles during peak hours would not have a significant impact on Mead Lane. The Highway Authority acknowledge that the new access will be located in close proximity to an existing access at Elder Court opposite, but the trip movements from both of these developments would not be sufficient to cause a severe highway impact. The concerns raised by the Town Council are noted. However, given the comments received from the Highway Authority, Officers are satisfied that no harm would arise. The design of road junctions, to promote the use of the Link Road by industrial traffic, is already covered by the planning conditions.
- 10.4 The new access will also be closer to existing residential properties on Mead Lane, but will not result in significant additional movements so as to cause harm to their residential amenity. One letter of representation has been received from a local resident raising concerns over highway

impacts. However, given the modest changes proposed here and the lack of an objection from the Highway Authority, Officers are satisfied with the level of impact.

- 10.5 The application also proposes to install sliding electronic gates within this central car parking area in order to delineate between social and market housing. The Registered Provider for the affordable units has requested that the parking area for the social units be gated off from the market units in order to simplify their management and maintenance programme. The gates are proposed to be approximately 1.2 metres high and formed of a simple railing design with brick piers. Officers consider the design and siting of these gates to be acceptable in relation to the character of the area, and they are sufficiently set back from the highway. No details have been submitted on the finished colour of the gates but this can be controlled through the recommended boundary walls and fences condition.
- 10.6 The installation of this internal gate does result in some minor changes to the parking layout, and the loss of one space. To compensate for this, an additional space is now proposed beneath the amenity deck at Block A. The overall number of car parking spaces for the development therefore remains unchanged and Officers consider the revised parking layout to be acceptable.
- 10.7 A pair of electronic gates are also proposed in front of the Fitzroy houses, approved at the eastern end of the site. This is in order to prevent unauthorised parking in this area. Comments from the Herts Constabulary Design Advisor are noted – he recommends gates for all entrances, including the undercroft parking area. Officers, however, would discourage a proliferation of gates within a development in this location in order to appear more inclusive. Any unauthorised access or parking within the site will be controlled through a management company on site. He also raises concerns regarding blank facades on the flank elevations of the approved houses, which may attract graffiti. These elevations remain unchanged from the previous approval, and the possibility of future vandalism is not considered to be a sufficient reason to resist this application.
- 10.8 Changes are also proposed to the design of the cycle parking areas for Blocks A3, B1 and B3 to ensure that there is sufficient space for pedestrians to pass. These changes are very minor and will not affect the design of the scheme.

- 10.9 It is also proposed to increase the depth of the Fitzroy houses by 450mm to ensure that they meet Lifetime Homes standards. The internal layout will also be amended to include kitchens at ground floor level and a bedroom at first floor level. The total number of bedrooms does not change, and the minor increase in depth will not have any impact on the character of the area or amenity, nor will it materially reduce the size of the rear amenity areas for these units.
- 10.10 It is also proposed to increase the height of the concrete slab for the raised amenity deck for Blocks A1-A5 in order to provide sufficient roof loading for the landscaping scheme. This results in the deck and associated railings being increased in height by some 400mm. There will be no increase in height of the buildings. Officers are satisfied that this amendment will not harm the overall design or impact of the development in the street scene.
- 10.11 Finally, a minor change is proposed to Condition 24 due to a previous error where it referred to Blocks A2 and A3 instead of Blocks A1 and A2 for the green roof maintenance railings. This is rectified in the conditions below.

11.0 Conclusion

- 11.1 Overall, the changes are considered to be modest and Officers are satisfied that no harm would arise to the design of the scheme, its impact on the character and appearance of the area, the setting of the Conservation Area or nearby listed buildings, the highway network, or neighbour amenity.
- 11.2 The application is therefore recommended for approval subject to the conditions set out below. As this amendment results in a fresh permission being granted, the conditions are repeated from the previous approval and updated where details have already been submitted and agreed. Where details have been submitted but not yet agreed, it is again recommended that a period of 3 months be given for the submissions, and this information can then be carried over to this fresh permission. A Deed of Variation legal agreement will also be required to tie this application in with the original Section 106 Agreement.

Legal Agreement

- A Deed of Variation is required in order to tie this permission in with the signed Section 106 Agreement for 3/15/0413/FUL.

Conditions

1. Approved Plans (2E10)
2. The external materials of construction for the building works hereby permitted shall be as approved under application 3/15/0413/FUL unless otherwise agreed in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved materials.

Reason: In the interests of the appearance of the development, and in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

3. The slab levels and ridge heights of the buildings hereby permitted, and ground levels of the site shall be as approved under application 3/15/0413/FUL, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development is properly related to the levels of adjoining development in the interests of neighbour amenity and good design in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

4. Prior to the first occupation of any dwellings hereby approved, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected and retained in accordance with the approved details.

Reason: In the interests of privacy and good design, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

5. Within 3 months of the date of this decision, details of facilities to be provided for the storage and removal of refuse from the site shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: In the interests of amenity, in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

6. Details of external lighting shall be as approved under application

3/14/0590/FP, and no external lighting shall be provided without the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of the area, and in accordance with policy ENV23 of the East Herts Local Plan Second Review April 2007.

7. Measures to be taken in the design, construction, decommissioning and demolition of the development; re-use of existing materials within the new development; recycling of waste materials for use on site and off; minimisation of the amount of waste generated; minimisation of the pollution potential of unavoidable waste; treatment and disposal of the remaining waste in an environmentally acceptable manner; and utilisation of secondary aggregates and construction and other materials with a recycled content shall be implemented as approved under application 3/15/0413/FUL, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To accord with Hertfordshire Waste Core Strategy and Development Management Policies DPD 2012.

8. Prior to first occupation of the development, detailed plans of the highway works for the proposal, consisting of the Link Road, junctions, access and car parking areas, shall be submitted to and approved in writing by the Local Planning Authority, and no part of the development shall be occupied until the approved highway works serving that part of the development have been completed in accordance with the approved plans and constructed to the specification of the Highway Authority and the satisfaction of the Local Planning Authority.

Reason: To ensure the highway works are constructed to a satisfactory standard and promote the use of the Link Road for industrial traffic.

9. Within 3 months of the date of this decision, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
 - a. The construction programme and phasing;
 - b. Hours of operation, delivery and storage of materials;
 - c. Details of any highway works necessary to enable the construction to take place;
 - d. Parking and loading arrangements;

- e. Details of any hoarding;
- f. Details of how pedestrian and cyclist safety will be maintained;
- g. Management of traffic to reduce congestion;
- h. Control of dust and dirt on the public highway;
- i. Details of consultation with local businesses or neighbours;
- j. Details of any other construction sites in the local area;
- k. Waste management proposals.

Reason: In the interests of highway safety and to minimise the impact of construction on the local highway network.

10. Within 3 months of the date of this decision, a Delivery, Service and Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include arrangements for resident and visitor parking bay allocations, controls over the service delivery bay on Mill Road, refuse collection routing, and measures to prevent service and delivery vehicles from entering the off-street parking areas. The development shall be carried out in accordance with the approved details, and the management plan shall remain in place unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to prevent on-street parking.

11. Prior to the use of the development hereby permitted a Green Travel Plan shall be drawn up by the occupiers of the new building and approved in writing by the Local Planning Authority; such plans to include proposals for all travel by modes other than the private car for journeys to and from site.

Reason: To promote the use of non car modes of transport in accordance with national guidance in section 4 of the National Planning Policy Framework and policy TR4 of East Herts Local Plan Second Review April 2007.

12. Hard and soft landscape proposals shall be as approved under application 3/14/0590/FP, unless otherwise agreed in writing by the Local Planning Authority, and the development shall proceed in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policies ENV1, ENV2 and ENV11 of the East Herts Local Plan Second Review April 2007.

13. The schedule of landscape maintenance for a minimum period of five years, including implementation, shall be as approved under application 3/14/0590/FP, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007

14. Tree/hedge retention and protection (4P05)
15. Construction hours of working - plant and machinery (6N07)
16. The commercial unit hereby approved shall be used for A1 (shops), A2 (financial and professional services) or A3 (restaurants and cafés) purposes only and for no other use within the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To ensure that no alternative use is made of the premises which would be detrimental to the amenities of adjoining occupants in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

17. Reclamation of the site shall be carried out in accordance with RSK Environment Ltd's report 25872/L01.SJ dated 9th November 2012 submitted in connection with 3/15/0413/FUL unless otherwise agreed in writing by the Local Planning Authority. On completion of the reclamation works, the developer shall provide a verification report which confirms that the works have been completed in accordance with the approved documents and plans.

Reason: To ensure adequate protection of human health, the environment and watercourses in accordance with policies ENV20 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

18. Within 3 months of the date of this decision, a scheme that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority:

- a. A site investigation scheme based on the Phase 1 Environmental Risk Assessment HLEI17433/001R dated June 2011 to provide information for a detailed assessment of the risk to receptors that may be affected, including those off-site;
- b. The results of the site investigation and detailed risk assessment referred to in (a) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

19. Prior to first occupation of the development hereby approved, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

20. No infiltration of surface water drainage into the ground, or piling or other foundation designs using penetrative methods, is permitted other than with the express consent of the Local Planning Authority which may be given for those parts of the site where it has been demonstrated that there is no unacceptable risk to groundwater.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

21. Prior to first occupation of the development hereby approved, noise control measures shall be carried out in accordance with the submitted Environmental Noise and Vibration Assessment report 12274E-1 R3 dated 3rd March 2015 submitted in connection with 3/15/0413/FUL, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of future residents in accordance with policy ENV25 of the East Herts Local Plan Second Review April 2007.

22. Within 3 months of the date of this decision, a detailed surface water drainage scheme based on the approved Flood Risk Assessment 5351/2.3F dated March 2014 and WSP Addendum dated March 2015, submitted in connection with 3/15/0413/FUL, shall be submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details and completed prior to first occupation. The scheme shall include a restriction in run-off to greenfield rates and surface water storage on site as outlined in the FRA.

Reason: To prevent the increased risk of flooding and to improve and protect water quality in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

23. The collapsible railings hereby approved to Blocks A1 and A2 shall only be retained in the upright position whilst maintenance work is being carried out to the roof. At all other times the railings shall be collapsed.

Reason: To minimise the visual impact of the railings in the street and surrounding area in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

24. The pedestrian links between Mead Lane and the Link Road identified on layout drawing 387.200.06 shall remain open for public use.

Reason: In the interest of good design and to improve permeability for existing residents in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

Informatives

1. Other Legislation (01OL)
2. Highway Works (05FC)
3. Planning Obligation (08PO)
4. Street Naming and Numbering (19SN)
5. Groundwater protection zone (28GP – insert 'Port Hill')

6. Unsuspected contamination (33UC)
7. The applicant is advised that if the commercial unit is used for A3 purposes then an extractor system will be required that may require a separate planning application. Environmental Health regulations in respect of odour ventilation would also apply.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The balance of the considerations having regard to those policies, and permissions 3/14/0590/FP and 3/15/0413/FUL, is that permission should be granted.

KEY DATA

Residential Development

Residential density	110 units/Ha	
	Bed spaces	Number of units
Number of existing units demolished		
Number of new flat units	1	48
	2	68
	3	0
Number of new house units	1	0
	2	0
	3	0
	4+	4
Total		120

Affordable Housing

Number of units	Percentage
48	40%

Non-Residential Development

Use Type	Floorspace (sqm)
A1/A2/A3	100m ²

Residential Vehicle Parking Provision

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	60
2	1.50	102
3	2.25	0
4+	3.00	12
Total required		174
Proposed provision		128

Emerging Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone	3	
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	72
2	2.00	136
3	2.50	0
4+	3.00	12
Total required		220
Accessibility reduction	50-100%	
Resulting requirement	110-220	
Proposed provision		128

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3/15/0413/FUL – Erection of 120 residential units, 100 sqm of commercial floorspace, provision of a link road between Mill Road and Mead Lane and passenger interchange, associated car parking, landscaping and groundworks at Land between Mill Road and Mead Lane, Hertford for Redrow Homes Ltd (South East Division)

Date of Receipt: 20.03.2015

Type: Full – Major

Parish: HERTFORD

Ward: HERTFORD CASTLE

RECOMMENDATION:

That, subject to the applicant or successor in title entering into a legal obligation pursuant to s.106 of the Town and Country Planning Act 1990 to cover the following matters:

- £79,472 index linked to Herts County Council towards the provision of a new primary education building at Simon Balle School (Primary Education);
- £16,508 index linked to Herts County Council towards the provision of a new pre-school at St Andrews School (Nursery Education);
- £5,104 index linked to Herts County Council towards the provision of a new pre-school at St Andrews School (Childcare);
- £80,440 index linked to East Herts Council towards new outdoor sports equipment at Hartham/Kings Mead (Outdoor Sports facilities);
- £7,776 index linked to East Herts Council towards new outdoor play equipment at Hartham/Kings Mead (Play facilities);
- The provision of 40% affordable housing - 75% to be social rented and 25% to be shared ownership;
- The provision of 15% lifetime homes;
- £6,000 Travel Plan Evaluation and Support Contribution to Herts County Council towards the monitoring of the Travel Plan;
- Monitoring fee.

3/15/0413/FUL

The Director of Neighbourhood Services be authorised to **GRANT** planning permission subject to the following conditions:

1. Three year time limit (1T12)
2. Approved Plans (2E10)
3. Samples of materials (2E12)
4. Levels (2E05)
5. Boundary walls and fences (2E07)
6. Refuse disposal facilities (2E24)
7. Lighting details (2E27)
8. Materials arising from demolition (2E32)
9. Prior to first occupation of the development, detailed plans of the highway works shall be submitted to and approved in writing by the Local Planning Authority, and the development shall not be occupied until the approved highway works, Link Road, junctions, access and car parking areas are completed in accordance with the approved plans and constructed to the specification of the Highway Authority and the satisfaction of the Local Planning Authority.

Reason: To ensure the highway works are constructed to a satisfactory standard.

10. Prior to the commencement of development, a detailed construction management plan shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
 - a. The construction programme and phasing;
 - b. Hours of operation, delivery and storage of materials;
 - c. Details of any highway works necessary to enable the construction to take place;
 - d. Parking and loading arrangements;
 - e. Details of any hoarding;
 - f. Details of how pedestrian and cyclist safety will be maintained;
 - g. Management of traffic to reduce congestion;
 - h. Control of dust and dirt on the public highway;
 - i. Details of consultation with local businesses or neighbours;
 - j. Details of any other construction sites in the local area;
 - k. Waste management proposals.

Reason: In the interests of highway safety and to minimise the impact of construction on the local highway network.

11. Prior to the commencement of development a Delivery, Service and Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include arrangements for resident and visitor parking bay allocations, controls over the service delivery bay on Mill Road, refuse collection routing, and measures to prevent service and delivery vehicles from entering the off-street parking areas. The development shall be carried out in accordance with the approved details, and the management plan shall remain in place unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to prevent on-street parking.

12. Green Travel Plans (3V27)
13. Landscape design proposals (4P12 e, i, j, k, l)
14. Landscape maintenance (4P17)
15. Tree/hedge retention and protection (4P05)
16. Construction hours of working - plant and machinery (6N07)
17. The commercial unit hereby approved shall be used for A1 (shops), A2 (financial and professional services) or A3 (restaurants and cafés) purposes only and for no other use within the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To ensure that no alternative use is made of the premises which would be detrimental to the amenities of adjoining occupants in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

18. Prior to the commencement of development, reclamation of the site shall be carried out in accordance with RSK Environment Ltd's report 25872/L01.SJ dated 9th November 2012 unless otherwise agreed in writing by the Local Planning Authority. On completion of the reclamation works, the developer shall provide a verification report which confirms that the works have been completed in accordance with the approved documents and plans.

Reason: To ensure adequate protection of human health, the environment and watercourses in accordance with policies ENV20 of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

19. Prior to the commencement of development, a scheme that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority:
- a. A site investigation scheme based on the Phase 1 Environmental Risk Assessment HLEI17433/001R dated June 2011 to provide information for a detailed assessment of the risk to receptors that may be affected, including those off-site;
 - b. The results of the site investigation and detailed risk assessment referred to in (a) and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - c. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

20. Prior to first occupation of the development hereby approved, a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

21. No infiltration of surface water drainage into the ground, or piling or other foundation designs using penetrative methods, is permitted other than with the express consent of the Local Planning Authority which may be given for those parts of the site where it has been demonstrated that there is no unacceptable risk to groundwater.

Reason: To protect groundwater in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

22. Prior to first occupation of the development hereby approved, noise control measures shall be carried out in accordance with the submitted Environmental Noise and Vibration Assessment report 12274E-1 R3 dated 3rd March 2015 unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of future residents in accordance with policy ENV25 of the East Herts Local Plan Second Review April 2007.

23. Development shall not begin until a detailed surface water drainage scheme based on the approved Flood Risk Assessment 5351/2.3F dated March 2014 and WSP Addendum dated March 2015 has been submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details and completed prior to first occupation. The scheme shall include a restriction in run-off to greenfield rates and surface water storage on site as outlined in the FRA.

Reason: To prevent the increased risk of flooding and to improve and protect water quality in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

24. The collapsible railings hereby approved to Blocks A2 and A3 shall only be retained in the upright position whilst maintenance work is being carried out to the roof. At all other times the railings shall be collapsed.

Reason: To minimise the visual impact of the railings in the street and surrounding area in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

25. The pedestrian links between Mead Lane and the Link Road identified on layout drawing 387.200.04 shall remain open for public use.

Reason: In the interest of good design and to improve permeability for existing residents in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

Directives:

1. Other Legislation (01OL)

2. Highway Works (05FC)
3. Planning Obligation (08PO)
4. Street Naming and Numbering (19SN)
5. Groundwater protection zone (28GP – insert 'Port Hill')
6. Unsuspected contamination (33UC)
7. The applicant is advised that if the commercial unit is used for A3 purposes then an extractor system will be required that may require a separate planning application. Environmental Health regulations in respect of odour ventilation would also apply.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The balance of the considerations having regard to those policies and permission 3/14/0590/FP is that permission should be granted.

_____(041315FP.HI)

1.0 Background

- 1.1 The application site is shown on the attached OS extract and comprises former railway land that has previously been used in part as a waste transfer station and builders' hire centre. The site has now been vacant for some time.
- 1.2 To the south of the site lies the Grade II listed Hertford East Railway Station, to the north lies the former TXU site recently developed as flats and known as Elder Court, with two storey Victorian cottages adjacent, and to the west is the former Council depot site that has been developed as flats and known as The Waterfront. Land to the east also lies vacant and comprises former railway land. A small strip of land along the southern boundary of the site lies within the Hertford Conservation Area.

- 1.3 The application proposes a development of 120 units comprising 48 no. 1 bed flats, 68 no. 2 bed flats and 4 no. 4 bed houses with associated amenity space and parking provision, and 40% affordable housing. A ground floor commercial unit of 100m² is also proposed in the southwest corner of the site with delivery space on Mill Road. The application also proposes a new 'link road' to connect Mill Road and Mead Lane along with a bus lay-by to provide a transport interchange for Hertford East Railway Station. The density of the scheme is approximately 110 dwellings per hectare.
- 1.4 Some Members may recall that a previous application to redevelop the site with 107 residential units, the commercial unit and link road was approved with conditions in November 2014 following a resolution to grant at Committee in July 2014 (reference 3/14/0590/FP). The developer is now implementing that permission but proposes some additional floors to accommodate 13 extra units. A previous application for 130 residential units was refused in August 2013 against Officers' recommendation (reference 3/13/0551/FP). The history is set out in further detail below.
- 1.5 There is also further reference to policy matters below, but by way of background, the site forms part of an area identified in the Mead Lane Urban Design Framework 2014 for redevelopment for predominantly residential purposes.

2.0 Site History

- 2.1 Planning permission was originally refused by Committee in August 2013 for a 130 unit scheme, against Officers' recommendation under reference 3/13/0551/FP. The reasons for refusal were as set out below. No appeal was lodged against this refusal.
1. The development, by reason of the number of units proposed, resulting density and lack of ability to provide sufficient parking would result in the overdevelopment of the site and lead to additional pressure on limited parking availability in the area. It would thereby be contrary to policies ENV1 and TR7 of the East Herts Local Plan Second Review April 2007 and the policies of the National Planning Policy Framework which require that development proposals result in a high quality built environment.
 2. The Council is not satisfied that the retention of the site for employment use has been fully explored without success. The proposed development is thereby contrary to policy EDE2 of the East Herts Local Plan Second Review April 2007.

- 2.2 At the same time, Conservation Area Consent was granted to demolish the existing structures on site in May 2013 (reference 3/13/0552/LC), although only a small strip of land to the south of the site falls within the Conservation Area boundary. The buildings have now been demolished.
- 2.3 An amended scheme was then submitted, following discussions with Officers, for a 107 unit scheme (reference 3/14/0590/FP), and planning permission was granted in November 2014. This permission was subject to a number of conditions and a section 106 legal agreement. The developer is now implementing that permission as the layout and footprint remains identical to that proposed in this current application.
- 2.4 In terms of previous history, the northern part of the site was previously used as a waste transfer station and permission was granted in 2000 for a change of use of some additional former railway land to provide an additional storage area for skips (3/00/0142/CM). Permission was then granted by Herts County Council in 2010 for continued use of the site as a waste transfer station (3/10/0244/CM).
- 2.5 The mid part of the site was granted consent for a hire centre workshop in 1996 (3/96/0900/FP), which has since been demolished. In 1998 an outline application for a retail development of the entire site was submitted but withdrawn incomplete.

3.0 Consultation Responses

- 3.1 County Highways do not wish to restrict the grant of consent, subject to conditions and a legal agreement. They comment that the overall highway layout and vehicle access points remain the same as originally approved. A condition to require a Delivery and Servicing Plan is again recommended as insufficient space is shown for the turning of servicing and delivery vehicles. The addition of just 13 residential units will result in a minimal increase in trips over and above the previous approval, which is not significant in a highway capacity context. The updated Transport Assessment demonstrates a negligible impact upon key junctions as a result of this latest proposal.
- 3.2 In terms of parking the proposed level remains substandard when strictly applying the Council's parking standards but the overall ratio is just over 1 space per unit which is acceptable in a highways context. The number of disabled spaces across the site has been increased and this is welcomed. No car parking is proposed for the commercial unit, as per the approved scheme, hence a condition is again recommended

for a car park management plan. Due to the proximity of the site to public transport services and the town centre, the site is considered to be very accessible, and as a new highway is provided within the site, no further sustainable transport contributions are requested in this case.

- 3.3 A Framework Travel Plan has been submitted which has been reviewed and is deemed to be broadly in line with Travel Plan guidance, but a few amendments are requested. They also request a Travel Plan Evaluation and Support Contribution of £6,000 in accordance with June 2014 guidance.
- 3.4 Herts County Council Planning Obligations Unit request fire hydrant provision and the following financial contributions, index linked:
- £79,472 towards the provision of a new primary education building at Simon Balle School (Primary Education);
 - £16,508 towards the provision of a new pre-school at St Andrews School (Nursery Education);
 - £5,104 towards the provision of a new pre-school at St Andrews School (Childcare).
- 3.5 The Housing Development Manager comments that the scheme proposes 48 affordable units which is in line with policy at 40% provision and the tenure mix is in line with the Council's preferred 75% social rented and 25% shared ownership tenure split.
- 3.6 The Conservation Officer recommends consent. They comment that much flatted development has already been built in the area – generally of high architectural standard in a mix of vernacular-based styles. Blocks are generally 3-4 storeys high and thanks to the generous width of the streets enclose, rather than dominate, the public realm. This proposal is an amendment to the approved scheme to add further floors to a number of approved blocks to lift them to 3 or 4 storeys. As such many of the design principles are already established and need not be revisited here. The development will not have any marked or increased impact on the setting of nearby designated heritage assets – the changed designs of the blocks are either neutral or improvements.
- 3.7 Environmental Health initially raised concerns that the submitted Noise Report did not refer to current noise standards and guidance. An updated Noise Report has since been submitted. Environmental Health Officers comment that there are a number of deficiencies in this revised report; however justification for additional work would be difficult given the planning history. They therefore recommend a condition in respect

of the acoustic and odour impacts of the potential A3 commercial unit, and an amended condition in respect of noise mitigation. A number of new conditions are also recommended in respect of noise.

- 3.8 Natural England has no comment to make.
- 3.9 Hertfordshire Ecology agree with the findings of the submitted ecological reports and do not consider any further ecological surveys to be required. They do however recommend a condition to submit a method of dealing with Himalayan Balsam, an invasive species that should not be allowed to spread.
- 3.10 Historic England comment that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.
- 3.11 The County Archaeologist comments that the site has already been subject to archaeological evaluation via the condition on permission 3/14/0590/FP. Although the area has potential for archaeological remains to be present, the evaluation established that the area had suffered extensive disturbance in the 19th and 20th centuries, and the development is therefore unlikely to have an impact on heritage assets of archaeological interest.
- 3.12 The Environment Agency recommends consent subject to conditions on contamination, surface water drainage, and piling.
- 3.13 Affinity Water comments that the site is located within the groundwater Source Protection Zone of Port Hill Pumping Station.
- 3.14 Thames Water raises no objection to sewerage infrastructure capacity, and comment that proper provision of surface water drainage is the responsibility of the developer.
- 3.15 The Council Engineers initially raised concerns over a reliance on below ground drainage systems and requested that the previously approved green roofs be provided. However, in response to amended plans they note that green roofs are now proposed on Blocks A1 and A2, and the updated Flood Risk Assessment proposes a good quality Sustainable Urban Drainage System (SuDS) solution for the development.
- 3.16 The County Minerals and Waste Team comment that regard should be had to relevant policies of the Herts County Council Waste Core Strategy and Development Management Policies Development Plan

Document 2012 that promote the sustainable management of waste including encouraging the re-use of unavoidable waste where possible, and the use of recycled materials where appropriate to the construction.

- 3.17 Hertfordshire Fire and Rescue comment that access for fire-fighting should be in accordance with the Building Regulations, access routes should achieve a minimum carrying capacity of 15 tonnes, turning facilities should be provided, and provision made for fire hydrants.
- 3.18 The NHS Clinical Commissioning Group (CCG) comment that the proposed development may impact on already overstretched community services. They are in the final stages of developing a five year primary care strategy and would like to work with the Council to map additional health infrastructure requirements. Based on recent cost impact forecasting, they request a financial contribution of £370,035.60 (£24,210 for mental health, £313,149.60 for acute costs, and £32,676 for community healthcare) based on the potential impact of the proposed development. They intended to come back to the Council with plans on how to utilise these funds to mitigate the impact but no further information has been received.
- 3.19 National Grid has identified that it has apparatus within the vicinity of the site which may be affected by the proposed development. The developer is advised to contact National Grid if they propose any works within 10 metres of this apparatus.
- 3.20 Leisure Services comment that there is a need for an outdoor sports contribution to improve facilities at Hartham, including parkour, petanque, bmx track, street skate, ultimate Frisbee, rock climbing and other more traditional facilities such as all-weather surfaces and undercover tennis. Detailed costs for each element of the project will be available once the plans have been developed hopefully later this year, but the majority of the scheme will need to be funded through external grants and section 106 Agreements.

4.0 Town Council Representations

- 4.1 Hertford Town Council objects to the development. They have a policy of not supporting any additional housing in the Mead Lane area until such time as improvements are made to the road network. The Committee was also unhappy at the perceived planning by 'stealth' of large companies. Much consideration has been spent on the approved application to ensure it met the Council's standards and the Committee was not happy to see the changes. They do welcome, however, the affordable homes but still have grave traffic concerns. The board at

Mead Lane onto Mill Road was considered dangerous and there is a conflict between pedestrians and motorists at Dicker Mill. They request new road markings to direct traffic onto the new link road.

5.0 Other Representations

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

5.2 3 no. letters of representation have been received, which can be summarised as follows:

- Increase in traffic volume has not been properly considered;
- Mill Road is already congested and it is difficult to exit from existing residential properties;
- Construction, including ongoing demolition works, results in significant dust which is difficult to clean on upper floor windows;
- Overlooking to and from neighbouring properties;
- Lack of parking spaces and there is nowhere to cater for additional parking. Residents will not use public car parks some distance away;
- New apartments will provide an incentive for crime. A local resident has had 3 bicycles stolen, 2 attempted thefts and 1 loss of wheels from a balcony and underground car parks with CCTV;
- Overdevelopment of this part of Hertford and potential social problems.

6.0 Policy

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
HSG1	Assessment of Sites not Allocated in this Plan
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR4	Travel Plans
TR7	Car Parking – Standards
TR12	Cycle Routes – New Developments

TR13	Cycling – Facilities Provision (Non-Residential)
TR14	Cycling – Facilities Provision (Residential)
EDE2	Loss of Employment Sites
STC1	Development in Town Centres and Edge-of-Centre
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development
ENV14	Local Sites
ENV16	Protected Species
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV25	Noise Sensitive Development
BH1	Archaeology and New Development
BH6	New Developments in Conservation Areas
LRC3	Recreational Requirements in New Residential Developments
IMP 1	Planning Obligations

- 6.2 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG) are also material considerations in determining this application, along with the Hertford and Ware Urban Transport Plan and the Mead Lane Urban Design Framework.

7.0 Considerations

Principle of Development

- 7.1 The site lies within the built-up area of Hertford wherein there is no objection in principle to new residential or commercial developments. Planning permission has already been granted for a residential redevelopment of the site, including a ground floor commercial unit, which is a material consideration in the determination of this application (reference 3/14/0590/FP). This report will therefore consider the amendments proposed through the addition of a further 13 units.
- 7.2 In terms of the policy framework, there has been a slight change since the previous approval in that the Mead Lane Urban Design Framework that covers this site and surrounding area, which was only in draft form when determining the previous application, has now been formally adopted as Supplementary Planning Document (SPD) by Full Council in December 2014. Greater weight should now be attached to this document in the determination of this current application.
- 7.3 The Urban Design Framework sets out a vision for the redevelopment of this part of Hertford which has struggled to realise its full potential.

mainly due to restricted vehicular access issues, and has the opportunity to create a mixed use environment for the town. The Framework anticipates that development of this site will be predominantly residential with potential opportunities for a range of other commercial uses. It states that the built form should provide a perimeter block of higher density and result in a clear street structure with connection to and overlooking of walking routes. Building heights are expected to vary from generally two and a half storeys to three and a half storeys, and corner locations should provide a focus for longer views so should show attention to detailed design. Public frontages and elevations should reflect themes within the site surroundings and be attractively proportioned and interesting. Main roads should be designed with a strong landscaped structure, as 'green streets' of high amenity.

- 7.4 Officers consider that the proposed development remains broadly in line with these opportunities, and although the building heights are slightly higher than those identified, the scale of development is not considered to be harmful to the character of the area. This is discussed in more detail below. The application continues to propose a new link road and passenger interchange to the north of Hertford East railway station which is a key aspiration of the Framework to divert industrial traffic away from residential areas. Officers are therefore satisfied that the proposed development is in accordance with the adopted Framework.
- 7.5 Regard is also had to the location of the site in close proximity to public transport connections, town centre services and recreational open space. The site is deemed, by these connections, to be a highly sustainable location for development and redevelopment of this brownfield site is strongly supported in principle through the NPPF. The development will also make a meaningful contribution towards the Council's housing land supply which should again be given significant weight in the determination of the application.
- 7.6 There is therefore no objection in principle to the addition of a further 13 units, and Officers consider that this will make more efficient use of this brownfield site which is suitable for a higher density development given its sustainable location and proximity to other high density flatted developments.

Loss of Employment Site

- 7.7 Given that planning permission has already been granted for redevelopment of the site, issues surrounding loss of employment will

not be revisited. Officers continue to consider that loss of employment is not significant in this case, and that the site is not appropriate or necessary for employment development. An element of commercial use is again proposed and is deemed to be acceptable. The commercial unit will be located on the ground floor in the southwest corner of the site fronting the railway station and Mill Road. The unit will provide an active frontage and serve as a benefit to local residents and workers. It is located in an edge-of-centre location where there will be no harmful impact on the vitality or viability of the town centre. It is also well located in relation to public transport services and will have residential on the floors above.

- 7.8 Officers again consider that it would also be suitable for this commercial unit to be used for A2 (financial and professional services) or A3 (restaurants and cafes) purposes, and that a more flexible approach is consistent with the aims of the NPPF in supporting economic vitality. Alternative uses may have the potential to impact on residential amenity and it is therefore considered reasonable and necessary to again restrict the use of this unit for A1, A2 or A3 purposes only.

Highways and Parking Provision

- 7.9 The application again proposes a new link road between Mead Lane and Mill Road, just to the north of Hertford East Station, along with the provision of a bus lay-by to provide a transport interchange. The need for the link road was set out in the Hertford and Ware Urban Transport Plan (November 2010) and followed the carrying out of a Mead Lane Access Master Plan Study with the aim of seeking to remove HGV traffic associated with Mead Lane from the residential areas, to provide an additional route for emergency vehicles into the Mead Lane area, and enable improved circulation for buses. Although Mead Lane and the northern part of Mill Road are not currently served by a bus route, the link road and bus lay-by will provide a layover point for the local bus routes. The link road is also advocated in the Mead Lane Urban Design Framework.
- 7.10 The link road is again proposed to carry two-way traffic; however, it is likely that traffic exiting the Mead Lane area will use this link road, whilst some traffic entering Mead Lane is likely to continue to use the existing road layout, enabling a circular movement. A bus-only right turn is again proposed from Mead Lane at the north eastern junction of the link road. Overall the Highway Authority welcome the delivery of the link road and new pedestrian/cycle links, although they have again recommended a number of conditions to secure proper delivery of the site and minimise its impact on the highway network.

- 7.11 The development again proposes various other highway works, including the provision of a 2m wide footway on the northern side of the link road, a 3m wide cycle/footway on the southern side with a 3m wide bus lay-by for two buses, a 3m wide shared cycle/footway on the eastern side of Mill Road adjacent to the application site, a pedestrian connection from Mead Lane to the new bus stop, and narrowing of Mill Lane adjacent to the site to 7.3m. The plans also show a north-south pedestrian link through the site to provide permeability and easier access to neighbouring properties, which is recommended to be secured by condition. Double yellow lines will be provided along the link road to prevent parking. These improvement works have been agreed with the Highway Authority, and are considered to be acceptable and in accordance with the Hertford and Ware Urban Transport Plan, and the Mead Lane Urban Design Framework.
- 7.12 The application is again supported by a Transport Assessment (TA), updated by an Addendum in March 2015, which shows that the immediate junctions within the vicinity of the site will continue to operate adequately and within their capacity limits. The Highway Authority consider that the addition of a further 13 units will not result in any harm to highway capacity. The proposed development will therefore not result in severe residual impacts in accordance with the NPPF. Some local residents have again written in objection to the application and raise concerns over existing congestion in Mead Lane that will be exacerbated by this proposal. However, based on the evidence set out in the TA, and the response from the Highway Authority it is not considered that the proposal will have a harmful impact in relation to the local highway network.
- 7.13 In terms of parking, this formed part of the reason for Members refusing application 3/13/0551/FP for 130 units, but was satisfactorily addressed in application 3/14/0590/FP for 107 units. A comparison of the parking provision for each scheme is set out below:

Application	Number of Units	Number of Spaces	Parking Ratio
3/13/0551/FP	130	94	0.72
3/14/0590/FP	107	120	1.12
3/15/0413/FUL	120	128	1.07

- 7.14 As the table shows, this current application proposes 128 spaces for the 120 units, resulting in a parking ratio that is slightly lower than the previous approval. However, this is still significantly higher than the previously refused parking ratio for the 130 unit scheme. Based on the

Council's maximum parking standards the proposed development would require a maximum of 174 spaces on site (including a maximum of 3 spaces for the retail unit). The provision of 128 spaces represents 74% of this maximum (compared to 76% previously approved) and is considered to be more than sufficient to meet the needs of the development in this location taking into account the proximity of the site to Hertford East Railway Station, bus services, town centre services and facilities.

- 7.15 Regard is also had to neighbouring residential developments, including The Waterfront development to the west of the site which was approved with 1.0 parking spaces per unit, and the Elder Court development to the north which has been constructed with a 0.95 parking ratio (including a new 12 space car park approved under reference 3/11/0217/FP). This revised application with a 1.07 parking ratio is therefore considered to be acceptable in line with East Herts Council parking standards and exceeding levels in recently approved neighbouring developments.
- 7.16 Members are advised that there are new parking standards being developed for the District Plan, but these are still in draft form and have not yet been subject to full consultation. These standards set out exact requirements, rather than maximum standards, for residential parking provision, but also take into account a reduced zonal percentage for more sustainable locations. Having regard to the new standards, this development would trigger the need for 110-220 spaces, and therefore the 128 spaces proposed falls just within this range. However, as set out above, this policy document is only in draft form and can only be afforded limited weight in the determination of this current application.
- 7.17 No parking is again proposed for the retail unit, and the Highway Authority has requested that this be addressed through a car parking management plan. Based on a retail floorspace of 100m², the commercial unit would require a maximum of 3 no. parking spaces, although this can be reduced by 50-75% given the location of the site in parking Zone 3. Given its highly sustainable location, Officers do not consider that a requirement for 3 spaces would be reasonable. This is similar to many other small shops in towns which have no allocated parking provision. Further, on-street parking would not be an option due to existing and proposed parking restrictions. The new delivery lay-by should be properly signposted to prevent parking in connection with the commercial unit, and this can be controlled by condition.
- 7.18 In terms of cycle provision, 120 cycling parking spaces are proposed, which is in accordance with the Council's cycle parking standards

These spaces are proposed in secure covered areas and therefore comply with Local Plan policy TR14. 3 no. cycle parking spaces are also again proposed to serve the commercial unit and are conveniently located to the front of the building in accordance with policy TR13. The proposal also makes provision for enhancements to cycle connections along Mill Road and the link road.

- 7.19 An initial Green Travel Plan has also again been submitted, and updated, in order to inform future residents of the development about local transport infrastructure and sustainable travel choices. This will include maps of local walking and cycling routes, public transport services, and measures to promote car sharing. Full details of this Travel Plan should be secured through planning condition in order to promote alternative sustainable modes of transport. The Highway Authority has also requested a financial contribution towards the monitoring of this Travel Plan in accordance with the Herts County Council 'Travel Plan Guidance for Business and Residential Developments' document adopted in June 2014. This post-dated the previous approval and was therefore not a requirement on the extant permission 3/14/0590/FP, but is considered to be reasonable and necessary in respect of the current policy context and in accordance with the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).
- 7.20 The Hertford and Ware Urban Transport Plan also sets out a requirement for enhancements to the station frontage, including improvements to pedestrian and cycle access. This application, as before, does not make any provision for such enhancements, nor do they offer any contribution. However, Officers are satisfied that the proposal incorporates sufficient sustainable transport provision and enhancement through the new link road and associated highway works without requiring any further provision. The Highway Authority have not requested any further financial contributions to mitigate against the impact of the development, and Officers do not consider that further contributions for off-site enhancements meet the tests set out in Regulation 122 of the CIL Regulations.

Scale and Design

- 7.21 The scheme is again proposed to take the form of two clusters of blocks around central amenity land with surface car parking in-between, along with a terrace of 4 units located at the eastern end of the site. No changes are proposed to the footprint or layout of the scheme. The main changes since the previous application relate to the height and roof design of some of the blocks, as follows:

- Block A2 – removal of an approved 3 storey pitched roof section and provision of a flat roof to match the remainder of the block. The whole building is now proposed as a flat roof 4 storey structure with a green roof.
- Block A3 – removal of an approved 3 storey hipped roof section and provision of a flat roof to match the remainder of the block. The whole building is now proposed as a flat roof 4 storey structure.
- Block A4 – removal of the approved hipped roof and provision of a full fourth floor with a flat roof.
- Block A5 – removal of the approved hipped roof and provision of a full fourth floor with a flat roof.
- Block B3 – provision of a third floor by raising the approved hipped roof to the rear of the block.

7.22 Some minor changes are also proposed to the fenestration across all the blocks and are considered to be acceptable. The main change is therefore the increased height of a number of the blocks and the loss of variation in the roof form that was achieved in the previous approval. Whilst it is unfortunate that the roof design is now predominantly flat roofed at four storey level and lacking in variation, it is material to note that the overall scale, height and design of these blocks is similar to the original refusal 3/13/0551/FP, which was not refused on design grounds. The NPPF also gives support to design, such as green roofs, which support a more sustainable development approach.

7.23 In comparison to this original refusal, Block A1 remains lower in height and with a hipped roof, and the development retains the more spacious footprint approved under 3/14/0590/FP. No objection has been raised by the Conservation Officer in relation to the scale or design of the scheme, and given the scale of neighbouring flattened developments in the vicinity of the site, Officers remain satisfied that this amended proposal is of a good standard of design and will respect the character and appearance of the surrounding area.

7.24 The plans also now propose collapsible railings to the roof of Blocks A2 and A3 to provide safety protection for workers carrying out maintenance work on the green roofs. Full details of these railings have been submitted and are deemed to be acceptable. The railings will be visible from the street and surrounding area and therefore a condition is

recommended to ensure that these railings are only upright whilst maintenance work is being carried out and otherwise remain in the collapsed position.

- 7.25 A substation building is also now proposed to the south of the link road in front of the row of terraced houses. This is modest in size and will be formed of brick, and is not considered to be harmful to the character or appearance of the area.
- 7.26 In terms of numbers, this application for 120 units comes closer to the 130 units that were refused under 3/13/0551/FP on the grounds of overdevelopment. However, the overall layout is now more spacious and is identical to that approved under the 107 unit scheme, and the scale and height is deemed to be acceptable as discussed above. Members' main concern in respect of overdevelopment was in relation to car parking provision, which has been discussed above.
- 7.27 In terms of landscaping, the proposal retains similar street frontages, with new planting to improve the quality of the street scene. A pocket park is again proposed in the northwest corner of the site, at the junction of Mill Road and Mead Lane, and opposite the entrance to the river and Hartham Common. This will make a positive contribution to the character and appearance of the area and create a more welcoming entrance to the town from the river, and a much improved approach to the railway station. A high quality hard and soft landscaping scheme will be important to assimilate the development and preserve the character and appearance of the Conservation Area. Although the surface car parking areas are large, a good quality landscaping design will break up the visual impact of the hard-surfacing, and some additional tree planting will be required along street frontages to create a high quality development.
- 7.28 In terms of height the Mead Lane Urban Design Framework suggests that building heights will vary from generally two and a half storeys to three and a half storeys in this area. Although many of the blocks exceed this height expectation, Officers again consider the visual impact to be acceptable and note that the framework also states that "higher density forms will appropriately locate to the western end of Mead Lane on sites which are more accessible to Hertford East Station and the town centre."
- 7.29 The application also again proposes a terrace of 4 no. 4 bed three storey dwellings to be located at the eastern end of the site. This element remains unchanged since the previous application and is again considered to be acceptable.

Heritage Assets

- 7.30 The site lies just to the north of the Hertford Conservation Area with a small section of the south of the site falling within the boundary. The proposal therefore has the potential to impact on the setting of the Conservation Area. The Conservation Officer has again recommended approval of the scheme, and comments that the amended mass, scale and design of the proposal is in-keeping with the character and appearance of the Hertford Conservation Area.
- 7.31 There are a number of listed buildings located to the south of the site including the Grade II listed Hertford East Railway Station, the former Dolphin Public House, Bluecoats further south, and a signal box located to the east of the site. Given the acceptable scale, form and design of the proposal and the distances retained between buildings, the Conservation Officer is satisfied that the proposal will not result in any harm to the setting of these listed buildings in accordance with Section 12 of the NPPF. This is supported through the updated Heritage Impact Assessment submitted with the application.
- 7.32 The site also lies within an Area of Archaeological Significance which includes the historic core of Hertford town. Archaeological work has already been carried out in relation to the condition on permission 3/14/0590/FP, and an archaeological report submitted and approved. The County Archaeologist is therefore satisfied with the proposal and does not recommend any conditions.

Sustainability

- 7.33 The site is in a sustainable location in close proximity to local services, facilities and employment opportunities. A Sustainability Statement has again been submitted which sets out the sustainable principles in the design and layout of the site. It is also proposed to incorporate Sustainable Urban Drainage systems (SuDS), including green roofs and permeable paving. Officers therefore consider the proposal to amount to a sustainable form of development.
- 7.34 Officers note that the Mead Lane Urban Design Framework expects new developments in the Mead Lane area to achieve Code for Sustainable Homes level 4 and a Building for Life Code of 14 points or above. However, although this document has now been formally adopted, there is no further policy support for such specific sustainability requirements, and given the extant permission that is in

place, Officers do not consider it reasonable to now require enhanced sustainable construction standards. Nonetheless, A Building for Life Assessment Sheet has been submitted which indicates a level of 12. Further, due to the requirements of registered providers, it will be necessary for the affordable units to meet Code for Sustainable Homes Level 4 in any event.

Noise

- 7.35 A revised Environmental Noise and Vibration Assessment has been submitted to assess the impact of noise and vibration on the proposed development, and to determine the most appropriate acoustic treatment. An amended report was submitted following initial concerns from the Environmental Health Officer that the previous report had not considered current noise standards.
- 7.36 The report again concludes that vibration levels would not be unacceptable, and Officers agree with this conclusion.
- 7.37 In terms of noise, the report again concludes that appropriate glazing can be provided to ensure that minimum reasonable internal ambient noise levels are met (based on current standards), and a glazing mark-up plan has been submitted. However, in order to achieve these satisfactory internal noise levels, a number of habitable room windows fronting Mead Lane, Mill Road and the Link Road would have to remain closed, and the report therefore again recommends the use of mechanical ventilation.
- 7.38 As determined in the previous application, whilst the use of mechanical ventilation will have some impact on the amenity of future occupiers, residents would have a choice in terms of ventilation, and the levels of expected noise are not uncommon in an urban environment. Further, no complaints have been received by Environmental Health from existing residents in the area. The use of mechanical ventilation is therefore not considered to be harmful in this case.
- 7.39 Environmental Health have raised concerns over a number of deficiencies in the Noise Report, but acknowledge that given the planning history of the site it would be unreasonable to request further work. However, they do recommend a number of additional conditions. They comment that the commercial unit, if used as a café or restaurant, would require an extraction system to prevent odour nuisance. A directive is therefore recommended to advise the applicant that permission may be required for such an installation and that separate Environmental Health requirements would apply to an A3 use.

- 7.40 They recommend an amended and more detailed condition in respect of noise that would require the submission of a scheme of noise attenuation measures. This is apparently due to the Noise Report failing to provide a final scheme for ventilation. However, Officers do not consider it reasonable, based on the amendments to the approved scheme, and the changes in noise standards, to request such additional detail. They also recommend further conditions in respect of construction noise levels, delivery timings and opening hours for the commercial unit, which were not included in the previous consent and again are not considered reasonable or justified.
- 7.41 Also acknowledged is the impact that the proposals will have with regard to generating noise on the site, particularly during the construction phase. Of course, whilst it can be intrusive, construction phase noise is ultimately transient.

Affordable Housing

- 7.42 The proposal again makes provision for 40% affordable housing, comprising of 48 units in accordance with Local Plan policy HSG3. The affordable units comprise 26 no. 1 bed flats and 22 no. 2 bed flats of which 36 are proposed to be social rented and 12 as shared ownership. This complies with the Council's requirement for a tenure mix of 75% social rented and 25% shared ownership. The tenure and delivery will again be secured and controlled through a legal agreement.
- 7.43 The affordable units are again predominantly located in Blocks B1, B2 and B3 to the east of the site, with the 12 shared ownership flats proposed in Blocks A3 and A4 towards the centre of the site. The Council's Affordable Housing SPD requires that on sites incorporating 30 or more residential units, affordable units should be provided in groups of no more than 15% of the total number of units or 25 affordable units, whichever is the lesser. In this case, 75% of the affordable units are proposed in a single cluster in Blocks B1, B2 and B3 and the proposal therefore fails to comply with the SPD which seeks to achieve mixed, inclusive and sustainable communities. However this is similar to the previous approval which carries significant weight in the consideration of this application and is therefore not considered to justify a refusal. In terms of Lifetime Homes, 15% provision is proposed again in accordance with Policy HSG6.

Residential Amenity

- 7.44 Given the location of the site and distances retained to neighbouring

properties, Officers are again satisfied that the proposal will not result in undue harm by way of loss of light or overlooking. Some objections have again been received in respect of overlooking; however given the building heights and distances retained to existing residential properties, Officers are satisfied that no significant harm would arise. There will again be some impact on the two storey Victorian cottages to the north of the site; however the height of Block B3 opposite remains unchanged from the previous approval (the changes relate to the rear projection of this block).

- 7.45 In terms of the amenity of future occupiers, it is again considered that the internal accommodation proposed would provide for an adequate level of amenity, and externally, sufficient space is proposed as amenity green space. The units have also been designed to minimise overlooking between flats.

Ecology

- 7.46 An ecological report has again been submitted with the application which concludes that the proposal will not result in any harm to protected species, and there has been no change in respect of ecology on site. No objections have been received from the Council's ecology consultees. A previous reptile condition is no longer required as further survey work has now been undertaken.
- 7.47 Herts Ecology has recommended a condition in respect of Himalayan Balsam - an invasive species that was present on site and identified in the original Ecology Report. The applicant has confirmed that there is now no evidence of the plant on site, and the hardstanding area where it was present has been crushed. It is unlikely that re-growth would occur, and it is not considered reasonable to attach a condition as it was not included on the previous approval and there has been no change to the policy context in this area.
- 7.48 There are no statutory or non-statutory designated sites of nature conservation value within close proximity of the site. The closest is the River Beane and River Lea Confluence Wildlife Site located some 300m to the north with intervening development and waterways to ensure protection. Officers therefore remain satisfied that the proposed development will result in no harm to any protected sites or species in accordance with policies ENV14 and ENV16.

Flood Risk and Drainage

- 7.49 The site lies in floodzone 1 wherein there is a low risk of flooding to

people and property. An acceptable Flood Risk Assessment (FRA) has been submitted and no objection has been raised by the Environment Agency. An initial objection was received from the Council's Engineers regarding insufficient Sustainable Urban Drainage Systems (SuDS). However, amended plans have been submitted to include green roofs on Blocks A1 and A2 as per the previous permission, and this objection has been removed. The proposal is therefore considered to comply with Local Plan policy ENV21 and the NPPF.

- 7.50 In respect of foul drainage, there is an existing adopted sewer located in Mill Road, and Thames Water has again raised no objection to the development.
- 7.51 In terms of land contamination, initial investigations have been carried out and conclude that remedial works will be required due to the former use of the land as a railway depot. Conditions are therefore again recommended that require reclamation to be carried out in accordance with the report, and the presence of any significant unsuspected contamination to be brought to the attention of the Local Planning Authority.

Planning Obligations

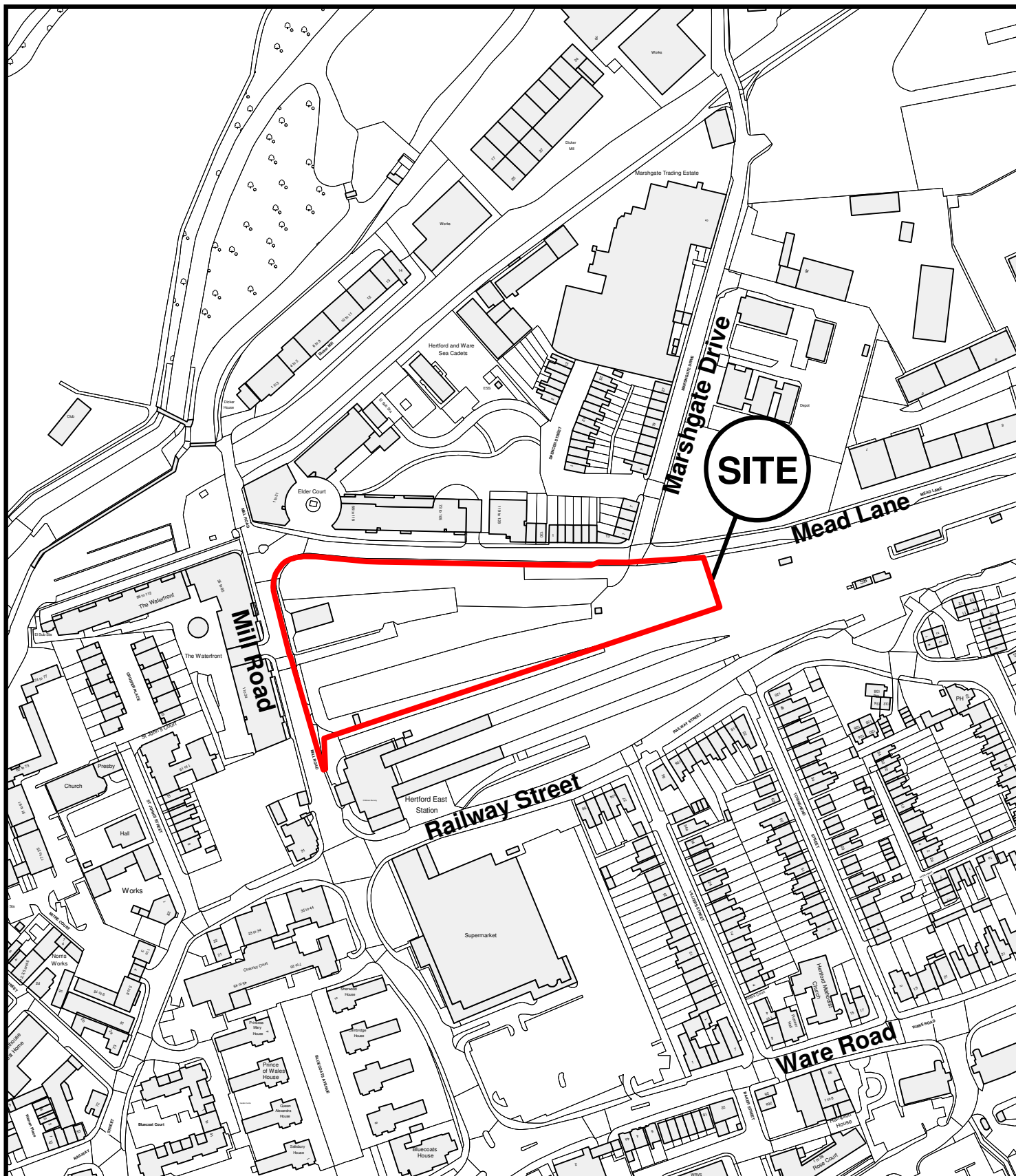
- 7.52 Herts County Council has requested financial contributions related to Primary Education, Nursery Education, and Childcare facilities. These are considered to be necessary and justified in accordance with the CIL Regulations 2010 (as amended), and will not result in the pooling of more than 4 similar contributions since 2010. Contributions in respect of Secondary Education, Libraries and Youth facilities are no longer requested as they cannot be justified in relation to the CIL Regulations. No further contributions have been requested by the Highway Authority or are considered necessary in this case given the extensive highway improvements works and delivery of the link road.
- 7.53 Contributions will also be required towards outdoor sport and recreation facilities, and children's play facilities given that the proposal is predominantly residential and will result in increased pressure on existing facilities, in particular Hartham Common and the leisure centre which are in close proximity to the site. These requirements are as set out in the Council's Open Space, Sport and Recreation SPD and are also considered to comply with CIL Regulations. Outdoor sports and children's play contributions are to be allocated for improvements to the leisure facilities at Hartham.

- 7.54 The NHS Clinical Commissioning Group have requested financial

contributions towards improving community health in the local area, which were not requested on the previous application. They have not identified how the substantial sums of money will be spent. Officers therefore do not consider such contributions to be CIL compliant in this case.

8.0 Conclusion

- 8.1 The principle of residential development has already been established on site and no changes are proposed to the approved layout. The application proposes an additional 13 units to be provided through additional three and four storey accommodation in Blocks A2, A3, A4, A5 and B3. Whilst this results in a greater area of flat roof and a reduction in variation of the approved roofscape, Officers consider that the changes maintain a good quality design that will continue to respect the character and appearance of the surrounding area. The flat roofs also enable the incorporation of sustainable design features with permeable green roof design.
- 8.2 The scheme will continue to provide 40% affordable housing, a commercial unit, and new link road, which weigh in favour of the application. The design also continues to incorporate positive provision to improve pedestrian and cycle links, and a strong landscape element with sustainable drainage which are supporting considerations. There would be no harm to the setting of the Hertford Conservation Area or nearby listed buildings.
- 8.3 The development will make efficient use of a brownfield site that is in need of regeneration, and therefore Officers are satisfied that, having regard to the presumption in favour of sustainable development as set out in the NPPF, and the Council's current lack of a sufficient housing supply, planning permission should be granted.
- 8.4 The application is therefore recommended for approval subject to the legal agreement requirements and conditions set out above.



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O.S Sheet: TL3213

Date of Print: 25 February 2016

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DEVELOPMENT MANAGEMENT COMMITTEE REPORT – 23 MARCH 2016

Reference Number	3/15/1584/FUL
Proposal	Erection of six B1/B8 units to replace extant planning permission reference 3/06/1994/FP
Location	Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY
Applicant	Hadham Industrial Estates Ltd
Parish	Little Hadham
Ward	Little Hadham

Date of Registration of Application	29 July 2015
Target Determination Date	24 March 2016 (ETA)
Reason for Committee Report	Major application
Case Officer	Martin Plummer

RECOMMENDATION

That planning permission be **REFUSED** for the reasons set out at the end of this report.

1.0 Summary

- 1.1 The application proposes the construction of six new industrial units in the Rural Area which represents an inappropriate form of development in that designated area. The application site is not considered by Officers to be in a sustainable location and the proposal would result in a heavy reliance on motor vehicle traffic, both in terms of commercial vehicles visiting the site and the private motor vehicles of staff employed within the six units.
- 1.2 The development is therefore considered to be an unsustainable form of development that is contrary to both the adopted Local Plan and national planning policy guidance set out in the NPPF. Planning permission should only, therefore, be granted if there are other material considerations that would outweigh the policy presumption against it. The applicant argues that there is a fall-back position in this case that represents a material planning consideration that would outweigh the policy presumption against the development. That is the existence of an earlier planning permission, granted in January 2007, for an extension to an existing building on the site for Class B1/B8 purposes. That permission provided for a similar amount B1/B8 floorspace and was

commenced by the construction of some foundations. This was accepted by the Council in September 2012. The extension could, therefore, lawfully be erected as approved. Officers do not, however, consider that this permission represents a genuine fall-back position for a number of reasons, as set out in the following report, and limited weight has been attached to that position in the overall planning balance.

- 1.3 In addition to the harm that would be caused by the provision of an unsustainable form of development in the Rural Area, Officers are also concerned that the information submitted within the application in regard to the noise impact associated with the development is insufficient to enable the Council to properly assess the impact of the development on the living conditions of neighbouring residential properties.
- 1.4 In terms of the planning benefits of the proposal, Officers acknowledge that it would result in the provision of some rural employment and this does weigh in favour of the application.
- 1.5 Other matters relating to the impact of the development on the character and appearance of the site and its surroundings; on highway safety and as regards surface water drainage, are considered to have a neutral impact in the overall balance of considerations. The positive weight that can be attached to the employment benefits of the proposal does not, however, outweigh the harm associated with the inappropriateness of the development; the unsustainable location of the site for this type of development, and the lack of information regarding noise impacts.

2.0 Site Description

- 2.1 The site is shown on the attached Ordnance Survey extract and comprises an area of hardstanding to the north east of the existing range of commercial buildings associated with the site and the former farm buildings at Church End Farm. The site is located at the end of an access road off the A120 and is accessed in-between existing buildings. The surrounding area is largely agricultural in character, although either side of the access road there are some residential properties and St. Cecilia's Church. Hadham Hall, a collection of residential dwellings and converted listed buildings, is located approximately 200 metres to the east of the application site. Little Hadham is located approximately 1km to the west of the site and the

nearest main settlement of Bishop's Stortford is located 5km to the east.

- 2.2 The existing buildings associated with the industrial estate are of mixed heights and design but are generally utilitarian in their appearance and there are also existing agricultural buildings which are located to the north west of the site which have a similar appearance.
- 2.3 Levels within the application site itself are fairly consistent, although there is a change in levels between the north east / eastern boundary of the site and the adjoining land where there is an earth bank.

3.0 Background to Proposal

- 3.1 The site formerly comprised a range of agricultural buildings which were associated with Church End Farm. Over the passage of time the farming enterprise sought to diversify its business and a planning application was submitted in 1991 under LPA reference 3/91/1755/FP for the change of use of redundant agricultural buildings to a water bottling plant. 'Hadham Water', a company which bottled natural spring water from the site used the building approved in that 1991 permission (3/91/1755/FP) and expanded following the success of the business. The company were successful in being awarded a contract to supply the 2012 Olympic Games with bottled water and a planning application for the expansion of the units for the company was submitted under LPA reference 3/06/1994/FP.
- 3.2 That application was reported to the then Development Control Committee in early 2007 and Officers recommended that planning permission be refused on the basis that the development represented an inappropriate form of development in the Rural Area and would result in harmful increases in traffic movements. The Committee, however, gave significant weight to the special circumstances surrounding the extraction of mineral water at the site, and the importance of a local industry expanding its operations in light of future demand, and it resolved to grant planning permission.
- 3.3 Within that planning permission (reference 3/06/1994/FP) no planning conditions were attached restricting the use of the building to the water bottling company or any other planning conditions restricting vehicle movements or noise. The approved building has a B1/B8 use. That planning permission was commenced by the construction of some foundations, but no further work was ever carried out on it as, it is understood, the business operation of Hadham Water ceased.

- 3.4 A planning application was subsequently submitted for an alternative use of the site (in place of the earlier approved water bottling building and on the same site). That proposal was submitted to the County Council under HCC reference SLUP/CM0935 (LPA reference 3/11/2157/CM) and sought permission for the use of a building thereon (used for B1, B2 and B8) for the demolition and dismantling of motor vehicles. The application was, however, withdrawn and the unauthorised dismantling of motor vehicles ceased its operation.
- 3.5 In 2012 it was also brought to the attention of the Council that unauthorised engineering works had been undertaken to increase the area of hard surfacing on the site. A subsequent retrospective planning application was refused under reference 3/12/0296/FP for the reduction in site levels and the excavation of land to north east, and use of the land for car parking. The area of land the subject of that application is located to the north east of the building approved under LPA reference 3/06/1994/FP and approximately in the area of land the subject of this current proposed development. Following the refusal of application 3/12/0296/FP a Planning Enforcement Notice was served in order to secure the removal of the unauthorised hard surfacing (LPA reference E/12/0156/A). However, a subsequent appeal was allowed, the Inspector concluding that the hard surfacing/car parking did not have an unacceptable effect on the rural character and appearance of the area.
- 3.6 There are a range of occupiers in the current buildings on the wider Hadham industrial estate site and various permissions have been granted for those uses which mainly fall within the B1/B8 classification.
- 3.7 The current application proposes the erection of a new building within the north east corner of the site. It would have a depth of 31metres and a length of 88metres. The proposed building would comprise six separate units, each with a similar footprint. It would have has the appearance of a warehouse, with a shallow pitched roof, and a height of approximately 8.2metres. The plans show the provision of 52 parking spaces in front of the proposed building.
- 3.8 The applicant proposes a legal agreement between the Council and applicant to confirm that the approved development under LPA reference 3/06/1994/FP would not be implemented in the event that planning permission is granted and implemented for the development contained in this application.

4.0 Key Policy Issues

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
The appropriateness of the development in the Rural Area and sustainability	Paragraph 28	GBC2,3
Impact on the character of the site and surroundings		ENV1
The impact on the living conditions of neighbouring properties and noise		ENV1, ENV24
Car parking provision and access	Paragraph 39,75	TR7, LRC9

5.0 **Emerging District Plan**

- 5.1 In relation to the key issues identified above, the policies contained in the emerging District Plan do not differ significantly from those contained in the adopted Local Plan and the NPPF as identified above. Given its stage in preparation, little weight can currently be accorded to the emerging Plan.

6.0 **Summary of Consultee Responses**

- 6.1 The Environment Agency has no comment to make on the application.
- 6.2 Hertfordshire County Council Waste and Minerals Team refer the Council to the County Councils waste planning documents and encouragement for minimising waste generation.
- 6.3 Hertfordshire County Highways does not wish to restrict the grant of planning permission, subject to the Local Planning Authority being content that the previous permission (3/06/1944/FP) has been implemented.

The County Council have provided various TRICS assessments of industrial developments to assist the Council to better understand the likely levels of traffic movements associated with the development proposal. The County Council set out that there is a wide variation of traffic movements depending on how the development is assessed. The Highway Authority comment that the applicant's Transport Report does not seek to set out the traffic generation associated with the

proposals, relying instead on the details submitted with the earlier application.

- 6.4 Hertfordshire County Historic Environment Unit comment that archaeological monitoring of top soil stripping of the site was carried out in 2009 in connection with LPA reference 3/06/1994/FP and no further archaeological mitigation is necessary.
- 6.5 The Council's Landscape Officer recommends that planning permission be granted. Having regard to the topography and enclosed nature of the site, the proposals will assimilate with the existing industrial/warehousing units without unacceptable landscape impact or change to the immediate or wider surroundings.
- 6.6 Hertfordshire County Council as Lead Local Flood Authority comment that the updated drainage assessment has addressed the concerns previously raised. The applicant has provided sufficient detail to demonstrate that there is a feasible drainage scheme for the site, including underground attenuation. The proposed layout for the development makes the provision of underground attenuation tanks which is a feasible option to provide the required attenuation volume and to provide greenfield runoff rates. Planning conditions are recommended requiring that the development be carried out in accordance with the approved details.
- 6.7 The Environmental Health team advise that planning conditions be included with any permission. The conditions recommended include a restriction on the types of vehicles entering the site at particular times; a noise mitigation scheme; the submission of a noise assessment in the event that any fixed plant, machinery or equipment is implemented and; a restriction on outside working.

7.0 Parish Council Representations

- 7.1 Little Hadham Parish Council object to the application for the following reasons:

- Poor access and the intrusion of industrial development in the rural area;
- Significant and harmful increase in traffic associated with the proposed development;
- The development will further increase noise, pollution and visual intrusion on the site.

8.0 Summary of Other Representations

- 8.1 30 representations have been received in respect of this application – 18 in objection and 12 in support of the application.
- 8.2 The representations in support comment that the development will provide job creation and allow business expansion. The development proposal provides access doors and openings which face away from properties within Hadham Hall and will therefore provide improved relationship with those properties compared to that previously granted permission under LPA reference 3/06/1994/FP.
- 8.3 The representations in objection can be summarised as follows:
- Impact associated with pollution, noise and general disturbance associated with six additional units and associated traffic movements;
 - Increase of harmful traffic movements and detriment to highway safety;
 - Impact on users of the public right of way;
 - The planning considerations for granting the extension to the water bottling building are not relevant to this current proposal;
 - No justification for a new industrial building in a rural setting;
 - LPA reference 3/06/1994/FP has not been implemented;
 - The applicant does not have consent from all land owners to discharge into a watercourse.

9.0 Planning History

- 9.1 The most relevant planning history as noted above, relates to the grant of planning permission under LPA reference 3/06/1994/FP for an extension to existing warehouse and factory (B1 and B8 use).
- 9.2 As also noted above, retrospective planning permission was granted, on appeal, for the additional hard surfacing works on the current application site.

10.0 Consideration of Relevant Issues

Rural area policy

- 10.1 Policy GBC3 of the Local Plan sets out that development located within the Rural Area is inappropriate unless it meets certain exceptions. The provision of an industrial building for Class B1/B8 uses does not meet

with any of the exceptions in policy GBC3 and, therefore, the proposal represents an inappropriate form of development.

- 10.2 Section 3, paragraph 28 of the NPPF sets out the national policy position in respect of development in rural areas, such as the application site. The NPPF states that planning policies should “support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development” and, to promote a strong rural economy, local plans should “support the sustainable growth and expansion of all types of business and enterprise in rural areas both through conversion of existing buildings and well-designed new buildings”.
- 10.3 The emphasis in the NPPF as set out above is of course the encouragement of *sustainable* economic development and it is necessary, therefore, to consider whether the proposed development in this case would represent sustainable development such that it would be supported in principle by the NPPF.

Sustainability

- 10.4 As set out in the NPPF there are three dimensions to sustainable development, social, economic and environment. The NPPF makes clear that these differing roles of sustainability should not be undertaken in isolation because they are mutually dependent.
- 10.5 In regards to the economic dimension of sustainability, the provision of a new industrial building on this site has the potential for job creation both in terms of the construction of the building and in terms of potential job creation for new or relocated businesses occupying the units once completed. The plans submitted show that six relatively modest units will be created (each with a floor area of around 100 square metres) which will provide space for small to medium sized businesses. One of the core planning policies in the NPPF is to proactively drive and support sustainable economic development and Officers therefore consider that some positive weight should be attached to this consideration.
- 10.6 However, the site is not located within or particularly close to any of the main settlements in the District which are identified in the Local Plan or draft District Plan as being the more sustainable locations for development. The site is located on the edge of the village of Little Hadham and some five miles or so from Bishop’s Stortford. There is no bus or train station within close proximity and it is likely that the majority

of commercial traffic and also future employees will access the site by motor vehicles. The location of the site is likely therefore to result in greater and longer vehicle movements to and from the site than if the building were to be located in a population centre, such as Bishop's Stortford. Reducing the need to travel is an important sustainable development objective, as is the requirement to reduce greenhouse emissions and congestion and to plan for development which has access to sustainable modes of transport. The scale of this development proposal, and its position in a rural area which is not within a main settlement, does lead to the conclusion that the site is not in a sustainable location. The development is not able to be accessed by sustainable modes of transport (other than perhaps employees walking or cycling to the site from Hadham Hall and Little Hadham which is not likely to be a significant number) and there will be an over-reliance on motor vehicle transport.

- 10.7 As referred to previously, Officers are mindful that section 3 of the NPPF does allow, in principle, for new sustainable development in rural area for economic purposes. However, it is important to note the emphasis of the NPPF on sustainable development and, for the reasons set out above; Officers do not consider that the full requirements of the NPPF would be met. Therefore the policy support for economic growth in the NPPF is not considered to apply with any significant weight in this case.

Fall-back position

- 10.8 The applicant argues, however, that the existence of the extant permission for a Class B1/B8 extension building on the site, is a material consideration that outweighs the policy presumption against the current proposal.
- 10.9 Officers acknowledge that there is an extant planning permission for an extension to the existing warehouse which is very similar, in floorspace terms, to the building proposed within this application. It is also acknowledged that the earlier permitted building could still lawfully be erected. Furthermore, once implemented, it would be possible to subdivide the approved building and add various openings to it, possibly under permitted development rights which would not need to be considered through submission of a planning application.
- 10.10 However, it is also a material consideration that the previous permission only enables the erection of a particular form of development – designed as an extension to another building on the site. That building

would not, in Officers view, be easily sub-divided into smaller units and would, in any event, require the permitted building to be fully completed, as shown on the approved plans, before any external alterations, such as the insertion of additional entrance doors, windows or alterations to the car parking layout, could be carried out to facilitate any subdivision. This would of course be an expensive and time consuming process for the applicant which would be exacerbated if any of the external alterations were to require further planning permission.

- 10.11 Officers consider it unlikely therefore that the additional work and expense involved in the provision, and then later subdivision, of the permitted building would genuinely be undertaken. Furthermore, any units resulting from such a sub-division would be likely to be of an awkward size/form, and would be less attractive and marketable than new, purpose built units such as those now proposed. This again leads Officers to the view that such a development would be unlikely to be carried out. Limited weight can therefore be given to the applicant's argument of a genuine fall-back position.
- 10.12 Officers would also query why, if that fall-back position is a genuine and realistic alternative to the current proposal (as the applicant suggests), that it has never been undertaken. The permission was granted over 9 years ago and appears only to have been partially started in order to keep the permission alive. There does not appear to have been any intention to erect and then subdivide the building since that time (indeed the site was used for an alternative use in the intervening period) and the applicant has not put forward any evidence to show that there is any particular compelling need for this additional commercial floorspace on the site (such as to support an existing business on the site for example) that could not be more appropriately provided within a more sustainable location.
- 10.13 On balance therefore, Officers give little weight in the overall planning balance to any realistic or genuine fall-back position resulting from the existence of the extant planning permission ref: 3/06/1994/FP. The proposed development therefore remains to be considered as an inappropriate and unsustainable development in the Rural Area.

Other planning considerations

Impact on character and appearance

- 10.14 The proposed building is significant in terms of its proportions and overall scale. However, the overall proportions and design of the

building is not dissimilar to other forms of development within the surrounding site. Furthermore, Officers are mindful of the significant proportions of the consented scheme which this application proposes to replace (LPA reference 3/06/1994/FP). The Landscape Officer recommends approval and comments that, given the existing topography of the site, the development will assimilate acceptably with the immediate and wider surroundings.

- 10.15 The proposed development incorporates a building at a height of around 8 metres which will sit just above the existing bank which forms the north-eastern and eastern boundary of the site. As such, the impact in views from the north and east of the site will be limited as the proposed building will sit within the existing levels.
- 10.16 There is a public right of way to the south of the site which runs partially through the industrial estate; there are also views of the site from Hadham Hall which is located around 200 metres or so further to the east of the site. However, in Officers opinion, there will be no significant harm in views from those vantage points or any other vantage points, having regard to the changes in topography and the siting of existing industrial buildings.

Impact on living conditions of neighbouring properties

- 10.17 The siting of the proposed development is approximately 100 metres to the north east of existing dwellings within Church End and approximately 200 metres from residential properties within Hadham Hall. The siting and relationship between the development and those neighbouring properties is such that there will be no significant or material impact on living conditions of those neighbouring properties in terms of loss of light, overshadowing, loss of outlook or overbearing impact.
- 10.18 The application is supported by a noise survey which was requested initially by the Environmental Health Team. That noise survey has been further considered by that team and they raise no objection to the development and recommend the inclusion of various planning conditions.
- 10.19 However a neighbouring resident has commissioned their own noise assessment of the site and this has also been submitted to the Council for consideration. That survey has raised some queries and concerns relating to the base data used by the applicant's noise consultant (in particular with regard to the level of traffic generation that would result

from the development) and Officers have concluded that there is currently insufficient clear evidence on which to properly assess noise impact from the proposed development.

- 10.20 With regard to the impact of the use of the building itself, it is noted that the application is for a mixture of B1/B8 uses although it is not clear what the distribution between those uses might be. A B1 use is, by definition, a use which can operate within a residential area without resulting in a material impact on living conditions of neighbours. If all units were to fall within such a B1 classification the development would not, in Officers opinion result in material harm to living conditions of neighbouring residential properties. However, if a greater number were to be used (or combined for use) for Class B8 purposes, then there may be a material change in the nature of the impact and the number of vehicle movements to and from the site. It is not clear what level of traffic generation would result from the current proposal and therefore it is not clear that the submitted noise assessment has considered the full potential for noise impact in this respect.
- 10.21 In summary, there is currently insufficient certainly as to the level of traffic generation that would result from this proposal to enable a full and proper assessment of the potential impact on nearby residents through noise and disturbance. This weighs significantly against the proposal in the planning balance and justifies a separate reason for refusal of the application. Officers have considered whether the absence of a noise concern would affect the overall planning balance such as to weigh in favour of the proposal. However, that is not the case. The absence of a noise objection would be neutral in the balance of considerations and refusal would still be recommended.

Highways and parking

- 10.22 Various representations have been received raising concern with the impact of the development in terms of increased traffic movements and the impact on highway and pedestrian safety. The Highway Authority however comments that, on the proviso that 3/06/1994/FP has been implemented; they have no comments to make on the application. They have considered a range of likely traffic generation figures for the development (using TRICS) and are satisfied that, in highway terms, the proposal would be acceptable for all those ranges.
- 10.23 The plans submitted with the application shows the provision of 52 parking spaces. Local Plan policy TR7 and Appendix II of the Local Plan sets out that for a B1 (light industrial) use there is a maximum

requirement for 1 space per 35 square metres of gross floor area and, that for a B8 (storage and distribution) use there is a requirement for 1 space per 75 square metres of gross floor area.

- 10.24 The application is for a mixture of B1 and B8 uses and the applicant has not therefore indicated which units will be put to which use. Nonetheless, if all of the units are put to B1 use there is a maximum requirement for 78 parking spaces and, if the all of the units are put to B8 use there is a requirement for some 36 parking spaces. The provision of 52 spaces therefore sits roughly in-between the upper and lower requirements for parking, depending on the use of the units.
- 10.25 The parking standards in the draft District Plan set out similar ranges to the above but also include an additional provision of 1 space per 40 square metres of gross floor area for mixed uses including B1, B2 and B8. Using such a policy approach there will be a requirement for some 68 parking spaces.
- 10.26 The proposed development is considered to be compliant with the current Local Plan policies in respect of the use of all units for B1 use. However, the use of all units for B8 use and a mixed use does leave a shortfall for parking, as required in the adopted Local Plan and draft District Plan. That said, the red outline of the application includes a large area of hardstanding where no parking is shown to be provided. This space could readily be used for any overspill parking of cars, vans or lorries should such a need arise. Officers are therefore of the opinion that an appropriate level of parking and opportunities for further parking, commensurate with the size and scale of the development is provided for.

Surface Water drainage

- 10.27 The development proposal incorporates the provision of a ceullular storage tank where surface water will be directed via a piped system. Surface water will be stored in the storage tank and treated before being discharged at a rate of 5 litres per second. The storage tank provides storage for a 1 in 100 year flood event plus allowance for climate change. The County Council in their role as Lead Local Flood Authority comment that this is feasible drainage scheme for the site and they recommend planning permission be granted subject to conditions.
- 10.28 The provision of a largely subterranean drainage system is not considered to represent a particularly sustainable system in terms of the hierarchy of such systems as set out in the Councils Strategic Flood

Risk Assessment and the NPPF. Whilst this does not weigh in favour of the development, having regard to the advice from the County Council such an approach is acceptable and is neutral in the overall balance of considerations.

- 10.29 A third party representation raises concern that there is no consent from the land owner of the watercourse which the application proposes to discharge into. This is however an ownership issue which is not material to the determination of the application.

11.0 Conclusion

- 11.1 The proposal represents an inappropriate and unsustainable form of development in the Rural Area which is contrary to the policies of both the adopted Local Plan and the NPPF. Whilst the existence of an extant planning permission for a similar amount of Class B1/B8 floorspace is acknowledged, Officers consider that development to be materially different from the current proposal and that it does not represent a genuine fall-back position that can be given any significant weight in the determination of the application.
- 11.2 Whilst some positive weight is given to the proposed economic benefits of the proposal in providing employment provision in the rural area, this is not considered to be sufficient to outweigh the policy presumption against the development in terms of sustainability.
- 11.3 It is therefore recommended that planning permission be refused for the reasons set out below:

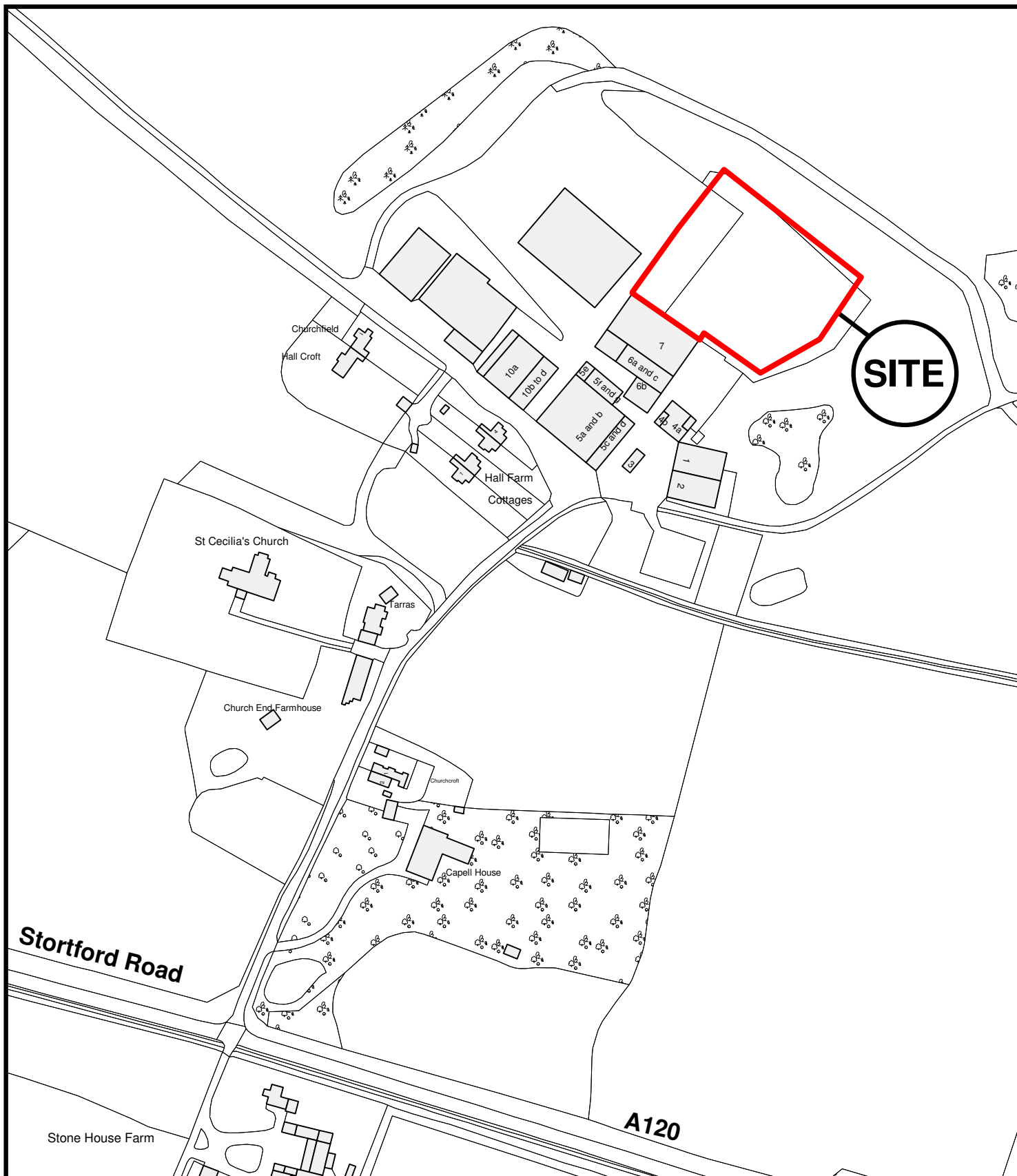
Reasons for Refusal:

1. The site lies within the Rural Area as defined in the adopted East Herts Local Plan wherein the provision of new buildings for industrial and warehousing purposes is considered inappropriate in principle. Furthermore, the site is located away from any main settlements and the proposal would therefore be heavily reliant on motor vehicles and would constitute an unsustainable form of development, contrary to the aims of national planning policy contained in the NPPF. Weight which can be attributed to the positive impacts of the development is not such that would outweigh the policy presumption against the development or the unsustainable nature of the development. Furthermore, the Council is not satisfied that the extant permission granted under ref: 3/06/1994/FP represents a convincing fall-back position that would

justify the grant of planning permission for the proposed development. The proposal would thereby be contrary to policies SD2 and GBC3 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.

2. The local planning authority considers that there is insufficient and unclear information contained within the application to enable the Council to properly assess the potential impact of the proposed development on the living conditions of adjacent residential properties by reason of noise and general disturbance. The proposal is thereby contrary to policies ENV1 and ENV24 of the East Herts Local Plan Second Review April 2007 and national policy set out in the National Planning Policy Framework.

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Address: Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY
Reference: 3/15/1584/FUL
Scale: 1:2500
O.S Sheet: TL4422
Date of Print: 10 March 2016

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DEVELOPMENT MANAGEMENT COMMITTEE – 23 MARCH 2016

Reference Number	E/15/0366/ENF
Development	a) Unauthorised change of use of the building from hotel (C1 Use) to a wedding venue (Sui-Generis Use); b) Unauthorised operational development to change the levels of the land; erect light columns, security lighting poles and lights; and the erection of gate pillars and entrance gates. c) Unauthorised works to a listed building by way of the attachment of security lights and CCTC cameras.
Location	Briggens House Hotel, Briggens Park Road, Stanstead Abbots, Ware, SG12 8LD
Parish	Hunsdon CP
Ward	Hunsdon

RECOMMENDATION

That enforcement action be authorised as set out at the end of this report.

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract and is located between Harlow and Stanstead Abbots with one entrance from the A414 and a second (un-used) entrance located adjacent to Roydon train station. The lawful use of the site is as a hotel although that use ceased approximately 10 years ago.
- 1.2 The main house is Grade II listed and there are a number of other structures and buildings within the park that are also listed separately. The grounds are also included on the register of parks and gardens at Grade II status.
- 1.3 In October 2015, concerns were expressed to the Council that there had been an unauthorised change of use of the listed building from a hotel use to solely a wedding venue and that unauthorised works had been carried out at the site to facilitate that new use. Those works included significant ground works to level the land at the rear of the listed building (to facilitate the erection of a marquee); and the erection of a large number of lighting columns and lighting bollards along the entrance driveway.
- 1.4 An initial site visit was made on 5 October 2015 where it was noted that plastic 'imitation street lamps' approximately 2 metres in height had been installed along both sides of the drive to the main house from the A414 entrance. As well as the lamp posts, a large number of plastic

bollard lights, approximately 1 metre high, had been installed around the perimeter of the house. It was also apparent that there were on-going works inside the property, although no access to the property was possible at this time.

- 1.5 Following contact with the tenants' agent, a further site visit was made on 3 November 2015 where access to the interior of the property was made available. It was evident that significant re-decoration had taken place in the basement, ground floor, and parts of the first floor.
- 1.6 To the rear of the property, and beyond the terrace, the land had been cleared of vegetation and the levels had been reduced by over 1 metre in certain parts. At the time of the visit the tenant stated that they had not carried out the works to the land and advised Officers that the works may have been carried out by the owner of the estate.
- 1.7 Following the site visit, Officers contacted the agent for the tenants of the property and advised that the following information should be submitted to the Council for consideration:
 - A Schedule of Works showing the works undertaken to the interior and exterior of the building, so that the authority could determine what may require listed building consent;
 - An application for planning permission for the change of use of the hotel to a wedding venue;
 - An application for planning permission for the lighting columns lining the driveway and the lighting bollards around the immediate perimeter of the property.
 - An application for the gate posts and gates that had been installed at the A414 entrance.
- 1.8 An email was also sent to the owners of the estate on 4 November 2015 advising them that the earth works, that they had apparently carried out to the rear of the property, would require planning permission.
- 1.9 On 11 November 2015 a further site visit was made; on this occasion with the owners of the estate, rather than the tenant company. The owners advised Officers that they had not carried out the earth works to the rear of the property and that in fact the tenant had instigated these works. It was also noted at the site visit that a number of security spotlights had been fixed to the exterior of the building, along with CCTV cameras and, in addition, large metal lighting columns had been erected to the rear of the property to allow floodlighting of the site.

Following the meeting, the tenant's agent was advised that they should also submit an application for planning permission for the earth works to the rear of the property and for the new spotlights and lighting columns which they had erected.

- 1.10 An application was subsequently submitted for a large temporary marquee to be situated to the rear of the premises between April and November (Ref: 3/16/0048/FUL). However, no applications for any of the other unauthorised works were submitted and no Schedule of Works has been submitted as requested. Application ref: 3/16/0048/FUL, for the marquee was, in any event, withdrawn on 2 March 2016.
- 1.11 All the unauthorised works remain in situ at the time of writing this report.

2.0 Planning History

- 2.1 The most relevant planning history for the site can be summarised as follow:

3/16/0048/FUL	Proposed installation of a temporary marquee to the rear of Briggens House Hotel, between 1st April and 30th November for a 5 year period.	Withdrawn
3/02/0344/FP	Erection of a marquee	Refused

3.0 Policy

- 3.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
Impact of the works on the listed building, its setting, and registered historic parks and gardens	Section 12	ENV 1 BH16

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

4.0 Consideration of Relevant Issues

- 4.1 The determining issues in this case relate to the acceptability of the wedding venue use of the property and the impact of the unauthorised works on the special architectural and historic interest of the Grade II listed building and registered park and garden.
- 4.2 In respect of the use, Officers have queried the exact nature of the current use with the tenants of the site. Although very limited information has been put forward as a result, it appears that the property no longer functions as a hotel. Whilst there are apparently rooms available within the property, these are only booked out to wedding parties/guests as part of an overall wedding package. A member of the public is no longer able to book a room separately as with a normal hotel use.
- 4.3 Officers consider therefore that there has been a material change in the use of the property for which planning permission is required. That change of use results in large numbers of guests arriving for events at the same time (unlike the more limited traffic generation associated with a hotel use). It has also resulted in the need for additional function space (hence the unauthorised ground works to the rear of the house and the application for a marquee) and it is not clear how the parking arrangements function on those days when a wedding is taking place. Additional parking pressure; lighting and internal alterations/works to facilitate the new use may also have an adverse impact on the setting and appearance of the heritage assets.
- 4.4 Whilst a wedding venue use may not be unacceptable, in principle, in this location, Officers consider that the uncontrolled and unauthorised use of the site may result in significant harm being caused to the listed building and its setting. In view of the failure of the owner and/or tenant to submit an application to enable the Authority to properly consider and control the use, it is considered appropriate to serve an enforcement notice requiring the use to cease in its entirety. The owner or tenant would then have to submit an application for planning permission in order to set aside the requirements of the notice and this would enable conditions to be imposed on the use to ensure that it properly respects the historic character and appearance of the site and its registered gardens.
- 4.5 As regards the unauthorised works to the interior of the building, Officers consider that, although the interior redecoration that has been undertaken is unsympathetic to the historic character of the property, it

appears only superficial and temporary/removable. It is not considered therefore that separate enforcement action is necessary in this respect at present, although it is recommended that any enforcement notice issued in respect of the use of the property would also require the reinstatement of the interior to the condition that existed prior to the commencement of the unauthorised use.

- 4.6 As regards the unauthorised development within the grounds of the building, it is important to note that the building sits on an elevated position and is widely visible from the A414 where the imitation lighting columns lining the drive to the house can clearly be seen, particularly at night when they are illuminated. They are visually intrusive in the setting of the listed building, and are out of keeping with, and detrimental to, the historic character and appearance of the heritage asset.
- 4.7 The larger lighting columns to the rear of the property, installed to house floodlighting, are of a plain steel 'industrial' design and are similarly unsympathetic to the historic character and appearance of the house and detrimental to its setting. The unauthorised gates and fencing at the entrance to the site have been erected in place of original features which were covered some years ago in order to protect them. The replacements are poorly designed and do not respect the historic character and appearance of the property.
- 4.8 The unauthorised lights and CCTV cameras attached to the listed building are also unacceptable, having an adverse impact on the character and appearance of the Grade II listed building.
- 4.9 The unauthorised engineering works to the rear of the property, to reduce the level of the land in order, apparently, to facilitate the erection of a marquee has adversely impacted on the historic character of the gardens and appears out of keeping with, and detrimental to, the setting of the listed building.
- 4.10 To ensure a satisfactory resolution to all these matters, Officers consider it necessary to serve the relevant Enforcement Notices to secure a) the cessation of the use and the proper regulation of any wedding venue use of the site through the later submission of a planning application, and b) the removal of the unauthorised works to the building itself and those within its grounds.

5.0 Recommendation

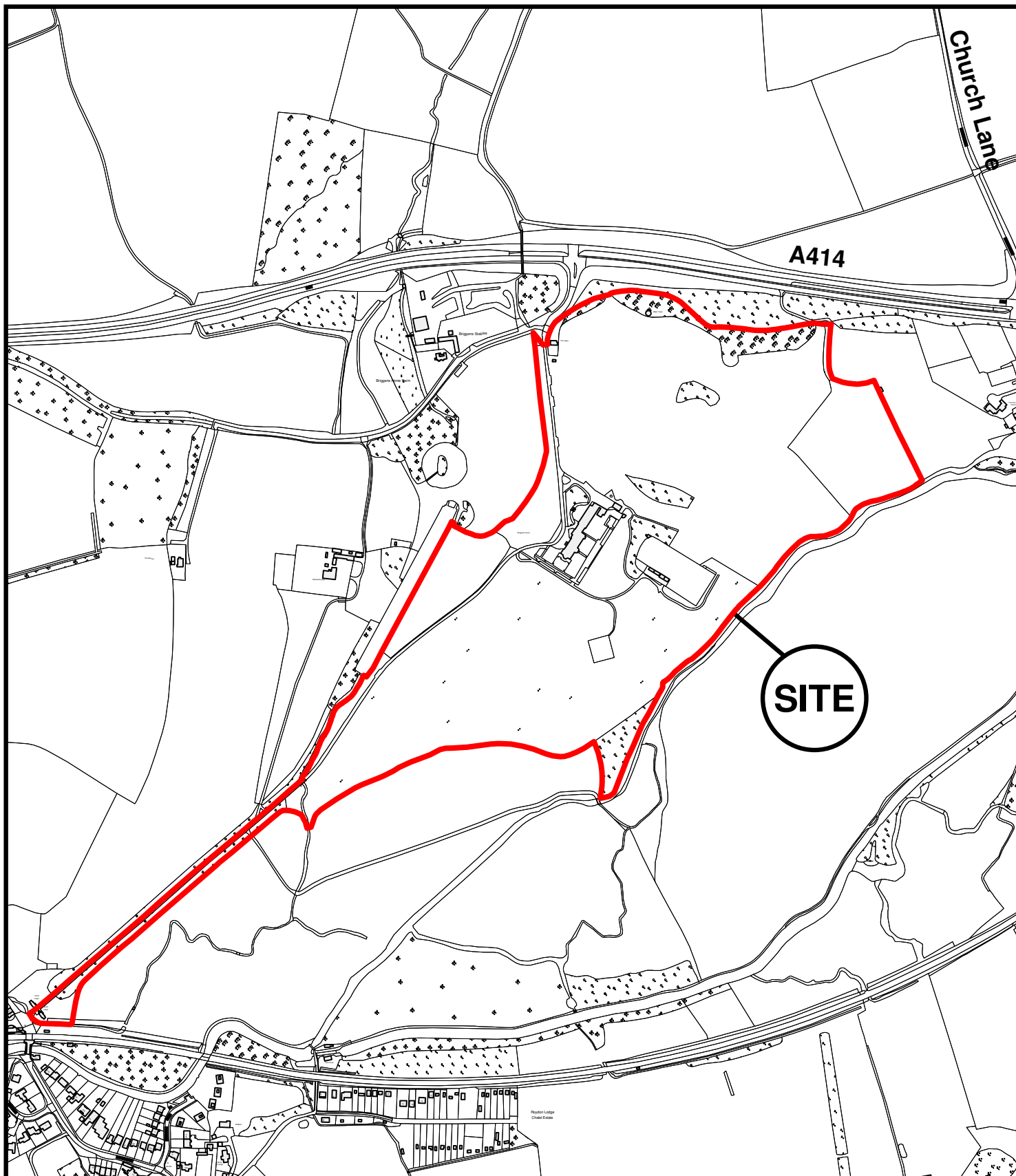
- 5.1 For the above reasons it is recommended that the Head of

Planning and Building Control, in consultation with the Head of and Democratic and Legal Services, and other Officers as appropriate, be authorised to:

- a) take enforcement action under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and any such further steps as may be required to secure the removal of the unauthorised lights and CCTV cameras attached to the building, and
- b) take enforcement action under section 172 of the Town and Country Planning Act 1990 and any further steps as may be required to secure:
 - the cessation of the unauthorised wedding venue use,
 - the reinstatement of the interior of the building to its condition prior to the commencement of the unauthorised use,
 - the removal of all the unauthorised lighting columns in the grounds of the building,
 - the removal of the unauthorised gates and fencing, and
 - the reinstatement of the land levels to the rear of the property.

Period for Compliance:

- 2 months in respect of the removal of lighting columns; gates, fencing, lighting and CCTV cameras attached to the listed building.
- 4 months in respect of the use of the property as a wedding venue and for the restoration of the land levels to the rear of the building.



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Scale: 1:7500

O.S Sheet: TL4111

Date of Print: 22 February 2016

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DEVELOPMENT MANAGEMENT COMMITTEE – 23 MARCH 2016

Reference Number	E/08/0021/A
Development	The erection of an unauthorised industrial style link building between a Grade II listed barn and a further agricultural building, and the unauthorised material change of use from agriculture to a cricket school
Location	Tharbies Barns, Rook End, High Wych, Herts, CM21 0LL
Parish	High Wych
Ward	Much Hadham

RECOMMENDATION

That a revised listed building enforcement notice be issued, and legal proceedings taken, as set out at the end of this report to secure the removal of the unauthorised structure.

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located on a track to the east of Tharbies Farmhouse on the un-named road through Rooks End.
- 1.2 A concern was originally expressed to the Authority in 2008 regarding the use of the site as an indoor cricket school which had involved construction of an industrial style link building between two barns on the site, one of which is Grade II listed.
- 1.3 This matter was originally brought to the Committee in March 2009 when authority was sought to serve both listed building and planning enforcement notices requiring the cessation of the cricket school use and the demolition of the link extension (the Committee report is attached as **Essential Reference Paper ‘A’** to this report). Authority was granted by the committee and the notices were subsequently served on the property in April 2009.
- 1.4 Following the service of the Notices, the owners appealed to the Planning Inspectorate. In February 2010 the Inspectorate published its decision (attached as **Essential Reference Paper ‘B’**) which concluded that both the Operational Development and Material Change of Use notices were upheld and the appeals dismissed. However, the Listed Building Notice was quashed as the Inspectorate considered that the requirements of the Notice were not sufficiently clear.

- 1.5 Following the appeal decision, the Council prosecuted the owners of the site for non-compliance with the enforcement notices in June 2011 when they pleaded guilty.
- 1.6 Subsequently, the applicants sought to rectify the breach of planning control by submitting various alternative design proposals to Officers and this culminated in the submission of two applications (full planning and listed building consent) in 2011 for alterations to the unauthorised link extension to allow the retention of the cricket school use. These applications were reported to the Committee in November 2012 when it was resolved that the benefits associated with the retention of the cricket school would outweigh the harm of allowing the link building to remain (in the proposed amended form). Planning permission was granted under reference 3/11/1093/FP and it was also resolved to grant listed building consent under 3/11/1094/LB, subject to a Section 106 agreement requiring the implementation of a repairs schedule for the listed barn.
- 1.7 Despite continued reminders from Officers since then, the Section 106 agreement has never been signed and the listed building consent has not therefore been issued. No works have been carried out to alter the unauthorised link building as approved, and the planning permission granted under ref: 3/11/1093/FP lapsed in November 2015.
- 1.8 The unauthorised link building however remains in place.

2.0 Planning History

- 2.1 The most relevant planning history for the site can be summarised as follows:

3/08/2151/FP	Alterations to agricultural building for use as an indoor cricket school	Refused. Dismissed on appeal
3/08/2152/LB	Adaptation, alteration and extension of redundant agricultural buildings for use as an indoor cricket school	Refused. Dismissed on appeal
3/11/1093/FP	Alterations to agricultural building for use as an indoor cricket school	Granted
3/11/1094/LB	Adaptation, alterations and extension of redundant agricultural building for use as an	Resolution to grant, subject to a legal

	indoor cricket school	agreement (not signed)
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3.0 **Policy**

- 3.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the adopted East Herts Local Plan 2007:

Key Issue	NPPF	Local Plan policy
The impact of the link building on the historic character and appearance of the Grade II listed building within the Metropolitan Green Belt.	Section 12	GBC1,GBC9, BH10,BH11, BH12,ENV1

Other relevant issues are referred to in the 'Consideration of Relevant Issues' section below.

4.0 **Consideration of Relevant Issues**

- 4.1 The planning history in relation to this unauthorised link building is long and somewhat complex. Since the service of the enforcement notices, Officers have sought to remedy the breach of planning control (which is considered to be a significant one) through both legal action, in 2011, and then by working with the owners of the site to agree an amended design for the building that would enable the retention of the indoor cricket school whilst still preserving the historic character and appearance of the building. However, despite those negotiations and the granting of a planning permission which would rectify the situation, the owners of the site have failed to sign the necessary legal agreement in respect of the listed building consent and have not made any attempt to implement the planning permission granted under reference 3/11/1093/FP.
- 4.2 Regrettably, Officers consider that the matter must again be approached by prosecuting the owners for non-compliance with the enforcement notices previously upheld on appeal (requiring the demolition of the link building and the cessation of the use). Members are asked therefore to endorse the previous decision of the Committee in this respect.
- 4.3 In addition to that, it is considered appropriate that a revised listed building enforcement notice is served to address the Inspectorates previous criticisms of the Notice served in 2009. It is considered that

this would enhance the Council's prospects of success on prosecution, as it would make clear the precise works that are required to be undertaken to the listed building as part of the process of removing the unauthorised link building.

5.0 Recommendation

5.1 It is therefore recommended that the Head of Planning and Building Control, in consultation with the Head of Democratic and Legal Services, and other Officers as appropriate, be authorised to:

- a) Re-serve an enforcement notice under section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and to take any such further steps as may be required to secure the removal of the unauthorised link building, and
- b) Instigate legal proceedings for non-compliance with the planning enforcement notices issued in respect of the use of the site and the removal of the unauthorised link building in April 2009.

E/08/0021/A – The erection of an unauthorised industrial style link building between a Grade II listed barn and a further agricultural building, and the unauthorised material change of use from agriculture to a cricket school at Tharbies Barns, Rook End, High Wych, Herts, CM21 0LL

Parish: HIGH WYCH

Ward: MUCH HADHAM

RECOMMENDATION

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, Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and any such further steps as may be required to secure the removal of the unauthorised link building; the cessation of the unauthorised use and the weathertight repair of the listed building on the site.

Period for compliance: 6 months

Reason why it is expedient to issue an enforcement notice:

- 1 The site lies within the Metropolitan Green Belt as defined in the East Herts 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 outdoor sport and outdoor recreation or other uses appropriate to a rural area. Both the operational development and the unauthorised use are considered to be inappropriate development and no very special circumstances are apparent in this case to warrant a departure from Green Belt policy. The development is thereby contrary to policy GBC1 of the East Herts Local Plan Second Review April 2007.
2. The unauthorised change of use has resulted in extensive and damaging alterations and extension of the buildings on the site, which are unsympathetic and detrimental to the rural character and appearance of the site and its surroundings. The development is thereby contrary to policies GBC9 and ENV1 of the East Herts Local Plan Second Review April 2007.
3. The unauthorised extension of the Grade II listed building on the site is, by reason of its size, scale, form, design and materials of construction, detrimental to the historic character, appearance and setting of the

building and is thereby contrary to policies BH10; BH11 and BH12 of the East Herts Local Plan Second Review April 2007.

4. The unauthorised use results in a significant increase in traffic to and from the site on rural lanes of inadequate width and construction and the access is at a point where visibility for turning traffic is restricted. The unauthorised development has therefore resulted in conditions detrimental to highway safety contrary to policy TR20 of the East Herts Local Plan Second Review April 2007.
5. The unauthorised use has the potential to result in conflict between users of the shared public footpath and vehicular access to the site and is thereby detrimental to the safety, convenience and amenity of walkers on the footpath. It is thereby contrary to policy LRC9 of the East Herts Local Plan Second Review April 2007.

_____(002108A.CA)

1.0 Background

- 1.1 The site is shown on the attached Ordnance Survey extract. It is located on a track to the east of Tharbies Farmhouse on the un-named road through Rooks End. Photographs of the site will be available at the meeting.
- 1.2 In January 2008 a concern was expressed to the Authority regarding the construction of an industrial style building at the site. The Enforcement Officer visited the site and found a steel frame building under construction but no-one on site. There being no planning history, he wrote to the farm owners but received no reply.
- 1.3 A Land Registry check was requested and, following that, the new owner of the barns was written to in June 2008. A further site visit at that time revealed that existing extensions to two barns, one of them Grade II listed, had been demolished and a substantial industrial style painted or coated metal building on a brick plinth had been erected between the two barns.
- 1.4 The Enforcement Officer received a message stating that the new owners were out of the country but there was no further contact until September 2008 when he was contacted by agents for the owner and informed that the owner was building an indoor cricket school, something he had informally discussed with Officers in 2006. At that time he proposed building a glazed link between the existing extensions to

provide a single building. No further contact or planning application was received by Officers.

- 1.5 In October 2008 the Enforcement Officer visited the site with the owner's agents. By this time the building was substantially complete and in use as a cricket school, which the agent described as 'of regional importance'. On that day, for example, the England fast bowling coach was on the site working with a number of customers.
- 1.6 The Grade II listed barn itself was locked and apparently unused with loose and missing weatherboards. It was not possible to view the interior of that building as the keys were not available but the industrial style extension roof was built into the roof of the listed barn. The opening in the wall of the listed barn, where the previous extension had been demolished, was covered with sheets of plywood. Part of this material was visible from the outside of the building.
- 1.7 The owner submitted applications for planning permission and listed building consent seeking retrospective permission and consent for the works and change of use that have taken place. These applications were refused under delegated powers on 25th February 2009.

2.0 Planning History

- 2.1 The recent planning history is as follows:

- | | |
|--------------|--|
| 3/08/2151/FP | Alterations to agricultural building for use as an indoor cricket school – Refused |
| 3/08/2152/LB | Adaptation, alteration and extension of redundant agricultural buildings for use as an indoor cricket school – Refused |

3.0 Policy

- 3.1 The relevant policies in this matter are:

GBC1 – Appropriate development in the Green Belt
GBC9 – Adaption and Re-use of Rural Buildings
BH10 – Extensions or Alterations to a Listed Building
BH11 – Conversion or Change of Use of a Listed Building
BH12 – Development Affecting the Setting of a Listed Building
ENV1 – Design and Environmental Quality
LRC9 – Public Rights of Way

4.0 Considerations

- 4.1 In this matter, the main issues to be considered are the appropriateness of the development within the Metropolitan Green Belt; its impact on the rural character and appearance of the buildings and the surrounding area; the impact of the new link building on the historic character and appearance of the Grade II listed building; and highway safety issues.
- 4.2 Policy GBC1 states that permission will not be given for inappropriate development in the Green Belt unless it falls within one of nine specified criteria or in circumstances where there are very special circumstances that warrant a departure from Green Belt policy. In this case however, neither the unauthorised use nor the unauthorised extension of the buildings falls within any of the criteria in that policy. The use is neither small scale nor is it required for outdoor sports and recreation. Furthermore, the re-use of one of the buildings on the site does not accord with policy GBC9 of the Local Plan and the unauthorised extension is clearly excessive in size and scale in relation to the Listed Building on the site. Officers therefore consider that both the operational development and the unauthorised use constitute inappropriate development in the Green Belt.
- 4.3 Furthermore, Officers are not satisfied that there are any very special circumstances in this case which would clearly outweigh the harm that is caused to the Green Belt as a result of this development by reason of inappropriateness and other harm to the character and appearance of the Listed Building on the site and the rural character of the surrounding area.
- 4.4 The unauthorised use does, in part, involve the re-use of a redundant rural building (that to the northern end of the new link building). However, policy GBC9 states that permission will only be permitted for the conversion or re-use of rural buildings in circumstances where six criteria are met. This development has resulted in extensive and damaging alterations to the building and thereby fails to meet criteria, (c), (e) and (f) of that policy and is therefore contrary to it.
- 4.5 In respect of the alteration and extension of the listed building on the site, Officers consider that the link building that has been constructed has a significant detrimental impact on the historic character and appearance of the building. It is of an excessive size and scale that dominates the listed building and its form, design and materials of construction are clearly inappropriate to the traditional form of the building and detrimental to its historic character. Policies BH10, 11 and 12 of the Local Plan however require that any extensions, alterations or

re-use of listed buildings preserve or enhance the appearance and setting of the listed building. This development clearly detracts from both the listed building and its setting and is therefore contrary to policies BH10; BH11 and BH12 of the Local Plan.

- 4.6 Policy ENV1 also requires that all developments are of a high standard of design to reflect local distinctiveness. Furthermore, they should relate well to the massing of adjacent buildings, consider the impact of open land on the character and appearance of the area and minimise the loss or damage to any important landscape features. This development however, relates poorly to surrounding development and is conspicuous within the surrounding area to the detriment of its rural character. It is therefore also contrary to policy ENV1 of the Local Plan.
- 4.7 County Highways have confirmed that they object to the unauthorised use of the site as they consider that it results in additional traffic using the narrow and unsuitable local road network which is contrary to policy TR20 of the Local Plan. Furthermore, the access to the site is at a point where visibility for turning traffic is restricted which is also contrary to that policy and detrimental to highway safety.
- 4.8 Finally, the access track to the site is also a public footpath and County Highways are concerned that this development leads to conditions on that shared surface which are prejudicial to the safety of walkers on the footpath. Furthermore, the use would also be detrimental to the amenity of the footpath, making its use unattractive for walkers. This is contrary to policy LRC9 of the Local Plan.

5.0 Recommendation

- 5.1 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice and a Listed Building Enforcement Notice requiring the removal of the unauthorised operational development from the land, the cessation of the unauthorised use; and the weathertight repair of the Grade II listed barn using materials and construction methods to be approved by the local planning authority.

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Appeal Decisions

Inquiry held on 24 & 25 November 2009

Site visit on 25 November 2009

**by Stephen Brown MA(Cantab) DipArch
RIBA**

**an Inspector appointed by the Secretary of State
for Communities and Local Government**

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**Decision date:
3 February 2010**

Appeal A refs: APP/J1915/C/09/2103165 & 2103166 South Barn at Tharbie's Farm, Rook End, High Wych, Sawbridgeworth CM21 0LL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is by Barry & Sandra Humphrey against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/08/0021/A.
- The notices were issued on 8 April 2009.
- The breach of planning control alleged in the notices is without planning permission the erection of an industrial style building as an extension to a Grade II listed building, as shown edged in green on the plan attached to the notice.
- The requirements of the notice are to remove the unauthorised industrial style building and remove the resultant materials from the land.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the case is exempt from the prescribed fees, the applications for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Summary of Decision: the appeals are dismissed and the enforcement notices upheld with a variation.

Appeal B ref: APP/J1915/C/09/2103167 Land at Tharbie's Farm, Rook End, High Wych, Sawbridgeworth CM21 0LL

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is by Barry Humphrey against an enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/08/0021/A.
- The notice was issued on 8 April 2009.
- The breach of planning control alleged in the notice is without planning permission the change of use of the site from agriculture to a cricket school, a D2 use, as edged red on the plan attached to the notice.
- The requirements of the notice are to cease the unauthorised use.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the case is exempt from the prescribed fees, the application for planning permission deemed to have been made under section 177(5) of the Act as amended falls to be considered.

Summary of Decision: the appeal is dismissed and the enforcement notice upheld with variations.

Appeal C ref: APP/J1915/F/09/2103164

South Barn at Tharbie's Farm, Rook End, High Wych, Sawbridgeworth CM21 0LL

- The appeal is made under section 39 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is by Barry Humphrey against a listed building enforcement notice issued by East Hertfordshire District Council.
- The Council's reference is E/08/0021/A.
- The notice was issued on 8 April 2009.
- The contravention of listed building control alleged in the notice is without listed building consent the unauthorised extension of the Grade II listed barn by the attachment of an industrial style building, as indicated edged green on the plan attached to the notice.
- The requirements of the notice are to remove the unauthorised industrial style link building, remove the resultant materials from the land and make a weathertight repair to the Grade II listed building with materials that shall be previously approved by the Local Planning Authority.
- The period for compliance with the requirements is 6 months.
- The appeal is made on the grounds set out in section 39(1)(e) and (i) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

Summary of Decision: the listed building enforcement notice is quashed.

Appeal D ref: APP/J1915/A/09/2100347

Tharbie's Barns, Rook End, High Wych, Sawbridgeworth CM21 0LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is by Barry Humphrey against the decision of East Hertfordshire District Council.
- The application ref. 3/08/2151/FP dated 31 December 2008 was refused by notice dated 25 February 2009.
- The development proposed is the adaptation, alteration and extension of redundant agricultural buildings for use as an indoor cricket school.

Summary of Decision: the appeal is dismissed.

Appeal E ref: APP/J1915/E/09/2100348

Tharbie's Barns, Rook End, High Wych, Sawbridgeworth CM21 0LL

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is by Barry Humphrey against the decision of East Hertfordshire District Council.
- The application ref. 3/08/2152/LB, dated 31 December 2008, was refused by notice dated 25 February 2009.
- The works proposed are the adaptation, alteration and extension of redundant agricultural buildings for use as an indoor cricket school.

Summary of Decision: the appeal is dismissed.

Preliminary matters

1. The South Barn is a Grade II listed building, I have therefore paid special regard to the desirability of preserving its special architectural or historic interest and its setting, as required by Sections 16(2) and 66(1) of the

Planning (Listed Buildings and Conservation Areas) Act 1990 as amended (the Listed Building Act).

The planning enforcement notice in Appeal B

2. The plan attached to the notice in Appeal B shows the appeal site to include the appellants' entire holding – the group of buildings to the south of the site, together with the two large agricultural fields to the north. The Council accept that this indicates that the alleged change of use has taken place over a wider area than is the case, and they put in an amended plan showing the appeal site boundary drawn closely around the group of buildings. It appears to me that this properly represents the area against which the Council intended to act. I do not consider that either party would be prejudiced by varying the plan in this way, and that is what I intend to do.
3. In Appeal B the alleged change of use is described as '*a cricket school*'. It appears to me that this is not an entirely accurate description, and that it would be more properly described as '*an indoor cricket school*', as it is in the listed building and planning applications. Again I do not consider either party would be prejudiced by varying the notice in this respect, and for the purposes of clarity that is what I intend to do.

The listed building enforcement notice

4. The listed building enforcement notice includes the requirement that the weathertight repair to the listed building should be made with materials previously approved by the Local Planning Authority.
5. Section 38(2)(b) of the Listed Building Act sets out that if the Local Planning Authority consider the restoration of a building to its former state would not be reasonably practicable they may specify such further works as they consider necessary to alleviate the effect of the unauthorised works. It appears to me that this is what the notice purports to do.
6. Removal of the industrial building would leave the northern side of South Barn exposed to the weather. The cart opening in the middle of this side has been infilled at some time with a Fletton brick wall up to the height of the middle framing rail, above which the posts and studwork continue, and are clad with a mixture of weatherboard and modern composite timber boards. Furthermore, at the junction of the industrial building to the flank and roof of the barn there is a somewhat crude flashing detail. Also at the base of the Fletton brickwork is a plinth of uncertain masonry construction.
7. In order to make the newly exposed side of the barn weathertight it would be necessary to replace some of the cladding and repair other parts. It would probably be unwise to leave the Fletton brickwork and plinth unprotected, since their weather-tightness cannot be presumed. It appears to me that the repair required by the notice would be a complex piece of work, possibly amounting to a restoration of the northern elevation. Such works would almost certainly affect the special interest of the historic building, and therefore require listed building consent.

8. I can well see that the Council might expect to approve such works. However, the inevitable consequence is that the appellant could not be certain what would be required of him in order to comply with the notice. Indeed, it was apparent from questions I put at the inquiry that neither main party could readily identify what the works would comprise. In the decision in the case of *Payne v NAW and Caerphilly CBC* the judge concluded that a notice that is uncertain should be regarded as a nullity. In this case it appears to me that the nature of the uncertainty is such that it would not be possible to correct the requirement without causing significant prejudice to the appellant, or by prejudicing the Council's ability to determine whether listed building consent should be granted for the necessary works. In the light of this I consider the notice is void for uncertainty, and must be considered a nullity. In the circumstances I consider the notice should be quashed.
9. However, this does not limit the Council's power to issue a further notice. I appreciate that there is a difficulty in formulating a requirement for executing further works to alleviate the alleged harm, that are as yet undefined, but I believe this could reasonably be overcome by the appellant and Council agreeing a scheme of works before issue of any further listed building enforcement notice.
10. In the light of the foregoing I shall not give further consideration to the listed building enforcement notice appeal.

Main issues

11. The Council did not pursue their objection to the development on grounds of highway safety, and I have not considered this matter further.
12. From my inspection of the appeal site and its surroundings, and from the representations made at the Inquiry and in writing I consider the first main issue in the enforcement notice appeals on ground (a), and in the planning appeal, and the only main issue in the listed building appeal is:
 - The effect of the development upon the special interest and setting of the listed building.

I consider the second main issue in the enforcement appeals on ground (a), and in the planning appeal is:

- The effect of the development on the character and appearance of the appeal site and its countryside surroundings; and the third main issue,
- Whether the development is appropriate within the Metropolitan Green Belt, and if not whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Development plan policy

13. Development plan policy is from the East Hertfordshire Local Plan Second Review of 2007. I consider that policy of particular relevance to these appeals is as follows. Policies GBC1 and GBC9 seek to restrict development in the Green Belt, and set out the purposes for which new buildings will not be inappropriate, as well as criteria for the adaptation and re-use of rural buildings in the Green Belt. These policies closely reflect the advice of Planning Policy Guidance: '*Green Belts*' (PPG2). Policy ENV1 sets out aims for high standards of design and layout, in particular to ensure that new development relates well to the massing and height of adjacent buildings.
14. Policies BH10, BH11 and BH12 seek to protect listed buildings from harmful extension or alteration; ensure that conversion or change of use will not harm their special interest, and that development will not affect their settings.

The listed building issue

15. The listed South Barn is part of a complex of buildings that was previously a working farmyard. There is another traditional timber barn of similar dimensions standing some 47 metres to its north, which is not listed. There is a range of relatively modern agricultural buildings to the east, some of which are in dilapidated state.
16. Before construction of the industrial type building that is the subject of these appeals there were animal sheds attached to the northern side of the south barn and the southern side of the north barn, between which was a gap some 6 metres wide leading through to the yard beyond. These sheds were constructed of steel stanchions with lattice trusses. They had brick cladding on the western elevation, and corrugated asbestos-cement roofs. The sheds were open on the eastern side, where the cattle pens faced the yard.
17. The sheds were demolished, and there is now a single shed filling the space between the timber barns, roughly 47 metres long by 19 metres wide. It is a utilitarian portal-framed shed with corrugated metal sheet cladding. It is used to house an indoor cricket school, the entrance to which is through the north barn, which contains a reception and refreshment area, a shop for the sale of cricket kit and related items, and an administration area. Within the new shed at the northern end are block built changing rooms and an area for video equipment. However, it is predominantly a single open space with a resilient sports floor, and is in use as an indoor cricket pitch, or as practice nets.
18. I understand the ridge of the new building is at approximately the same height as the ridge of the former animal sheds. However, the roof form of these sheds was such that the central longitudinal bay had a relatively steep pitch, which slackened over 'aisles' to either side. The result was that the eaves height of the sheds was at a considerably lower level than that of the new building – I estimate from photographs that the difference was probably about a metre. Although it may be that the overall outline of the new building seen in silhouette is much the same as that of the sheds, the difference in bulk is very considerable. Furthermore, it is apparent that the pronounced change in

the roof pitch, the gap between the north and the south sheds, the various openings in the flank walls, and the variety of constructional materials all served to break up the buildings into smaller visual elements, and to reduce their apparent bulk.

19. In contrast, apart from the slight change in ridge height and set back of the external wall in the central transverse bay of the new building, the roof has a uniform, relatively low pitch, there are few external doors or windows, and the roof and wall cladding are of a uniform texture and colour. The full scale and bulk of the building are readily apparent, and there is little to diminish its presence. I saw that the western flank wall of the new shed is partially clad with timber weatherboarding, which I understand is incomplete. Although this material would probably be a more sympathetic finish, its completion would not provide any significant articulation of this rather blank wall or significantly reduce the scale.
20. The listed barn, and to a great extent the northern barn as well, are of relatively small scale, retaining forms, materials and detailing that are typical of traditional rural structures. In the case of listed South Barn the steeply pitched roof, the projecting central porch on the southern side, and the weatherboarding are notable in this regard.
21. Looking from the north-east towards the junction of the new building with the South Barn almost all the northern side wall of the barn is concealed, and there is a long intersection between the new and old roofs, where there is an unsightly flashing detail. This can be compared with a photograph¹, showing a view of the old animal shed from the north-east, in which a significant area of the upper part of the flank wall of South Barn is visible, the open front of the animal shed allows the corner of the barn to be seen, and there is a relatively short, neat intersection between the roofs. All of which served to reduce the impact of the shed. In my opinion, the earlier building was relatively subservient to the listed barn, allowed its overall form to be appreciated as a more or less discrete entity, and had minimal impact on the historic fabric.
22. The new building in contrast, with its projecting and opaque corner, conceals the listed building to a much greater extent, its bulk dominates the form of the listed barn to a degree that the listed building has become the subservient element, and the crude junctions of mismatching materials between the intersecting roofs and walls appear wholly incongruous. From the western side, the unarticulated wall of the new shed is of such a scale that the listed barn appears overwhelmed.
23. I accept that the former animal sheds had little to commend them as adjuncts to the listed barn in terms of their materials and design, and indeed the list description acknowledges that they were not of special interest. However, that does not justify construction of a new building of a larger scale, and in unsympathetic materials.
24. In my view the new building is highly incongruous, being unsympathetic in terms of scale, bulk and design, and causes significant harm to the setting and special architectural interest of the listed building.

¹ Figure 2 in Mr Craig's Appendix DRC05.

25. I conclude on the first main issue in the enforcement appeals on ground (a), and in the planning appeal, and the sole main issue in the listed building appeal that the development causes serious harm to the special interest and setting of the Grade II listed building. The development does not accord with the aims of Local Plan Policies BH10, BH11 & BH12.

The appeal site and countryside surroundings

26. In terms of its impact on the character and appearance of the surroundings, I have already come to the view that the new building is significantly bulkier than the previous sheds. This is exacerbated by the fact that it occupies the entire space between the two barns, without any central gap. Any view from the west, into the yard beyond, has been cut off, as has the route between the buildings, enclosing the yard to a significant degree. The western elevation presents a monolithic mass of building that is a highly conspicuous feature in the surroundings. The new building is readily seen and is prominent from the public footpath running across to the south of the buildings, as well as from the road to the west. It stands in relatively open rolling countryside where there is sparse development. I consider the new building has a significant and harmful impact on the open and rural character of the area, and is incongruous in relation to the adjacent buildings.
27. It was argued that the lower ridge height in the central bay of the new building reflects the position of the gap between the former animal sheds. However, in my opinion this is such a minor inflection that it has virtually no effect in breaking up the visual mass of the building, or in reducing its impact.
28. I conclude on the second main issue in the enforcement appeals on ground (a), and in the planning appeal that the development causes significant harm to the character and appearance of the appeal site and its countryside surroundings. In this respect the development does not accord with the aims of Local Plan Policy ENV1.

The Green Belt issue

29. Planning Policy Guidance: 'Green Belts' (PPG2) makes clear that there is a general presumption against inappropriate development within the Green Belt, and that inappropriate development is by definition harmful. Paragraph 3.4 of the guidance sets out certain purposes for which the construction of new buildings within the Green Belt is not inappropriate. These include the provision of essential facilities for outdoor sports and recreation, which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. Paragraph 3.5 goes on to explain that essential facilities should be genuinely required for uses of land which preserve the openness of the Green Belt. It gives possible examples including small changing rooms or unobtrusive spectator accommodation for outdoor sports.
30. In my opinion the idea of facilities for outdoor sports does not encompass or envisage a substantial building for the express purpose of indoor sports competition and training. A new building such as this one cannot to my mind be regarded as coming within the ambit of appropriate development envisaged by paragraph 3.4. Furthermore, the new shed cannot be said to be a reconstruction of the former animal sheds – very little is left of those except

the end walls – and as a matter of fact and degree it must be regarded as a new building. This is not the re-use of a building, as envisaged by paragraph 3.7 of the guidance, since the most substantial and most important part of the complex has been built anew.

31. I conclude on the first part of this main issue that the development is inappropriate within the Green Belt, and following from my conclusions on the second main issue, that it causes significant harm to the openness of the Green Belt. Furthermore, it cannot be said to assist in safeguarding the countryside from encroachment – one of the five purposes of including land within the Green Belt.
32. However, that is not the end of the matter, and I must go on to consider whether there are other considerations that clearly outweigh the harm by reason of inappropriateness, and any other harm, that amount to very special circumstances to justify the inappropriate development.
33. It was argued that use of the northern barn was an appropriate re-use of an existing building that causes no harm to Green Belt interests. This may be the case, but the use of this building cannot be seen in isolation from the use of the range of buildings as a whole. The various uses within the northern barn are all ancillary to the principal use as an indoor cricket school. However, such ancillary uses could readily be generated by principal uses that would be appropriate in the Green Belt – such as those that might have entailed appropriate re-use of the former animal sheds.
34. The appellant sees the listed barn as becoming an integral part of the cricket school. It is argued that his intention to bring it into use, expressed in the unilateral undertaking put forward, would achieve the aim of preserving the building, and fulfilling the owners' obligation to keep it in good order.
35. Whether or not the current use is conducive to the retention of the traditional barns is difficult to say – the listed barn has not yet been put to any new use. Other than the suggestion that it might be used as a meeting room, there are no firm proposals, particularly as to how the building might be affected physically. There has been no assessment of other principal uses that might come forward that could utilise the buildings without the harm caused by the new building. I do not consider this somewhat vague suggestion of re-use of the listed building is sufficient to justify that harm.
36. It is argued that the use as a cricket school had been encouraged by the Council for some time. In particular, an officer had suggested ways in which the two animal sheds could be linked together to provide a single space of suitable size, and had sketched this on an elevation of the then existing buildings. This suggestion was in the form of a lower, glazed link section in the gap between the two sheds. It was also suggested that the concrete block plinth of the open section of the animal sheds might be rebuilt in brick.
37. I can understand that the Council may have considered the indoor cricket school as a suitable re-use of the original buildings, with a degree of extension and alteration, and have encouraged development in those terms. However, that is not what has happened, and I do not accept that the Council officer's sketch indicates any acceptance – nor yet encouragement – to demolish the

sheds and construct a substantial new building in their place. In fact it is apparent that the Council had warned the appellant of the possible risk in constructing a new building.

38. It was suggested that compliance with notice A would leave the listed barn isolated, and harm its setting by revealing the utilitarian and dilapidated buildings to the east. It would be far more harmful to the setting than construction of the new building itself. However, the harm arising from the direct juxtaposition of the new shed with the listed building would be removed. Furthermore, the listed barn is already seen in the context of the buildings to the east in views from the footpath. I do not accept that exposing a further view would be of particular harm, and on balance would be considerably less harmful than the presence of the new shed.
39. Regarding activity on the site resulting from the cricket school, I accept that it generates relatively small numbers of users at any time. If compared with other uses, such as the original agricultural use - or other potential 'fall-back' uses such as a B1 storage use - it appears to me there would little difference in terms of impact on the area as a result of traffic, and probably significantly less in terms of such things as noise and disturbance. While the use itself may have little impact in terms of openness, this does not lessen the effect of the building itself, or in any way overcome harm to openness.
40. The appellant put forward a number of potential changes to the shed as built, in order to address the Council's concerns. The principal proposal is to alter the central bay with the lowered roof ridge to become a fully glazed link, reflecting the previous gap between the animal sheds. Other measures would include completion of the weatherboard external cladding above the brick plinth, improving the flashing detail to the listed barn, and applying a roof covering - such as slate - on top of the corrugated sheeting.
41. I accept that these measures would go some way towards breaking up the visual mass of the building. However, the continuous flat planes of the flank walls would remain, as would the crude junction of the new shed with the listed barn, and to a slightly lesser extent with the northern barn. I am particularly concerned that nothing significant would be done to make a clear articulation between the new building and the listed building, to allow the form of the latter to be clearly seen, and not dominated by the new building. While the use of different external materials would go some way to integrating the new building into the surroundings, in my opinion the suggested measures do not go far enough to overcome the harm resulting from the increased bulk of the building. Furthermore, these proposals as a whole would result in a very different form of development, which I consider should be the subject of new planning and listed building applications, and could not reasonably be the subject of conditions imposed on approvals of the development before me.
42. Much evidence was put forward by officials of cricket clubs and cricket leagues, qualified cricket coaches and a sports teacher regarding the standard of the facilities provided by the cricket school, its importance in providing winter training for both senior and junior players, and in bringing on young players, and the numbers of players and teams in the District. Furthermore, I

understand that it would be necessary to travel to Walthamstow, Chelmsford or Ilford to find alternative similar facilities.

43. Although situated in the countryside, the site lies close to the town of Sawbridgeworth, is roughly mid-way between Bishop's Stortford and Harlow about 5 km respectively to the north and south, and about 10 km east of Ware. In this respect it is well located in relation to the substantial population of the area. Given the lack of alternative facilities within a reasonable distance, and the necessarily large catchment area for a specialised facility of this sort, it appears to me that this represents a more sustainable form of development than the alternatives of travelling to more distant centres. There can be little doubt that the cricket school makes an important contribution to sports facilities in the district, and assists in the government's objectives to promote health and well-being and the social development of children of all ages through sporting activities, as expressed in Planning Policy Guidance Note 17: *'Planning for Open Space, Sport and Recreation'*.
44. The potential re-use and restoration of both the listed and unlisted barns could have been brought about by other forms of development and do not in themselves justify constructing a new shed that is harmful to listed building, Green Belt and other interests. While the Council may have supported the idea of re-use of the original buildings, this again does not justify constructing the new shed without planning permission. I can understand that this support may have indicated to the appellant that it was not necessary to consider the sequential approach for location of new development, but again the support was given in the context of re-using existing buildings. I do not find the potential exposure of the buildings to the east more harmful to the setting than the new building, nor does the lack of harm in terms of the activity generated by the use make the development more acceptable.
45. I accept that the use as an indoor cricket school makes an important contribution to the sports facilities of the District, and need not cause significant harm to Green Belt or countryside interests. However, it is not realistically separable from the operational development. The other considerations put forward provide little justification for the harm to listed building, and to Green Belt and countryside interests. On balance I do not consider the weight of considerations that favour the scheme are sufficient to outweigh the very considerable presumption against inappropriate development in the Green Belt, and the harm to listed building and countryside interests.
46. I conclude on the second main issue in the enforcement appeals on ground (a) and in the planning appeal that the development is inappropriate in the Green Belt, and that the harm by reason of inappropriateness, and any other harm, is not outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development. The development does not accord with the aims of Local Plan Policies GBC1 and GBC19.

Other matters

47. From discussion at the inquiry it was apparent that the Council might be willing to consider possible alternative schemes for the new building, and it appears to me that an acceptable alternative scheme might well be found. In order to develop a scheme that would have proper regard to the special interest of the listed building I consider that the appellant would need to take account of the advice of Paragraph 3.15 of Planning Policy Guidance: 'Planning and the Historic Environment' (PPG15). This says that achieving a proper balance between the special interest of a listed building and proposals for alteration or extension is demanding, and should always be based on specialist expertise.
48. I consider this case is particularly demanding, both in terms of assessing the qualities of the listed building, and of devising a scheme that would sensitively marry such a large new building to it as well as making use of the listed building itself. It is clear that relevant specialist advice has not been sought, and in my view the 6 month compliance period would not be adequate for the appellant to obtain this, prepare a scheme for planning and listed building applications, and for these to be considered by the Council. Although no appeals have been made on ground (g), in my opinion the appellant's opportunity to prepare a scheme would be prejudiced by the compliance period as it stands, and I intend to extend the period to 12 months in both notices.

Conclusions

49. For the reasons given above and having regard to all other matters raised, I consider that appeals A, B, D and E should not succeed. I intend to uphold Notices A & B with the variations noted, and to refuse planning permission on the deemed applications. I also intend to dismiss the planning and listed building appeals. Appeal C, against the listed building enforcement notice succeeds on account of the uncertainty of the requirements, and I intend to quash the notice.

Formal Decisions

Appeal A refs: APP/J1915/C/09/2103165 & 2103166

50. I direct that the enforcement notices be varied by the deletion of *6 months* and the substitution of *12 months* as the period for compliance.

Subject to this variation I uphold the enforcement notices. I refuse to grant planning permission on the applications deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal B ref: APP/J1915/C/09/2103167

51. I direct that the enforcement notice be varied by:

SUBSTITUTION of the words – '*an indoor cricket school*' for the words '*a cricket school*' in paragraph 3 of the notice – The Matters which appear to constitute the Breach of Planning Control.

DELETION of *6 months* and SUBSTITUTION of *12 months* as the period for compliance.

SUBSTITUTION of the plan attached to this decision for the plan attached to the notice.

Subject to these variations I uphold the enforcement notice. I refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal C ref: APP/J1915/F/09/2103164

52. I allow the appeal and direct that the listed building enforcement notice be quashed.

Appeal D ref: APP/J1915/A/09/2100347

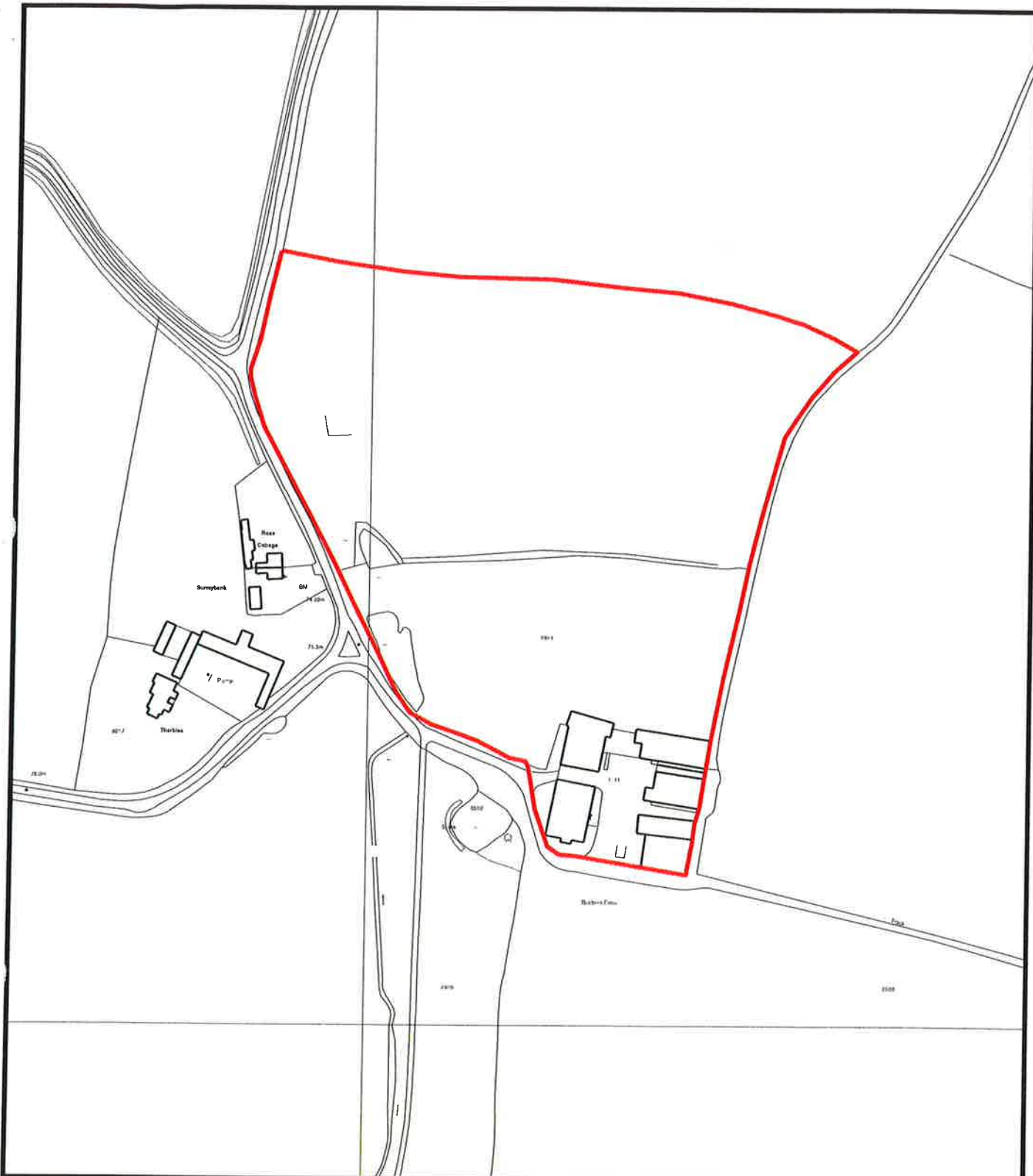
53. I dismiss the appeal.

Appeal E ref: APP/J1915/E/09/2100348

54. I dismiss the appeal.

Stephen Brown

INSPECTOR



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Development Control
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Tel: 01279 655261

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Reference: E/08/0262/A

Scale: 1:2500

O.S Sheet: TL 4616 / 4716

Date of Print: 03-April-2009

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EAST HERTFORDSHIRE DISTRICT COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE - 23 MARCH 2016
ITEMS FOR REPORT AND NOTING

(A) APPEALS

Head of Planning and Building Control

Application Number	3/14/0528/OP
Decision	Not Determined
Level of Decision	Not Determined
Address	Area 2, Land South Of Hare Street Road, Buntingford, Hertfordshire, SG9 9JQ
Appellant	Wheatley Homes Ltd C/O Keymer Cavendish
Proposal	Outline application for approximately 100 houses. All matters reserved except for access
Appeal Decision	Allowed with Costs
Application Number	3/14/0531/OP
Decision	Not Determined
Level of Decision	Not Determined
Address	Area 3, Land South Of Hare Street Road, Buntingford, Hertfordshire, SG9 9JQ
Appellant	Wheatley Homes Ltd C/O Keymer Cavendish
Proposal	Outline application for approximately 80 houses. All matters reserved except for access
Appeal Decision	Allowed with Costs
Application Number	3/14/0689/FP
Decision	Refused
Level of Decision	Delegated
Address	244 Hertingfordbury Road Hertford SG14 2LG
Appellant	Mr J Stock
Proposal	Redevelopment of site for residential purposes, including removal of all existing buildings and replacement with a detached 3 bedroom house and a terrace of four 2 bedroom cottages on the western part of the site and all ancillary works.
Appeal Decision	Dismissed
Application Number	3/14/2200/OP
Decision	Not Determined
Level of Decision	Committee
Address	Land South Of Froghall Lane Walkern Hertfordshire
Appellant	Messrs Sendall And Cordell
Proposal	Residential development for up to 85 houses including site access, public open space and landscaping. Amended proposal
Appeal Decision	Allowed with Conditions
Application Number	3/15/0854/HH
Decision	Refused
Level of Decision	Delegated
Address	1 Poets Gate Widford Ware Hertfordshire SG12 8SA
Appellant	Mr and Mrs Gover Jones
Proposal	Two storey side extension.
Appeal Decision	Allowed with Conditions
Application Number	3/15/0998/HH
Decision	Refused
Level of Decision	Delegated
Address	55 Musley Hill Ware Hertfordshire SG12 7NA
Appellant	Mr T Bassett
Proposal	Proposed detached store/shed
Appeal Decision	Allowed with Conditions
Application Number	3/15/1071/FUL
Decision	Refused
Level of Decision	Delegated
Address	Whiteacres Hooks Cross Watton At Stone Hertford Hertfordshire SG14 3RY
Appellant	Mr and Mrs K Basra
Proposal	Demolition of existing dwelling and erection of replacement
Appeal Decision	Dismissed

Application Number 3/15/1262/ADV
Decision Refused
Level of Decision Delegated
Address 23 London Road Hertford Hertfordshire SG13 7LG
Appellant Mr K Ling
Proposal Temporary cloth type banners fitted for max of 3 weeks each.
Appeal Decision Dismissed

Application Number 3/15/1279/HH
Decision Refused
Level of Decision Delegated
Address 90 Mangrove Road Hertford Hertfordshire SG13 8AN
Appellant Mrs Alison Chastell
Proposal Single storey rear extension
Appeal Decision Allowed with Conditions

Application Number 3/15/1367/ARPN
Decision Prior Approval Required and Refused
Level of Decision Delegated
Address Whitehill Farm Dane End Ware Hertfordshire SG12 0JS
Appellant Lord Carter Of Coles
Proposal Change of use of existing agricultural store/livestock pens into three residential dwellings
Appeal Decision Dismissed

Application Number 3/15/1404/HH
Decision Refused
Level of Decision Delegated
Address Maple Cottage Danebridge Lane Much Hadham
Appellant Mr And Mrs G R And R L Lewy
Proposal Two storey rear extension, single storey side extension
Appeal Decision Dismissed

Application Number 3/15/1651/HH
Decision Refused
Level of Decision Delegated
Address Woodbury 6 East Riding Tewin Wood Tewin Welwyn
Appellant Mr Joslin
Proposal Demolition of existing conservatory, utility room, garage and part kitchen. Erection of single storey side and rear extension.
Appeal Decision Allowed with Conditions

Background Papers

Correspondence at Essential Reference Paper 'A'

Contact Officers

Kevin Steptoe, Head of Planning and Building Control – Extn: 1407.

Alison Young, Development Manager – Extn: 1553.



**Department for
Communities and
Local Government**



Development
Control

- 4 MAR 2016

Mr Peter Brady
The Planning Law Practice
Wood End
20 Oaklands Park
BISHOPS STORTFORD
Herts
CM23 2BY

Our Refs: APP/J1915/A/14/2220854 &
APP/J1915/A/14/2220859

3 March 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY WHEATLEY HOMES LTD: AREA 2 and 3, LAND SOUTH OF HARE
STREET ROAD, BUNTINGFORD SG9 9JQ
APPLICATION REFS: 3/14/0528/OP & 3/14/0531/OP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Braithwaite BSc(Arch) BArch(Hons) MRTPI, who held an inquiry on 6-8 January 2015 into your client's appeals against the failure of East Hertfordshire District Council ('the Council') to give notice of its decision within the appropriate period for approximately 100 houses at Area 2 in accordance with application reference 3/14/0528/OP, and approximately 80 houses at Area 3 in accordance with application reference 3/14/0531/OP, both applications dated 21 March 2014.
2. On 27 March 2015 the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeals raise important or novel issues of development control, and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be allowed. For the reasons given below, the Secretary of State agrees with the Inspector's analysis and conclusions, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. The Secretary of State notes an application for costs was made by the appellant against the Council. That application is the subject of a separate decision.

Julian Pitt, Decision Officer
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3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

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pcc@communities.gsi.gov.uk

5. After receiving the Inspector's report, the Secretary of State received an email from the Council dated 15 September, attached to which was a consultant report entitled *Buntingford Transport Modelling Assessment* dated August 2015. The report was in two parts, a *Base Model Report* and a *Future Scenarios Model Report*. The email noted that the report has been discussed at the appeal Inquiry and had now been endorsed by the Council. On 25 September 2015 the Secretary of State received an email from Councillor Jones of East Hertfordshire District Council to which were attached the same report and also an email from Thames Water to the Council dated 15 July about development and infrastructure issues in Buntingford. The Secretary of State has given careful consideration to all these representations, but as they do not raise new issues that would affect his decision he has not considered it necessary to circulate them to the appellant for comment. Copies of the correspondence may be obtained on written request from the address at the bottom of the first page of this letter.

Policy considerations

6. In deciding these appeals, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the saved policies of the East Hertfordshire Local Plan 2007. The Secretary of State considers that the most relevant policies for this case are those set out at IR10, namely: LP Policy GBC2 (on the Rural Area beyond the Green Belt, RAGB), LP Policy GBC3 (which specifies that within the RAGB permission will not be granted for new buildings other than in specified purposes, none of which specified purposes apply in the case of these appeals) and LP Policy IMP1 which requires developers to make provision for affordable housing, infrastructure and other purposes by entering into planning obligations or accepting planning conditions. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the associated planning practice guidance (the Guidance) and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
7. The Secretary of State notes that the Council is currently preparing a new District Local Plan covering the period to 2031. A draft has been published and subject to consultation, but has not been submitted for independent examination. As the proposals are still in preparation, are subject to unresolved objections to relevant policies and may, at examination, be found to require modification in order to be consistent with the Framework, the Secretary of State agrees with the Inspector that very limited weight can be accorded to the emerging Plan (IR88).
8. The Buntingford Neighbourhood Plan (NP) is at an early stage, being yet to be submitted to East Hertfordshire District Council for publicity and independent review by an Examiner. The appeal site abuts but is outside the settlement boundary in the emerging NP and is not allocated for development. The appeal proposal therefore conflicts with the emerging NP. However, the Guidance advises that refusal of planning permission on grounds of prematurity will seldom be justified in the case of an NP before the end of the local planning authority publicity period. As the NP is still at an early stage in preparation, is subject to unresolved objections to relevant policies and may be found at examination to require modification, and because of the matter of housing land supply considered below, the Secretary of State gives little weight to the emerging NP.

Main considerations

Housing land supply

9. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Appellant's uncontested assessment of current housing supply is, at the very best, 3.3 years. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Secretary of State agrees with the Inspector that LP policies GBC2 and GBC3 are relevant policies for the supply of housing and should be treated as out of date in this respect, though not in other regards (see below), given the Council's accepted position regarding the housing land supply position (IR89).
10. Aside from housing land supply, the Secretary of State agrees with the Inspector the main issue is whether the site is a sustainable location for housing, with particular regard to matters under the headings below (IR68).

The visual amenity and character of the area

11. Having regard to the reference to the appeal decision on Area 1 at IR88, the Secretary of State considers that although policies GBC2 and GBC3 are out of date in terms of identifying settlement boundaries and housing supply, they are up to date and deserve significant weight in terms of their protection of the countryside from unnecessary development, particularly as they are consistent with the principle at paragraph 17 of the Framework that planning should recognise the intrinsic character and beauty of the countryside. However, the Secretary of State agrees with the Inspector's analysis at IR69-73 and conclusion at IR73 that the proposed developments, both individually and cumulatively, would have a less than significant adverse effect on the character or visual amenity of the area. Consequently he places little weight on this harm, though he agrees with the Inspector that both developments would nevertheless be contrary to saved LP Policy GBC3 (IR73).

Local infrastructure

12. For the reasons at IR74-75 the Secretary of State agrees with the Inspector that the proposed developments would not place an unacceptable burden upon local infrastructure (IR75) and would accord with saved LP Policy IMP1 (IR75).

Best and most versatile agricultural land

13. The Secretary of State has taken account of the fact that the proposed developments would result in the loss of about 14 hectares of the best and most versatile agricultural land (IR76). He places moderate weight on this loss.

Local employment opportunities and public transport links

14. The Secretary of State agrees with the Inspector's assessment at IR77-79 and conclusion at IR80. He agrees that Buntingford has poor public transport links to the other towns in the District and elsewhere, and currently has insufficient employment opportunities for the intended increase in the population of the town. But land exists for the creation of employment opportunities and the appellant's financial contributions would enhance the marketing of this land and enhance sustainable transport

opportunities for both existing and intended residents. In this regard both developments would accord with saved LP policy IMP1. However, the field where the Areas 2 and 3 are located is a less sustainable location for housing in comparison to sites in, or on the edge of, large towns in the District that have a railway station and better public transport (IR80). Taking account of the transport provisions in the Unilateral Undertakings, the Secretary of State places moderate weight against the proposal on account of Buntingford's relatively poor public transport links and the likelihood that a high percentage of journeys by new residents would be made by car including trips to access train services (IR83-84).

Traffic

15. The Secretary of State notes the Council's changed position at the start of the Inquiry regarding its earlier concerns about impact on the transport network (IR3) and that the traffic modelling report that has been drawn to the Secretary of State's attention (paragraph 5 above) is referred to in the unilateral undertakings for both appeal areas (email from the Council to the Secretary of State dated 15 September).
16. The Secretary of State agrees with the Inspector's conclusion that there is no evidence to indicate that the developments would result in unacceptable congestion anywhere on the local road network, or compromise highway safety or cause any unacceptable noise or disturbance due to the increased traffic (IR86).

Whether the proposals would be sustainable development

17. The Secretary of State agrees with the Inspector's assessment at IR81-85. Despite the loss of Grade 2 agricultural land and the likelihood that intended residents would predominantly use their private motor cars for journeys to work and shopping purposes, the balance falls on the developments satisfying the environmental role of sustainable development in view of the improvements to the biodiversity of the area (IR82 and condition 15 in regard to both appeals) and the less than significant adverse effect on the character and visual amenity of the area. The developments fully satisfy the economic and social roles of sustainable development and the Secretary of State agrees that the proposals may therefore be regarded to be, overall, sustainable developments in sustainable locations for housing (IR84-85).

Conditions

18. The Secretary of State has considered the Inspector's assessment at IR64-65 and recommended Schedules of conditions at page 23-25 of his report. The Secretary of State is satisfied that the proposed conditions for both appeals are reasonable and necessary and would meet the tests of paragraph 206 of the Framework.

Unilateral Undertakings

19. The Secretary of State agrees with the Inspector's assessment at IR66 of the Unilateral Undertakings submitted for each of the appeal schemes. He agrees that the Undertakings are all necessary to make the development acceptable in planning terms, are directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. He therefore agrees with the Inspector that both Undertakings would be CIL compliant and considers that they fully accord with the tests in paragraph 204 of the Framework.

Overall planning balance and conclusion

20. The Secretary of State has had regard to s 38 (6) of the Planning and Compulsory Purchase Act 2004. The Secretary of State agrees with the Inspector's conclusions and planning balance at IR87-92. The proposals do not accord with the development plan taken as a whole, in particular owing to the clear conflict with LP Policy GBC3. The Secretary of State has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeals.
21. The uncontested current housing supply is at best 3.3 years. In applying Paragraph 49 of the Framework the Secretary of State considers that, as the Council cannot demonstrate a five year supply of deliverable housing sites, LP Policies GBC2 and GBC3 are out of date in so far as they relate to the supply of housing. He has therefore gone on to consider Paragraph 14 of the Framework. This states that there is a presumption in favour of sustainable development and that, for decision taking, this means, where relevant policies in the development plan are out-of-date, granting planning permission for development unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. Weighing against the appeal proposal are the less than significant adverse effect on the character or visual amenity of the area, on which the Secretary of State places little weight, and Buntingford's relatively poor public transport links and the likelihood that a high percentage of journeys by new residents would be made by car including trips to access train services, on which he places moderate weight. The Secretary of State also places moderate weight on the loss of 14 hectares of the best and most versatile agricultural land.
23. Weighing in favour, the main benefit of the developments is the provision of market housing units and 40% affordable housing units in a District where there is a significant under supply of housing. The Secretary of State considers that this provision of housing weighs heavily in favour of the appeal. Additionally, he places moderate weight on the improvements to the biodiversity of the site.
24. Overall, the Secretary of State agrees with the Inspector that the appeal proposals would be sustainable developments and, having weighed the adverse effects of the developments against the benefits, the Secretary of State considers that the benefits of both developments clearly outweigh the adverse effects, so justifying determination of the appeals other than in accordance with the development plan.

Formal Decision

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeals and grants outline planning permission for:
 - approximately 100 houses at Area 2 in accordance with application reference 3/14/0528/OP, subject to the conditions in Annex A; and
 - approximately 80 houses at Area 3 in accordance with application reference 3/14/0531/OP, subject to the conditions in Annex B.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

27. A copy of this letter has been sent to East Hertfordshire District Council. Notification has been sent to all other parties who asked to be informed of the appeal decisions.

Yours faithfully

Julian Pitt

Julian Pitt

Authorised by Secretary of State to sign in that behalf

Annex A

Conditions applicable to grant of outline planning permission for application No. 3/14/0528/op (Area 2)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1019A, 16700/1021 rev B, 16700/1022B, JBA 14/07-SK03 rev A, JBA 14/07-SK04 rev A, JBA 14/07-03 rev A, C-207128/SK24 rev P6, C-207128/SK28 rev P2.
2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.
5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.
6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.
8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:
 - i. A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14066 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
 - ii. An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;

- iii. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK28 rev P2, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.
11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i. the programme and phasing of works on site;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix. construction vehicle routing and access;
 - x. the protection of pedestrians using the public footpath that crosses the site.
12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 21, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.
13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning

Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.
15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.
16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Annex B

Conditions applicable to grant of outline planning permission for application No. 3/14/0531/OP (Area 3)

1. The development hereby permitted shall be carried out in accordance with the following approved plans: 16700/1021B, 16700/1023B, JBA 14/07-SK03 rev A, JBA 14/07-04 rev A, JBA 14/07-SK05 rev A, C-207128/SK25 rev P5, C-207128/SK29 rev P2.
2. Details of the appearance, landscaping, layout, and scale of the development (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins, and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than one year from the date of this permission.
4. The development hereby permitted shall begin no later than one year from the date of approval of the last of the reserved matters to be approved.
5. The landscaping scheme referred to in condition 2 shall include replacement, reinforcement and where appropriate the extension of screen planting on the eastern boundary of the land, together with proposals for the future management and maintenance of this area whilst the development hereby permitted remains.
6. No development or groundworks shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved programme, and this condition shall only be discharged when the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.
7. No development shall take place until a detailed surface water drainage scheme has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall be based on the submitted Flood Risk Assessment C-207128D dated 14 March 2014 and shall include a restriction in run-off and surface water storage as outlined in the FRA, and pollution prevention measures. The approved scheme shall be implemented in phases, prior to the first occupation of each phase of the development.
8. No development shall take place until a scheme to deal with any contamination of land and/or groundwater has been submitted to and approved in writing by the Local Planning Authority and until the measures approved in that scheme have been fully implemented. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement in writing:
 - i. A site investigation, based on the details contained in the Submitted Geoenvironmental Desk Study Report (J14067 dated March 2014), shall be carried out to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site;
 - ii. An options appraisal and remediation strategy, giving full details of the remediation measures required and how they are to be undertaken, based on the results of the site investigation and detailed risk assessment referred to in i) above;
 - iii. A verification plan providing details of the data that will be collected in order to

demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

9. The development hereby permitted shall not be brought into use until a verification report, demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation, has been submitted to and approved in writing by the Local Planning Authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. The report shall also include a plan (a 'long term monitoring and maintenance plan') for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plans shall be implemented as approved.
10. No dwelling shall be occupied until the access, junction and parking arrangements serving that dwelling have been completed in accordance with the approved in principle plan, drawing number C-207128/SK25 rev P5, to the standards outlined in Roads in Hertfordshire and constructed to the Highway Authority's specification. This will include widening of the proposed access road to enable two HGVs to pass one another with 0.5m tolerance, and a preferred road radius of 40m.
11. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
 - i. the programme and phasing of works on site;
 - ii. the parking of vehicles of site operatives and visitors;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of dust and dirt during construction;
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix. construction vehicle routing and access;
 - x. the protection of pedestrians using the public footpath that crosses the site.
12. No development shall take place until additional scale layout plans showing the arrangements to be implemented at the intersection of the site entrance with public footpath 15, along with details of temporary fencing/signing to protect the alignment of the footpath, have been submitted to and approved in writing by the Local Planning Authority in accordance with Hertfordshire County Council's Rights of Way Good Practice Guide.
13. A Green Travel Plan, with the object of reducing travel to and from the development by private car, shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of any dwelling and the proposed measures shall be implemented to an agreed timetable.

14. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage in accordance with BS5837: 2012 'Trees in relation to Design, Demolition and Construction', for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during the construction period or within five years following practical completion of the approved development, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as shall be agreed with the Local Planning Authority.
15. The recommendations to mitigate and enhance the biodiversity of the site highlighted in Section 7 of the Ecological Appraisal and Protected Species report dated March 2014 shall be implemented as approved.
16. The dwellings hereby permitted shall be designed so that their ridge heights do not exceed 117.5 m AOD across the site.

Costs Report to the Secretary of State for Communities and Local Government

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 26 August 2015

TOWN AND COUNTRY PLANNING ACT 1990

EAST HERTFORDSHIRE DISTRICT COUNCIL

APPEALS

by

WHEATLEY HOMES LIMITED

Inquiry held on 6-8 January 2015

Areas 2 and 3, Land at Hare Street Road, Buntingford

File Refs: APP/J1915/A/14/2220854 and 2220859

File Refs: APP/J1915/A/14/2220854 and 2220859

Areas 2 and 3, Land south of Hare Street Road, Buntingford SG9 9JQ

- The application is made under the Town and Country Planning Act 1990, sections 78 and 320, and the Local Government Act 1972, section 250(5).
- The application is made by Wheatley Homes Ltd for a full award of costs against East Hertfordshire District Council.
- The inquiry was in connection with two appeals against the failure of the Council to issue notices of their decisions within the prescribed period on two applications for planning permission for the construction of approximately 100 houses and 80 houses.

Summary of Recommendation: The application for an award be allowed.

The Submissions for Wheatley Homes Ltd

1. The Council's decision to offer no evidence in support of its case demonstrates beyond doubt that its case not only lacked merit but also did not disclose any reasonable grounds for refusing planning permission. The Council's conduct amounts to unreasonable behaviour and the Appellant has thus incurred unnecessary expense.
2. The Council's conduct breaches the objectives set out in PPG paragraph 28. The Council's Development Control Committee rejected the advice of their Director of Planning that had the Council been in a position to determine the applications they would have granted planning permission subject to conditions and a Section 106 Undertaking. They persisted in their objection to the schemes but then withdrew their case at the very latest stage in the proceedings and have thus failed to support their reasons for refusal of the applications. Their behaviour has been wholly unreasonable both procedurally and substantively.
3. The withdrawal of the Council from the Inquiry effectively resulted in the withdrawal of all the reasons for refusal of the applications. The withdrawal of a reason for refusal and the failure to produce evidence to substantiate each reason for refusal are given as examples of unreasonable behaviour in PPG paragraphs 47 and 49. The Council was warned, in a letter from the Appellant's Solicitor dated 11 November 2014, that the case they were advancing could not be properly supported.
4. In their statement the Council argued that both applications were contrary to LP policy GBC3. They must have known, however, that this argument would not carry any significant weight in the light of the absence of a five year housing land supply, the fact that the LP has expired and the previous Inspector's clear conclusions on this issue.
5. The County Council raised no in principle objections to the applications on education grounds and in their appeal representation made it plain that they did not object to the applications if financial contributions were made pursuant to a Section 106 Undertaking. There was therefore no proper basis on which the Council could oppose either scheme on grounds relating to education provision. Similarly, on the subject of highways, the Highway Authority concluded that there was no objection to either scheme on the basis of their individual or cumulative impact even when other approved schemes in the town are taken into account.
6. The Council may argue that their withdrawal from the Inquiry was prompted by the submission of highway material by the Appellant's highway consultants; in particular traffic count data for the A10/Baldock Road junction. But at no stage in consideration of the applications or during the appeal process did the Council raise the issue of highway capacity or request further modelling. The highway material

submitted was simply a response to assertions made in the Council's witness statement and has been fully accepted by the Council. There is no highways issue capable of sustaining an objection and there never has been.

7. The Council's case against the two proposed developments was never properly supportable. Their decision to persist with opposition to the appeals up to the moment the Inquiry opened clearly amounts to unreasonable behaviour and their decision to offer no evidence and withdraw from participation in the Inquiry provides unanswerable evidence of that unreasonableness. The appeals were unnecessary and the Council should bear the Appellant's full costs.

The Response by East Hertfordshire District Council

8. Expert advice commissioned by the Council, the AECOM study, indicated that significant congestion could occur on one road in Buntingford, Baldock Road, with development of a scale lesser than that already permitted in the town. Against this background Members were entitled to be cautious about further development in the town, in particular with regard to highways. Though the Highway Authority had raised no concerns with the applications, advice from expert advisors was received, from the Planning Policy team, and Members were entitled to prefer this advice.

9. The AECOM study was reviewed by other highway consultants, JMP, in their review of the Appellant's transport assessment. JMP noted that it was surprising the Appellant's consultants had not modelled Baldock Road given its proximity to the sites and they advised that further work ought to be done to identify the 'tipping point' in respect of development. It is possible that the Highway Authority had overlooked the issue of congestion on Baldock Road but, this factor notwithstanding, it was not unreasonable for Members to act in accordance with the advice of JMP. The reasonableness of this approach is borne out by the fact that the Appellant felt it necessary to address the issue and to present further expert evidence to the Inquiry.

10. The County Council's position on education did indicate that there is a shortfall in first school places. Though they were content to accept Section 106 financial contributions in relation to the appeal applications there remained the issue of finding a site in a timely manner to meet the demand for first school places resulting from the developments and others. The availability of school places is a significant issue for the community and Members were entitled to attach greater weight to this matter than did their advisors.

11. The Appellant's claim for costs makes no reference to the putative reason for refusal relating to the unsustainable nature of the proposals, having regard to the lack of employment opportunities in the town. The previous Inspector had made it plain that development of more than 800 new homes, which the appeal proposals would represent, would be an environmentally unsustainable outcome without an increase in employment in the town. The modest financial contribution to marketing of employment land would not have this result and Members were entitled to conclude that this factor carried substantial weight against the proposals.

12. The Members took on board the advice of the Council's Landscape Officer that, given changes made to the proposals, the applications were acceptable, despite local opposition. The proposals are in conflict with saved LP policy GBC3 but this was never regarded to be a matter to justify refusal in itself.

13. Mr Watson's proof, for the Council, clearly states that it is the totality of the issues that significantly and demonstrably outweighs the benefits, which accords with

the policy test set out in the NPPF. Furthermore, there is no requirement that each and every possible benefit is set out when carrying out the planning balance. It is also relevant that the appeals were made against non-determination of the applications at a time when the Council still considered there to be outstanding issues requiring resolution including education, highways and employment provision.

14. The Appellant addressed a highway matter raised in Mr Watson's proof, which they had failed to do earlier, which is acknowledgement in itself that the matter needed to be addressed. The Appellant must have been aware of the AECOM and JMP studies which highlighted the problem, they were referred to in a committee report, and Baldock Road was mentioned in the Council's statement of case. It was not unreasonable for the Council to rely on the fact that an assessment of the junction of the road with the A10 had not been undertaken.

15. The Appellant's response to the highway matter raised in Mr Watson's proof was received on 23 December 2014, and on the following morning JMP were instructed to conduct a review of this new evidence. Their review, given Christmas and New Year holidays, was not received by the Council until late on 5 January 2015 and it was only on the following morning, on the day the Inquiry opened, that the issues were finally resolved and the Council decided to withdraw from the Inquiry. The Council could not have confirmed its revised position any earlier than they did.

16. The Appellant's evidence on the highway matter was produced six days after the 17 December 2014 deadline for submission of rebuttal proofs. The Council acted reasonably in adopting its initial stance and in withdrawing following the late submission of evidence. They are not responsible for unnecessary and wasted expense and the application for costs should be dismissed.

Conclusions

17. National Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

18. The Members of the Council's Planning Committee rejected the advice of their Director of Planning and contested the appeals up until the opening of the Inquiry. They maintained objections on highways grounds even though the Highway Authority had not raised any concerns; the suggestion that the Highway Authority had overlooked the issue of congestion on Baldock Road is disingenuous. The Appellant was entitled to address matters raised in Mr Watson's proof of evidence by submitting rebuttal evidence; this is part of the normal pre-Inquiry process. This evidence satisfied the Council on their concerns regarding congestion on Baldock Road and this ultimately led to the Council withdrawing from the Inquiry.

19. Congestion on Baldock Road was a matter that must have swung, in the Council's view, the balance of harm outweighing benefit to benefit outweighing harm, or at least to a neutral position. It is surprising that this was such a crucial matter given the Highway Authority's position. It had been mentioned by JMP in their review of the Appellant's transport assessment but if it was so crucial the Council should have requested further information from the Appellant at application stage.

20. The balance was clearly a fine one. But it should not have been so. Paragraph 203 of the NPPF states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of

conditions or planning obligations. In the light of the Education Authority's position that impacts could be mitigated by the payment of commuted sums pursuant to a Section 106 Undertaking, education should not have been a matter to weigh in the planning balance. The Council also relied to a significant degree on comments made by the Inspector in his decision on the application for Area 1. Though a material consideration an application must be considered on its merits and in the light of circumstances prevailing at the time a decision is made.

21. Irrespective of all other considerations the Council withdrew all of their putative reasons for refusal of the applications, because the planning balance was swung by a matter that should not have affected that balance. The balance, furthermore, should not have been so fine because a matter which was weighed as harmful should not have been in the balance. Withdrawal of their reasons for refusal was, effectively, an admission by the Council that their decision to reject the advice of their Director of Planning was wrong, and, taking into account PPG paragraph 47, was unreasonable. The Appellant has incurred unnecessary expense in submitting the appeals and in preparing for the Inquiry.

22. The rebuttal evidence that led to the withdrawal of the Council from the Inquiry was submitted six days after the deadline for submission of such evidence and on the day before Christmas Eve 2014. Taking into account delays caused by the festive season holidays it is not surprising that the Council made the decision to withdraw on the morning of the first day of the Inquiry. But even if the evidence had been submitted on time and the Council had withdrawn six days before the opening of the Inquiry the Appellant's team would have had to attend the Inquiry to address the case made by the Rule 6(6) party. The Appellant has not therefore incurred any unnecessary expense in the attendance of their professional team at the Inquiry.

Overall conclusion

23. The Council has acted unreasonably and the Appellant has incurred unnecessary expense in submitting the appeals and in producing evidence to address the putative reasons for refusal of the applications and in preparing for the Inquiry to present that evidence. The unnecessary expense does not, however, include that incurred by the attendance of their professional team at the Inquiry.

Recommendation

24. I recommend that the application for an award of costs be allowed to the extent set out in the overall conclusion above.

John Braithwaite

Inspector

Appeal Decisions

Hearing held on 19 January 2016

Site visit made on 19 January 2016

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 03 March 2016

Appeal A Ref: APP/J1915/W/15/3028983

Prince of Wales, 244 Hertingfordbury Road, Hertingfordbury, Hertford SG14 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Stock (Acre Limited) against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0689/FP, dated 14 April 2014, was refused by notice dated 24 March 2015.
 - The development proposed is the redevelopment of the site for residential purposes, including the removal of all existing buildings and replacement with a detached 3 bedroom house and a terrace of four 2 bedroom cottages on the western part of the site; and all ancillary works.
-

Appeal B Ref: APP/J1915/W/15/3017342

Prince of Wales, 244 Hertingfordbury Road, Hertingfordbury, Hertford SG14 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr John Stock (Acre Limited) against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0690/FP, dated 14 April 2014, was refused by notice dated 15 October 2014.
 - The development proposed is the redevelopment of the site for residential purposes, including demolition of modern extensions to former public house and conversion of historic core of building to a detached 4 bedroom house; erection of a terrace of four 2 bedroom cottages on the western part of the site; and all ancillary works.
-

Decision

1. Appeals A and B are dismissed.

Procedural Matters

2. In appeal A, the public house would be demolished and replaced with a detached dwelling, whilst in appeal B, the public house would be converted into residential use. In both appeals, four terraced cottages would be constructed with facing brick, render and timber cladding. However in appeal A, more extensive use of render would be made such that two of the cottages would be finished in render, with parts of the facade recessed between two column-like

projections.

Main Issues

3. The site is within the Green Belt and so the main issues are -

- Whether the proposals would be inappropriate development for the purposes of the National Planning Policy Framework;
- The effect of the proposals on the living conditions of neighbouring residents, having particular regard to privacy for the occupiers of 242 Hertingfordbury Road;
- The effect of the proposals on the provision of community facilities in the village; and
- Whether the appeal proposal A would preserve or enhance the character or appearance of the Hertingfordbury Conservation Area.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate unless they involve the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield sites), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
5. The appeal site comprises a public house building with significant extensions to the rear, and a large car park to the side. Openness is defined as the absence of built form. It is not disputed that the appeal proposals would involve the partial or complete redevelopment of a previously developed site. Both proposals would result in the development of an open car park area with four dwellings where there are none at present. Consequently the proposals would inevitably have some effect on openness of the Green Belt as a result.
6. However, the overall footprint and volume of both proposals would be slightly smaller than the existing buildings on the site. As part of both proposals, there would be the demolition of substantial extensions to the public house. Accordingly, the effect on openness would not be so significant that it would cause material harm to the Green Belt. On this basis, I conclude that both proposals would not be inappropriate development within the Green Belt.

Living conditions

7. There is an elevated terrace of small dwellings with long gardens behind the car park of the public house. The closest of these, 242 Hertingfordbury Road, flanks onto the site, along with its garden. It has a sitting room at ground floor and bedroom above that mainly face onto its rear garden. To the side of this neighbouring property, there is a single storey extension. There is access to the dwelling around the back of this property past this extension via a passageway. There is a small hard surfaced outdoor space between the flank of this dwelling and its boundary with the appeal site.

8. Both proposals would result in a terrace of four cottages that back onto this neighbouring property. Cross section plans show that the slab levels of these dwellings would be at a lower ground level than that of the neighbouring dwelling due to topography. Some of these windows serving bathrooms would be likely to be obscure glazed but others, those serving bedrooms would not. Comparison between cross section plans and elevation plans indicate that most of the extent of the first floor windows would be above the fence line.
9. At the hearing, it was argued that a certain amount of privacy loss was to be expected in this urban area given the nature of dense-knit of development with it. However, as viewed on my site visit, the proposed dwellings would be close to the neighbour's property, including its flank and outdoor space, including a garden, which is narrow. Irrespective of whether the flank windows are secondary in nature, there could be overlooking through them into the living areas of this neighbouring property. In respect of outdoor space, proposed dwellings would be between approximately 4m and 9m away from the boundary with this neighbouring property, and face an area likely to well-used given its location just outside the neighbour's dwelling. For all these reasons, the development would result in a significant loss of privacy to any occupiers of this neighbouring property.
10. In appeal B, there would be dormer roof openings that face onto the garden of this neighbouring property. However, this part of the garden is already overlooked by the first floor of the public house and is some distance from the dwelling. The appellant has submitted a Daylight and Sunlight report based on good practice and guidance of the Building Research Establishment. This shows that that overall both proposals would not significantly affect daylight and sunlight to windows of neighbouring properties. Furthermore, it would not significantly reduce sunlight and daylight to the gardens of the two immediately adjacent gardens of 242 and 246 Hertingfordbury Road. By reason of the proposed dwelling's separation distance and siting at a lower level in respect of No 242, I am satisfied that there would be no significant loss of outlook for the occupiers of these neighbouring properties. For similar reasons, there would be no adverse loss of outlook for those properties opposite the site.
11. In summary, appeal proposals A and B would harm the living conditions of any occupiers of 242 Hertingfordbury Road, having regard to the loss of privacy. Accordingly, they would conflict with Policy ENV1 of the East Herts Local Plan (LP) Second Review 2007, which amongst other matters, requires development to be of a high standard of design and respect residential amenity.

Community facility

12. The public house has been closed since January 2014. A précis of the financial history details the operation of the public house by various operators, landlords and tenants. It shows a history of financial difficulties since 2000 and from September 2011, the public house was offered rent free due to the then tenant being unable to make a profit. The appellant has also stated the public house is too small to provide an adequate dining area to serve food, an essential requirement for the success of public houses these days, and is located within a small village with no passing trade. Furthermore, it is stated that this is against a background of fewer people drinking in public houses, the impact of drink-drive laws and availability of cheap alcohol from supermarkets.

13. The nearby White Horse Hotel provides mainly a restaurant service but does have a bar area and lounge. At the hearing, it was pointed out that a current application showed re-organisation of the floor space areas reducing the extent of the bar and lounge facilities. It was disputed that this establishment could provide the same experience as a traditional public house. There has been considerable representation detailing the value of the Prince of Wales as a local pub with a bar area for meeting place for people within the community which I attach some importance and significance to. However the financial difficulties, the lack of adequate dining area and its location are highly relevant considerations because a public house cannot operate and provide a community facility and service, if it is unviable.
14. In this regard, the number of previous tenants/landlords over a period of greater than 10 years provides strong evidence that a sustainable profit could not have been made from the business and that there is a limited likelihood of a profit being generated in the future. It has been put to me that tenants/landlords were not qualified. However, given the length of time that these financial difficulties have been experienced and the associated number of operators/tenants/landlords, this does not strike me as an overriding cause. Indeed, the appellant has been indicated that the last landlord had experience and qualifications in the trade, and made significant investment undertaken in re-decorating the public house, improving the bar area, letting rooms and outside areas, opening for breakfast and organising special events.
15. In the absence of any financial accounts, the Council considers that the only way to test viability is to market the premises. However, the appellant has submitted evidence on the financial difficulties experienced with the public house over a significant period of time and that the public house would not be fit for purpose. Additionally, ways of extending the public house to increase the number of food covers has been explored with the Council but without success. Any new start-up of the public house as a business would also need a significant level of investment given the length of time the public house has been closed. There has also been no detailed evidence submitted that any operator, manager or tenant would be able to turn the public house into a viable business. On the balance of the evidence before me, there is a limited likelihood of a profit being generated in the future sufficient for a business to survive. Therefore, marketing would serve no useful purpose.
16. There was a dispute as to whether the CAMRA public house viability test has been carried fully. Nevertheless, even if it had not, the weight of evidence on lack of viability detailed previously is convincing and therefore, this matter would not be determinative. Comments were made over the quality of service and restricted opening times of public house when last in use. Again, when weighed against the overall weight of evidence, this is not persuasive. The economic background is more prosperous than when the public house was closed. However, the evidence put forward strong indicates that there is a trend of people straying at home and making use of public houses which serve food, which this pub does not have adequate facilities for.
17. Turning to Policy STC8 of the LP, its wording indicates that the loss of a public house will not be permitted where such loss would result in a significant reduction in the level of such provision locally. In determining the significance of the loss of such a unit, the policy indicates that the Council will consider how long the premises has been on the market, the use of the premises and its

contribution to the range of provision available to the local population and if there is clear evidence that it is not possible for the use to continue as a viable business. By reason of its wording, the policy is not prescriptive in requiring compliance with the various considerations detailed to assess the loss of a community facility and therefore requires a balanced judgement.

18. As such, it does not require marketing in all instances and in this case, for the reasons indicated, I find that the appellant's evidence on viability is clear, to which I attach great importance and significance. Accordingly, I find both appeal proposals comply with LP Policy STC8 and for similar reasons comply with policy in paragraphs 22, 69 and 70 of the Framework.

Character and appearance of the Conservation Area

19. The appeal site comprises a late 19th century building of 2 storeys that fronts onto Hertingfordbury Road. By reason of the bend in the road, its façade is kinked. It is constructed with pitched slated roofs, bricks painted with whitewash, some timber sash windows, floor band, substantial chimneystacks and decorative crest ridge tiles. By reason of its L-shape, it extends to the rear in the form of a two storey outrigger on its western side. There are extensions attached to this which elongate the L-shape of the building. To the side of the public house, there is an extensive area of hardstanding. The site lies within the Hertingfordbury Conservation Area.
20. As the site is within a Conservation Area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
21. The Conservation Area consists of mainly frontage development along Hertingfordbury Road of varying ages and design but within a traditional style. The Hertingfordbury Conservation Area Appraisal and Management Plan (HCAAMP) Draft for Consultation 2013 indicates that the urban form of the eastern side of the road is tighter, as opposed to a more open character elsewhere. The HCAAMP also indicates that building materials include brick and render finishes with old red tile or slate roofs, and that chimneys are important features in respect of both listed and some unlisted 19th Century buildings. Although the HCAAMP is not adopted, its description of the character and appearance of the Conservation Area hold true based on my site visit observations. In summary, it is the varied and historic traditional design and construction of dwellings which contribute positively to the character and appearance of the Conservation Area.
22. By reason of its position and height, there are significant views of this building along Hertingfordbury Road. Whilst the car park is a negative feature in the Conservation Area, it does not obscure views of the flank of the public house, with its first floor sash windows, banding, ridge tiles and chimneystacks. By reason of topography of the area, there is a slope in the road towards the south which is evident as you approach the public house from the west. However due to its position and height, the public house would still be a prominent feature to the eye from this direction. Although there are extensive single storey extensions, these are to the rear of the property such that the original form and design of the building is largely retained. For all these reasons, the building's form, age and design is distinctly recognisable meriting a modest degree of significance which justifies its status as a non-designated

heritage asset. It would also make a positive contribution to the character and appearance of the Conservation Area for similar reasons.

23. In appeal A, the existing public house building would be demolished along with the rear extensions. In its place, the detached dwelling would be smaller and would be constructed with sash windows, render, chimneys and slate roofs. A small porch would be located in a 'wrap around' single storey extension to its western side. Although it has been designed to reflect dwellings on the western side of the site, its design incorporates a hybrid of traditional and modern influences. In particular, it has a low pitched roof and parts of the facade would be recessed to give a contemporary-like feature. By reason of its hybrid design, the design of the development would not be of any great quality and thus would not represent a visual improvement on the existing public house building which is of some modest significance and importance. For this reason, the proposal would detract from the character and appearance of the Conservation Area.
24. Notwithstanding the design failings of the detached dwelling, it has been argued that overall the scheme would still result in an enhancement of the character and appearance of the Conservation Area through the significant reduction in unsightly hardstanding. However, there has been no suggestion that redevelopment of the public house building with a new dwelling is linked with the favourable consideration of the four terraced cottages. The purported overall benefit could also be achieved by a different scheme for the public house part of the site. In any case, the overall benefit would be doubtful given the use of the contemporary style column-like features in two of the terraced dwellings in respect of appeal A which by reason of their prominence would visually clash with the prevailing traditional context of the area.
25. Paragraph 134 of the Framework states where a development would lead to less than substantial harm to the significance of a designated heritage asset (such as a Conservation Area), this harm should be weighed against the public benefits of the proposal. Appeal proposal A would develop a derelict site which would contribute to an existing shortfall in the 5 year housing supply. The development would be in a reasonably sustainable location with regard to accessibility to bus services and the centre of the village. The proposal would incorporate a footpath adjacent to the public house building.
26. The proposal would also involve the erection of four terraced cottages on the western part of the site. Their siting in close proximity to the road would be in keeping with much of the frontage development in the Conservation Area. With landscaping works, they would visually break-up the unsightliness of the existing expansive hard surfaced area next to the public house.
27. In the balance, this has to be weighed against the harm to the Conservation Area for which considerable importance and weight has to be attached. In this respect, there would be demolition of an existing building that adds positively to the Conservation Area and replacement with a dwelling that harms it. Two of the cottages would be designed with incongruous contemporary rendered column-like features. Therefore, while the harm to the significance of the Conservation Area is less than substantial, the public benefits would not be sufficient to outweigh that harm.
28. In conclusion, appeal proposal A would fail to preserve the character and appearance of the Conservation Area. Accordingly, this development would

conflict with Policy BH6 of the LP, which amongst other matters, requires new developments to be sympathetic in terms of scale, height, form and materials to the general character and appearance of the area, and where views within the Conservation Area are respected.

Other matters

29. In respect of appeal proposal B, I agree with both the Council and the appellant, that the development would enhance the character and appearance of the Conservation Area. In this respect, the proposal involves the conversion of the public house building, the removal of associated extensions and four detached cottages constructed and designed to reflect the traditional context of the area.

Conclusion

30. For the reasons given and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Jonathon Parsons

INSPECTOR

APPEARANCES

FOR THE APPELLANT

J Dixon MRTPI
L Stannard
J Stock
P Berber
E Grower

JB Planning Associates
JB Planning Associates
Appellant
Appellant
Appellant

FOR THE LOCAL PLANNING AUTHORITY

M Chalk
M Brown CBS MRICS DipBldgCons IHBC

East Hertfordshire District Council
East Hertfordshire District Council

OTHER INTERESTED PARTIES

T Bergin	Resident
J Hart	Resident
District Council Councillor S Rutland-Barsby	Resident
J J Secker	Resident
J Straker	Resident
I Arthur	Resident
D Ferguson	Resident
F Ferguson	Resident
P Parsell	Resident
G Cooper	Resident

Documents

1. Plans Nos 710 21, 710 22A, 710 23 & 710 24.

Appeal Decision

Hearing held on 17 November and 15 December 2015

Site visit made on 15 December 2015

by Peter Rose BA MRTPI DMS MCM

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22nd February 2016

Appeal Ref: APP/J1915/W/15/3127807

Land south of Froghall Lane, Walkern

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Ltd/Simon John Cordell, Philip Cordell, Jane Louise Cordell, and Alison Joanne Sendall against East Hertfordshire District Council.
 - The application Ref 3/14/2200/CP, is dated 5 December 2014.
 - The development, as originally proposed, was a residential development for up to 98 houses including site access, public open space and landscaping.
-

Decision

1. The appeal is allowed and outline planning permission is granted for a residential development for up to 85 houses including site access, public open space and landscaping at Land south of Froghall Lane, Walkern, in accordance with the terms of the application Ref: Ref 3/14/2200/CP dated 5 December 2014, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs has been made by the appellants against East Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is for outline planning permission, with all matters except access reserved for subsequent approval.
4. Whilst the originally submitted proposal referred to an upper limit of 98 houses, a revised scheme was submitted reducing the upper limit to 85. Although the Council failed to determine that scheme, it was subject to formal publicity on that basis and the appeal was publicised in similar terms. Both the main parties confirmed the appeal proposal is based upon the revised limit and both agree that, should the appeal be allowed, a condition be imposed to limit development to 85 dwellings.
5. The appellants are concerned, however, that a revised description referring to 85 dwellings would not reflect the terms of the original application. I find that the alternative of a description referring to 98 dwellings but then reduced by a

condition to 85 would be unnecessarily confusing, and that no interests would be prejudiced by such a change. In the interests of consistency and clarity, I have therefore amended the description accordingly.

6. Although matters of appearance, layout, landscaping and scale are not formally submitted for determination as part of the appeal application, the submission is accompanied by illustrative details to which I have regard. These include a design and access statement and Development Framework plans.
7. At the hearing, a Unilateral Undertaking made under section 106 of the Town and Country Planning Act 1990 was submitted and has been signed and executed as a deed dated 15 December 2015.
8. The Council formally considered the application on 19 August 2015. Whilst no longer able to formally determine the submission, it resolved that planning permission would have been refused for the reasons set out in its letter dated 20 August 2015.
9. I consider the appeal on the above basis.

Main Issues

10. The main issues in this appeal are:
 - (a) the scale of the proposed development relative to the status and capacity of Walkern;
 - (b) the effect of the proposed development upon the character and appearance of the local countryside, and including its relationship to proposed open space, and;
 - (c) whether the proposed development would satisfactorily promote sustainable modes of transport.

Reasons

Development status

11. The appeal site comprises some 4.17 hectares of agricultural land located to the south west of Walkern. It lies outside the village boundary as defined by the East Herts Local Plan Second Review April 2007 (the Local Plan).
12. The site is served by an existing vehicular access via Aubries and that is identified in the application as the proposed access point for the development.
13. The site is also accessed from Froghall Lane which is a relatively narrow road also serving houses to the north which look across the appeal site. No formal vehicular access into the site exists from Froghall Lane. To the east, the appeal site is enclosed by a residential development at Aubries. The site slopes down from Froghall Lane towards a further residential development at Moors Ley which encloses the southern boundary of the site. The western boundary is unenclosed and comprises open land offering views towards Stevenage.
14. Walkern is defined as a Category 1 Village by Policy OSV1 of the Local Plan. Policy OSV1 allows limited small-scale and infill housing development within the confines of the village, and subject to various detailed criteria.

15. The more recent East Herts Draft District Plan Preferred Options Consultation January 2014 (the District Plan) identifies Group 1 Villages for an increase in housing stock of at least 10% over the period 2016-2031. The District Plan identifies a 10% growth in Walkern as 47 households.
16. Policy GBC3 of the Local Plan applies to the appeal site as a rural area beyond the Green Belt. This states that permission will not be given for new buildings other than for defined exceptions which mainly involve small-scale development linked to the rural character.
17. Whilst the appeal proposal would not come within the terms of permissible development identified by Policy GBC3, the Council has previously accepted the principle of a residential development of the appeal site. Rather, the Council's concern relates to the scale of the proposed development and has commissioned a consultancy, Tibbalds, to undertake preliminary feasibility work towards preparation of an appropriate framework for residential development of the site.
18. Nevertheless, and notwithstanding the Council's acceptance of the principle of the development and the on-going work by Tibbalds, I find that the proposed scheme would lie outside the village and be contrary to the provisions of Policy GBC3.

Capacity of Walkern and scale of development

19. I have had careful regard to representations on behalf of local residents who consider that development on the scale proposed to be unsustainable in Walkern. The status of Walkern as a sustainable settlement and as a location for future growth is also questioned. It is maintained that road infrastructure through the village and available public transport are already inadequate and insufficient employment opportunities and lack of school provision will increase the existing dependence upon the use of private cars.
20. Notwithstanding any future status of Walkern, the village is formally defined by the development plan as a settlement for growth and that could involve more than 47 households. The threshold for growth has not been defined with regard to any specific capacity assessment, but through a strategic allocation of the District's needs, and the appeal scheme seeks to respond to likely impacts with specific mitigation.
21. There would be commensurate increases in demands for local services and the Undertaking includes commitments to further facilities at Walkern Primary School and to funding of additional health facilities in accordance with the Council's requirements. Additional play facilities would also be provided within the existing High Street play area. No case has been made by the local planning authority for contributions to pre-school or to secondary education.
22. Even though the site lies within Flood Zone 1, I note the previous history of flooding in Walkern, and that particular issues relate to the south-west corner of the site.
23. An outline scheme has been prepared by the appellants to demonstrate possible technical solutions to matters of drainage and flooding. Responsibility as Lead Local Flood Authority (LLFA) transferred to the County in 2015 after submission of the application, but neither the local Council nor the Environment Agency had previously raised any objection to the principle of the development.

Whilst some preliminary discussions have taken place, the County is yet to be satisfied of the full details of a scheme. It was agreed in principle by the appellants, the local Council and the LLFA that this could be progressed by way of a suitably worded planning condition should the development be otherwise found to be acceptable. There was disagreement regarding the detailed form of wording, but not regarding the approach, and I concur with the principle of that way forward.

24. The scheme would also be intended to include some wider betterment through the proposed works, improving both the existing very limited on-site drainage but also providing facilities for storage of water from elsewhere.
25. I deal with issues of highway and public transport capacity separately as part of sustainable transport issues below. Those matters apart, I find that implications of the development would be satisfactorily mitigated by the measures proposed and would thereby be broadly consistent with the capacity of Walkern to absorb further development of this scale, and with its status as a Group 1 Village in the development plan accommodating at least 10% growth.

Character and appearance of the countryside

26. The overall character and appearance of the appeal site is as a large expanse of gently rising open land containing relatively few natural features. Whilst it enjoys a relatively open aspect to the west, it is effectively enclosed by housing on three sides. Although overlooked from the frontages of properties in Froghall Lane to the north, the eastern and southern boundaries comprise housing of various styles, but with little overall distinctiveness of character or appearance.
27. Little specific evidence has been provided by the Council to substantiate a harmful impact, but a full Landscape and Visual Impact Appraisal has been submitted by the appellants. The Appraisal concludes no more than a minor adverse landscape effect overall, mitigated by a scheme of green infrastructure which would include unoccupied areas of open space.
28. Policy ENV1 of the Local Plan states that all development proposals will be expected to be of a high standard of design and layout to reflect local distinctiveness, and that development proposals will be expected to demonstrate compatibility with the structure and layout of the surrounding area, as well as effective connection with existing routes and spaces.
29. Policy LRC3 of the Local Plan commits the Council to seeking provision of adequate and appropriately located open space and recreation facilities in conjunction with new residential development.
30. Whilst comprising greenfield land and of a rural character, the appeal site otherwise has no formal designation in relation to landscape quality, and few specific landscape features.
31. A core principle of the National Planning Policy Framework (the Framework) is to recognise the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework further states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. I am also mindful of the Minister of State for Housing and Planning's affirmation by letter dated 27 March 2015 of the importance of the impact of development upon landscapes outside designated

areas. In this regard, I have noted the public opposition from the local community, and I accept that 'valued' does not necessarily just equate to designated landscapes, and that most open land adjacent to residential areas may have a value to local residents. Nevertheless, I am not persuaded on the evidence that it has features or quality that would place it in the category of being a valued local landscape in the sense intended by the Framework.

32. Although of substantial size, the site is largely enclosed by existing development to the north, east and south and is thereby screened from surrounding sensitive landscapes.
33. The western side of the site is adjacent to open countryside, however, and affords more distant views beyond the appeal site. The appellants identify the potential for lower housing density and planting to the west which would combine to create a filtered edge to the development linking to the adjacent open countryside.
34. Public views beyond the site towards the west may be impeded, but that would remain to be fully considered as part of future layout, design and landscaping proposals. Views from properties in Froghall Lane will change markedly as they will cease to face open land. Nevertheless, Froghall Lane is set at a higher level to the remainder of the site and significant potential is indicated within the Development Framework for green infrastructure integral to the scheme and for retention of existing trees and hedges.
35. Taking the above factors together, I therefore find that the proposed development would not be harmful to the character and appearance of the local countryside, and including its relationship to proposed open space. Accordingly, the development would not be contrary to Policies ENV1 and LRC3 of the Local Plan or to the expectations of the Framework.

Sustainable transport

36. Policy TR1 of the Local Plan requires developments generating additional traffic to incorporate measures commensurate with the scale of additional generation and to ensure that alternative transport options to the private car are available to users of the site. Such measures may include pedestrian links, cycle paths and improvements to the passenger transport network.
37. Policy TR12 of the Local Plan requires, where possible, that new developments include appropriate routes and facilities for cyclists and pedestrians.
38. A core principle of the Framework is to promote sustainable transport. The Framework advises that patterns of growth should be managed to make fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
39. Whilst concerns are raised by both the local planning authority and highway authority with regard to the shortcomings of the scheme in relation to sustainable transport, little direct technical evidence has been submitted to substantiate the alleged harm.

40. The appellants have made various technical submissions, including a transport assessment and proposals for a travel plan.
41. In terms of highway capacity, the submitted evidence indicates that the scheme would have no material impact upon the occurrence of accidents but confirms there would be an increase in traffic in the AM and PM peak hours at key local junctions. I also heard evidence from local residents at the hearing regarding existing problems of traffic congestion within the High Street itself. The appellants' evidence shows a traffic increase at nearby junctions but indicates the junctions would be capable of operating in an acceptable manner during the critical peak periods.
42. Nevertheless, it is clear to me that the High Street does suffer significant problems of traffic congestion and the likelihood is that development of the scale proposed would add further highway pressures. Further, I accept there is already a high car dependency within the village, and particularly in relation to links to Stevenage. I find it significant, however, that the High Street benefits from little existing on-street parking control and the scheme is accompanied by a contribution of £40,000 through the Unilateral Undertaking for future measures to improve parking provision in the High Street.
43. In terms of public transport, the site is served by a limited bus service with stops in both Stevenage Road and the High Street. Buses link to Stevenage, and the village is also served by a number of school buses.
44. I consider the site provides a reasonable context for journeys by foot and cycle, but note the dangers arising from local traffic conditions, and the limitations of existing links.
45. Whilst noting the Council's case for an appropriate link to Moors Ley to the south, I find the overall material benefits of such a link for sustainable transport to be relatively limited. There would be some closer proximity to bus stops for some residents, but pedestrian and cycle access to the south would still be available via Aubries.
46. The proposal includes a commitment to a travel plan with accompanying funding, and also £50,000 funding for additional bus services, all of which is supported by the highway authority.
47. The Undertaking also invites me to consider a sustainable transport contribution of either the sum of £100,000 as a contribution towards the cost of a cycleway link between Walkern and Stevenage and/or improvements to public rights of way, or the sum of £10,000 as a contribution towards improvements to public rights of way in the vicinity of the site, or a sum of £30,000 towards public rights of way improvements which may include a pedestrian link to the north-east corner of the site. Walkern is highly dependent upon Stevenage for many services and Stevenage also benefits from a cycleway network to a wider area. Given the potential increase in car use arising from the development, and the accompanying need to promote and support alternative sustainable modes of transport, I find that a £100,000 contribution towards a cycleway link would be a reasonable and necessary provision.
48. Of the three options presented, I find that more significant and more appropriate mitigation as a necessary contribution to sustainable transport

would be yielded by development of a cycleway link between Walkern and Stevenage and I consider the proposal on that basis. Although the cycleway link is part of an option which includes possible extensions to other public rights of way, I see the cycleway as the priority provision. I also note the cycleway link was indicated at the hearing to be the Council's preferred option and that it considers the identified sum would be likely to cover the cost of provision.

49. I acknowledge the development would undoubtedly lead to greater vehicular generation, but that would be significantly offset over time by the mitigation proposed. Whilst I find there would still be some net impact upon the local road network, and particularly in the short term prior to the full effect of the mitigation, I do not consider that the net impact, given the detailed modelling evidence submitted by the appellants and the absence of substantive evidence to the contrary, would in itself be sufficient reason to withhold planning permission in this instance. In particular, the Framework advises that development should only be resisted where the residual cumulative impacts of development would be severe, and I am unable to conclude that would be the case in this instance.
50. I therefore conclude that the proposed development would lead to some additional traffic generation upon local roads but the scheme is accompanied by satisfactory proposals to promote sustainable transport and by other such measures to mitigate the harm arising. Accordingly, on balance, I find the development would not be contrary to Policy TR1 or TR12 of the Local Plan, or to the expectations of the Framework.

Five-year housing land supply

51. The Framework requires the local planning authority to identify and update annually a supply of specific deliverable housing sites sufficient to provide five years' worth of housing relative to its full objectively assessed needs for market and affordable housing.
52. The Council accepts it is unable to demonstrate a five-year supply of housing land. The East Herts Council Authority Monitoring Report 2013-14 of December 2014 identifies a supply of 3.8 years with a 5% buffer and 3.4 years with a 20% buffer based upon a housing target of 750 dwellings per annum.
53. In the absence of a five-year supply of deliverable housing land, it follows, by virtue of paragraphs 47 and 49 of the Framework, that relevant policies in the development plan for the supply of housing are to be considered out-of-date. Further, by virtue of being out-of-date, relevant provisions of the presumption in favour of sustainable development under paragraph 14 of the Framework are also engaged, should the scheme be found to constitute sustainable development.
54. The implications for Policy GBC3, and its possible status as a policy for the supply of housing, are set out in my overall planning balance to follow. The absence of a five-year housing land supply also places a premium upon the housing benefits of the proposed scheme.

Unilateral Undertaking

55. The Unilateral Undertaking makes commitments to various matters to mitigate the impact of the development, including contributions in relation to parking,

sustainable transport, education, health, open space, a play area, a design workshop, a travel plan and in relation to fire and rescue services. The local planning authority and the County have provided evidence of compliance with the relevant provisions set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 and this is not disputed. I have also had regard to the Framework, and to the relevant advice of both the government's Planning Practice Guidance (the Guidance), and of the Planning Inspectorate's Procedural Guide Planning Appeals - England, published July 2015.

56. The Undertaking also presents a number of options for consideration as part of my decision, and these include the sustainable transport contribution already discussed, and the timings of the education and sustainable transport contributions.
57. I am satisfied with the terms of the commitments in relation to the proposed contributions towards parking, bus services, a travel plan, Walkern Primary School, open space, off-site play and health services.
58. In relation to a sustainable transport contribution, I find option (i) involving a cycle link to the important local centre of Stevenage and/or improvements to public rights of way in the vicinity to be both necessary and reasonable as already discussed. It would serve to promote wider use of sustainable modes of transport by future occupiers and thereby most effectively mitigate the likely impact of additional car-based travel arising from the development.
59. In relation to the timing of the education and sustainable transport contributions, I consider these should be made prior to the commencement of the development so as to afford maximum lead-in time for their provision.
60. I have considered the case for a design workshop contribution of £10,000, but I am unable to conclude this to be either necessary or reasonable. I find it relates to matters which are properly the statutory function of the local planning authority. Whilst I acknowledge the importance of the eventual design of the development, I find no particular justification why such a payment should be required in this instance.
61. The Undertaking includes a commitment to fire hydrants, although the need is disputed by the appellants. I have had regard to Schedule 1 Part B to the Building Regulations 2010, and am not satisfied from the evidence presented that publicly adopted fire hydrants would be otherwise covered in the particular context of the appeal scheme. There would be a need for the availability of a water supply to fight fires associated with the development. This would only arise directly from the development itself, and would not otherwise be available, and I therefore find the Undertaking's contributions to be both necessary and reasonable in that regard.
62. Concerns were raised by the County that the terms of the Undertaking for the purposes of its calculations as they relate to matters arising from proposed housing provision do not adequately address considerations of proposed tenure. Nevertheless, the calculations do reflect the full composition of the development as proposed.

63. The Council confirmed at the hearing that it is satisfied with the form and drafting of the agreement as a deed, which I also find to be generally fit-for-purpose.
64. Accordingly, I take into account the commitments and accompanying terms as outlined above as considerations of my decision.

Affordable housing

65. The development proposes a 40% provision of affordable housing. This is fully compliant with Policy HSG3 of the Local Plan which would otherwise seek up to 40% provision. The Council is also satisfied with the proposed tenure split, and the scheme would make a significant contribution of up to 34 affordable dwellings in the context of the Council's SHMA which identifies an affordable need of some 9,100 dwellings in the period 2011-2033.
66. I am concerned, however, that the appellants do not propose to provide a planning obligation in relation to affordable housing, given the scale of proposed provision and the implications of its delivery, including possible involvement of a Registered Provider. In such circumstances as these, I do not consider a planning condition to provide the most robust or effective means of delivery.
67. The Guidance states that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. It states that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed. This encourages the parties to finalise the planning obligation or other agreement in a timely manner and is important in the interests of maintaining transparency.
68. The Guidance further advises that, in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of the development would otherwise be at serious risk. No such case has been made in this instance.
69. Whilst the Council acknowledges its use of conditions for such purposes in smaller scale developments, it would prefer a planning obligation to be available given the significance of the scheme and the need to address such matters as transfer arrangements. The Council's Affordable Housing and Lifetime Homes Supplementary Planning Document, January 2008 also makes clear that section 106 agreements should be used in most cases to secure affordable housing in preference to a condition. It identifies an agreement to be a more effective means of delivery, explaining that the matters involved are usually too complex for a condition.
70. Nevertheless, it is possible, in principle, for affordable housing to be secured by way of a planning condition, and evidence has been provided of such arrangement at a similar appeal. I consider this matter further as part of my overall planning balance to follow.

Other Matters

71. I have carefully considered all other matters raised, both at the hearing and in written submissions.
72. There is a concern from local residents that, if growth is to be accommodated, it should not be focussed upon a single site, but there is no spatial policy in place to distribute development across the village in such a way.
73. I have noted details of pre-application discussions between the main parties, and public consultations undertaken by the appellants prior to submission.
74. I note that the development has been assessed by the authority as not to involve Environmental Impact Assessment development.
75. The appellants' Ecological Appraisal includes a number of surveys and does not identify the site to be of particular overall significance, and little evidence is otherwise available to that effect. The scheme proposes retention of mature trees and hedges where possible and the detailed design of the scheme, through planting and provision of green open spaces, would seek to provide ecological benefits in accordance with the expectations of the Framework.
76. Given its proposed location, the development does not have any heritage implications for either listed buildings or for Walkern Conservation Area. The appeal site adjoins post-war edges of Walkern and this is an outline application with all matters of appearance and landscaping reserved for subsequent approval should the appeal be allowed.
77. I have also had regard to all other sites and planning decisions as referred to in the submitted evidence, and to related matters raised. This includes reference to a 1973 appeal decision at the site, and to a recent appeal decision for a housing development at Braughing. Notwithstanding any similarities and the importance of consistency in decision-making, the planning circumstances of any individual site and of any proposed scheme will be different to others, and each proposal and site must be considered with reference to its own particular merits.
78. A letter was also sent to the local planning authority from a third party post-event and which has been forwarded to me. Whilst I have noted the content, particularly related to matters of land ownership and to the District Plan, this does not affect the evidence I heard at the event and has not been a determining factor of my decision.
79. I have had regard to all other concerns raised, both at the hearing and in written evidence, and including references to neighbourhood planning. These have not been raised as objections by the Council and I have little reason to conclude that such matters represent grounds to preclude development.

Sustainable development

80. The Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development.
81. The purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development is defined by the Framework with reference to the policies in paragraphs 18 to 219 taken as a whole. At the heart of the Framework in paragraph 14 is a presumption in

favour of sustainable development. The Framework further identifies economic, social and environmental dimensions to sustainable development.

82. The scheme would undoubtedly provide significant housing benefits, in terms of both affordable and market provision, and such benefits would be consistent with the social dimension of sustainable development. The investment represented by the development would also be consistent with the economic dimension. The undisputed economic benefits would include investment in construction and related employment for its duration. Benefits would also include an increase in local household spending and demand for services, and the financial contributions to the Council through New Homes Bonus payments.
83. In environmental terms, the scheme would incur loss of an open field and some public views across the site. Nevertheless, as already described, the intrinsic environmental qualities of the field are limited and it should be possible as part of the eventual layout for some public views to be safeguarded, particularly towards the open land towards the west. Further, the illustrative Development Framework indicates significant potential for green infrastructure, including open space and landscape buffers. Detailed arrangements, once agreed, would also be in place to mitigate flood risk. On balance, I find the environmental implications of the development would be reasonably sustainable.
84. Further, Walkern is identified by the development plan as a settlement for growth and, in principle, the location is recognised as a sustainable one.
85. I therefore conclude, having regard to the expectations of the Framework as a whole, that the proposed scheme would be sustainable development. Accordingly, the presumption in favour of sustainable development set out in paragraph 14 of the Framework is engaged, and this has two possible implications. Firstly, unless material considerations indicate otherwise, paragraph 14 makes a presumption in favour of approving proposals that accord with the development plan without delay. Secondly, it states that, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Overall Planning Balance

86. Policy GBC3 seeks to impose a general restriction on development, including housing, outside defined limits. It thereby acts as a constraint to future housing supply by presuming against housing development outside development boundaries. As the Council is unable to demonstrate a five-year supply of housing land, it follows that, for the purposes of paragraph 49 of the Framework, Policy GBC3 is to be considered out-of-date.
87. The scheme would occupy existing countryside, would incur some loss of views and would add to vehicle generation in the vicinity of the site. Nevertheless, the development would be accompanied by commitments to mitigate, including sustainable transport measures, which I consider to be both effective and reasonable.
88. Weighed against the sum of the harm, I am satisfied the scheme would constitute sustainable development with significant economic, social and environmental benefits as described.

89. Of particular weight would be up to 85 new homes in a District which is unable to demonstrate a five-year housing land supply. The associated affordable housing benefits would also be significant and would amount to 40% of the dwellings.
90. I consider the scheme would give rise to environmental benefits through an emphasis upon green infrastructure, and particularly along its boundaries in key relationships to adjacent sites, and would include improvements to drainage infrastructure.
91. I share the Council's concerns, however, that the affordable housing benefits would not be delivered through the robustness of a planning obligation, and note the advice of the Guidance in this regard. Whilst not preferable, a planning condition could still, in principle, deliver. Given the Council's absence of a five-year housing land supply, its acknowledged need for affordable housing, the early delivery proposed, and the full 40% allocation proposed, I find that the particular circumstances of the scheme, in terms of the affordable housing benefits, to be sufficiently exceptional to justify use of a condition in this instance. I also do not find my concerns in that regard out-weigh the significant benefits of the development otherwise arising.
92. I therefore find, on balance, that the adverse impacts of the scheme would not significantly and demonstrably out-weigh the benefits, when assessed against the policies in the Framework taken as a whole, and with regard to the development plan as a whole.

Conditions

93. I have considered the conditions put forward by both main parties to the hearing. In assessing such matters, I have regard to the advice set out in both the Guidance and in the Framework in terms of both the need for individual conditions and of appropriate wording, and to the relevant representations of third parties.
94. For the avoidance of doubt and in the interests of proper planning, a condition is imposed to ensure the development is undertaken in accordance with the relevant drawings.
95. Given the Council's pressing need for further housing, the period for submission of reserved matters is an agreed 18 months, with commencement on site within 12 months of the final approval.
96. Whilst all matters other than access remain reserved for further approval, it is necessary for the outline permission to define the maximum capacity of development. In accordance with the appellants' revised submission, the capacity is set at a maximum of 85 dwellings.
97. Although the submitted drawings to be approved set out general principles of the access, full details of its design remain to be submitted and are required for approval by the local planning authority.
98. It is necessary to protect the living conditions of future occupiers of both the development and existing and future occupiers of adjacent properties in connection with drainage and flooding by ensuring that appropriate measures are agreed and put in place as part of the development. A related condition

- also precludes development within the south-west portion of the site affected by extreme flooding. A condition also requires a scheme of sewage disposal.
99. In order to make an appropriate contribution to addressing local housing need, a condition makes arrangements for delivery of affordable housing.
100. To contribute to a sustainable development, a green travel plan is required. A detailed plan of measures based upon the proposed ecological enhancements identified in the appellants' Ecological Appraisal is also necessary. A condition also safeguards any archaeological value of the site by way of a programme of investigative works.
101. It is necessary to protect the living conditions of future occupiers of the development by ensuring that appropriate arrangements are made for identification and treatment of any on-site contamination.
102. It is also necessary to safeguard the future environment of the site by ensuring measures are in place both to retain and to protect existing trees and hedges.
103. To protect the living conditions of neighbouring occupiers during construction, it is necessary to limit the hours of construction works, and to have in place a Construction Method Statement for the duration of the works. This also includes arrangements for waste management.
104. The Council has suggested inclusion of indicative drawings prepared by Tibbalds as part of the approved details. These matters do not form part of the application and have not been subject to necessary publicity as part of that process. They relate to future matters which would remain to be approved, and I see no reason why a permission should need to make such reference at this time. I also note the objections raised to their content by interested third parties at the hearing, and the hitherto absence of formal consultation.
105. Similarly, the appellants have suggested inclusion of a condition referring to their illustrative Development Framework plan as setting parameters for future submissions. This application relates to the principle of the development and to access, and other reserved matters, including layout and landscaping, remain to be formally considered. Objections have also been raised by the Council and other parties to the content of this plan. I find it would therefore be equally inappropriate to introduce such matters in this way, and could prejudice the interest of other parties.
106. The appellants also suggest reference could be variously made to future landscaping, provision of open space and to detailed matters of internal roads and associated layout. These are not matters which formally comprise part of the application and such conditions could fetter their future consideration.
107. The appellants also request reference to a scheme of works to Froghall Lane agreed with Hertfordshire County Council as highway authority and set out in submitted drawing 1370/10. The local planning authority, however, has concerns towards the scheme and suggests a broader condition to enable the details to be further considered, particularly in light of third party objections. A condition to this effect is included. The Council suggests this be extended to include works within the main High Street but such matters would lie well beyond the confines of the application site and any relevant matters relating to the High Street are instead addressed through the Unilateral Undertaking.

108. A condition has also been proposed for works to upgrade local bus stops. Such works would again lie well beyond the application site and would relate to matters not within the control of the appellants. Accordingly, I find such a condition to be unreasonable.
109. The Council has also suggested a condition requiring full details of connecting footway and cycleway routes, including landscaping implications, from Moors Ley via the garage court adjacent to No 70 Moors Ley, and via the land to the north east of the site which links to Froghall Lane. For the reasons already discussed, I do not consider it would be either necessary or reasonable for such links to be a requirement of a permission, particularly in light of third party constraints relating to land ownership beyond the control of the appellants.

Conclusion

110. At the heart of the Framework is a presumption in favour of sustainable development. I find the proposed scheme would accord with that expectation having regard to the development plan and to the Framework as a whole.
111. For the above reasons, and with regard to all other matters raised, I conclude the appeal should be allowed.

Peter Rose
INSPECTOR

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and be approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
3. The development hereby permitted shall begin not later than 12 months from the date of approval of the last of the reserved matters to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved drawings: Site Location Plan: 5578-L-03 Rev; and Proposed Site Access Arrangements Ref: 1370/05A.
5. No more than 85 dwellings shall be developed within the site.
6. Prior to the commencement of any development, full design details of the proposed access into the site based upon the drawings hereby approved, and including all associated works and proposed materials, shall be submitted to and be approved in writing by the local planning authority. The development shall be undertaken in accordance with the details as approved and the access shall be completed prior to the first occupation of any dwelling.
7. No development shall take place until full details of a scheme of sustainable surface water drainage has been submitted to and been approved in writing by the local planning authority, and the scheme shall be implemented in full accordance with such details and in full accordance with an accompanying programme as approved. Before any scheme details are submitted for approval to the local planning authority, a full and detailed assessment shall be carried out of the potential for disposing of surface and other water, having regard to DEFRA's non-statutory technical standards for sustainable drainage systems (or any subsequent version) and all other relevant guidance, and including with regard to run-off rates and all relevant flow routes, to critical storm events, and with regard to all other necessary factors relevant to flood risk. The full results of this assessment shall be made available to the local planning authority. Details of the sustainable drainage scheme and associated measures to address these matters shall include information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, arrangements for on-site flood water storage, the measures to be taken to prevent pollution of the receiving groundwater and/or surface waters, and allowances for climate change. Details shall also include a timetable for implementation, and shall provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme as may be necessary throughout its lifetime.

8. The layout shall not include any built development within the south-west portion of the site affected by a 1 in 100 year surface water flood as shown on Enzygo plan reference SHF.1132.045.HY.D.004.2 dated November 2015.
9. No development shall take place until full details of a scheme for sewage and foul water drainage have been submitted to and been approved in writing by the local planning authority, and the works shall be implemented in accordance with the approved details and an agreed programme.
10. No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and been approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units
 - b. a tenure split of 75% affordable rent and 25% shared equity
 - c. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
 - d. the arrangements for the transfer of the affordable housing to an affordable housing provider or such other arrangements for the management of the affordable housing if no Registered Social Landlord is involved
 - e. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing
 - f. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

11. No development shall take place until a site investigation of the nature and extent of any contamination has been carried out in accordance with a methodology which has previously been submitted to and been approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and be approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and in accordance with an agreed programme. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and be approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures in accordance with details and a programme of works to be approved in writing by the local planning authority.

12. Prior to the commencement of any development, a programme of archaeological work shall be submitted to and be approved in writing by the local planning authority. The development shall be carried out in accordance with the details of the scheme as agreed and in accordance with an agreed timetable.
13. Prior to the occupation of any dwelling, a green travel plan shall be submitted to and be approved in writing by the local planning authority and the development shall be undertaken in accordance with the details as approved.
14. Prior to the commencement of any development, a detailed plan of implementation based upon the proposed ecological enhancements identified in the appellants' Ecological Appraisal shall be submitted to and be approved in writing by the local planning authority and the development shall be undertaken in accordance with the details and a programme of works as approved.
15. No site works, including the operation of all plant or machinery in connection with all demolition, preparation and all other works, shall be undertaken outside the hours of 07:30 and 18:30 Mondays to Fridays and 07:30 to 13:00 on Saturdays, and not at all on Sundays or Bank Holidays.
16. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and been approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - a. the programme and phasing of works
 - b. the parking of vehicles of site operatives and visitors
 - c. loading and unloading of plant and materials
 - d. storage of plant and materials used in constructing the development
 - e. the erection and maintenance of security hoardings, including decorative displays and facilities for public viewing where appropriate
 - f. wheel washing facilities
 - g. measures to control the emission of dust and dirt during construction
 - h. a scheme for recycling/disposing of waste resulting from demolition and construction works
 - i. construction vehicle routing and access
 - j. measures for safeguarding pedestrian safety in the vicinity of the site
 - k. a scheme to control noise during the construction phase.
17. All existing trees and hedges shall be retained unless otherwise approved in writing by the local planning authority.
18. Prior to the commencement of any development, a scheme for the protection of all existing trees and hedges for the duration of the works shall be submitted to and be approved in writing by the local planning authority

and the development shall be undertaken in accordance with the details as approved.

19. No dwellings shall be occupied unless and until full details of a scheme for enhanced pedestrian access along Froghall Lane have been submitted to and been approved in writing by the local planning authority, and the works shall be undertaken in accordance with the details as approved and in accordance with an agreed programme.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Tim Hagyard	Development Team Manager and case officer
Isabelle Haddow	Senior Planning Officer, Policy

FOR THE APPELLANT:

Chris Still	Gladman Developments Ltd
Tim Jackson	Fpcr
Simon Helme	Ashley Helme Associates
Duncan Hartley	Rural Solutions
Jonathan Easton	Counsel
Dr Paul Hardwick	Water Sciences, Enzygo Ltd

FOR HERTFORDSHIRE COUNTY COUNCIL:

Alexandra Stevens	Hertfordshire County Council (Planning Obligations Officer)
Oliver Sowerby	Hertfordshire County Council (Highways)
John Rumble	Hertfordshire County Council (Environmental Resource Planning)

OTHER INTERESTED PERSONS:

Steve Jenner	Chair, Walkern Parish Council
Chris O'Brien	Walkern Neighbourhood Planning Group and Walkern Action
Michele Rist	Walkern Neighbourhood Planning Group
Jaqueline Veater	Planning consultant to third parties

DOCUMENTS SUBMITTED TO THE HEARING:

By the Council:

1. Note referring to section 106 Obligations and CIL Compliance
2. Hearing notification letters dated 7 August and 22 October 2015
3. Planning application notification letter dated 24 April 2015
4. East Herts Council Response to Costs Application
5. Letter from the Planning Inspectorate dated 21 February 2007 relating to East Hertfordshire Local Plan Inspector's Report
6. Policy OSV1 of East Herts Local Plan Second Review April 2007
7. East Herts Draft District Plan (Preferred Options) January 2014 North West Quadrant
8. East Hertfordshire Local Plan Second Review April 2007 North West Quadrant Sheet A
9. East Herts Council Authority Monitoring Report 2013-14 December 2014
10. East Herts Draft District Plan Preferred Options Consultation January 2014
11. Email from Tom Goldsmith to Tim Hagyard dated 20 November 2015
12. Section 3. Housing of East Herts Local Plan Second Review April 2007
13. Section 18. Housing of East Herts Local Plan Second Review April 2007
14. Suggestions for amended Council conditions submitted on 15 December 2015
15. Tibbalds Development Concept plans dated September 2015
16. Affordable Housing and Lifetime Homes Supplementary Planning Document dated January 2008
17. Planning Obligations Supplementary Planning Document dated October 2008
18. Comments in relation to possible planning condition for affordable housing dated 30 December 2015

By the appellant:

19. Flood Risk and Drainage Statement
20. Reply on behalf of the appellants (costs) dated 17 November 2015
21. Email from Tim Hagyard dated 12 August 2015
22. Proposed modifications to pages 6 and 7 of draft Unilateral Undertaking
23. Schedule 1 Part B of the Building Regulations 2010
24. Suggested list of conditions 1 – 22
25. Plan of adopted public highways

- 26. Response to amended Council conditions submitted on 15 December 2015
- 27. Comments in relation to possible planning condition for affordable housing dated 23 December 2015
- 28. Unilateral Undertaking dated 15 December 2015

Jointly by the Council and the appellant:

- 29. Statement of Common Ground dated November 2015

By Hertfordshire County Council:

- 30. Statement in support of planning obligations sought towards Hertfordshire County Council Services (Property Services)
- 31. Email from Alexandra Stevens, Planning Obligations Officer, Hertfordshire County Council dated 14 December 2015
- 32. Secretary of State decisions dated 11 August 2015 relating to appeals at Sewell Park, St. Albans (Refs: APP/B1930/A/12/2180486 and APP/B1930/A/13/2201728)
- 33. Letter from Chief Legal Officer dated 15 July 2011
- 34. Planning obligations guidance - toolkit for Hertfordshire, January 2008, Hertfordshire County Council

By other third parties:

- 35. Joint statement of Walkern Parish Council, Walkern Parish Neighbourhood Plan Group and Walkern Action



Appeal Decision

Site visit made on 3 February 2016

by **J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 February 2016

Appeal Ref: APP/J1915/D/15/3137646

1 Poets Gate, Widford, Hertfordshire SG12 8SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Gover Jones against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0854/HH, dated 24 April 2015, was refused by notice dated 11 August 2015.
 - The development proposed is a two-storey side extension to dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a two-storey side extension to dwelling at 1 Poets Gate, Widford, Hertfordshire SG12 8SA in accordance with the terms of the application, Ref 3/15/0854/HH, dated 24 April 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development shall match those of the existing dwelling.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plan: JPT/TGJ/0315/001Rev.B

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the local area.

Reasons

4. The appeal property is a small, two-storey, end of terrace house. It is situated on the corner of the junction of a residential cul-de-sac, Lambs Gardens, with Hunsden Road and is in the Widford Conservation Area. Whilst a relatively new building, the house is of generally traditional appearance and the terrace of five dwellings is an attractive feature which complements the many older buildings which characterise the Conservation Area.
 5. The proposal is for the construction of a small, two-storey side extension. The extension would have a pitched, tiled roof similar in design to that of the host
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building. The ridge of the roof would be set below the main house roof and the front of the extension would be stepped back from the front elevation of the main house. In these respects the extension would appear subservient to the host property and it would be in keeping with the character and appearance of the terrace as a whole.

6. The terrace is set back from Hunsden Road and the houses have attractive front gardens which contribute positively to the street scene. The appeal property also has a small area of side garden which fronts onto Lambs Gardens and is open to public view. Whilst this side garden complements the front garden, it has the backdrop of the flank wall of the house and the close board timber fencing which surrounds the property's private back and side garden. This backdrop limits the sense of openness of the side garden when viewed from the adjoining roads.
7. The front corner of the proposed extension would stand about 0.4 metres from the plot boundary with the pavement on Lambs Gardens. The back corner of the extension would be about 1.4 metres from the boundary. Whilst the extension would occupy a large proportion of the small open area of side garden, there would remain some space for planting and the main area of visible open space at the front of the property would remain unchanged.
8. Elsewhere in the Conservation Area there are buildings situated on corner plots which abut the pavement with no garden space. In this case the closeness of the proposed extension to the pavement on Lambs Gardens would be in keeping with the varied pattern of development found elsewhere in the Conservation Area.
9. Unlike the appeal property, 1 Lambs Gardens on the other side of the junction is set back several metres from the road behind a driveway. Because of their different orientations and layouts, the two properties do not have a strong visual relationship to each other in the street scene. The proposed extension would have limited effect on the visual relationship of the two properties and in this respect the development would not adversely affect the character or appearance of this part of the Conservation Area.
10. The terrace of houses has a symmetrical appearance. However, views of the front of the terrace are limited by the narrowness of the road and the symmetry of the terrace is not a prominent feature of the street scene. Consequently, the slight loss of symmetry which would result from the development would not adversely affect the character or appearance of the local area.
11. There is a duty imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a Conservation Area. This is reflected by the general thrust of section 12 of the National Planning Policy Framework (the Framework) which seeks to conserve and enhance the historic environment. The proposed extension would result in a change in the appearance of the appeal property and of the road junction. However, the design of the extension would reflect that of the host property and the close proximity of the side of the extension to the pavement would not

be out of keeping with appearance of other properties in the locality. Therefore, on balance, I conclude that the proposed development would be preserve the character and appearance of the Conservation Area and it would comply with the aims of good design sought by Policies ENV1, ENV5, ENV6 and BH5 of the East Herts Local Plan Second Review.

Conclusion

12. At the heart of the Framework, there is a presumption in favour of sustainable development and housing applications should be considered in the context of this presumption in favour of sustainable development. Good design is a key aspect of sustainable development and it should make places better for people. The development would be in keeping with the character and appearance of the Widford Conservation Area and it would provide useful additional living space for the occupiers of the appeal property. Therefore, on balance and for the above reasons, I conclude that the proposed extension would represent sustainable development as sought by the Framework and that the appeal should be allowed.

Conditions

13. In order to protect the character and appearance of the host property, I impose a condition requiring the materials to be used in the construction of the external surfaces of the development to match those used in the existing building.
14. For the avoidance of doubt and in the interests of good planning, I impose a condition requiring the development to be carried out in accordance with the approved plans.

J A B Gresty

INSPECTOR

Appeal Decision

Site visit made on 29 January 2016

by F Rafiq BSc (Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11/02/2016

Appeal Ref: APP/J1915/D/15/3136805

55 Musley Hill, Ware, Herts SG12 7NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Trevor Bassett against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0998/HH dated 13 May 2015 was refused by notice dated 12 August 2015.
 - The development proposed is a detached store/shed.
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Decision

1. The appeal is allowed and planning permission is granted for a detached store/shed at 55 Musley Hill, Ware, Herts SG12 7NA in accordance with the terms of the application, Ref 3/15/0998/HH dated 13 May 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: D150401/1 and D150401/2.
 - 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.

Main Issues

2. I consider the main issues are the effect of the proposal (1) on the character and appearance of the area, and (2) on highway safety.

Reasons

Character and Appearance

3. The appeal site is situated in a very mixed area. Buildings along Musley Hill are on a hillside and there is a mix of modern and traditional style of properties that includes bungalows, detached, semi-detached and terraced dwellings. This gives the area a mixed residential character and appearance. Many dwellings,
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like the appeal property have off-road parking, which in some instances includes integral and detached garages.

4. The appeal proposal is to excavate the rear garden area to create a store with a garage type door accessed off Lime Close. The store would have a flat roof that would form a rear garden area to the appeal dwelling. The proposed store would be a large size but the increase in height along Lime Close would be small over the existing brick wall. The Council have raised particular concerns regarding the size and materials of the proposed doorway, which they state would have a harsh appearance in the streetscene. I acknowledge that the doorway would be located directly facing the pavement but there are many garage doors visible in the area around the appeal property, particularly on Musley Hill. Although the Council make reference to a metal door, the appellant states that a timber style door is to be used. The application form however states that a 'steel up and over door' is proposed, but I accept that this is a matter that could be addressed by a materials condition.
5. I acknowledge that the proposed works could result in the loss of some trees and shrubs to the side and rear of the site, but given the elevated positioning of the existing rear garden area, I do not consider there would be any adverse harm to the visual amenities of the area.
6. I therefore conclude that the proposal would not harm the character and appearance of the area and as such, it would not conflict with Policy ENV1 of the East Herts Local Plan Second Review, which requires, amongst other matters, for all development proposals to be of a high standard of design and reflect local distinctiveness. It would also not conflict with the core principles of the National Planning Policy Framework (Framework), which requires development to take account of the differing roles and character of different areas.

Highway Safety

7. The appellant states that the proposal is for a store and the application form also confirms that it is for a store/shed. I note that the appeal application does not include for a vehicle crossover and that the Highway Authority have stated that a crossover would not be acceptable. Nevertheless, given the size of the proposed building and the door opening, and that a separate planning application would not be required to convert a store to a domestic garage, this potential future use of the building is a material consideration in my determination of this appeal.
8. I acknowledge the footway is narrow and that double yellow lines exist along Lime Close, to the side of the appeal site. In addition to these misgivings, there may be limited visibility for drivers leaving the garage. However, Lime Close is a cul-de-sac which is lightly trafficked, and vehicles emerging from any future garage would be doing so at slow speed. I do not therefore consider that the appeal proposal would have an undue adverse effect on highway safety, including on pedestrian safety if it was to be utilised as a garage. It is also possible that the appeal proposal may result in the loss of a single parking space but there is no evidence before me that this would give rise to parking problems.
9. For the above reasons, I do not consider the proposal would adversely affect highway safety. The Council have not cited any relevant policies within the

refusal notice, but I find there would be no conflict with paragraph 35 of the Framework, which requires development to minimise conflict between different highway users.

Other Matters

10. Some concerns have been expressed that the proposal would lead to the obscuring of light to No. 57's rear rooms and to its garden. I appreciate that this neighbouring property is an older building and that it has a well-tended garden. However, despite the floorarea of the proposed building, it would only result in a small increase in height over the existing garden as illustrated on the submitted drawings. I do not therefore consider that it would result in an unacceptable impact on the living conditions of neighbouring occupiers.
11. If the proposed store were to be used for commercial activities that were not incidental to the enjoyment of a dwellinghouse, then this would necessitate a future planning application that would be considered on its own merits.
12. I have considered all other comments made in the objection letters, including in relation to subsidence and increased surface water run-off and there is nothing, which would lead me to a different decision.

Conclusion

13. For the reasons given above and having taken into account all other matters raised, I conclude the appeal should be allowed.

Conditions

14. The Council have suggested a number of conditions. In addition to the standard time condition, the condition requiring external facing materials to be approved is necessary to ensure the appearance of the building is acceptable. I also consider it necessary to impose a condition to secure compliance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

F Rafiq

INSPECTOR

Appeal Decision

Site visit made on 3 February 2016

by **J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 February 2016

Appeal Ref: APP/J1915/W/15/3134664

White Acres, Hooks Cross, Watton-at-Stone, Hertfordshire SG14 3RY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs K Basra against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1071/FUL, dated 22 May 2015, was refused by notice dated 8 July 2015.
 - The development proposed is demolition of existing detached dwelling and replacement with new detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal constitutes inappropriate development in the Green Belt,
 - Its effect on the openness of the Green Belt,
 - Whether the proposed development would comply with the aims of local development plan policies with regard to its effect on the character and appearance of the area, and
 - If it would be inappropriate development whether the harm by reason of inappropriateness, and any other harm to the Green Belt, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriate Development

3. The appeal property is a detached house situated within the Metropolitan Green Belt. The proposal is for demolition of the existing house and building a new one in more or less the same position. The National Planning Policy Framework (the Framework) states that a local planning authority should regard construction of new buildings as inappropriate in the Green Belt. This is subject
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to exceptions listed in the Framework which include construction of a replacement building provided that the new building is in the same use and not materially larger than the one it replaces. Notwithstanding that the proposed new house would have second floor accommodation built into its roof space, the evidence presented indicates that alone the area of the ground and first floors of the proposed new house would be significantly greater than that of the existing dwelling. Also, the overall roof heights and the eaves heights of the new dwelling would be greater than existing and, taking into account the proposed mansard roof design, it would appear that the new house would be significantly bulkier than existing. Accordingly, I conclude that the new house would be materially larger than the one it would replace and the development would be inappropriate development in the Green Belt as defined by the Framework.

Openness

4. The Framework confirms that inappropriate development is by definition harmful to the Green Belt. The essential characteristics of Green Belts are their openness and their permanence. As a consequence of its size and bulk, the proposed replacement dwelling would inevitably reduce the openness of the Green Belt, resulting in significant harm to one of the Green Belt's essential characteristics.

Character & Appearance

5. Saved Policy GBC1 of the East Herts Local Plan Second Review (LP) provides that new buildings in the Green Belt will be inappropriate unless they meet certain criteria, including replacement buildings which are in accordance with the requirements of saved LP Policy HSG8. LP Policy HSG8 indicates that in the Green Belt the replacement of dwellings, which are of poor appearance or of construction not capable of retention, may be permitted so long as they meet certain criteria, including that they are not materially larger than the dwelling they would replace, plus any unexpended permitted development rights, and that the new dwelling would be no more visually intrusive than the dwelling it replaced.
6. Whilst the existing house may be inconvenient to extend, it is designed with varied roof profiles and low eaves, which enables the building to sit reasonably unobtrusively in the local landscape. Overall, the building is not of poor appearance and evidence has not been presented to indicate that it is beyond reasonable repair. Therefore, in these respects the proposed replacement of the existing building would be contrary to LP Policy HSG8.
7. Also, the new building would be materially larger than the existing dwelling and it is unclear how unused permitted development rights could affect the size of the existing house. Accordingly, it is not possible to conclude that the proposed development would comply with criteria (b) of LP Policy HSG8.
8. The appeal property is situated in a small hamlet which comprises mainly of a fragmented ribbon of the houses on each side the road. The surrounding area is predominantly rural with rolling grass fields to the rear of the appeal property. The house is set back from the road and is visible from distance

across the open countryside to the rear. The proposed new house would, as a consequence of its greater height and visual bulk, stand out in the rural landscape considerably more prominently than the existing dwelling and, consequently, it would detract from the character and appearance of the local area. In this respect the proposed development would not accord with criteria (c) of LP Policy HSG8 and would be contrary to the thrust of LP Paragraph 3.14.3 which explains that in rural areas the Council is anxious to maintain the character of the District.

Other Matter

9. The appellant has provided evidence of a replacement dwelling approved by the Council, Planning Permission Ref: 3/14/1909/FP. However, it is apparent that the approved dwelling would be of substantially different design to the appeal scheme, including that the replacement dwelling would be of single-storey design with accommodation in the roof space. It is, therefore, unclear how comparable the two schemes are. Notwithstanding this, each case must be considered on its own merits and I attach little weight to Planning Permission Ref: 3/14/1909/FP in considering the appeal proposal.

Very Special Circumstances

10. Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The proposed development would be inappropriate and it would reduce the openness of the Green Belt. Also, the new house would detract from the rural character and appearance of the area. Whilst the appellant indicates that the existing house could be extended under permitted development rights, details of potential permitted development have not been presented and it is unclear that the appellant would carry out such works to the property. Therefore, I attach limited weight to this potential fallback position in considering this case and, on balance, I conclude that evidence has not been presented to demonstrate that very special circumstances exist to clearly outweigh the harm to the Green Belt.

Conclusion

11. On balance and for the above reasons, I conclude that the appeal should be dismissed.

J A B Gresty

INSPECTOR

Appeal Decision

Site visit made on 3 February 2016

by **J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 February 2016

Appeal Ref: APP/J1915/Z/15/3135625

Garden House, 23 London Road, Hertford, Hertfordshire SG13 7LG

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Garden House Solicitors against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1262/ADV, dated 12 June 2015, was refused by notice dated 6 August 2015.
 - The advertisement proposed is a temporary cloth type banners fitted for a maximum of three weeks each.
-

Application for Costs

1. An application for costs was made by Garden House Solicitors against East Hertfordshire District Council. This application is the subject of a separate decision.

Decision

2. The appeal is dismissed.

Main Issue

3. The main issue is the effect of the proposed display on the visual amenity of the local area.

Reasons

4. The appeal property is a substantial, detached, two-storey house which has been converted to office use. It is situated in a corner plot at the junction of Park Road with London Road and, as a consequence of its open corner location and raised position above the level of London Road, the property stands out prominently in the local landscape.
 5. Most of the nearby properties on both sides of London Road and on Park Road are residential. Part of the next door property at 25A London Road is used as an office by a firm of solicitors but the building has a residential appearance and it is not readily apparent that it is in non-residential use when viewed from the road. Whilst this part of London Road is dual carriageway and there is a change in the character and appearance of area about 100 metres to the north of the appeal property, where there are several large commercial and utilitarian type buildings, this part of London Road has a distinctly residential character and appearance.
-

6. The appeal concerns an application for installation of a 4 metre long x 1.5 metre high banner advertisement. The application details of the proposal are limited but at the time of inspection there was a substantial banner advertisement fixed to a wooden board situated on the London Road boundary fence line of the appeal property. I estimate this banner to be of similar dimensions and general specification to that proposed. The banner had the appearance of a temporary feature and, due to its prominent location, size, design and soft plastic costed material, it stood out very prominently in the local landscape as a stark and alien feature which detracted significantly from the character and appearance of the host property and local area.
7. The appellant provides examples of banner displays in out-of-town centre locations elsewhere in Hertford. However, large or prominent advertisement displays are not a feature of this part of London Road or the nearby commercial area to the north when viewed from by the appeal property. Accordingly, the appellant's examples of other displays elsewhere in the town add very little weight in favour of the appeal proposal.
8. Also, as a consequence of the harm the proposed banner would do to the visual amenity of the local area, the proposal would not comply with the aims of Policy ENV29 of the East Herts Local Plan. This does not weigh in favour of the appeal proposal.

Conclusion

9. I conclude that the proposed banner display would be harmful to the visual amenity of the appeal property and local area and, for the above reasons, the appeal should be dismissed.

J A B Gresty

INSPECTOR

Appeal Decision

Site visit made on 3 February 2016

by **J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2016

Appeal Ref: APP/J1915/D/15/3137704

90 Mangrove Road, Hertford, Hertfordshire SG13 8AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Alison Chastell against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1279/HH, dated 17 June 2015, was refused by notice dated 20 August 2015.
 - The development proposed is a single-storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for a single-storey rear extension at 90 Mangrove Road, Hertford, Hertfordshire SG13 8AN in accordance with the terms of the application, Ref 3/15/1279/HH, dated 17 June 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development shall match those of the existing dwelling.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 2021/012 A, 2021/011 A, 2021/010 A, 2021/007, 2021/06, 2021/005, 2021/004, 2021/003A, 2021/002 A & 2021/001 A.

Main Issues

2. The main issues in this case are:
 - Whether the proposal constitutes inappropriate development in the Green Belt,
 - Its effect on the openness of the Green Belt,
 - The effect of the proposed development on the character and appearance of the local area.
-

Reasons

Inappropriate Development

3. The appeal property is a semi-detached, two-storey house situated within the Metropolitan Green Belt. The proposal includes demolition of an existing conservatory and construction of a single-storey rear extension. The National Planning Policy Framework (the Framework) states that a local planning authority should regard construction of new buildings as inappropriate in the Green Belt. This is subject to exceptions listed in the Framework which include the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
4. The appeal property has been extended in the past and the floor space of the existing building is some 79% greater than the original dwelling. Taking into account the proposed demolition of the conservatory, the evidence presented indicates that the proposed development would result in an increase in floor area of the dwelling of between about 3 and 7 square metres, a cumulative increase in size of the original dwelling of up to some 87%. Whilst this is a significant cumulative increase in size of the original dwelling, it is evident that the appeal property would remain noticeably smaller than some of the other nearby semi-detached dwellings which appear to be of similar original scale and design.
5. Saved Policy GBC1 of the East Herts Local Plan Second Review (LP) indicates that limited extensions to dwellings in the Green Belt may be permitted if constructed in accordance with LP Policy ENV5. LP Policy ENV5 requires extensions not to adversely affect the amenities of the dwelling and any adjoining dwellings to a significant extent and, outside the main settlements and larger villages, an extension to a dwelling will be expected to be of a scale and size that would either by itself, or cumulatively with other extensions, not disproportionately alter the size of the original dwelling. Whilst the Council indicates that it has a desired increase in floor space limit of 60%, evidence has not been presented to indicate that this is adopted policy and LP paragraph 8.9.2 holds that it is not possible to state categorically what maximum size of extension is likely to be permissible, given the wide range of existing dwelling types and sizes which comprise the rural housing stock.
6. The relatively modest increase in floor space of the appeal dwelling which is proposed would have limited practical effect on the overall size of the dwelling and visually it would be difficult to tell whether or not its size had been increased as a result of the development. Whilst the resulting cumulative increase in size of the appeal property of some 87% may be greater than would be reasonable in other circumstances, taking into account the character and appearance of the appeal property in the context of its location within a row of similar scale houses, many of which have been extended considerably, I conclude that the proposed demolition of the conservatory and construction of the extension would not result in a disproportionate increase in the size of the original dwelling. Therefore, the proposed extension would not be inappropriate development in the Green Belt as defined by the Framework and it would accord with LP Policy GBC1 in this respect.

Openness

7. The Framework confirms that inappropriate development is by definition harmful to the Green Belt. The essential characteristics of Green Belts are their openness and their permanence. As a consequence of its size and bulk, the extension would inevitably have some effect on the openness of the Green Belt. However, I have concluded that it would not be a disproportionate addition to the original building. Accordingly, the effect on openness would be limited and would not cause material harm to the Green Belt.

Character and Appearance

8. The appeal property has a modest sized single-storey kitchen extension which projects about 3 metres from the back wall of the house. The proposed extension would sit beyond this and would appear rather isolated in relation to the host building. Also, the extension would also have a hipped roof which would be noticeably taller than the existing conservatory and kitchen extension roofs. However, on its own the extension would reflect the design of the host building and it would be subservient in size and appearance to the existing dwelling.
9. The appeal property forms part of a ribbon of similar scale detached and semi-detached housing on the east side of Mangrove Road. These properties do not follow a precise building line which, in conjunction with the many rear extensions, gives the backs of the properties on this side of Mangrove Road an irregular layout and appearance when viewed from the appeal property's garden. Whilst the back wall of the proposed extension would be over 6 metres from the rear elevation of the main house, its layout would be in keeping with the varied building line and layout of other properties nearby.
10. Although the extension would be visible from the nearby houses to rear, it would not be open to wide public view and it would have very limited effect on the character and appearance of the wider area. On balance, whilst the extension would not be conventional in layout or appearance, I conclude that it would be in keeping with the character and appearance of the host property and local area as a whole. In this respect the development would accord with LP Policies ENV1, ENV5 and ENV6.

Conclusion

11. At the heart of the Framework, there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and should make places better for people. Whilst it is inevitable that the development would have a modest affect the openness of the Green Belt, overall I conclude that the development would be in keeping with the character and appearance of the host building and the local area. Further, the proposal would provide improved living space for the appellant and her family and enable more practical access to and from the garden. Consequently, the development would meet the Framework's aims of good design which makes places better for people and it would represent sustainable development as sought by the Framework. Therefore, on balance and for the above reasons, I conclude that the appeal should be allowed.

Conditions

12. In order to protect the character and appearance of the host property, I impose a condition requiring the materials to be used in the construction of the external surfaces of the development to match those used in the existing building.
13. For the avoidance of doubt and in the interests of good planning, I impose a condition requiring the development to be carried out in accordance with the approved plans.

J A B Gresty

INSPECTOR



Appeal Decision

Site visit made on 18 January 2016

by Jonathan Price BA(Hons) DipTP MRTPI DMS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 February 2016

Appeal Ref: APP/J1915/W/15/3136776

Whitehill Farm, Dane End, Ware, Hertfordshire SG12 0JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Lord Carter of Coles against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1367/ARPN, dated 16 June 2015, was refused by notice dated 18 August 2015.
 - The development proposed is change of use of existing agricultural store/livestock pens into three residential dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Lord Carter of Coles against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are whether the proposal would constitute permitted development and meet the conditions for prior approval set out in the GPDO.

Reasons

Permitted development

4. Schedule 2 Part 3 Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a use falling within Class C3 (dwellinghouses). Paragraph X provides interpretation for Part 3 in which 'curtilage' means, for the purposes of Class Q, R or S only, (a) the piece of land, whether enclosed or unenclosed, immediately beside or around the agricultural building, closely associated with and serving the purposes of the agricultural building, or (b) an area of land immediately beside or around the agricultural building no larger than the land area occupied by the agricultural building, whichever is the lesser (*my emphasis*).

12. The definition of 'established agricultural unit' for the purposes of Class Q is given in paragraph X simply as 'agricultural land occupied as a unit for the purposes of agriculture'. Case law¹ has established that an agricultural unit is not the same as the planning unit. The agricultural unit might be co-extensive with a single planning unit or might be spread over a number of separate parcels of land comprising several planning units. The Council's concern centres upon the lack of information provided as to the extent of the established agricultural unit in this case, and whether it might refer to the other buildings or land upon this site or could include more extensive land holdings. It is reasonable to assume that, in the light of this concern, the appellant might have been able to provide further evidence, such as a map, to show the extent of the established agricultural unit.
13. In the absence of evidence of the extent of the established agricultural unit I can appreciate the Council being unable to establish whether this proposal would meet the further criteria of Q.1, particularly in respect of (c) any separate Class Q dwellings already provided and (f) any agricultural permitted development having been carried out since 20 March 2013.
14. There is adequate information provided to establish that there is no agricultural tenancy pertaining to the appeal site (criteria d and e), that the details of the scheme would satisfy criteria (g) in respect of building dimensions and criteria (i) in respect of building operations and that the land/building does not involve any of the designations set out in criteria (j) – (m). However, apart from these matters, and notwithstanding the appellant's written confirmation in respect of meeting all these criteria, the remaining criteria in Q.1 can only be satisfactorily assessed with reference to fuller details over the extent of the established agricultural unit.
15. The proposal would not be permitted development by virtue of the definition of curtilage in paragraph X. Were this not to be the case, the application has not provided sufficient information as to the extent of the established agricultural holding necessary to ascertain whether Class Q permitted development would otherwise apply to his proposal.

Conditions for prior approval

16. Although the Council does not accept that this proposal provides sufficient information to establish whether it would be permitted development it has nevertheless proceeded to refuse prior approval in relation to the conditions for this set out in Paragraph Q.2. This followed the prior approval procedure in Schedule 2 Part 3 W(3). The consultation necessary had been carried out by the Council prior to making this decision.
17. The provisions of the GPDO require the local planning authority to assess the proposed development solely on the basis of its impacts on transport and highways; noise; contamination risks on the site; flooding risks; whether the location or siting makes it otherwise impractical or undesirable for the building to change from agricultural use to a dwellinghouse; and the design and external appearance of the building. My determination of this issue has been made in the same manner.
18. The Council's refusal to grant prior approval for this proposal rests on condition (e) of the Conditions in Paragraph Q.2 of GPDO Class Q which requires

¹ Decision of the Court of Appeal in *Fuller v SSE (1988) 56 P. & C.; [1988] 1 P.L.R. 1.*

5. The submitted survey drawing (reference 11734-S001-A) includes a 1:1250 scale location plan showing the building hatched and surrounded by a red line defining land around it to the east and south. I take this red line to be intended as showing the curtilage proposed. From a visual assessment, the curtilage area on this plan appears to be slightly greater than the area occupied by the building. This is confirmed by the application form which states the building floor area and the area of curtilage to be 345m² and 360 m² respectively.
6. Whilst the area of curtilage might be amended to be no greater than the floorspace of the building it is not the purpose of the appeal process to evolve a scheme and it is important that the facts before me are essentially those considered by the Council and others consulted. As a consequence I have not sought further comment from the parties on this matter.
7. Although the curtilage area only slightly exceeds the building footprint it would need to be no larger than this to comply with the definition prescribed by paragraph X. As the application clearly shows the curtilage to be larger than the footprint of the building, and this does not meet the restrictive definition in Paragraph X, I must conclude that the requirements of Class Q are not met and this proposal would not be permitted development.
8. The Council's reasons for refusal do not refer to the matter of curtilage size. Reason 2 relates to the sufficiency of information necessary to assess whether development would be permitted under Class Q based on the criteria set out in Paragraph Q.1 and Reason 2 is linked to the conditions for prior approval set out in paragraph Q.2. Although I have concluded that the proposals would not constitute Class Q permitted development, due to the extent of curtilage shown in the application not meeting the restrictive definition in Paragraph X, I have addressed the Council's decision as this is the basis of an application for costs made by the appellant.
9. Paragraph Q.1.(a) of the GPDO states that Class Q development is not permitted if the site was not used solely for an agricultural use as part of an established agricultural unit on (i) 20 March 2013, or (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use. At the time of my visit the buildings were vacant but appeared to be in a reasonably sound state of repair and capable of being used again for agricultural purposes. There was no evidence from my inspection to suggest this building was last used for anything other than for agricultural purposes and that any other use had taken place in the intervening period.
10. The Council's delegated report confirms my view that the structure in question is located within a group of agricultural buildings which form a farm, all of which appeared not to be in use. The planning history referred to in the Council's report refers to approval in 1952 for a farm homestead which is the building to which this conversion to three dwellings relates. Further buildings were permitted in 1970 which are likely be the agricultural storage sheds currently sited adjacent and to the east of the building that is the subject of this appeal.
11. The application states that the building in question is currently or was last in agricultural use on 20 March 2013 as part of Whitehill Farm, which forms part of a larger agricultural unit owned by the applicant. A solicitor's letter is submitted in confirmation of this.

consideration of whether the location or siting of the building makes it otherwise impractical or undesirable for the change of use from agricultural to residential.

19. Paragraph 108 of the Planning Practice Guidance (PPG) states that this permitted development right does not apply a test in relation to the sustainability of locations. This is deliberate as many agricultural buildings will not be in settlements and may not be able to rely on public transport for their daily needs. Instead the consideration can be whether the location and siting of the building would make it impractical or undesirable to change use to a house.
20. Paragraph 109 of the PPG advises that whilst 'impractical and undesirable' are not defined in the regulations a reasonable ordinary dictionary meaning should be applied in making any judgement. Impractical is stated as reflecting that the location and siting 'would not be sensible or realistic' and undesirable that it would be 'harmful or objectionable'. The PPG further advises that when considering whether it is appropriate for the change of use to take place in a particular location this should start with the premise that the permitted development right grants approval, subject to the prior approval requirements. Where an agricultural building is in a location where permission would not normally be granted for a dwelling this is not a sufficient reason for refusing prior approval.
21. The sustainability of the location is central to the Council's decision and, having considered the advice of the PPG, greater weight has been given to Paragraph W (10) (b) of the GPDO over regard being had to the National Planning Policy Framework (the Framework) as far as relevant to the subject of the prior approval as if it were a planning application. The Council is therefore basing its decision on the Framework, and specifically Paragraph 49 in respect of considering housing applications in the context of the presumption in favour of sustainable development and Paragraph 55 in respect of enhancing or maintaining the vitality of rural communities, avoiding new isolated homes in the countryside and for the re-use of farm buildings leading to an enhancement to the immediate setting.
22. Government legislation, policy and guidance should be considered in the round. The intention of GPDO Class Q is to encourage the re-use of redundant farm buildings and the PPG qualifies the presumption in favour of sustainable development in the Framework in recognition of such buildings often being located outside of a settlement.
23. Therefore, I find no reason that the siting or location of this proposal would make the change of use from agricultural building to three dwellings either impractical or undesirable. I have considered the case made by the Council over the sustainability of this location but, having had regard to Paragraph 108 of the PPG, do not consider refusal of prior approval for this reason would have accorded with recent and explicit Government advice. Were this proposal permitted development under Class Q then I consider this scheme would have satisfied all the conditions in paragraph Q.2, with the proviso that any contamination risks identified could have been addressed by means of a condition.

Conclusions

24. For the reasons given above this proposal provides insufficient information as to the extent of the established agricultural holding to determine whether development would be permitted under Q.1. Had this been established there is no evidence to conclude that prior approval should not have been granted in respect of the conditions set out in Q.2, including that the location and siting of the building would otherwise make the change of use impractical or undesirable on the basis of the advice set out in the PPG. However, the proposals would not satisfy the requirements of Schedule 2 Part 3 Class Q, as defined by Paragraph X, of the Town and Country Planning (General Permitted Development) (England) Order 2015 and therefore would not be development permitted by it. As a consequence, and having taken account of all other matters that have been raised, I conclude that this appeal be dismissed.

Jonathan Price

INSPECTOR

Appeal Decision

Site visit made on 29 January 2016

by **F Rafiq BSc (Hons), MCD, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 February 2016

Appeal Ref: APP/J1915/D/15/3135626

Maple Cottage, Danebridge Lane, Much Hadham, Hertfordshire, SG10 6HX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr G R & Mrs R L Lewy against the decision of East Hertfordshire District Council
 - The application Ref 3/15/1404/HH dated 3 July 2015 was refused by notice dated 25 August 2015.
 - The development proposed is a two storey rear extension and single storey extension and replacement of existing roof with new roof to provide second floor accommodation.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are the effect of the development on (1) the character and appearance of the rural area, and (2) protected species.

Reasons

Character and Appearance

3. The appeal property is a detached two storey dwelling situated in a rural area, amongst a small group of buildings off Danebridge Lane. The houses are widely spaced and are set back at varying distances from the road. The properties are mostly located within generous plots, which contain mature trees and vegetation. The wider area, beyond the rear boundary of the site is made up of agricultural fields, which together give the area a spacious, open and rural character.
 4. The appeal property has previously been extended, with the Council stating that the dwelling has been extended by around 256%. The current proposals would take the cumulative increase to around 544%. Although I have not been made aware of the detailed calculations, these figures are not disputed by the appellant and would appear to reasonably reflect the scale of the dwelling and the proposals before me.
 5. Policy GBC3 of the East Herts Local Plan Second Review (Local Plan) allows for, amongst other matters, limited extensions to existing dwellings in accordance with Local Plan Policy ENV5. This latter policy states that outside main
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settlements, extensions should be of a scale and size that do not disproportionately alter the size of the original dwelling nor intrude into the openness or rural qualities of the surrounding area. Although these policies do not quantify the terms 'limited' or 'disproportionate', cumulatively, the previous and proposed extensions would represent a large increase in size of the dwelling.

6. I acknowledge however, that other than a numeric assessment, it is necessary to consider the effect of the scale and mass of the proposal on the character and appearance of the existing dwelling and on the locality. The Council accept that the increased roof height would not be significant. However, the increased height would be across the whole of the two storey element of the dwelling, which, in addition to the two storey rear extension, would add significant mass to the building.
7. The appeal dwelling is not a small building but its mass is broken up by its broadly 'T' shaped form and at roof level, by it having a number of interconnected pitched roofs. However, the increase in footprint, albeit limited to the rear corner of the building, as well as the roof alterations, would result in the dwelling being having a single overall mass. This would not respond well to its surroundings and the extensive flat roof form would also be out of character with the pitched roofs of the appeal and surrounding properties. I also note the overall depth and width of the property would not change and that the front would retain an element of balance where the gables would be replaced with hips. These factors would not however outweigh the effect the size and scale of the dwelling would have on its surroundings.
8. I acknowledge that the dwelling does not have any special historic or architectural merit and it sits in large grounds. I was also able to see other large dwellings in the area. Although there would not be an increase in the number of bedrooms, in view of the overall change in scale proposed, I do not consider that the extended dwelling would retain the same spacious presence within this plot. Rather, the proposal development would amount to a disproportionate addition. Whilst the site may lie outside the Green Belt, it is still necessary to consider the impact of the proposal on the character and appearance of the area. The development, for the reasons set out above, would reduce the openness and give rise to visual harm to the rural characteristics of the area.
9. I therefore conclude that the proposal would have an adverse impact on the character and appearance of the rural area. The proposal would be contrary to Local Plan Policies GBC3 and ENV5, which require, amongst other matters, for development to not intrude into the openness or rural qualities of the surrounding area.

Protected Species

10. The Council have included the lack of an initial inspection survey to assess the presence of bats as a reason for refusal. Hertfordshire Ecology state that if bats are present, they may be affected given the significant modifications proposed to the existing roof.
11. I appreciate that the appellants have resided at the property for many years and have seen no evidence of bats. It may also not have been an issue at the

previous appeal in 2003/2004 when substantial works to the roof were proposed. I also note the costs involved in undertaking survey work. However, in the absence of survey and given the rural location and the presence of woodland and hedgerows, which are important habitats for bats, I cannot be sure that bats would not be affected by the proposal.

12. The appellant has suggested that this is a matter that could be addressed by a condition. However, it is necessary to establish the presence or otherwise of protected species prior to the granting of planning permission, as there cannot be certainty about the outcome of the survey findings and whether or not suitable mitigation (if required) could be put in place. Notwithstanding therefore any suggested conditions by the Council, I do not consider that a condition would be appropriate in this instance.
13. Accordingly, in the absence of this information, it has not been demonstrated that the development would not have a harmful effect on protected species. Although the Council have not referred to any specific policies on the refusal notice relating to this issue, the proposal would be contrary to Paragraph 118 of the Framework.

Other Matters

14. The proposal would not give rise to any unacceptable harm to neighbouring occupiers living conditions and it would also not adversely affect the supply of affordable housing. These are however neutral considerations and not benefits of the appeal proposal.
15. Given the harm that I have identified in respect of the main issues, I do not consider the proposed development would be the form of sustainable development, that the Framework intends there to be a presumption in favour of.

Conclusion

16. For the reasons given above and having considered all other matters raised, including the planning history of the site, I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR

Appeal Decision

Site visit made on 15 February 2016

by **Megan Thomas BA(Hons) in Law, Barrister**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 March 2016

Appeal Ref: APP/J1915/D/15/3137989

Woodbury, 6 East Riding, Tewin Wood, Tewin AL6 0PA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Joslin against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/1651/HH, dated 7 August 2015, was refused by notice dated 6 October 2015.
 - The development proposed is the demolition of existing conservatory, utility room, garage and part kitchen and erection of single storey side and rear extension and erection of two storey side extension and replacement of existing roof.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing conservatory, utility room, garage and part kitchen and erection of single storey side and rear extension and erection of two storey side extension and replacement of existing roof at Woodbury, 6 East Riding, Tewin Wood, Tewin AL6 0PA in accordance with the terms of the application, Ref 3/15/1651/HH, dated 7 August 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 001, 002, 003, 004, 005, 006, 007, 008, 009 & 010 (all dated 7 August 2015).
 - 3) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site in accordance with BS5837: 2012 Trees in relation to design, demolition and construction (including appropriate fencing), for the duration of the works on site. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of
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such size, species and in such number and positions as may be agreed with the Authority.

Main Issues

2. The appeal site lies within the Metropolitan Green Belt. Consequently, the main issues are:
 - whether the proposal would be 'not inappropriate' development in the Green Belt having regard to the National Planning Policy Framework 'NPPF' and any relevant development plan policies;
 - the effect on openness of the Green Belt,
 - the effect of the proposal on the character and appearance of the host dwelling and the area including surrounding trees.

Reasons

Whether the proposal would be not 'inappropriate development' in the Green Belt having regard to the NPPF and any relevant development plan policies

3. The appeal site is a large two storey detached house with a pitched roof and integral garage set in a generous plot in Tewin Wood. It is outside the development envelope for Tewin. The development proposed would result in a substantial change to the character of the property whereby its traditional appearance would be altered to a contemporary home. It would have a main flat roof at a level lower than the existing main roof ridge, and a flat roof to the side addition. There would be many aluminium-framed windows and sliding doors and the walls would be rendered or fitted with Equitone Natura panels.
4. The Council take the view that the proposal is tantamount to a replacement of the dwelling as a whole and that the scheme should be treated accordingly. However, in my view whilst there would be comprehensive changes to parts of the structure of the dwelling, the proposal comprises alterations and extensions to it rather than a replacement of it. I judge, as a matter of fact and degree, that the demolition and construction involved would amount to extensions and alterations of the building and not a replacement of it. I have treated the appeal accordingly. Policy HSG8 of the East Herts Local Plan Second Review (adopted 2007) 'LP' deals with replacement dwellings and is not pertinent to the appeal.
5. The NPPF regards the construction of new buildings in the Green Belt as inappropriate development. Exceptions to this in relation to the construction of new buildings are listed in paragraph 89 and comprise a closed and exhaustive list of exceptions. Bullet point 3 sets out one exception as "*the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building.*"
6. The term "original building" is defined in the NPPF as a building as it existed on 1 July 1948 or if constructed after 1 July 1948 as it was built originally. The Council indicate that the building had an original floor area around 170 sqm. The Council also indicate that if the proposal was constructed the overall floor

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area of the house would remain broadly the same with the existing garage and first floor side extension demolished and replaced with a two storey side extension, alterations to the rear and the addition of a ground floor side extension. Having considered the alterations proposed, I find that they would not result in disproportionate additions over and above the size of the original dwelling and as such the development would be 'not inappropriate' development in the Green Belt.

7. Policies GBC1, ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review (adopted 2007) 'LP' are most relevant to extensions and alterations to dwellings. The requirements of ENV1 are met in my view. However, policy ENV6 sets out a number of criteria that the proposal would not fulfil as the character of the existing dwellinghouse would not be readily discernible after alteration and the roof profiles would be flat. I refer to this conflict with policy below.

Openness of the Green Belt

8. Maintaining the openness of the Green Belt is one of its essential characteristics. Whilst there would be some small increase in the footprint, the Council indicate that the proposal would not materially harm the openness of the Green Belt in this location and I agree with that conclusion.

Other Considerations

9. The remodelling of the dwelling would bring about a clear change in the appearance of the building. However, the altered building would be of a similar scale to many in the area, it would respect the building line in the immediate neighbourhood and to that extent it would fit in with the pattern and grain of development in the area.
10. From my site visit I noted that there is no dominant architectural style in Tewin Wood or Burnham Green. I noted the property at 29 Firs Walk which is a contemporary design with some parallels to the proposal. Notwithstanding that the proposal would not reflect the identity of its local surroundings and history and would not closely reflect local distinctiveness, the NPPF does not seek to prevent or discourage appropriate innovation and does not seek to impose architectural styles or tastes on developers.
11. Overall, whilst the architectural identity of the original host dwelling would be difficult to discern, I do not consider that there would be harm to the character or appearance of the area overall. Policy ENV6(a) requires that extensions should be a complementary design and choice of materials to the original building and in this case given the major changes proposed that would not be met. Similarly, clause (d) of ENV6 discourages flat roofs unless they would fit in with the character of the original dwelling and in this case the character would be so altered that (d) would not be met. Consequently, there would be some conflict with Local Policy.
12. Turning to the detailed design of the proposal, the proposed front elevation would retain the existing basic form of the house to the extent that it has two elements which project from the main front elevation. There would be a variation of materials, colours and layering which would prevent it being bland. To my mind there is sufficient articulation in the front elevation.

13. The proposed roof heights would vary slightly across the main front elevation and the side addition on the southern flank would be single storey. I consider the massing would be reasonably typical of contemporary buildings and do not agree that the design would appear truncated.
14. The inclusion of a substantial number and expanse of windows in the elevations would maximise the prospects of daylight and sunlight reaching rooms in the buildings and I would reasonably anticipate that less energy would be needed to heat the building than is needed at the current time.
15. The proposed side extension on the northern flank would come closer to trees within the curtilage of the property which are subject to a woodland Tree Preservation Order (ref.410-W1). However, from my site visit I noted that the distances from the canopy and likely root systems of the nearest trees were such that conditions aimed at protecting trees during construction would overcome any potential harm to the trees. A suitable condition is therefore imposed.

Overall Balancing

16. Whilst there would be some conflict with policy ENV6 of the Local Plan, the proposal would be 'not inappropriate' development in the Green Belt and would not materially harm the openness of the Green Belt. It is likely to result in a more energy efficient dwelling. Overall I consider that any harm is outweighed by the benefits of the development and that conditional planning permission should be granted.

Conditions

17. I have considered conditions in the light of advice in the NPPG and the Council suggested some conditions in the event that the appeal succeeded. I have imposed a condition tying the development to the plans that have been submitted, in order to achieve certainty and proper planning. In order to protect the continuing amenity value, health and stability of trees on the site I have attached a condition aimed at safeguarding the trees during construction. It was not necessary to prolong that period of safeguarding beyond the end of construction, in my view and one condition relating to protection of trees/hedges is appropriate in this case.

Conclusion

18. Having taken into account all representations made, I allow the appeal.

Megan Thomas

INSPECTOR



Appeal Decision

Site visit made on 16 December 2015

by **Mick Boddy F Arbor A FICFor CEnv**

an Arboricultural Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19 January 2016

Appeal Ref: APP/TPO/J1915/4723

5 Applegate, Sawbridgeworth, Hertfordshire, CM21 0DR

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent for the pruning of three pine trees protected by a Tree Preservation Order (TPO).
 - The appeal is made by Mr Peter Hehir against the decision of East Herts Council.
 - The application, Ref. P/TPO 190 542128, dated 16 April 2015, was part approved and part refused by separate notices issued on 17 June 2015.
 - The element of the proposed pruning for which consent was refused and is subject to appeal is: *'Reduce branches overhanging car parking spaces by up to 3 metres in length to a height of 15 metres from ground level.'*
 - The relevant TPO is the East Hertfordshire District Council (No.3 London Road, Sawbridgeworth) Tree Preservation Order (No.15) 1979, which was confirmed on 27 November 1979. The pine trees are scheduled as constituents of group G1 of the TPO, which predates the construction of the appellant's property.
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Decision

1. I allow the appeal in part and grant consent for a reduction of the overhanging sections of the trees' crowns but to a lesser extent than applied for and subject to the following conditions:
 - (i) The work for which consent is hereby granted shall be implemented within two years of the date of this decision.
 - (ii) The pruning for which consent is hereby granted shall be restricted to:
 - Tree 1: The cutting back of the low branch extending in an approximately north-easterly direction, into a low branch in the central tree, by approximately 2 metres.
 - Tree 2: The cutting back of the two lowest branches, extending approximately to the north and north-east over the parking area, by up to 3 metres.
 - Tree 3: The cutting back of the two principal heavy branches, extending in an approximately north-easterly direction towards the house, by up to 3 metres.

- (iii) The work for which consent is hereby granted shall be carried out in accordance with British Standard BS3998:2010 Tree work – Recommendations. Specifically, the final pruning cuts shall be made distal to a union or group of unions where one or more healthy lateral branches bear enough foliage to sustain the parent branch. If there is only one such union near the intended cut, the lateral branch should have as large a diameter as possible (i.e. at least one-third and preferably more than half of that removed portion).

Preliminary Matters

- 2. Whilst one of the decision notices grants consent for the widespread cleaning of the trees' crowns to remove dead, dying and damaged branches, it goes on to state that consent is not actually required for this work.
- 3. For consistency and ease of cross-referencing I have referred to the trees as shown on the plan submitted with the application, on which they are numbered 1-3 working from west to east (the TPO originally scheduled four trees in the group but only three now remain).

Main Issues

- 4. I consider that the main issues in this case are:
 - (i) The impact of the proposed pruning on the appearance of the pine trees.
 - (ii) Whether the reasons put forward are sufficient to justify the proposed pruning works.

Reasons

Impact of the proposed pruning

- 5. The appellant's property forms part of a small, modern residential development to the west of London Road and north-east of Burnside. It is accessed from a shared drive off Brook Lane, which runs parallel with Burnside.
- 6. The appeal trees are three mature Austrian pines growing in a closely spaced row flanking the south-western boundary of the frontage of the property, adjacent to the gravelled entrance drive and parking area.
- 7. The dominant tree is the central pine tree 2, which I estimated to be around 22 metres tall. This tree is set back from the edge of the drive by approximately 2.8 metres and its crown extends to the north-east by around 7 metres.
- 8. The north-western tree 1 is shorter and overtopped by tree 2. Given its position on the end of the row, the branches on the northern and north-eastern sides primarily overhang the access drive rather than the parking area.
- 9. The south-eastern tree 3 is overtopped and suppressed by the central pine (2), and is much shorter. Its crown is heavily asymmetrical with two substantial lateral branches, of approximately 8 metres in length, extending to the east towards the front of the house.

10. I agree with the Council's statement that significantly reducing the crowns of the pines would lower the public amenity value afforded by the trees. However, the proposed pruning is limited to the reduction in the length of branches up to a specified level on the north-eastern side of the trees' crowns only, which will not affect the appearance of the pines when viewed from the principal public viewpoints. I therefore take the view that the negative impact on the appearance of the trees and the public amenity they afford would be insufficient to preclude the proposed pruning, subject to sufficient justification having been demonstrated for this work.

Reasons put forward for the proposed pruning

11. The pruning is proposed to address the level and impact of debris from the trees and droppings from birds alighting in their crowns falling onto the drive below (and cars parked thereon), and needles and cones from the pines blocking the gutters of the house.
12. The decision notice refusing consent for the reduction of the overhanging branches asserts that the proposed works will not alleviate the reported problems, as there are branches of the same length at a higher level that overhang the parking area. This is acknowledged to be the case by the appellant, who states in the grounds of appeal that the objective is to reduce the problems rather than completely solve the issues identified.
13. Having carefully considered the issues raised by the appellant, I find there to be sufficient justification for some pruning to reduce the current negative impact of the pines. However, given the difference in the size of the trees, their branching habit and relative positions, I am of the opinion that the extent that each should be pruned should be varied and have conditioned this accordingly.

Conditions

14. In accordance with my decision, I have imposed a condition more precisely detailing the pruning for which consent is granted and restricting the extent of this to less than that originally applied for.
15. To ensure a satisfactory standard of work and minimise the negative impact of the pruning, I have imposed an additional condition stipulating that the pruning should be undertaken in accordance with the British Standard BS3998:2010.

Conclusions

16. On the basis of my decisions on the main issues, I find some pruning of the overhanging branches of the pines is justified but not as specified in the original application. Accordingly, I have allowed the appeal in part and granted conditional consent for less extensive and more precisely targeted pruning.

Mick Boddy

Arboricultural Inspector

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PLANNING APPEALS LODGED
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Mode
3/15/0993/FUL	Erection of 1.5 storey 3 bedroom dwelling.	Wild Acre Nursery Hare Street Buntingford Hertfordshire SG9 0AD	Refusal Delegated	18/02/2016	Written Reps
3/15/1104/CLE	Use of garage as a self contained residential unit.	Johnsons Thatch East End Furneux Pelham Buntingford Hertfordshire SG9 0JU	CL Existing Refuse Delegated	18/02/2016	Written Reps
3/15/1494/ARPN	Change of use of agricultural building to 1no dwellinghouse	Highfield Barns Highfield Farm Mangrove Lane Brickendon Hertfordshire SG13 8QJ	Prior Approval Required and Refused Delegated	12/02/2016	Written Reps
3/15/1535/OUT	Demolish existing double garage & build new 3 Bedroom house on side	88 Kingsway Ware Hertfordshire SG12 0QJ	Refusal Delegated	11/02/2016	Written Reps
3/15/1801/FUL	Demolition of existing car showroom, redevelopment to include a single A1, A2 or A3 use, 4no. flats and associated undercroft parking.	30 Northgate End Bishops Stortford Hertfordshire CM23 2EU	Refusal Delegated	12/02/2016	Written Reps
3/15/1834/FUL	Conversion of redundant hay and storage barn to 1no.dwelling	27 Bramfield Road Datchworth Knebworth Hertfordshire SG3 6RX	Refusal Delegated	18/02/2016	Written Reps
3/15/2055/FUL	Erection of 2 No.3 bedroomed dwellings with garages with access from Ware Road. Amended scheme	Greenacres Ware Road Widford Ware Hertfordshire SG12 8RL	Refusal Delegated	03/03/2016	Written Reps
3/15/2166/HH	Two storey side extension and single storey rear extension ,	7 Sunny Hill Buntingford Hertfordshire SG9 9HP	Refusal Delegated	25/02/2016	Fast Track Appeal
3/15/2224/HH	Two storey rear and side extensions and single storey front and rear extensions .	29 St Margarets Road Stanstead Abbotts Ware Hertfordshire SG12 8EP	Refusal Delegated	11/02/2016	Fast Track Appeal
3/15/2279/CLP	Erection of outbuilding	11 Bishops Road Tewin Wood Tewin Welwn AL6 0NR	CL Proposed Refuse Delegated	03/03/2016	Written Reps
3/15/2335/HH	Proposed first floor side extension. Alterations to first floor rear fenestration.	45 High Road Waterford Hertford Hertfordshire SG14 2PR	Refusal Delegated	19/02/2016	Fast Track Appeal

NOTE: This report shows only appeals lodged since the last Development Management Committee meeting.

Background Papers

None

Contact Officers

Kevin Steptoe, Head of Planning and Building Control - Extn: 1407.

Alison Young, Development Manager - Extn: 1553.

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Planning Appeals: Inquiry and Informal Hearing Dates

Public Inquiries:

Application Number	Location	Proposal	Date
3/13/1501/OP	Land at Hazelend Road/ Farnham Road, Bishop's Stortford	Residential	12 April 2016

Informal Hearings:

None.

Enforcement Appeals (where the matter does not relate to an associated planning or similar application which are set out above):

None.

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DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance for
November 2015
(calculated from April 2015)

	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16
Total Applications Received		448	687	894	1066	1247	1450	1600	1792	2009	2258	

	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16		Targets for Local Performance (set by East Herts)	National Targets (set by Government)
Percentage achieved against Local and National Targets															
Major %	0%	0%	50%	57%	57%	73%	74%	73%	78%	79%	80%		Major %	60%	60%
Minor %	81%	80%	87%	87%	88%	89%	87%	87%	86%	87%	87%		Minor %	80%	65%
Other %	93%	91%	91%	91%	90%	90%	90%	91%	91%	91%	92%		Other %	90%	80%

Appeals	Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16
Total number of appeal decisions (Monthly)	3	6	5	11	4	7	8	3	6	12	6	
Number Allowed against our refusal (Monthly)	0	3	2	3	2	2	1	1	4	6	3	

Total number of appeal decisions (Cumulative)	3	8	13	24	28	35	43	47	53	65	71	
Number Allowed against our refusal (Cumulative)	0	3	5	8	10	12	13	13	17	23	26	

AGENDA ITEM NO. 6D

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