



Alison Stuart  
Head of Legal and  
Democratic Services

**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 19 JUNE 2019  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

## **MEMBERS OF THE COMMITTEE**

Councillor T Page (Chairman)

Councillors D Andrews, T Beckett, R Buckmaster, B Crystall, B Deering (Vice-Chairman), A Huggins, J Jones, I Kemp, C Redfern, P Ruffles and T Stowe

## **Substitutes**

Conservative Group: Councillors S Bull, R Fernando and J Kaye  
Green/Labour: Councillors M Brady and J Frecknall

*(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.)*

**CONTACT OFFICER: PETER MANNINGS**

**01279 502174**

**[peter.mannings@eastherts.gov.uk](mailto:peter.mannings@eastherts.gov.uk)**

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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.)

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## AGENDA

### 1. Apologies

To receive apologies for absence.

### 2. Chairman's Announcements

### 3. Declarations of Interest

To receive any Members' declarations of interest.

### 4. Minutes - 22 May 2019 (Pages 7 - 18)

To confirm the Minutes of the meeting of the Committee held on Wednesday 22 May 2019.

### 5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 19 - 24)

- (A) 3/18/2210/FUL - Mixed-use redevelopment, including partial demolition of existing buildings, to provide up to 4,602.5 sqm retail floorspace (Use Classes A1 to A5), an 86-bed hotel (Use Class C1), 56 residential flats (Use Class C3), 1,471 sqm office floorspace (Use Class B1a), alterations and refurbishment to an existing car park to provide 143 pay and display, 14 office, 26 residential and 5 car club (total of 188) parking spaces, enhancement of bus station facilities, new public realm and landscaping to riverside, and associated works and improvements - Amendment to Planning Permission Ref 3/17/0392/FUL approved on 5th January 2018 (Revisions to Building B) at Bircherley Green Shopping Centre, Bircherley Green, Hertford, SG14 1BN (Pages 25 - 84)

Please note that this application has been formally **withdrawn** by the applicant.

- (B) 3/18/2457/FUL - Erection of 65 residential dwellings and associated works including internal road network and associated highway works, landscaping utilities and drainage infrastructure, car and cycle parking and waste storage at Land to the East of Aspenden Road, Buntingford\_(Pages 85 - 116)

Recommended for Approval

6. Items for Reporting and Noting (Pages 117 - 216)

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

MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD ON  
WEDNESDAY 22 MAY 2019, AT 7.00 PM

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PRESENT: Councillor T Page (Chairman)  
Councillors T Beckett, S Bull, B Crystall,  
B Deering, A Huggins, J Jones, I Kemp,  
C Redfern, P Ruffles and T Stowe

ALSO PRESENT:

Councillors J Goodeve and A Ward-Booth

OFFICERS IN ATTENDANCE:

Mike Edley	- Interim Scrutiny Officer
Eze Ekeledo	- Service Manager (Development Management) Major Applications
Peter Mannings	- Democratic Services Officer
Emma Mumby	- Planning Officer
Lucy Pateman	- Planning Officer
Sara Saunders	- Head of Planning and Building Control
Stephen Tapper	- Principal Planning Officer
Claire Sime	- Service Manager (Policy and

	Implementation)
Kevin Steptoe	- East Herts Garden Town Lead Officer
Victoria Wilders	- Legal Services Manager

### 30 APPOINTMENT OF VICE-CHAIRMAN

It was proposed by Councillor P Ruffles and seconded by Councillor J Jones that Councillor B Deering be appointed Vice-Chairman of the Development Management Committee for the 2019/20 civic year.

After being put to the meeting and a vote taken, Councillor B Deering was appointed Vice-Chairman of the Development Management Committee for the 2019/20 civic year.

RESOLVED – that Councillor B Deering be appointed Vice-Chairman of the Development Management Committee for the 2019/20 civic year.

### 31 APOLOGIES

Apologies for absence were submitted on behalf of Councillors D Andrews and R Buckmaster. It was noted that Councillor S Bull was substituting for Councillor R Buckmaster.

### 32 CHAIRMAN'S ANNOUNCEMENTS

The Chairman referred to a number of housekeeping issues.



The Chairman welcomed new and returning Members. He stated that new Members had received initial training and advised that Officers were present to support the Committee. The Chairman emphasised that it was the responsibility of Members to determine the applications put before them by Officers.

The Chairman introduced the Officers present for the benefit of new Members.

33     MINUTES - 20 MARCH 2019

Councillor P Ruffles proposed and Councillor T Stowe seconded, a motion that the Minutes of the meeting held on 20 March 2019 be confirmed as a correct record and signed by the Chairman. After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 20 March 2019, be confirmed as a correct record and signed by the Chairman.

- 34 3/18/1898/VAR - VARIATION OF CONDITION 8 (APPROVED PLANS) OF PLANNING PERMISSION 3/13/0804/OP FOR 2,200 HOMES TO ALLOW THE REDISTRIBUTION OF 85 DWELLING UNITS FROM THE SECOND (EASTERN) PHASE TO THE FIRST (WESTERN PHASE), INCLUDING REVISIONS TO LAYOUTS AND DWELLING TYPES (INCLUDING AFFORDABLE HOUSING) WITHIN DEVELOPMENT PARCELS B10, B13-17, B20 AND B26-29, TOGETHER WITH REVISIONS TO THE MEANS OF ACCESS TO DWELLINGS, ASSOCIATED CAR PARKING, AND REVISED LANDSCAPING AT LAND AT STORTFORD FIELDS, BISHOP'S STORTFORD NORTH, BISHOP'S STORTFORD FOR THE BISHOP'S STORTFORD NORTH CONSORTIUM
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The Head of Planning and Building Control recommended that in respect of application 3/18/1898/VAR, planning permission be granted subject to the conditions detailed in the report now submitted.

The Principal Planning Officer, on behalf of the Head of Planning and Building Control, explained that it was unusual to have a variation application on this scale. He stated that Section 73 of the legislation allowed applications to amend existing planning permissions by varying conditions.

Members were advised that a number of background changes had led the developers to make significant changes to 11 development parcels at Stortford Fields. The infrastructure would be unaffected and the principal change was moving 85 dwellings from the Eastern to the Western Neighbourhood. The overall number of dwellings would be unaffected and the

detail of development in the Eastern Neighbourhood remained in outline form only.

The Principal Planning Officer referred to the Strategic Housing Market Assessment (SHMA) in respect of the proposed mix of housing on this site. He emphasised that the policy of up to 40% affordable housing was met in respect of the 85 dwellings being moved from the Eastern to the Western Neighbourhood. Members were advised that the provision of 30.4%, embodied in the existing Section 106 agreement, still applied to the remaining dwellings in the 11 development parcels.

Members were advised that Hertfordshire Highways was satisfied with the changes to roads and parking within the development parcels. It was noted that there were some opportunities for additional cycle and footpath connections, which could be followed up with the developers outside the remit of the current application. Officers considered that there were notable improvements to layout and design resulting in a more pleasing development. Members were also advised that there would be more visitors' parking in the form of on-street parking laybys.

Mr Brindley addressed the Committee in support of the application. Councillor P Ruffles commented on whether there could be any amelioration in respect of the height of the proposed flats in development parcel B27 which was in close proximity to an open space. Councillor J Jones commented on the mix of tenures and sought clarification on whether the increased density in the western neighbourhood would mean a lesser density in the eastern neighbourhood.

Councillor T Beckett commented on the possibility of the early adoption of a mini bus service in advance of the main bus provision to avoid residents adopting bad habits in respect of single occupancy car use. The Principal Planning Officer emphasised that the proposed and existing landscaping meant that the flats on Parcel B27 would not be intrusive in the landscape and that, being well designed, they would sit well next to and overlook the open space, bringing benefit in terms of surveillance.

With regard to the number of dwellings in the Eastern Neighbourhood, Members were advised that the Committee had absolute control over the site as the total number of dwellings permitted remained at 2,200 and planning permission would be required to increase that number. At this stage, the ultimate number of dwellings that would be permitted on the Eastern Neighbourhood could not be predicted given its outline status and pending consideration of its opportunities and constraints.

The Principal Planning Officer commented that the Council's new policy on tenure mix of 84% rent and 16% shared ownership was a test for developers in terms of the viability of development. The ratio was now being sought on many sites. Members should also keep in mind the realities of the existing permission and Section 106 agreement relating to Stortford Fields. The developer had offered a mix of 75% and 25% and it would be very difficult for them to improve on this offer and Housing Services were satisfied with this compromise.

The Principal Planning Officer confirmed to Councillor T Beckett that the proposed subsidised bus route was funded via the Section 106 agreement for approximately £900,000 and the County Council's Public Transport Unit were satisfied that there should be a strong fare box from a development of this size. He commented that a separate minibus provision would prove to be expensive when the number of residents was currently very low on this site. Officers would however take this question back to the public transport unit on the basis that the sooner the bus passes were used by residents the better.

The Principal Planning Officer confirmed to Councillor A Huggins that the Authority did have a policy in the District Plan in respect of 1% of properties on a site being self-build and this was backed by the National Planning Policy Framework (NPPF). This policy was however difficult to implement where a developer was already progressing a development.

The Officer responded to a number of other minor questions and queries from Members. Councillor J Jones proposed and Councillor T Beckett seconded, a motion that in respect of application 3/18/1898/VAR, the Committee support the recommendation for approval, subject to the terms of the existing legal agreement dated 2 April 2015 and subject to the conditions detailed in the report submitted.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendation of the Head of

Planning and Building Control as now submitted.

RESOLVED – that, in respect of application 3/18/1898/VAR, planning permission be granted subject to the terms of the existing legal agreement dated 2 April 2015 and subject to the conditions detailed in the report submitted.

35 MEMORANDUM OF UNDERSTANDING IN RELATION TO THE CONSIDERATION AND DETERMINATION OF PLANNING APPLICATIONS RELATING TO THE GILSTON AREA (HARLOW AND GILSTON GARDEN TOWN)

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The Head of Planning and Building Control submitted a report seeking endorsement of a Memorandum of Understanding dealing with procedural arrangements relating to forthcoming planning applications for development in the Gilston Area, as part of the Harlow and Gilston Garden Town.

The East Herts Garden Town Lead Officer stated that this related to the strategic area for development allocated through the District Plan process. Members were reminded that Officers were working with Officers in Epping Forest and Harlow as the Garden Town area included all or parts of those local Authority areas.

The Lead Officer explained that Epping Forest and Harlow Councils were working towards the adoption of Local Plans which included plans for the development of the Garden Town. Members were advised that 5 Councils in total were working together for the delivery of this Strategic Area of Growth and Development.

The Lead Officer advised that the Memorandum of Understanding was purely to cover the procedural matters relating to the planning applications that would be received shortly and which would relate to land in East Herts and Harlow Council areas. The local authority decisions would be taken in accordance with the development plan and all relevant material considerations. Members' decisions would not be fettered by the arrangements set out in the Memorandum which were procedural in nature. Members were advised that the protocols in the Memorandum were not binding and would be based on best practice.

The Lead Officer stated that the recommendation is now updated to reflect the confirmed details of the Executive Member for Planning and Growth as this title was not known when the report was prepared. He summarised the detail of the applications as detailed in paragraph 2.4 of the report submitted and referred Members to paragraph 2.6 for the matters that would be covered in the Memorandum document.

The Lead Officer responded to a number of questions from Members in respect of the Memorandum of Understanding. Councillor A Huggins proposed and Councillor J Jones seconded, a motion that the Memorandum of Understanding be endorsed and the Executive Member for Planning and Growth and the Chairman of the Development Management Committee be authorised to sign the Memorandum of Understanding.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that (A) the Memorandum of Understanding be endorsed; and

(B) the Executive Member for Planning and Growth and the Chairman of the Development Management Committee be authorised to sign the Memorandum of Understanding.

## 36 PUBLIC SPEAKING ARRANGEMENTS FOR DISTRICT PLAN STRATEGIC SITE ALLOCATIONS

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The Head of Planning and Building Control submitted a report inviting Members to consider public speaking arrangements for the District Plan strategic sites. The Service Manager (Policy and Implementation) summarised the usual speaking arrangements for objectors, applicants and Parish or Town Councils.

The Service Manager advised that Officers were suggesting a period of up to 6 minutes be permitted for those who wish to speak in objection, with the same total period offered to any supporting parties, in respect of the strategic sites to reflect the significant interest in them throughout the District Plan process. Members were advised that separate public speaking arrangements would be put in place for the Gilston Area to reflect the significant nature of those development proposals.

In response to a query from Councillor I Kemp, the East Herts Garden Town Lead Officer advised that the



Committee would be asked to decide the speaking arrangements for the Harlow and Gilston Garden Town at a later date. It was anticipated that the speaking time would be at least as long as the arrangements being proposed this evening for the District Plan Strategic Sites.

Members debated the duration of public speaking time to be offered in respect of the strategic sites. Councillor T Page proposed and Councillor T Stowe seconded, a motion that the revised arrangements for public speaking on the District Plan Strategic Site Allocations, as detailed in the report submitted, be approved.

After being put to the meeting and a vote taken, this motion was declared CARRIED.

RESOLVED – that the revised arrangements for public speaking on the District Plan Strategic Site Allocations, as detailed in the report submitted, be approved.

## 37 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

- (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.

The meeting closed at 8.27 pm

Chairman .....

Date .....

## EAST HERTS COUNCIL

### DEVELOPMENT MANAGEMENT COMMITTEE – 19 JUNE 2019

#### 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.

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#### **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.

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

#### 1.0 Background

- 1.1 The background in relation to each planning application and enforcement matter included in this agenda is set out in the individual reports.

#### 2.0 Report

#### 2.1 Display of Plans

- 2.2 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.

2.3 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>

2.4 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.

### 3.0 Implications/Consultations

3.1 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.

Contact Member: Councillor Suzanne Rutland-Barsby – Executive Member for Development Management and Councillor Support.

Contact Officer: Sara Saunders – Head of Planning and Building Control, Extn: 01992 531656.  
[sara.saunders@eastherts.gov.uk](mailto:sara.saunders@eastherts.gov.uk)

Report Author: Sara Saunders – Head of Planning and Building  
Control, Tel: 01992 531656.  
[sara.saunders@eastherts.gov.uk](mailto:sara.saunders@eastherts.gov.uk)

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## **ESSENTIAL REFERENCE PAPER 'A'**

### **IMPLICATIONS/CONSULTATIONS**

Contribution to the Council's Corporate Priorities/ Objectives <i>(delete as appropriate):</i>	Priority 1 – Improve the health and wellbeing of our communities.  Priority 2 – Enhance the quality of people's lives.  Priority 3 – Enable a flourishing local economy.
Consultation:	As detailed separately in relation to each matter if any are appropriate.
Legal:	As detailed separately in relation to each matter if any are appropriate.
Financial:	As detailed separately in relation to each matter if any are appropriate.
Human Resource:	As detailed separately in relation to each matter if any are appropriate.
Risk Management:	As detailed separately in relation to each matter if any are appropriate.
Health and wellbeing – issues and impacts:	As detailed separately in relation to each matter if any are appropriate.

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## DEVELOPMENT MANAGEMENT COMMITTEE – 19 JUNE 2019

<b>Application Number</b>	3/18/2210/FUL
<b>Proposal</b>	Mixed-use redevelopment, including partial demolition of existing buildings, to provide up to 4,602.5 sqm retail floorspace (Use Classes A1 to A5), an 86-bed hotel (Use Class C1), 56 residential flats (Use Class C3), 1,471 sqm office floorspace (Use Class B1a), alterations and refurbishment to an existing car park to provide 143 pay and display, 14 office, 26 residential and 5 car club (total of 188) parking spaces, enhancement of bus station facilities, new public realm and landscaping to riverside, and associated works and improvements - Amendment to Planning Permission Ref 3/17/0392/FUL approved on 5th January 2018 (Revisions to Building B).
<b>Location</b>	Bircherley Green Shopping Centre, Bircherley Green, Hertford, SG14 1BN
<b>Parish</b>	Hertford Town Council
<b>Ward</b>	Hertford Castle

<b>Date of Registration of Application</b>	27 November 2018
<b>Target Determination Date</b>	24 May 2019
<b>Reason for Committee Report</b>	Major Planning Application
<b>Case Officer</b>	Rachael Collard

### **RECOMMENDATION**

That planning permission be **GRANTED** subject to a legal agreement and the following conditions.

Authority be delegated to the Head of Planning and Building Control to amend, add or delete conditions and finalise the matters covered in the legal agreement.

## **1 Summary**

- 1.1 The proposal is for a mixed use redevelopment of the 1970s Bircherley Green shopping centre in Hertford Town Centre. The site owner has been in discussions about redeveloping the site for a number of years. Members will recall that this application follows planning application (ref. 3/17/0392/FUL) approved in January 2018 for a mixed-use redevelopment scheme. It should be noted that partial demolition of the site has commenced, however, there remains a number of pre-commencement conditions yet to be discharged. Notwithstanding this there is an extant permission on the site. This application follows a similar application that was previously approved.
- 1.2 The proposals raise a range of issues relevant to an important development located in the centre of Hertford. Given its location and a similar scheme having been approved, redevelopment of the site is acceptable in principle. However, it is necessary to ensure that the new development delivers appropriate benefits. The impact on the overall vitality of the town centre and the way the centre operates is an important consideration for Members.
- 1.3 The current development comprises a retail space, parking, the bus station and public circulation areas including a river walkway. As with the approved scheme, the proposal introduces new uses to the site, these include residential development, a hotel use and (as with the previous proposal). The key difference from the approved scheme is in relation to Block B as this now provides approximately 1,471m<sup>2</sup> of office floor space on the first and second floors of this building. Other changes include the following:
  - A reduction of 14 residential units in Building B, giving rise to a reduction in the total number of residential units provided by the development from 70 to 56.

- A reduction in the size of retail Unit R9 as shown on drawing leading to a small reduction in total retail and restaurant floor space provided across the scheme from 4,833m<sup>2</sup> to 4,602.5m<sup>2</sup>
- Subdivision of part of retail Unit R8 (adjacent to Unit R10) to provide 2 retail kiosk units fronting the pedestrian link between the Mall and Bus Station.
- Revisions to the external elevations of Building B facing the Mall.

1.4 Furthermore it should be noted that the proposed development is to be delivered in 2 phases. The hotel element will be delivered in phase 1, whilst the remaining blocks will be delivered as phase 2. This differs from the original planning consent whereby the development was to be delivered in 5 phases.

1.5 In addition, Members are also required to address an extensive range of issues that would always be material to town centre and conservation area developments:

- Design quality;
- Scale and height of the buildings;
- Impact on the Conservation Area and listed buildings;
- Amenity impacts for existing and new occupiers
- Transport impacts, accessibility, parking;
- Flooding risks and drainage;
- All other relevant and material considerations

## **2 Site Description**

2.1 The site is located within Hertford Town centre immediately adjacent to the River Lea, which is in its canalised section forming the northern boundary of the site.

2.2 To the north of the application site beyond the river is the residential area of Folly Island, which is characterised by Victorian

terraces. There are a number of listed buildings to the south and west within Bull Plain and Railway Street. Immediately east of the site is the refurbished and remodelled Sheltered Housing at Bircherley Court.

- 2.3 The Bircherley Green Centre is the town's main modern retail area. In its 1970's design there was a priority to meet the practical needs of a large foodstore as well as dedicated servicing arrangements for the centre. However, this resulted in a poor response to the riverside. The main occupier 'Waitrose' has vacated.
- 2.4 It is noted that there is an existing public multi-storey car park providing 188 parking spaces, accessed via Bircherley Street. The bus station immediately outside the shopping centre and car park provides 6 bays also accessed off Bircherley Street.
- 2.5 It should also be noted that the site is located within the Hertford Conservation Area and an Area of Archaeological Significance which covers the historic core of Hertford.

### **3 Background to Proposal**

- 3.1 This planning application was submitted in November 2018 and as stated above, follows a previously approved application. Due to the majority of the development remaining as originally approved it was not considered necessary for the proposal to be presented to the Herts Design Review Panel.
- 3.2 The development consists of three main blocks of development. On approach from the existing pedestrian entrance to the retail mall on Bircherley Green from Railway Street, the pedestrian walkway will continue, in the same northward direction, straight through to the riverside edge. To the left (west) of the pedestrian route would be a new building, referred to in this report as Block A. This would contain commercial units at ground floor level and 37 flats on the upper floors. Opposite this block (East of the pedestrian route) would be Block B, in two parts (north and south)

containing commercial units at ground floor level, office floor space and 19 flats on the upper floors. It is also noted that there would be the refurbishment of the existing car park in the north east part of Block B fronting onto Bircherley Street with a new façade. Block C is located on the corner of Bircherley Street and Railway Street and would provide an 86 bed hotel on the upper floors and commercial floorspace at ground floor level. Block C includes two small existing units on Railway Street, which would be retained

### **Planning History**

3.3 The following planning history is of relevance to this proposal:-

Application Number	Proposal	Decision	Date
3/17/0392/FUL	Mixed-use redevelopment, including partial demolition of existing buildings, to provide up to 4,694 sqm retail floorspace (Use Classes A1 to A5), an 86-bed hotel (Use Class C1), 70 residential flats (Use Class C3), Refurbishment of existing car park to provide 143 pay and display, 40 residential, 5 car club (total of 188) parking spaces, enhancement of bus station facilities, new public realm and landscaping to riverside, and associated works	Granted with Conditions And Section 106 Agreement	5th January 2018

	and improvements.		
3/79/0377/FP	Shopping facilities, multi-storey car park, bus station, public house, restaurant and public toilets	Granted with conditions	26th July 1979

## 4 **Main Policy Issues**

- 4.1 These relate to the relevant policies in the East Herts District Plan and the National Planning Policy Framework 2018 (NPPF). There is no Neighbourhood Plan in place, or emerging, in relation to this site.

<b>Key Issue</b>	<b>District Plan</b>	<b>NPPF</b>
Principle of a mixed use re-development within the Town Centre	INT1, DPS1, DPS2, DPS3, DPS4, HERT1, HERT7, RTC1, RTC2, RTC3, DEL1, DEL2, ED1, CC1, CC2	Chapter 2 Chapter 7
Delivery of Housing	HOU1, HOU2, HOU3, HOU6, HOU7	Chapter 5
Vitality of Town Centre	RTC1, RTC2 HERT7, RTC2, RTC3	Chapter 7
Design Quality and Impact on the Conservation Area/Listed Buildings	DES1, DES2, DES3, DES4, DES5, HA1, HA2, HA3, HA4, HA5, HA7, CLFR4	Chapter 16
Impacts on neighbour amenity and occupiers	DES3, DES4, CFLR1, CFLR3	Chapter 12
Highway, parking and transport impacts	TRA1, TRA2, TRA3	Chapter 9
Flood risk and	WAT3, WAT4, WAT5	Chapter 14

drainage		
Viability and delivery of Infrastructure	DEL1, DEL2	

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

## **5 Summary of Consultee Responses**

- 5.1 Consultees as set out below have provided feedback received in relation to the proposals as follows.
- 5.2 HCC Highway Authority does not wish to restrict the issuing of planning permission subject to conditions and a contribution of £53,375.
- 5.3 HCC Planning Obligations seeking contributions to primary education, youth service and library facilities. Also require fire hydrants as necessary.
- 5.4 Lead Local Flood Authority does not raise an objection subject to conditions as with the previous application which recommends the imposition of conditions relating to Flood Risk Assessment including arrangements for adoptions of the SuDs features and structures.
- 5.5 Hertfordshire Constabulary comments that the applicant has failed to demonstrate how they are addressing issues around crime, disorder and the fear of crime. This is contrary to planning policy and guidance at both a national and local level. As submitted is not in a position to support this development.
- 5.6 HCC Historic Environment raises no objection subject to conditions over archaeological investigation and reporting of finds.
- 5.7 Environment Agency does not raise and objection.

- 5.8 Thames Water does not raise objection if a sequential approach to disposal of surface water is followed. It raises no objection to the disposal of foul water on the basis of infrastructure capacity.
- 5.9 EHDC Waste Services does not raise objection subject to suitable bin provision being provided.
- 5.10 Canal and River Trust has no comment to make on the application.
- 5.11 Affinity Water does not raise an objection provided the construction works and operation of the proposed development site should be in accordance with the relevant British Standards and Best Management Practices.
- 5.12 Cadent Gas No objection but requested an informative for the applicant as Cadent have identified operational gas apparatus within the application site boundary.
- 5.13 Historic England have no comments to make and advise that you seek the views of your specialist conservation and archaeological advisers.
- 5.14 NHS England have no objections subject to planning obligation contributions.
- 5.15 Hertfordshire Ecology does not object to the proposal and states that previous advice still stands.
- 5.16 EHDC Environmental Health does not wish to raise an objection provided those conditions on the original planning permission are imposed in respect to noise, odour, light and land contamination.

## **6 Town Council Representations**

- 6.1 Hertford Town Council objects to the proposal. Whilst it considered the substantive application (3/17/0392) positively after a number of concerns about the visual impact of it proposed hotel



in particular and around its conservation area impact of the Railway Street frontages. The Council is not prepared to further endorse application 3/18/2210/FUL. The historic environment of the streetscape of Railway Street with the world's oldest purpose built Friends Meeting opposite and other ancient quality properties which characterised this area as its neighbours, Hertford Town Council cannot agree to the latest changes applied for in this application.

- 6.2 "The minimal roof design change" applied for does not maintain nor enhance the quality and character of the conservation area, and is certainly materially different to the granted permission.

## **7 Summary of Other Representations**

- 7.1 The application has been advertised by neighbour consultation to local residents and businesses, and by site notices. 8 responses have been received objecting to the proposal on the grounds summarised as follows:

- Where are the shops? Why aren't we encouraging big names to come to Hertford to encourage people to spend and in other small independent shops. Protect the high street for shoppers.
- Where are residents of the flats going to park their cars overnight? How will all the extra traffic exit the town centre? The town centre will be gridlocked at peak times.
- There is lack of parking for the residential flats.
- Hertford crime has increased statistically.
- The cycle storage area which are planned for the new development are limited, people have trouble lifting bikes into the upper racks.
- Not pleased that you did not put up temporary toilets or think about people waiting in the cold for a bus.
- Why do we need another hotel, we already have several. We should be promoting the town as the market town that it is. More shops of good reputation, and keep the local

shopkeepers. I am concerned the hotel will bring too many people and Hertford cannot cope with it.

- Object to the application on the grounds that this will hasten Hertford's decline into a town reliant on the service industry particularly the night time economy and lessen its profile as a mixed economy.

## **8 Consideration of Relevant Issues**

### **Principle of Development**

- 8.1 New development for key town centre uses, including retail, residential, hotel and other employment uses are encouraged within Hertford. In accordance with policies INT1, DPS1, DSP2, HERT1 and HERT7 of the East Herts District Plan 2018. These policies seek to concentrate development within built up areas and to strengthen town centres to ensure they retain a vital role in supporting the community. The NPPF seeks to ensure the vitality of town centres; setting out that planning policies should be positive and promote competitive town centre environments.
- 8.2 The Council commissioned and developed, in partnership with Hertford Town Council and Herts County Council, the Hertford Town Centre Urban Design Strategy (HUDS) which focuses on issues of movement, public realm and key sites within the town centre. This was approved in 2016 for Development Management purposes and provides a framework for the development of the site. In addition and since the determination of the previous application Policy HERT7 is relevant and seeks *'development proposals in Hertford Town Centre will be expected to take account of, and positively contribute to, proposals contained within the Hertford Town Centre Urban Design Strategy, as appropriate'*. The degree to which the current proposals accord with this approach is a key planning consideration of the application.
- 8.3 The site lies within the Hertford Town Centre (as defined in the District Plan, 2018) and the Hertford Conservation Area. The

principle of a mixed use scheme for town centre uses and residential uses accords with the District Plan policies. The principle of the mixed use re-development of the site is therefore strongly supported in planning terms and is to be considered positive weight in the determination of the application.

### **Delivery of Housing**

- 8.4 The proposal will provide 56 residential dwellings a reduction from the 70 previously granted under the planning permission Reference Number 3/17/0392/FUL. The site is well located in a town centre with access to many services and sustainable modes of transport. The residential provision helps to meet the identified housing need within the district and is given weight in the consideration of this application.
- 8.5 Policy HOU3 of the East Herts District Plan sets out the Council's Affordable Housing policy and seeks the provision of up to 40% of residential units as affordable. The application has been submitted with a Viability Report to justify the applicant's position in relation to affordable housing. The Council have engaged independent viability consultants to scrutinise that submission. The review concludes that the report is robust.
- 8.6 The applicant has offered 10% affordable housing as seen within the original application (this equates to 6 affordable housing units in shared ownership – the mix of units to be confirmed). This level of affordable housing provision, while it provides the minimum required by the current NPPF (paragraph 64), it is a shortfall from that sought within relevant policies of the East Herts district Plan 2018.
- 8.7 The conclusion of both the Applicant's submitted viability report and the Council's independent assessment is that the scheme is not currently sufficiently viable to deliver an affordable housing contribution. The viability of the currently proposed scheme compared to the previously approved scheme is affected by the

amended mix of uses. However the affordable housing provision offer for the current application is consistent with the previous consented scheme and whilst this level of affordable housing provision is a shortfall from that sought within relevant policies, due to the circumstances it is considered to be given positive weight in the determination of the application.

### **Impact on vitality and viability of the town centre**

- 8.8 As within the previously approved scheme the proposed development will provide commercial floor space with a range of town centre uses, primarily A1 (Retail) and A3 (sale of food and drink for consumption on the premises – restaurants, snack bars and cafes) totalling a floor space of 4,602.5m<sup>2</sup> which is a reduction of 230.5m<sup>2</sup> from the floor space originally approved. However, this results from the provision of a ground floor entrance to the office floorspace in Block B. As with the previous permission, an 86 bed hotel is proposed with a floor space of 2,740m<sup>2</sup>. It is also noted that unit R8 has been subdivided to provide two kiosk spaces along the pedestrian walkway from the main street to the bus station. As stated above the key change to this permission includes the addition of 1,471 m<sup>2</sup> office floor space (B1a) on the first and second floors of Block B. The applicants state that this is to meet the requirement of a specific tenant in order to further enhance the deliverability of the overall scheme.
- 8.9 Retail advice which informed the HUDS advised that the delivery of a cluster of larger modern units, between 1000 and 4000 sqft that would be able to attract retailers to the town who may otherwise be here but have been unable to find the right kinds of letting space, would be beneficial. This will provide a complementary provision to the other types of retailing and leisure uses within the town centre, likely bringing more people into the town centre and enhancing its vitality. As there is flexibility in the unit sizes, which can be combined if required there remains the potential for a small convenience retail food

outlet to be provided within the proposed development, which may further enhance the town centre.

- 8.10 As with the previous scheme the location of food and beverage uses along the riverside (north sides of blocks A and B) is to exploit the location and to enhance its attractiveness as a destination in its own right, encouraging people to spend more time enjoying the amenities of the town centre. A planning condition is proposed, as with the previous scheme, to limit the A3 uses to units close to the riverside, a small unit adjacent to the bus station and the unit adjacent to and within the new hotel.
- 8.11 It is considered that the new mix of uses, which consist of residential, commercial, office and hotel uses would not jeopardise vitality. These uses are generally promoted for town centres as they add to the mix of uses and the vitality of the town centre economy both during the day and evening.
- 8.12 The development is considered to provide a positive and complimentary contribution to the mix of uses within the town centre, and will add to its vitality and viability, to which positive weight can be assigned in the determination of the application.

### **Design quality and impact on visual appearance**

- 8.13 Policies DES3 and DES4 seek design quality that respects the constraints of a site and integrates landscaping into the design to minimise impacts on the landscape character.
- 8.14 The HUDS set out a framework of good Urban Design Principles for the redevelopment of Bircherley Green but was not prescriptive of architectural forms. This in part reflects the policy approach of the NPPF, which emphasises that good design 'is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

- 8.15 The treatment of spaces around and between buildings is just as important as the architecture itself. The existing Bircherley Green scheme provides a pleasant internal street and a central courtyard space but in its relationship to the river it is very poor, turning its back and leaving this as a blank façade and a service road. The bus station environment and the east façade of the multi storey car park is also of poor design and appearance as well as being visually unattractive. The existing roof skyline in longer views around the town is highlighted by the utilitarian feature of the lift overrun, the highest part of the complex.
- 8.16 As with the previous scheme, the layout remains unchanged and therefore the development is considered to conform with the Urban Design Principles within HUDS. It provides a development that creates a frontage with the riverside and the frontages along the central pedestrian walkway are sited perpendicular to the river to strengthen the visual link between Railway Street and the river. The layout also maintains the physical link between Railway Street and the River Lea as a pedestrian environment restricted to essential service vehicles only; retains and improves the physical and visual link between the bus station, the centre of the site and Bull Plain; and provides for attractive pedestrian routes through the development.
- 8.17 Members will note that when Bircherley Green was in operation, various pedestrian accesses through the site could be used. However, at night when the centre was closed those access points, with the exception of the access along the riverfront were not publically accessible due to the use of gates and roller shutters for security purposes. Officers are seeking clarification from the developer regarding post development access arrangements and Members will be updated at the meeting.
- 8.18 The new oval building within the public space remains the same as the previous scheme, its siting and scale is consistent with HUDS and therefore no concerns are raised with regards to this aspect.

- 8.19 As stated within the previous Officer report, in accordance with HUDS and in considering the overall scale of development, it is accepted that to be viable, and having regard to the existing buildings, there could in places be development up to 5 storeys in height. This was in relation to development on the eastern side of the central walkway through the site and along the northern side of Block B. Additionally development should be 4 storeys along Railway Street, adjacent to the bus station and a maximum of 3-4 storeys on the other side of the central walkway and the northern frontage of Block A, closest to Bull Plain.
- 8.20 The previous report concluded that the original scheme was in '*general conformity*' with the heights outlined in HUDS. As the proposed development is largely in accordance with the original scheme it is not considered that a different conclusion should be reached, particularly in relation to Block A and the hotel element of the scheme. However, with regards to Block B where the proposed amendments are sought an assessment of this will be made. The northern corner of Block B where it fronts the river and pedestrian area would rise to 5 storeys with it reducing in height and the southern end of the building would appear as a 3 storey building (due to the fenestration arrangement), although the scale would mirror the 4 storey element adjacent. Whilst the top storey of the southern part of the building would be constructed from a different material (zinc standing seam façade and will screen the plant room) it would be set back from the facing wall by approximately 5.3m, as such it is considered that from ground level this building would be read as a three storey building. Whilst it is noted that there is an increase in the overall height when compared to the previous scheme, this is not considered to result in a harmful impact to the overall appearance of the scheme. These changes as stated elsewhere within this report have occurred due to the introduction of office floor space on the first and second floors.

- 8.21 In addition there is a reduction in the size of retail unit R9 to enable ground floor access to the offices, whilst this would reduce the availability of commercial floor space at ground floor level, the retention of an active frontage is not considered to compromise this element of the scheme and the reduction in commercial floor space equates to approximately 230.5m<sup>2</sup>.
- 8.22 It is also noted that the built form over the pedestrian access from the bus station into the main shopping street has been removed, no concerns are raised regarding this, although it is noted that signage would be positioned here. Should signage be proposed this would be subject to a separate advert application, where the planning authority would consider its appearance.
- 8.23 The use of materials to provide definition and visual interest to the building is considered to be an important part of the scheme. The range of materials being proposed, of stone (to mark the corner building of Block B at the end of the central walkway and junction with the open square/riverside), terracotta on a louvered façade to the bus station and also detailing elsewhere, brickwork, aluminium cladding panels and render and zinc for the roof, which will make for a more contemporary design approach, which is in contrast to the current more uniform brickwork predominantly used in the centre. A condition would be imposed on any grant of permission requiring details of the materials to be submitted as well as a condition requiring Flemish bonding to be used.
- 8.24 The proposal including the changes to the appearance of Block B are considered to represent a suitable design solution, taking advantage of the characteristics of the site and area. The layout of buildings, scale and orientation of active facades and the increased permeability of the scheme significantly enhances the riverside setting. Improvements to the bus station and the façade to the existing public car park result in a more contemporary approach to design.



- 8.25 Overall, the layout, design and appearance of the development is supported. The development respects the criteria of the approved HUDS Strategy for the site and therefore can be given positive weight in the determination of the application.

**Impact on the setting of Heritage asset and the Hertford Conservation Area and Archaeology**

- 8.26 As noted elsewhere within this report the site is located within the Hertford Conservation Area and an Area of Archaeological Significance. Due to its location within the historic core of Hertford there are a number of listed buildings within close proximity to the site on Railway Street and Bull Plain. Folly Island is also a distinctive area in the Conservation Area on the opposite side of the river to the application site.
- 8.27 The NPPF requires identification and assessment of the significance of any heritage asset that may be affected by a proposal, including its setting. The application has been submitted with a comprehensive Heritage Statement.
- 8.28 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Advice received from the Conservation and Heritage advisor considers that the changes made to the current scheme would not be so different to justify a refusal of the application. Furthermore it is considered that the changes would have a neutral impact in terms of the setting of the Conservation Area and listed buildings.
- 8.29 The impact upon the setting of listed buildings has been fully assessed. No's 23-29 Railway Street (north side) and the building to the rear of No. 27 are listed. No's 28-36 (south side) are listed, along with No's 48 and 50. No's 45-53 Railway Street (north side)

are more remote from the site along with the Malthouse in Priory Street. There are also listed buildings at both sides of the entrance of Railway Street to Salisbury Square.

- 8.30 On Bull Plan, No's 13-21 (west side) and No's 16-20 (including Beadle House, the Museum and Tooke House (east side) are Grade II listed. Whilst Lombard House is Grade II\* listed and No's 35b and 35C are Grade II listed.
- 8.31 As with the previous applications concerns have been expressed by Hertford Town Council regarding the impact the development will have on the properties in Railway Street and in particular the 'Friends Meeting house' opposite (Grade I listed) and the other buildings within the area. As with the previous application, the conservation and Heritage adviser has considered the relationship between the development proposals and all the listed buildings in close proximity to the application site. As the proposal only seeks changes to Block B as part of this application, and the other elements of the scheme (Blocks A and C) remain the same, therefore it was found that the changes proposed do not have a harmful impact on the Conservation Area or the listed buildings. With regards to the changes seen to Block B, the Conservation Officer has considered the application and finds that they would have a neutral impact on the Conservation Area, furthermore due to the position of Block B it is not considered to have a negative impact on the setting of listed buildings in the vicinity.
- 8.32 In terms of the wider impact on the Hertford Conservation Area, the NPPF is clear that the LPA should look for opportunities for new development within Conservation Areas and within the setting of heritage assets to enhance or better reveal their significance. Whilst it is noted that there are differences seen under the current scheme versus the scheme originally approved, the development is not considered to be distinctly different for a different view to be reached. As such the layout of the development, scale of buildings and choice of materials, are considered to make a positive contribution to the local character

of the area and would enhance the quality and significance of the Conservation Area and its setting.

### **Archaeology**

- 8.33 In relation to archaeological interest, the application is accompanied by an Archaeological Assessment and Hertfordshire County Council Archaeologist has been notified of the application. It should be noted that recent archaeological evaluation of the footprint of the (Phase 1) 86-bed hotel, has been carried out in response to an archaeological condition placed on the original consent 3/17/0392/FUL, which has identified numerous archaeological features. A full open area archaeological investigation of the hotel site is currently underway, revealing additional features of medieval date. As such it is considered that the proposed development is such that it is likely to have an impact on heritage assets with archaeological interest. Therefore, a condition is recommended to be placed on any consent should planning permission be granted. Should planning permission be granted and in order to assist the developer, it is considered reasonable for an archaeology condition to be imposed in relation to phase 1 investigations, acknowledging that some information had previously been submitted and further requirements in relation to phase 2.

### **Neighbour impact**

- 8.34 Policy DES4 requires a high standard of design, avoiding significant detrimental impact on the amenity of neighbouring occupiers, ensuring their environments are not harmed by noise and disturbance, or by inadequate daylight, privacy and overlooking. Noise and light pollution are also relevant and are the subject of policies EQ2 and EQ3 respectively. Good relationship between new and existing development is one of the themes underlying the well-designed places guidance in the NPPF.

- 8.35 The proposed 56 flats on the upper floors of blocks A and B, above the commercial uses. There are still some single aspect units, mostly in Block B to the west of the retained car park and in the first two floors in the southern end of Block A. Most of these face west, rather than an unacceptable northern orientation. Block A remains unchanged from the original planning permission
- 8.36 Many of the units will have external balconies and terraces and the units to the northern end of Blocks A and B will have views towards the river. It is necessary to consider the impact the development will have on those existing properties opposite on Folly Island. Whilst it is accepted that there will be some overlooking due to the separation distance maintained of approximately 24m, it is not considered that the development would result in any unacceptable impact on adjoining or nearby neighbours to the west with regard to overlooking or the loss of privacy or daylight. With regards to the relationship between the new flats proposed it is noted that due to the change to apartment Block B, the office elevation will project beyond the elevation of the neighbouring flats and will extend to the balustrade edge of the adjacent terrace. As such it is considered that the windows to flat B1.5 would result in loss of light due to this arrangement, however due to the orientation of the building, it is not considered to be so significant to justify a reason for refusal. In addition it is noted that side facing windows can be seen from the office block on the first and second floors. These windows would face the residential unit and its private amenity space. As such it is considered that this relationship would be unacceptable and, therefore, it is recommended that a condition is imposed on any grant of permission requiring those windows to be obscure glazed and non-opening.
- 8.37 With regard to privacy impacts, it is considered that the proposed development is sufficiently separate from any existing adjoining residential uses that no harmful impact will occur. This consideration is made against a back drop of the town centre location where it is accepted that property separation distances

and residential amenity areas will be reduced when compared with more suburban and rural locations and the fall-back position of the planning permission that is largely the same as the current scheme in this respect.

8.38 The submitted noise assessment demonstrates that, subject to appropriate conditions, the proposed development could proceed and provide an acceptable noise environment for new residential units and hotel occupiers. In addition, it is considered that the development would not cause undue harm to other neighbouring properties from noise disturbance. The Council's Environmental Health Officer has commented on the application and does not raise any concerns subject to the conditions imposed previously are recommended as part of any grant of planning permission.

8.39 Overall, it is considered that a suitable residential environment can be created for new residential occupiers and maintained for the existing occupiers located close to the site.

### **Highway, parking and transport impacts**

8.40 Policy TRA1 relates to sustainable transport measures. It sets out that development proposals should primarily be located in places which enable sustainable journeys to be made, ensure that a range of sustainable options are available and ensure that site layouts prioritise the provision of modes of transport other than the car.

8.41 The applicant has provided the original Transport Assessment (TA) as well as an addendum to the TA for consideration as part of the application package. A policy review has been provided as part of the TA and the applicant has provided evidence that the following key policy documents have been reviewed. The applicants' submission refers to the provision of sustainable transport modes available for the use of the site. This includes the cross country public footpaths and bridleways, nearby cycle provision and the

availability of public bus services. The proposal also makes provision for a car club for residents.

- 8.42 With regard to highway access, Policy TRA2 requires all development proposals to have safe and suitable access, be acceptable in highway safety terms, not result in severe residual cumulative impact and not have a significant detrimental impact on the character of the area. The NPPF sets out that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety or the residual cumulative impacts on the network would be severe.
- 8.43 In their submission the applicants have considered the traffic generation potential of these proposals in comparison with the scheme that has permission. The Highway Authority has commented on the application and do not wish to raise any objections to the scheme subject to conditions. The Highway Authority is content that the development proposals do not represent a material change over and above the consented scheme. Therefore it is not expected to result in a change in the performance of the network and is content that this can be accommodated without detriment to the transport infrastructure.
- 8.44 In terms of highway layout and access arrangements, the proposed development utilises the existing car park access and exit points, with some modifications made to the building design in the vicinity of the car park exit to allow for better visibility of pedestrian movements. The proposed development will include improvements to pedestrian accessibility and public realm, including a re-profiling of the main central walkway which will improve accessibility for all.
- 8.45 With regard to car parking provisions, the existing car park is to be retained and access will continue to be from Bircherley Street. The car park will retain a total of 188 car parking spaces. The proposal seeks to allocate 26 spaces for the residential units, plus 5 spaces for a car club, 14 spaces will be allocated for the office space, all of

which will be accommodated on the upper floors of the car park and the remaining 143 spaces will be for pay and display town centre parking and will be operational 24 hours a day.

- 8.46 As with the original application, there is no allocated parking provision for the hotel, however customers can make use of the multi storey car park, which will be priced accordingly throughout the day and night to ensure the car park continues as short stay but also can accommodate any overnight parking. The principle of this is acceptable and is in line with arrangements at other town centre hotels where hotel visitors arriving by car are expected to park in public car parks.
- 8.47 A Transport Statement and updated Parking Note have been submitted as part of the application. This identifies the decrease in publically available parking in the town centre from 188 to 143 through allocation of spaces for residential and office users on the following basis. A summary of the Council's updated parking standards are detailed in the following table:

Use Type	Location: Zone 2			
	Standard	Maximum Allowable	With 50 to 75% reduction	Available Proposed parking provision
<b>C3 Residential</b>				
35 x 1 bed	1.5	52.5	13-26.25	
18 x 2 bed	2.00	36	9-18	
3 x 3 bed	2.50	8	2-4	
<b>Sub total</b>		<b>96.5</b>	<b>24- 48</b>	<b>26 + 5 car club spaces</b>
<b>C2 Hotel</b>				
86 beds	1 space per bedroom, plus 1	86	21.5-43	0 allocated but up to

	space per manager, plus 2 spaces per 3 staff plus:  1 space per 5m <sup>2</sup> dining area, 1 space per 3m <sup>2</sup> bar area, 1 space per 5m <sup>2</sup> public area in conference facility, 1 space per 6m <sup>2</sup> of public area in exhibition hall, plus a minimum of 1 coach parking space per 100 bedrooms.	Plus potential of additional 40	10-20	143 shared with retail use
<b>B1 (a) offices</b>	1 space per 30m <sup>2</sup> gfa	49	12.25	14 spaces

8.48 As noted the table presented above sets out the adopted parking standards and the updated parking standards. The parking spaces proposed would fall below the Council's adopted car parking standard full requirement. However, the updated parking standards (Supplementary Planning Document 2007) allow a reduction of up to 75% due to the location in accessibility zone 2 and this has been reflected in the table. Given the town centre location and immediate availability of other transport modes, notably the bus station and nearby Hertford East train station, this level of reduction is considered acceptable.

8.49 The multi-storey car park itself will be refurbished and changes made to its external elevation with the introduction of terracotta louvres to provide a more attractive appearance to a utilitarian use. The bus services themselves will continue to operate



throughout the construction period. Improvements to the bus station are a positive element of the scheme to be given due weight.

- 8.50 Five car club spaces are proposed for use by all local residents of Hertford. These will be provided at the top floor of the multi-storey car park and are an incentive to residents to meet their travel needs in a way which does not require them to purchase their own vehicle. Details of the mechanism to secure the car club, membership and management are to be secured via a legal agreement.
- 8.51 As part of the proposal a total of approximately 68 secure cycle parking spaces are proposed in three locations across the development at ground floor level. These are shown on The Ground Floor Masterplan Layout (Drawing Number P-0300 Rev 06). The office floor space will benefit from 13 secure and accessible cycle parking spaces located in the space to the rear of the new lift and stair accessed from the loading bay. Cycle parking for residents would be located in the two other stores in Block A and Block B as well as individual storage in residential apartments. Up to 17 cycle spaces for both staff and visitors of the hotel will be located within the development. The Planning Statement states that 46 cycle racks for the commercial units will be provided. The submitted plans do not show the overlooked cycle parking provision as previously seen on the original application. A condition will be added to any grant of consent requiring details and location of these to be provided. The Travel Plan review process will enable consideration to be given to the provision of further cycle parking facilities within the development, including open short term parking facilities in relation to the retail function.
- 8.52 Policy TRA3 relates to vehicle parking provision. As stated above the existing Bircherley Green car park would be retained. The parking provision would be in accordance with the zonal approach. The 75% reduction in the total parking requirement, in

accordance with the Council's updated Car Parking Guidance, is considered reasonable in this case due to the location of the site within the town centre of Hertford where sustainable transport modes such as buses and trains are accessible.

#### Drainage/Flood risk

- 8.53 The site is located within Flood Zone 1 with little or no risk of flooding. A Flood Risk Assessment (FRA) has been prepared and submitted in support of the application which outlines that the main flood risk relates to the possibility of the River Lea.
- 8.54 The Lead Local Flood Authority is content with the proposal subject to conditions to secure accordance with the FRA, including arrangements for adoption of the SuDs features and structures.
- 8.55 As with the previous application it should be noted that the comments received from the Environment Agency regarding the creation of an 8 metre buffer zone free from built development, hardstanding and artificial lighting. These comments are based on the approach of the Agency to secure naturalisation as far as possible, of riverside environments through new developments, to secure flood risk mitigation and biodiversity objectives. Whilst those objectives are recognised, securing them in this location would not enable the active food and drink uses that the developers proposed to be implemented. Furthermore, the Environment Agency recognises that there is an extant planning permission on the site and therefore they raise no objections to the development.

#### Viability and delivery of Infrastructure

- 8.56 With regard to the provision of financial support for the delivery of services and infrastructure, as the application is for the provision of an additional 56 residential units, the need for financial contributions is required under policy DEL2 of the East Herts District Plan 2018.

- 8.57 Hertfordshire County Council has confirmed that they will require contributions towards youth provision, primary education and libraries in addition to Hertfordshire Fire and Rescue Service and fire hydrants in accordance with the Hertfordshire County Council Planning Obligation toolkit. On considering the comments from the County Council, the contributions requested are considered to be necessary and reasonable based on pressures that the development will place on existing infrastructure. The obligations are therefore considered to meet the tests set out in Section 122 of The Community Infrastructure Levy Regulations (CIL) 2010.
- 8.58 With regard to the provision of a health facility, this remains excluded from the proposals. Policy HERT7 of the District Plan sets out that 'Development proposals in Hertford Town Centre will be expected to take account of, and positively contribute to, proposals contained within the Hertford Town Centre Urban Design Strategy (HUDS)'. The HUDS work clearly sets out a design strategy for key sites of which the Bircherley Green Shopping area is listed. Paragraph 4.1.10 sets out the development uses which are expected to help deliver a number of identified objectives, this includes a purpose built town centre healthcare facility (i.e. doctors' surgery). Provision would be seen as a significant benefit of the proposal, relocating GP practices that are currently located in buildings which are not of a modern specification into new, purpose built space. Since the grant of the previous planning permission, the developer has been in discussions with the relevant health service providers in the hope of progressing matters. However, to date those discussions have not resulted in a commitment from the NHS with regards to the relocation of GP practices into a new purpose built space. Members may recall Officers secured a clause within the Section 106 requiring the applicant to continue discussions with the NHS and the submission of an application for a health care facility should agreement be reached, although this was time sensitive with the developer able to revert to the approved scheme. Officers have sought to include a similar clause within the Section 106

agreement that would accompany the current application, however, the developers do not consider that such a clause is reasonable or necessary due to the length of discussions already undertaken and have advised that such a clause would cause further delay to the scheme. Whilst it is disappointing, Members are advised that if the health facility cannot be secured, this in itself would not justify refusal of the application. Notwithstanding this, the lack of a clause within the Section 106 does not stop the applicant or the NHS from continuing discussions and to reach a position, nor would it prevent the applicant from submitting a planning application in the future for a health facility. Mindful of delays and timescales, given the importance of this issue, Officers seek delegated authority to continue discussions with the developer with a view to reaching common ground and to secure a positive outcome.

- 8.59 The NHS have submitted comments on the application and have requested a number of conditions. It is noted that contributions were sought on the original planning application. As such the contributions sought are a Health contribution of £39, 636.98 and a Mental Health Contribution of £10,889.
- 8.60 In addition the NHS requested contributions relating to the provision of community and acute services and, in the case of the acute services, the contribution is significant (£124,009). No justification for these additional services in relation to specific development schemes have been submitted. As such it is not considered that such contributions are necessary to make the development acceptable and are not reasonably related in scale and kind to the development. Based on the information available such contributions do not therefore meet the Section 106 or the CIL regulations.
- 8.61 With regards to the contributions sought by East Herts District Council this has been assessed against the Planning Obligations Document (SPD) 2008. Although the Council have adopted the Open Space Assessment 2017 document and a draft SPD

document has been produced it can only be given limited weight at this time as this document has yet to be formally consulted on. Therefore the Section 106 contributions have been sought in relation to the adopted Planning Obligations document. In this instance the Council are seeking contributions in relation to open space and similar contributions sought for Parks and Public Gardens at Hertford Castle and Outdoor Sports Facilities within Hartham Common. In addition a contribution in relation to recycling and community facilities have been sought, which were omitted from the Section 106 to the original consent, however agreement with the developer in respect to this has been agreed.

- 8.62 In addition Hertfordshire County Council Highways have confirmed that they require a travel Plan and are seeking a the contribution of £53,375 to cover sustainable infrastructure improvements in the vicinity of the site and a fee of £6,000 for monitoring the Construction Traffic Management Plan Planning Obligation and Travel Plan. In this instance due to the significant improvements to the bus station and the highly sustainable location it is not considered reasonable for such contributions to be sought and it should be noted that this is the reason that such a contribution was not sought on the original planning consent. The Monitoring fee of £6,000 is being sought. A contribution of £100,000 towards a Variable Messaging System to be located near to the development has also been agreed by the applicant.

#### Other Material Planning Considerations

- 8.63 The climate change policies in the District Plan set out that all developments should demonstrate how carbon dioxide emissions will be minimised and how the design, materials, construction and operation of development will minimise heating and cooling requirements. The application is supported by an Energy Strategy Report. The conclusion of this report sets out that the use of Combine Heat and Power (CHP), photovoltaic panels and the incorporation of air source heat pumps will be used to achieve the required reduction in carbon emissions to meet the requirements of Part L 2013.

- 8.64 Details have been provided in relation to refuse and servicing vehicles accessing various parts of the site in order to service the various uses and elements. Refuse vehicles will be able to access Bull Plain to service the units fronting the river and the service yard will use the existing access to serve those units in close proximity. Refuse storage areas will be provided in designated areas for all the uses.
- 8.65 As with the previous scheme there are no changes proposed to the existing taxi rank arrangements on Railway Street. It is anticipated that this will remain operational.

#### Flood Risk

- 8.66 Policy WAT 1 relates to flooding and is considered to be relevant in the determination of this application, it is noted that the application site is predominantly located within Flood Risk Zone 1, although an area to the south-east of the site is within Flood Zone 2 (the hotel element). The submitted Flood Risk Assessment that supports the application considered below ground attenuation and permeable paving as the most suitable techniques. The proposed development will also utilise SuDS to benefit the area by controlling the surface water discharge into the public sewers and the River Lea. In relation to this matter, there is less potential for matters to be addressed if they are not designed in at the outset, as they require the use of land on the site, for example, for sustainable drainage features. The applicant has referred to the ability to incorporate such measures but they are not evident from the plans submitted.
- 8.67 The Lead Local Flood Authority have been consulted on the application and acknowledged that the proposals under this application differ in terms of the revisions to Block B. They advise that the letter submitted as part of the previous planning application and the advice contained within it still stands whereby

conditions were recommended. These conditions will be imposed on any grant of permission.

Noise, Odour, Lighting and Contamination

- 8.68 Policy EQ2 requires consideration of noise and development shall be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment. In particular noise sensitive areas. The application has been accompanied by the original noise report and an addendum to this original document providing an update in terms of the changes proposed. The assessment concludes that the revisions to the use of Block B will not have a detrimental impact. The Environmental Health Officer has been consulted on the application and does not raise any concerns regarding noise but considers that conditions should be imposed as seen on the original planning permission.
- 8.69 With regards to odour, the development will see a number of A3 uses. It is considered, therefore, that mitigation measures are required to ensure that nuisance from odour is not an issue at the site. As with the original planning permission, a condition shall be imposed requiring details of this to be submitted to the Local Planning Authority.
- 8.70 Policy EQ3 requires external lighting to not have an unacceptable adverse impact on neighbouring uses or the wider landscape, be the minimum required for security and operational purposes, minimise glare and spillage and minimise harm to amenity of residents and road users and prevent impact on local ecology. The previous application required details to be submitted regarding lighting through condition. It is considered suitable to deal with lighting in the same manner by condition.
- 8.71 Policy EQ1 requires land contamination to be addressed as part of development. The original Phase 1 desk study report has been submitted alongside the application and identifies that further

investigation is required to ascertain any significant contamination which has the potential to impact site works. The Environmental Health Officer has been notified of this application and does not raise an objection to the application subject to conditions being added to any grant of consent regarding contamination as originally agreed on the previous application.

## **9 Conclusion**

- 9.1 A mixed use redevelopment of the Bircherley Green shopping centre in Hertford complies, in principle, with local and national planning policy and has been promoted by the planning policy work in the Hertford Town Centre Urban Design Strategy (HUDS) 2016. This includes a framework to guide a redevelopment of Bircherley Green.
- 9.2 It is considered that the scheme, as with the previously approved scheme, largely complies with the principles of the HUDS. In the longer term it is considered that the proposed development will bring significant benefits to the site and the town centre. This scheme offers, based on expert appraisal and advice; the potential for the creation of modern retail accommodation that the town lacks; a new hotel attracting significant visitor numbers to the town; new residential accommodation to meet a housing need and enliven the area and enhancements to the amenity of the riverside area. A new public space is created and in general streets and spaces around the site, will be fully retained and enhanced. The current scheme differs from the previous scheme in alterations to the mix of uses by including office floorspace in place of 14 previously approved flats and a small amount of retail space. It also proposes amendments to the elevations of Block B facing onto the Mall.
- 9.3 The impact of the proposals on the character and appearance of the Conservation Area are considered to be beneficial. In relation to adjacent listed buildings there is no identified harm of significance.



- 9.4 The application makes a positive contribution towards residential provision, (56 units). The positive weight that can be assigned to this is moderated as the viability is not sufficient to support provision of affordable housing in line with the policy requirement of up to 40%, however the provision of 10% affordable housing can be secured.
- 9.5 In respect of all other matters set out in this report the impact of the proposals is considered to be acceptable.
- 9.6 There is a reduction of 45 car parking spaces for public town centre parking. At the same time the car park is expected to accommodate a similar amount of retail floorspace as currently exists, with the introduction of other uses, namely the hotel element. It is concluded that there will be some strain on the parking facilities in the Bircherley Green car park and harm is attributed to this. However, this is offset by the sustainable location of the site and proximity to public transport facilities, provision of a car club, bus station facilities and the inclusion of cycle parking facilities.
- 9.7 The overall planning balance is one of considering the identified benefits of the proposals, the introduction of residential use, improvement to the public realm, the enhancement of the Conservation area and other benefits against the harm. The amended mix of uses within the development compared to the previous approval does not give rise to adverse environmental impacts. Whilst the viability situation gives rise to a non-policy compliant affordable housing offer, in this instance the 10% affordable housing offer is considered to be a benefits to the scheme and is recommended to be secured via a Section 106 Agreement. Overall, the balance is considered to be such that the benefits clearly outweigh the identified harm.
- 9.8 Members are advised that planning permission can be granted in this case, subject to the necessary safeguards provided by the

matters to be covered by a legal agreement and conditions as set out below.

## **RECOMMENDATION**

That planning permission be **GRANTED**, subject to the completion of a Section 106 Agreement and conditions set out at the end of this report. Authority be delegated to the Head of Planning and Building Control to amend, add or delete conditions and finalise the matters covered in the legal agreement.

### Summary of reasons for decision

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015, East Herts Council has considered, in a positive and proactive manner, whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to achieve an acceptable and sustainable development in accordance with the Development Plan and the National Planning Policy Framework.

## **Legal Agreement**

To include the following obligations:

- Education contribution of £34,140 towards a primary phase at Simon Balle School based upon table 2 in the Hertfordshire County Council Planning Obligations Toolkit 2008;
- Youth service contribution of £648 towards the team resources, based upon table 2 in the Hertfordshire County Council Planning Obligations Toolkit 2008;
- Libraries contribution of £6,670 towards Library services in Hertford, including new tables to support WiFi users, based upon table 2 in the Hertfordshire County Council Planning Obligations Toolkit 2008;

- A financial contribution of £100,000 towards feasibility study and implementation of a Variable Messaging System in the vicinity of the development;
- 10% affordable housing
- A financial contribution of £12,829.68 towards the improvement of parks and public garden facilities at Castle Gardens based upon table 8 in the Planning Obligations SPD;
- A financial contribution of £35,532.02 towards the provision of outdoor sport in the facilities at Hartham Common based upon table 8 in the Planning Obligations SPD;
- A financial contribution of £9,474 towards community centres
- A financial contribution of £4,032 towards provision of recycling facilities;
- A financial contribution of £39,636.98 towards improvements to primary General Medical Services (Hertford GP surgery);
- A financial contribution of £10,889 towards provision of mental health care facilities (Herts and Essex Hospital or GP surgeries);
- A financial contribution of £6,000 towards the costs of administering and monitoring the objectives of the Travel Plan;
- Arrangements for the provision and management of a car club for 5 parking spaces within Bircherley Green car park;
- Fire Hydrants;
- Payment in full of the Council's reasonable legal and other professional costs incurred preparing and completing the Legal Agreement, and

### **Conditions**

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990. Approved Plans

2. The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.

Reason: To ensure the development is carried out in accordance with the approved plans, drawings and specifications.

3. Samples of materials. Prior to the commencement of above ground works for each phase of the development, and notwithstanding the submitted plans, full details, including samples, of the external materials of construction for the buildings hereby permitted shall be approved in writing by the local planning authority and the development shall thereafter be implemented in accordance with the approved materials. The materials submitted shall avoid the use of PVC and shall include:

- new brickwork to the carpark riverside elevation to match other new brickwork in the riverside elevations
- provision of brick panel (Flemish bond)
- a high quality metal roof for Unit R1
- consistent and matching terracotta where used on each elevation.

Reason: In the interests of appearance and securing a high quality development within the Hertford Conservation Area and in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

4. Prior to the commencement of above ground works, a site wide phasing plan shall be submitted to, and shall be approved in writing by the Local Planning Authority. The plans shall include details of the proposed sequence of development across the entire site and the extent and location of individual development. The plans shall include details of the following matters:

- Trigger points for successive phases to commence

- Timing of completion of external works to the public realm

Reason: In order to ensure that the approved development takes place in its entirety and delivers optimal benefits for the town centre and the Hertford Conservation Area in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

5. Any A3 use shall be restricted to the ground floor frontages of units as defined on plan P-0362 Rev P-03, and the remainder of the ground floor units shall be available for A1 use.

Reason: To ensure the retention of a core of A1 retail units within the development in the interests of the vitality and viability of the town centre, having regard to the provisions of the Hertford Town Centre Urban Design Strategy and also with regard to the amenity of residents in the immediate vicinity of the site, in accordance with policies RTC1, RTC2, RTC3 and DES4 of the East Herts District Plan 2018 and the NPPF.

6. The windows of all the ground floor retail units shall remain visually permeable and shall not be obscured by advertisements or security shutters.

Reason: To ensure the riverside and street elevations remain animated and the public spaces are overlooked, in the interests of appearance and securing a high quality development within the Hertford Conservation Area and in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

7. With the exception of the hotel and ancillary restaurant/bar, the A3 units hereby granted planning permission shall cease trading and all visiting Members of the public shall have departed the units by 23:30 on all days. The hotel restaurant/bar shall cease trading and be closed between 01:00 and 06:00AM on all days.

Reason: In the interest of neighbour amenity and in accordance with Policies EQ2 and EQ3 of the East Herts District Plan 2018.

8. Prior to the commencement of each phase of the development hereby permitted, full details of both hard and soft landscape proposals as shall be agreed as required in relation to each phase of development, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include as appropriate for that phase:
  - a) Riverside railings (if needed) and other means of enclosure
  - b) Car parking layouts to show public and private residential areas
  - c) Hard surfacing materials including the approved palette of high quality materials of Yorkstone, Granite Setts, Clay Paviours
  - d) Public seating, having regards to the provisions of the submitted Public Realm Strategy, to include a feature bench at Bircherley Square and a series of circular benches (minimum 4) around riverside trees along the river frontage.
  - e) Proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines, etc. indicating lines, manholes, supports, etc.)
  - f) Planting plans
  - g) Schedules of plants and trees, including details of tree pits, species, planting sizes and proposed numbers/densities where appropriate.

Thereafter the development shall be implemented in accordance with the approved details.

Reason: To ensure the provision of amenity afforded by appropriate landscape design and securing a high quality development and appearance of the development within the Hertford Conservation Area and in accordance with the provisions of the approved Hertford Town Centre Urban design Strategy

2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

9. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018 and national guidance in section 7 of the National Planning Policy Framework.

10. All existing trees shall be retained, unless shown on the approved drawing P-0363 Rev 01 as being removed. All trees on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837:2012 Trees in relation to design, demolition and construction, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees 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 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 may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees and hedges, in accordance with policies DES3 of the East Herts District Plan 2018.

11. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order), 2015 (As amended) the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule, as described in Schedule 2, Part 3, Class O of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: To ensure the Local Planning Authority retains control over any future development as specified in the condition in the interests of amenity and in accordance with policy DES4 of the East Herts District Plan 2018.

12. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order), 2015 (as amended) the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order on any part of the site or its boundaries shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: To ensure the Local Planning Authority retains control over any future development as specified in the condition in the interests of amenity and in accordance with policy DES4 of the East Herts District Plan 2018.

13. Full details of Public Realm works for the following areas of public highway outside the application site boundary shall be provided, and approved in writing by the local planning authority and implemented within 3 months of the first occupation of the phase of development, providing the works in accordance with the phasing provision in Condition 4:



- Bircherley Street (East side and Bus Station)
- Bircherley Green (southern entrance from Railway Street)

Reason: In the interests of appearance and securing a high quality development and appearance of the development within the Hertford Conservation Area and in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 and Policy DES4 of the East Herts District Plan 2018 and the NPPF.

14. Details of provisions and a programme to market the use of the new civic space between Block A and the river frontage by public and other non-commercial organisations, including the frequency of events, not less than 12 dates in a calendar year, shall be provided to and approved in writing with the local planning authority prior to the commencement of works to Block B. The space shall thereafter be marketed and made available in accordance with the approved details.

Reason: To ensure the optimal use of public space in the interests of the vitality and viability of the town centre, having regard to the provisions of the Hertford Town Centre Urban Design Strategy and also with regard to the amenity of residents in the immediate vicinity of the site, in accordance with policy DES4 of the East Herts District Plan 2018 and the NPPF.

15. Prior to the commencement of each phase of the development hereby permitted, details of cycle spaces shall be submitted to and approved in writing. The overall development is to provide a minimum of 70 cycle spaces, including 56 secure spaces for residents, shall be submitted to and approved in writing with the local planning authority. The cycle parking shall be delivered on a phased basis prior to the first use of each phase of the proposed development and thereafter maintained in accordance with the approved details.

Reason: To promote the use of sustainable transport modes and to ensure the development is provided with adequate cycling parking provision, and in accordance with policies TRA1 and TRA2 of the East Herts District Plan 2018 and the NPPF.

16. Prior to the commencement of above ground works, the location and details of the short terms cycle spaces to be located within the development site shall be submitted to and approved in writing by the Local Planning Authority. These short terms cycle spaces shall be delivered and available for use on a phased basis, prior to the first use of each phase of the proposed development and thereafter maintained in accordance with the approved details.

Reason: To promote the use of sustainable transport modes and to ensure the development is provided with adequate cycling parking provision, and in accordance with policies TRA1 and TRA2 of the East Herts District Plan 2018 and the NPPF.

17. The area identified on the approved plans shall be retained for a riverside mooring facility. Details of the facility shall be submitted to and approved by the local planning authority prior to its commencement. Such a scheme is to be designed in consultation with the Canal and River Trust.

Reason: To bring activity to the waterside adjacent to the site in accordance with the objectives of the Hertford Town Centre Urban design Strategy 2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

18. Prior to the occupation of any part of Block B, the 188 spaces within the retained multi storey car park shall be provided to include a minimum 148 spaces available for general public use, 26 spaces for private residential car parking including at least 5 bays available for car club use and 14 spaces for the office use. The parking is to be managed in accordance with a Car Park Management Plan, to include car park charges, signs and

enforcement for areas not within private ownership of future residents, which is to be submitted to and approved in writing by the local planning authority prior to the occupation of block B of the development.

Reason: In order to retaining adequate public parking for the benefit of the town centre and in accordance with policy TRA3 of the East Herts District Plan 2018.

19. Prior to the first occupation of any of the residential units to be provided on the site there shall be provided to and approved in writing by the local planning authority, details setting out the allocation of the spaces to the residential units including to any affordable units to be developed as part of the site. Once approved, parking space allocation shall be implemented and retained as such.

Reason: To ensure clarity with regard to the allocation of spaces and to ensure that provision is made to both open market and affordable units.

20. Prior to the commencement of each phase of the development hereby permitted, the submission of plans setting out the details of door, windows, roof eaves and other miscellaneous details as shall be agreed as required in relation to each phase of development, shall be submitted to and approved in writing by the local planning authority. The details shall provide for:

- Aluminium windows of slim line frames and generous window reveals
- Door patterns, frames and reveals
- The roof caps / turrets for highest roof features including the Hotel corner
- A covering for passengers waiting at the Bus station behind the new terracotta screen façade

The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of appearance and securing a high quality development and appearance of the development within the Hertford Conservation Area and in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 and policy DES4 of the East Herts District Plan 2018 and the NPPF.

21. Prior to the occupation of each Phase of the development, a CCTV Plan shall be submitted to and agreed in writing by the local planning authority, such plans to show the model, location, height and surveillance area of all CCTV cameras to be installed. The applicant shall also submit details setting out how the installed CCTV cameras are to be maintained and operated. Once agreed, the cameras will be installed and operated in full accordance with the approved CCTV Plan prior to the first occupation of any building in that Phase.

Reason: To ensure that security surveillance is effective and co-ordinated between services and to ensure that the safety and security of residents and visitors to the site is safeguarded.

22. No development or groundworks (excluding demolition) shall take place on each Phase of the Development, until
  - a) In respect of Phase 1 (Block C – the hotel)
    - i) the applicant has secured the implementation of the programme of archaeological work in accordance with the “Written Scheme of Investigation for Archaeological Monitoring and Evaluation by Trial Trenching” by PCA Ltd dated September 2018 and approved under planning reference number X/18/0420/CND and
    - ii) the required archaeological reports are submitted to and approved in writing by the Local Planning Authority
  - b) and in respect of later Phases (Blocks A and B)

- i) a written scheme of investigation is submitted to and approved in writing by the Local Planning Authority and
- ii) the applicant has secured the implementation of the approved scheme of archaeological investigation and
- iii) the required archaeological reports are submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved scheme.

Reason: To secure the protection of and proper provision for any archaeological remains in accordance with policy HA3 of the East Herts District Plan 2018 and the National Planning Policy Framework.

23. Prior to the first occupation or first use of each phase of the development hereby approved, details of facilities to be provided for the storage and removal of refuse from the development in that Phase shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the development shall be carried and thereafter maintained in accordance with the approved details.

Reason: In the interests of amenity and appearance and securing a high quality town centre environment in accordance with the provisions of the approved Hertford Town Centre Urban Design Strategy 2016 , Policy DES4 of the East Herts District Plan 2018 and the NPPF.

24. Prior to the first occupation or first use of each phase of the development hereby permitted, a Delivery and Servicing Management Plan, as required in relation to each phase of development, shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The Delivery and Servicing Plan shall include restrictions on delivery times to between 7AM and 10AM on all days to the riverside and pedestrianised retail area, vehicle

tracking and contain the delivery and servicing requirements (including refuse collection) for the proposed uses, a scheme for coordinating deliveries and servicing for the proposed development, areas within the development site that will be used for loading and manoeuvring of delivery and servicing vehicles, and access to / from the site for delivery and servicing vehicles such plans. Once agreed, the development shall be constructed to enable the agreed arrangements to be implemented and shall subsequently be operated as agreed.

Reason: In the interests of maintaining highway efficiency and safety; the amenity of public shopping areas and to reduce conflicts with users and in accordance with policies DES4, TRA2 of the East Herts District Plan 2018.

25. Prior to the commencement of any above ground works for each phase of the development hereby permitted, a Stage 1 Road Safety Audit for all access arrangements within that Phase and any proposed mitigation measures required as a result of the Audit, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed access arrangements are safe and suitable for their intended use.

26. Prior to the commencement of works to Block B, details of the new public toilet facilities, their opening hours and cleaning and maintenance regimes shall be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be operated, maintained and be made available in accordance with the approved details.

Reason: In the interests of delivering good quality public conveniences as part of the development.

27. Prior to the commencement of works to Block B, details of the bus station facilities to be provided within unit R10 as shown on plan

P-0300 Rev 06, shall be submitted to and approved in writing by the Local Planning Authority. These details shall include, their opening hours, cleaning and maintenance regimes. The facilities shall be made available for public use and brought into operation on first occupation of Block B. The facilities shall thereafter be maintained and be made available in accordance with the approved details.

Reason: In the interests of delivering good quality public conveniences as part of the development.

28. Prior to the commencement of development for each phase of the development hereby permitted, a Site Waste Management Plan, as required in relation to each phase of the development, shall be submitted to and approved in writing by the local planning authority. The Plan shall provide details of the measures to be taken in the design, construction decommissioning and demolition of the development to; re-use existing materials within the new development; recycle waste materials for use on site and off; minimise the amount of waste generated; minimise the pollution potential of unavoidable waste; treat and dispose of the remaining waste in an environmentally acceptable manner; and to utilise secondary aggregates and construction and other materials with a recycled content. Once agreed, the measures shall be implemented in accordance with the approved Plan. The demolition work shall proceed in accordance with the provisions of the approved Site Waste Management Plan.

Reason: To accord with Hertfordshire Waste Local Plan policies 7 and 8.

29. The development hereby permitted shall be carried out in accordance with the recommendations of the Flood Risk Assessment Report (No 2154-FR02 Rev C, March 2017, BJB Consulting) to control surface water discharge rate to not exceed 100L/s, to provide adequate treatment by permeable pavement to ensure water quality as shown on Drawing No 2154SK004 and

provide adequate storage to ensure no increase in surface water run-off for a 1 in 100 year event plus climate change event.

Reason: To ensure the implementation of appropriate surface water drainage systems and their subsequent management and maintenance, to prevent the increased risk of flooding, improve and protect water quality, improve habitat and amenity in accordance with policies WAT1, WAT2 and WAT3, WAT5 of the East Herts District Plan 2018 and the NPPF.

30. Prior to the commencement of above ground works for each phase of the development, a scheme providing for the insulation of the proposed dwellings and occupants of the new hotel against the transmission of noise and vibration as provided within each phase, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and confirmed by a report of sound testing prior to the first occupation of dwellings within each phase of the development.

Reason: In order to ensure an adequate level of amenity for residents of the new dwellings and the hotel in accordance with policies DES4 and EQ2 of the East Herts District Plan 2018.

31. No fixed plant and/or machinery shall come into operation for each phase of the development until details of the fixed plant and machinery serving that phase of the development hereby permitted, and any mitigation measures to achieve this condition, are submitted to and approved in writing by the local planning authority. The rating level of the sound emitted from the site shall not exceed 43 dBA between 0700 and 2300 hours and 39 dBA at all other times. The sound levels shall be determined by measurement or calculation at the nearest existing noise sensitive premises in Oddfellows Court, Bull Plain and Folly Island. The measurements and assessment shall be made according to BS 4142:2014.



Reason: To protect the residential amenity of existing and any future occupiers in accordance with policy EQ2 of the East Herts District Plan 2018.

32. Odour equipment shall be installed to effectively suppress and disperse fumes and/or odours produced by cooking and food preparation at commercial food premises, and the equipment shall be effectively operated for so long as the commercial food use continues. Full details of the method of odour abatement and all odour abatement equipment to be used, including predicted noise levels of the equipment in operation in each Phase of the Development, shall be submitted to and approved by the Local Planning Authority prior to the installation of the equipment in that Phase of the Development. The approved equipment shall be installed and in full working order to the satisfaction of the Local Planning Authority prior to the use hereby permitted commencing under each Phase.

Reason: In order to prevent the adverse impact of odours arising from cooking activities on the amenity of nearby residents and in accordance with Policy EQ2 of the East Herts District Plan 2018.

33. Prior to the commencement of each Phase of the development, details of all external extractor vents, condenser units, heater flues and meter boxes to be used in that Phase as appropriate shall be submitted to and approved in writing by the Local Planning Authority. Such approved details shall thereafter be implemented, retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development and in accordance with Policy DES4 of the East Herts District Plan 2018.

34. No development (excluding demolition) in each Phase of the development approved by this permission shall take place until a Phase 2 investigation report, as recommended by the previously

submitted BJB Consulting report dated January 2017 (Ref: 2154-DS02-RevB), has been submitted to and approved in writing by the Local Planning Authority for that Phase. Where found to be necessary by the phase 2 report a remediation strategy to deal with the risks associated with contamination of the site shall also be submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required for each Phase of the development and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency action.

Reason: To protect human health and the environment in accordance with Policy EQ1 of the East Herts District Plan 2018.

35. Prior to any permitted dwelling being occupied it shall be demonstrated to the Local Planning Authority by means of a validation report, agreed in writing by the Local Planning Authority that any works which form part of the Phase 3 Remediation Scheme have been implemented. Any such validation should include responses to any unexpected contamination discovered during works.

Reason: To protect human health and the environment with Policy EQ1 of the East Herts District Plan 2018.

36. Each phase in the construction of the development hereby approved shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority for that phase. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

- a) Construction vehicle numbers, type, routing;

- b) Traffic management requirements;
- c) Construction and storage compounds (including areas designated for car parking);
- d) Siting and details of wheel washing facilities;
- e) Cleaning of site entrances, site tracks and the adjacent public highway;
- f) Provision of sufficient on-site parking prior to commencement of construction activities;
- g) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

37. In connection with all site preparation and construction works, no plant or machinery shall be operated on the site or beyond it and in association with the site preparation and construction works before 0730hrs on Monday to Saturday, nor after 1800hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

Reason: To safeguard the amenities of residents of nearby properties, in accordance with policies DES4 and EQ2 of the East Herts District Plan 2018.

38. Prior to the occupation of each phase, measures to implement the approved Energy Strategy (Hoare Lea Report, revision P2, June 2018) shall be submitted to and agreed in writing by the local planning authority. Once agreed, the measures shall be implemented as such, retained and the development operated accordingly.

Reason: In order to ensure the development meets local and national objectives in respect of climate change.

39. Details of any external lighting proposed for each phase of the development shall be submitted to and approved in writing by the

Local Planning Authority prior to the commencement of development in each Phase, and no external lighting shall be provided without such written consent. The development shall then be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the area, and in accordance with policy EQ3 of the East Herts District Plan 2018.

40. Prior to the first occupation or use of each phase of the development, a Travel Plan for the residential and commercial developments, consisting of a written agreement setting out a scheme to encourage and regulate green travel measures for owners, occupiers, and visitors to the Development in accordance with the provisions of the County Councils Travel Plan Guidance for Business and Residential Development, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation or use of each phase, the agreed Travel Plan for that phase, shall be implemented in accordance with the approved details.

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 TRA1 of East Herts District Plan 2018.

41. Prior to the commencement of above ground works (excluding demolition) for each phase of the development, a drainage strategy detailing any on and/or off site drainage works and proposed Sustainable Urban Drainage Systems (SuDS) for that phase, shall be submitted to and approved in writing by the local planning authority. The drainage strategy for that phase shall thereafter be fully implemented in accordance with the approved details prior to the first use or occupation, and no discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy for that phase have been completed.

Upon completion of the drainage works an updated management and maintenance plan for the SUDS features and structures must be submitted and approved in writing by the Local Planning authority. The approved plans shall include arrangements for adopting and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To ensure that sufficient capacity is made available to cope with the new development and in order to avoid adverse environmental impact upon the community from sewage flooding.

42. Each phase of the development hereby permitted shall be undertaken in full accordance with the recommendations and ecological enhancements for that phase detailed within the Section 6 of the Ecological Appraisal, December 2016, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To mitigate and safeguard adverse effects on habitats and species, and in accordance with Policy NE3 of the East Herts District Plan 2018 and the National Planning Policy Framework.

43. The four proposed side facing (north elevation) windows to the office use shall be fitted with obscured glass and fixed shut and shall be permanently retained in that condition.

Reason: In the interests of neighbour amenity in accordance with Policy DES4 of the East Herts District Plan 2018.

44. Prior to the commencement of above ground works (excluding demolition). Notwithstanding the approved plans, a revised floor plan in relation to Block C (Phase 1) shall be submitted to and agreed in writing by the Local Planning Authority. The submitted plan shall show the fenestration pattern to match the approved elevation plan P-0336 Rev P-02. Once agreed the development shall be carried out and retained in accordance with this plan.

Reason: In the interests of neighbour amenity in accordance with Policy DES4 of the East Herts District Plan 2018.

**KEY DATA****Residential Development**

<b>Residential density</b>	<b>Units/ha</b>	
	Bed spaces	Number of Units
Number of existing units demolished		
Number of new flat units	1	35
	2	18
	3	3
Number of new house units	1	0
	2	0
	3	0
	4+	0
<b>Total</b>		<b>56</b>

**Affordable Housing**

<b>Number of units</b>	<b>Percentage</b>
6 Shared Ownership	10% proposed

**Residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone	2	
Residential flatted unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	43.75
2	1.50	27
3	2.25	6.75
Total required		77.5
<b>Proposed Provision</b>		26

**Updated Parking Standards**

Parking Zone	2	
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1 x35	1.50	52.5
2 x 18	2.00	36
3 x 3	2.50	7.5
Total required		96
Accessibility reduction	25-100%	24-96
Resulting Requirement		24-96
Proposed Provision		26

**Non-Residential Development**

Use Type	Floorspace (sqm)
Class C1 Hotel	2,740
Class B1 Business	1,471
Classes A1 and A3	4,602.5

**Non-residential Vehicle Parking Provision**

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Use type	Standard	Spaces required
B1	1 space per 30m <sup>2</sup> gfa	49
Total required		49
Accessibility reduction	50%	24.5
Resulting requirement		
Proposed provision		14



## Updated Parking Standards

Use type	Standard	Spaces required
B1	1 space per 30m <sup>2</sup> gfa	49
Total required		49
Accessibility reduction	25-100%	12.25-49
Resulting requirement		
Proposed provision		14

**Legal Agreement – financial obligations**

This table sets out the financial obligations that could potentially be sought from the proposed development in accordance with the

Obligation	Amount sought by EHDC Planning	Amount recommended in this case	Reason for difference (if any)
Affordable Housing	40%	10%	Viability
Parks Contribution	£12,829.68	£12,829.68	
Sport Contribution	£35,532.02	£35,532.02	
Community Centres	£9,474	£9,474	
Recycling	£4,032	£4,032	
VMS	£100,000		

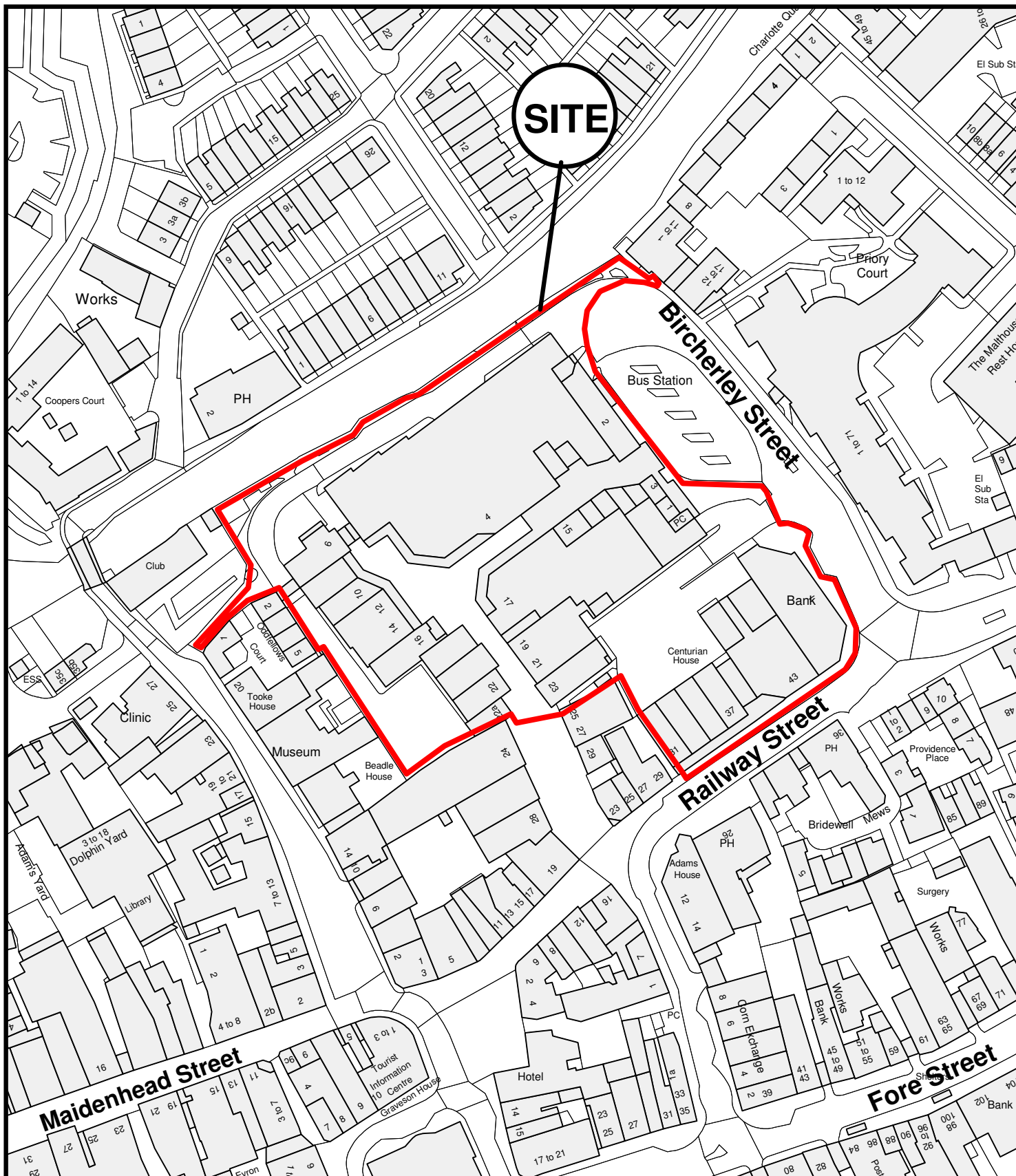
Obligation	Amount sought by HCC	Amount recommended in this case	Reason for difference (if any)
Primary Education	£34,140	£34,140	

Youth Service	£648	£648	
Library	£6,670	£6,670	
Travel Plan – 'Evaluation and Support Contribution'	£6,000	£6,000	

Obligation	Additional Obligations sought
Car Club	5 Spaces to be provided
Public Access	Permissive rights of way along riverfront and Bircherley Green
Fire Hydrants	Clause to be added to Section 106
NHS Health Contribution	£39,636.98
NHS Mental Health	£10,889

Background Essential Reference Paper – Hertford Town Centre and  
Urban Design Strategy (HUDS)

[https://www.eastherts.gov.uk/media/31015/Hertford-Town-Centre-and-Urban-Design-Strategy/PDF/SSS.012 Hertford Town Centre and Urban Design Strategy.pdf](https://www.eastherts.gov.uk/media/31015/Hertford-Town-Centre-and-Urban-Design-Strategy/PDF/SSS.012%20Hertford%20Town%20Centre%20and%20Urban%20Design%20Strategy.pdf)



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**East Herts Council**  
 Wallfields  
 Pegs Lane  
 Hertford  
 SG13 8EQ  
 Tel: 01279 655261

**Address: Bircherley Green Shopping Centre, Hertford, Herts, SG14 1BN**

**Reference: 3/18/2210/FUL**

**Scale: 1:1250**

**O.S Sheet: TL3212**

**Date of Print: 27 September 2017**

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## DEVELOPMENT MANAGEMENT COMMITTEE – 19 JUNE 2019

<b>Application Number</b>	3/18/2457/FUL
<b>Proposal</b>	Erection of 65 residential dwellings and associated works including internal road network and associated highway works, landscaping utilities and drainage infrastructure, car and cycle parking and waste storage
<b>Location</b>	Land to the East of Aspenden Road, Buntingford
<b>Parish</b>	Buntingford Town Centre
<b>Ward</b>	Buntingford

<b>Date of Registration of Application</b>	7 November 2018
<b>Target Determination Date</b>	6 February 2019
<b>Reason for Committee Report</b>	Major Application
<b>Case Officer</b>	Jill Shingler

### **RECOMMENDATION**

That planning permission be **GRANTED**, subject to the satisfactory completion a legal agreement and the conditions set out at the end of this report.

That delegated Authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions.

### **1.0 Summary of Proposal and Main Issues**

- 1.1 Outline planning permission already exists on this site for the erection of up to 56 dwellings. This consent was given on appeal in May 2016 as the Secretary of State agreed with the appellants that the proposal would not give rise to significant changes in the character of the road and the amount or type of traffic using Aspenden Road, that subject to condition would provide satisfactory living conditions for future occupiers and that the Council cannot demonstrate a five-years supply of deliverable housing land;

appearance, landscaping, layout and scale were reserved matters, only access was agreed.

- 1.2 The consent was given prior to the adoption of the new District Plan 2018 at a time when the lack of a demonstrable 5 years housing land supply, weighed significantly in favour of the development.
- 1.3 However the site forms part of the development strategy in the East Herts District Plan 2018 as detailed in Policies DPS1 and DPS2 and Buntingford Policy BUNT1. Policy BUNT 1 states that Buntingford will accommodate a minimum of 1,074 homes which includes “around 56 homes” on this site. The site lies within the Village Boundary as defined by the 2018 Plan.
- 1.4 The application is a full application for the development of 64 dwellings plus associated access, landscaping, parking and private amenity space, open space and footpaths. The proposals include works to Aspenden Road to improve pedestrian safety.
- 1.5 The application followed pre-application discussions with Officers including the Policy and Implementation team, through which it was agreed that the proposed increase of 9 dwellings over the previously approved 56 dwellings would not be excessive in principle and accords with the policy that seeks “around” 56 dwellings to be developed at the site and a minimum of 1,074 homes in Buntingford within the Plan period.
- 1.6 The main considerations in the determination of the application are:
  - Layout and design;
  - Housing and affordable housing provision;
  - Highway impact, mitigation and parking provision;
  - Ensuring healthy and safe communities;
  - Flood risk and sustainable drainage;
  - Land contamination and pollution;
  - Impact on the natural environment
  - Heritage impact;
  - Education, and

- Infrastructure delivery.

1.7 Members will need to consider the overall planning balance and whether the proposal will result in a sustainable form of development having regard to the above material considerations.

## **2.0 Site Description**

2.1 The site comprises open land located at the southern edge of Buntingford, bounded to the south by the A10 and to the west by Aspenden Road. There is residential development to the east and a small area of scrubland to the north.

2.2 Opposite the site on the other side of Aspenden Road is an industrial area.

2.3 The River Rib runs through the south western corner of the site and there is a row of mature trees running inside the eastern boundary along the route of the disused railway line. There is a substantial bund and trees to the south of the site between the site and the A10. There is existing footpath access into the site from the south under the A10.

## **3.0 Planning History**

3.1 3/13/1399/OP Outline application for Residential development (up to 56 dwellings) and open space, including vehicular/cycle/pedestrian access to Aspenden Road, alterations to levels, footpath / cycleway, landscaping and related works. Refused by EHDC in March 2014 but allowed by the Secretary of State on appeal (Ref.: APP/J1915/A/14/2224660) in May 2016.

## **4.0 Main Policy Issues**

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF) and the East Herts District Plan 2018 (DP). And the Buntingford Community Area Neighbourhood Plan 2014-2031(BCANP).

<b>Main Issue</b>	<b>NPPF</b>	<b>DP Policies</b>	<b>BCANP</b>
Principle	Section 5	INT1 DPS1 DPS2 DPS3	HD1
Design and layout	Section 12	DES1 DES3 DES4	HD2, HD4
Housing and affordable housing	Section 5	HOU1 HOU2 HOU7	HD7
Highways and parking	Section 9	TRA1 TRA2 TRA3	T1, T2, T3, T4, T6
Healthy and safe communities	Section 8	DES5 CFLR1 CFLR7 CFLR9 CFLR10	
Flood risk management, including climate change, water efficiency and quality	Section 14	WAT1 WAT2 WAT3 WAT4 WAT5 WAT6 CC1 CC2	ES2
Contamination and pollution		EQ1 EQ2 EQ3 EQ4	
Natural environment	Section 15	DES2 NE1 NE2 NE3 NE4	ES5, ES7



Heritage	Section 16	HA1 HA3	
Education		CFLR10	
Infrastructure delivery and planning obligations	Section 2 Section 4	DEL1 DEL2	INFRA2, INFRA4
Overall sustainability	Section 2	Chapter 1 INT1	

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

## 5.0 **Summary of Consultee Responses**

- 5.1 HCC Highway Authority raises no objection to the proposal following revisions to improve pedestrian safety along Aspenden Road and subject to recommended conditions, a Section 278 agreement and a Section 106 agreement.
- 5.2 Lead Local Flood Authority does not wish to restrict the grant of permission, subject to recommended conditions.
- 5.3 Environment Agency comments that following additional information they have no objection to the proposals subject to recommended conditions relating to flood mitigation and ecology.
- 5.4 EHDC Engineering Advisor advises that adequate SuDS can be provided on site and raises no concerns.
- 5.5 Thames Water advises that a recommended condition should be attached to address potential issues of odour from the adjacent Sewage Asset.
- 5.6 EHDC Housing Development Advisor notes the provision of affordable housing and whilst querying the split between affordable rent and shared ownership properties, raises no objection to the proposals.

- 5.7 EHDC Conservation and Urban Design Advisor comments that amendments have addressed earlier issues and recommends grant subject to recommended conditions.
- 5.8 EHDC Landscape Advisor does not wish to restrict the grant of permission subject to recommended landscape conditions.
- 5.9 Herts and Essex Wildlife Trust Raises no objection to the proposals following the amendments to include an area of habitat improvement and subject to recommended conditions.
- 5.10 HCC Environment and Infrastructure request financial planning obligations towards nursery education, child care, primary education, secondary education, youth provision, library provision and the provision of fire hydrants as detailed in the report.
- 5.11 EHDC Environmental Health Advisor advises that following the submission of additional information there is no objection to the grant of permission, subject to recommended conditions.
- 5.12 Herts Police Crime Prevention Advisor Congratulates developers on incorporating a large selection of the current design guidance but disappointed that they have not demonstrated their intent to seek the Police recommended Secured by Design.

(Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)

## **6.0 Town/Parish Council Representations**

- 6.1 Buntingford Town Council comments following receipt of amended plans are summarised as:
- 6.2 The increase in number of units at 16.07% is significant and beyond that agreed for the site in the District Plan. Concern over parking provision being below that in the Neighbourhood plan. The transport assessment has significant shortcomings. Concern over

pedestrian safety not overcome by the crossing points proposed. Since last approval there have been changes which have resulted in traffic increases and in addition the District now has 5 years housing land supply. As such applications for 56 or 65 dwellings here should be refused.

6.3 Comments from Aspenden Parish Council, with regard to the initial plans (prior to amendment) are summarised as:

6.4 Objection. Serious concerns over highway safety as Aspenden Road and pavement are too narrow. The narrow stopping zone adjacent to the bridge often floods making it impassable. Increased traffic, access and egress from the village will be impeded. The increase in density from 55 to 65 dwellings is not justified and conflicts with the District Plan. The concentration of affordable units adjacent to the A10 conflicts with policy. An inadequate number of parking spaces are provided (below the standard in the Neighbourhood Plan). Contributions towards maintenance of the village green and the associated recreation facilities should be levied via Section 106 and play equipment should be provided within the scheme. A noise impact assessment is needed.

6.5 No further comments have been received from APC following the submission of amendments and additional information.

6.6 The full comments of the Parish and Town Council are attached as **Essential Reference Paper 'A'**.

## 7.0 **Summary of Other Representations**

7.1 89 responses have been received objecting to the proposals on the grounds summarised as:

- Buntingford has already been excessively developed in recent years.
- Aspenden Road is completely inadequate and unsafe for any increase in traffic, particularly for pedestrians. Unsuitable also for construction traffic.

- There is inadequate infrastructure of all kinds for the number of houses being proposed. Schools are full, doctors cannot cope, drainage and sewerage systems cannot cope, water pressure is low, internet provision is inadequate, Police cannot cope, shops and facilities in Buntingford inadequate for number of people, inadequate public transport provision.
- Detrimental to air quality.
- Harmful to ecology of area, particularly nesting birds
- Loss of trees, particularly those providing screening to properties in Olega Drive.
- Loss of farmland.
- Houses will suffer from constant noise and fumes from the A10
- Will increase flooding in an area that already suffers from flooding.
- Harm to the character of the village from excessive development.
- Loss of privacy to neighbours in Olega Drive.
- Will increase traffic congestion on surrounding roads.
- Concerned that occupants will take shortcut on foot through fence in Olega Drive to walk into Buntingford.
- There is ongoing/continuous disruption to the people of Buntingford from development.
- Loss of Buffer between A10 and Buntingford.
- Unsustainable location.
- 5 years housing land supply has now been identified so no longer need to develop here.
- Inadequate parking provision proposed.
- Apartments are out of keeping with the rural setting.
- Conservation Area will be compromised by joining Buntingford and Aspenden.
- There are already parking problems in Buntingford.
- Proposals not in accordance with Buntingford Community Area Neighbourhood Plan.
- Poorly designed and ill thought out.
- Construction Method statement is needed including hours of construction.
- No details of fencing have been provided.
- The safety audit and transport assessment are flawed.

A single expression of support has been received on the grounds that more houses and infrastructure are required to meet housing need.

## **8.0 Consideration of Issues**

### Principle

- 8.1 The objections of residents and Town Council to the principle of the development are noted. However, although not originally identified as a site for allocation in the draft plan, planning permission was granted on appeal here for 56 dwellings and the site subsequently became part of the development strategy in the District Plan as detailed in Policies DPS1, DPS2 and DPS3 and Buntingford Policy BUNT1. It falls within the identified settlement boundary and is to accommodate about 56 dwellings as part of the minimum of 1056 dwellings to be provided within Buntingford during the plan period.
- 8.2 The existing outline consent for 56 dwellings remains extant and is a material consideration here.
- 8.3 The proposal would deliver 65 dwellings which amounts to a 16% increase.
- 8.4 Whilst the increase is noted, unless there is any particular harm that can be identified as a result of the uplift, it is not considered that it should be resisted on that basis. Having regard to the characteristics of the site and the resulting density of development of approximately 22 dph the amount of development proposed is considered to be acceptable.
- 8.5 The principle of the development is therefore established in the District Plan development strategy and this should be attributed significant positive weight.

8.6 Design and layout

- 8.7 The proposed vehicular access to the site from Aspenden Road was agreed in the original outline application and this has informed the proposed layout which is similar to the illustrative layout that was considered at appeal. The proposal avoids development of the lowest lying area of the site to the western side, which is within Flood Zones 2 and 3. This area would be retained as open space, and to provide for sustainable drainage.
- 8.8 The layout is based around a main loop road off which there are cul-de-sacs. A small Local Area for Play (LAP) is proposed at the southern side of the site adjacent to the pedestrian access under the A10. The proposals include a new pedestrian access from south of the A10 from Aspenden Road over the River Rib to link to the existing footway under the A10, and new footpaths within the site to improve connectivity.
- 8.9 The proposed layout results in properties close to the southern boundary, which raised concerns regarding noise from the adjacent A10 and amenity, light and outlook given the proximity of the highway bund and vegetation which lies immediately to the south and outside the applicants ownership or control.
- 8.10 However, in response to these concerns the applicant has provided a noise assessment that indicates that appropriate noise levels (below those which the Inspector previously considered acceptable) can be achieved for the dwellings, through the inclusion of a 2.5m high acoustic fence on the highway land to the south, and the use of appropriate soundproofing within the dwellings. These matters can be required by condition and Legal Agreement.
- 8.11 The development therefore complies with Policy EQ2 of the District Plan and Para 127(f) of the NPPF.
- 8.12 The proposals have been amended in the course of the application to improve the layout to reduce the over dominance of parking within the streetscene.

- 8.13 The proposed dwellings are predominantly 2 storey with single storey garages and whilst an apartment block of 8 units is proposed in the south eastern corner of the site, which has a 3 storey element, this is well designed and located such that it fits appropriately within the development and will not be over dominant.
- 8.14 The introduction of a small orchard area at the entrance to the site, retention of a significant element of open space adjacent to the River Rib and the maintenance of the existing substantial tree screen along the eastern boundary help to create an attractive environment in accordance with the District Plan and policy HD4 of the BCANP and Paras 127 and 130 of the NPPF.
- 8.15 The proposed Local Area of Play (which is for children under 5) is located adjacent to the main footpath through the site and will provide a mounded slide to enable supervised play. Two properties overlook this play area to provide a level of surveillance to deter antisocial behaviour.
- 8.16 The proposed dwellings are of traditional external design and appearance reflective of the predominant traditional architecture found in the area. The house designs provide variety and their external appearance would be of good quality. A sustainability Statement submitted with the application demonstrates that carbon emissions will be reduced predominantly by high standards of insulation and the use of energy efficient boilers.

## 8.17 Housing and Affordable Housing

### Market housing

Type	Number	% Provided	SHMA %	Difference
One bed flat	0	0	6	-2
Two bed flat	0	0	7	-2
Two bed house	6	18.4	12	+1
Three bed house	19	48.7	46	-
Four bed house	14	35.8	23	+5
Five bed house	0	0	6	-2
Total	39			

### Affordable housing

Type	Number	%Provided	SHMA %	Difference
One bed flat	6	28.8	19	+2
Two bed flat	2	10.5	11	-1
Two bed house	9	34.6	29	+1
Three bed house	8	30.7	34	-1
Four bed plus house	1	3.8	7	-1
Total	26			

8.18 40% affordable housing provision is proposed (26 Units), of which 73% is to be rented and 27% Intermediate tenure. The amended plans show the proposed affordable units will be satisfactorily distributed within the development. Whilst the rental to intermediate mix provides a lower % rental number than suggested in the District Plan it accords with the NPPF requirement for 10% of all new dwellings to be available for affordable home ownership.

8.19 The provision of housing and affordable housing on this site is in accordance with the District Plan development strategy and is necessary to ensure that housing land supply is maintained. This should be attributed significant positive weight. Failure to deliver



housing within identified sites could result in renewed pressure for further sites in the locality

#### Highways and parking

- 8.20 The access to the site off Aspenden Road has been a cause for concern to neighbours, the Parish Council, the District Council and the County Council, due to the narrowness of the road, and its configuration. The road is in places too narrow for two larger vehicles to pass and this can result in HGV's mounting the pavement to avoid collision.
- 8.21 At the previous appeal however the Inspector, and subsequently the Secretary of State considered that safe and suitable access to the site can be gained for all modes of transport.
- 8.22 Since that decision there have been further changes in the locality, including an increase in commercial development in the locality and increases in residential development around Buntingford, with a potential knock on impact on traffic in the locality. In addition there have been changes to policy, which place greater emphasis on pedestrian safety.
- 8.23 The County Council, as Highway Authority initially objected to the scheme, owing to concerns about pedestrian safety. As a result, the developers have worked with the Highway Authority to incorporate road safety improvements along the stretch of Aspenden Road adjacent to the site, these include the introduction of three pedestrian crossing points, and two pinch points where the road narrows to a single carriageway and traffic has to give way.
- 8.24 This has the advantage of slowing traffic as vehicles will have to give way to oncoming traffic. This does not mean that vehicles will not still need to pass each other and the existing issue where two HGV vehicles meet will not be solved, but slower speeds will give all road users more time to react and therefore improve safety. Additionally it provides safer crossing points for pedestrians that link to proposed and existing footpath routes. The road is being widened

in part to 5.5m, but it is not within the applicants' ability to widen the remainder of the road as they do not own adjoining land.

- 8.25 The footway adjacent to the highway is to be made more evident, safer and usable by cutting back vegetation and improving the safety barriers between the footway and the river.
- 8.26 In addition the proposals include improvements to the existing public right of way which runs from the western side of Aspenden Road to the Town Centre, through the industrial estate, to encourage pedestrians to use this safer alternate route rather than walk along the Lane. One of the proposed crossing points ties in with that route and with appropriate signposting it is hoped that this will be better used. The cost of the improvements can be secured by legal agreement.
- 8.27 Policy TRA1 of the District Plan notes that development should ensure that a range of sustainable transport options are available to occupants or users, which may involve the improvement of pedestrian links, cycle paths , passenger transport networks etc. As well as the proposed highway and crossing improvements the scheme also includes provision of linking footpaths through the site and footbridges over the river Rib which will improve pedestrian connectivity in the area. Space is also retained within the site such that if possible in the future a footpath link can be provided between this site and the adjacent residential development.
- 8.28 The Highway Authority has as a result of the proposed safety improvements, withdrawn their original objection to the proposal. It is noted that there have been no injury accidents reported in the locality.
- 8.29 The fact that there is extant outline consent for 56 dwellings on the site is a significant material consideration. It is not considered that in this busy location an additional 9 units will have a significant additional impact on traffic and pedestrian movements in the locality.

- 8.30 Overall the proposed scheme provides better pedestrian facilities for all users of Aspenden Road, which weighs in favour of the development.
- 8.31 With regard to parking, 156 spaces in total are proposed and this meets the 100% of the maximum level required by the current parking standards referred to in the District Plan. Whilst initially a lower level was proposed, it was considered that in this location where it is acknowledged that pedestrian routes and access to public transport are not ideal the possible 25% reduction in parking allowed in Zone 4 should not be applied.
- 8.32 The Neighbourhood Plan sets out higher standards for this area, which would mean that a minimum of 184 spaces would be required. (Including 4 spaces for each 4 bed house). Whilst these standards are material and carry weight, a balance does need to be drawn. The site is not isolated or remote and there is access to shops and facilities and to public transport within walking distance. The 3 and 4 bed houses proposed are not large and it is considered that in this location it is not appropriate to insist on essentially 1 space for every bedroom. It should also be taken into account that the Government is seeking to encourage walking and cycling in the interests of health and wellbeing and that there is a growing recognition that to prevent problems of congestion and air quality in the future there should be less reliance on the car.
- 8.33 The spaces proposed are well related to the properties that they are to serve and do not result in an over visual dominance of parking within the streetscene. The need to minimise visual dominance of parking has resulted in a preponderance of tandem parking, which the neighbourhood Plan seeks to avoid, but it is considered that the number and configuration of spaces is sufficient to prevent excessive on street parking. In addition the road is of sufficient width to enable on street visitor parking without causing obstruction. A condition is however required to secure the retention of garages and parking spaces so that problems do not arise in the future.

- 8.34 Cycle parking facilities are available for every dwelling.

Healthy and safe communities

- 8.35 The Herts Police Crime Prevention Advisor has no specific concerns about the development although has expressed disappointment that the developers have not chosen to seek Secure by Design accreditation. It is however considered that the proposal complies with DES5.
- 8.36 The proposals provide for a substantive level of open space provision including an informal play area, and public open space. These provisions are regarded as positive benefits of the proposal.

Flood risk

- 8.37 The built elements of the proposed scheme have been located outside of flood zones 2 and 3 and the proposals incorporate sustainable drainage in accordance with policy such that the development will not be at risk of flooding, nor will it increase the risk of flooding elsewhere.
- 8.38 The Lead Local Flood Authority and the Environment Agency raise no concerns subject to conditions.

Contamination and pollution

- 8.39 EHDC Environmental Health advises that mitigation is required with regard to noise from the A10 and possibly from nearby commercial premise. There may also be a requirement for mitigation with regard to odour from the adjacent Sewage facility, but these issues can be satisfactorily addressed by conditions.

Natural Environment

- 8.40 The site contains a significant element of Green Infrastructure which is the continuous stretch of trees along the line of the disused railway track that links to a Local Green Space to the south and an

area of scrubland to the north. In summer this provides a continuous canopy which also links to the verge side woodland along the A10 and on to the vegetation along the River Rib. This important tree line is to be retained.

- 8.41 Additionally a significant area of land adjacent to the river is retained as open space and provides for flood attenuation. This area will be maintained for recreation and the scheme includes proposals to maintain and enhance biodiversity through the use of native and ecologically valuable planting and the introduction of bird boxes, and log piles.
- 8.42 The applicants propose to provide further ecological enhancements within an additional area of land within their ownership, to the immediate south of the A10, this together with the on-site enhancements will result in a net gain in ecological value as required by policy, and this can be secured by condition and legal agreement.
- 8.43 Whilst initially raising objection, the Environment Agency and the Wildlife Trust are now satisfied with the Ecological Appraisal submitted and raise no objection subject to conditions to secure landscape and ecological enhancements and maintenance.

#### Heritage

- 8.44 The site lies adjacent to the Grade II Listed Aspenden Bridge; however, given the retention of the significant hedgerow adjacent to the road it is not considered that the development would have any adverse impact on the setting of the bridge.

### **9.0 Infrastructure/Planning obligations**

- 9.1 HCC have requested financial contributions required to offset the impact of the development on Education, Libraries and Youth Services, and for the provision of fire hydrants.

- 9.2 The Highway Authority requests the provision of £72,750 towards sustainable transport provision, to improve walking and cycling facilities. This will include the proposed improvements to the Public Right of Way through the adjacent industrial estate.
- 9.3 The Neighbourhood plan policy requires contributions towards the provision of bus services and as such a contribution towards the Buntingford Community Area Transport is required in the interests of promoting sustainable transport.
- 9.4 The Local Plan Planning obligations SPD dates from 2008. A replacement Open Space, Sport and Recreation SPD is still to be prepared following the adoption of the District Plan. In respect of this application Officers have taken into account the provision of public amenity space within the site. It is recommended that contributions be sought in respect of community/village hall provision amounting to £16,154, open space for children and young people £17,154 and for outdoor sport provision, £151,965 (all Index linked) using the existing contributions calculator.

## **10.0 Planning Balance and Conclusion**

- 10.1 The proposal will deliver 65 dwellings as part of the District Plan development strategy, including (40%) affordable units. This carries significant positive weight.
- 10.2 Overall, it is considered that the design of the layout and buildings is of good quality, such that it complies with policy. The drainage strategy provides for the use of good quality SuDS. Overall the design characteristics of the development carry positive weight.
- 10.3 The proposal provides satisfactory access to the development, an appropriate level of parking provision and the required highway mitigation measures. The residual cumulative impact on the road network is unlikely to be severe. The highway impacts of the development are therefore considered to be neutral.

- 10.4 Subject to conditions the contamination and pollution impacts of the development are regarded as neutral.
- 10.5 The proposals will provide a net increase in ecological value in the area as required by policy.
- 10.6 The housing mix is considered to be acceptable.
- 10.7 The proposal delivers appropriate levels of financial contribution towards infrastructure and provides good quality public amenity space on-site. This is assigned positive weight.
- 10.8 The proposal delivers improvements to connectivity through and around the site in accordance with policy.
- 10.9 Overall, on the balance of considerations the scheme is considered to be of good design quality and a sustainable form of development.

## **RECOMMENDATION**

That planning permission be **GRANTED**, subject to the satisfactory completion of a legal agreement and the conditions set out at the end of this report.

That delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement, the contributions to be contained therein and conditions.

## **Legal Agreement**

- The provision of 26 units of affordable housing (73% affordable rent and 27% shared ownership) and retained in perpetuity ;
- HCC Contribution towards new First School in Buntingford (TBC)
- HCC Contribution towards Nursery provision at new school in Buntingford (TBC)
- HCC Expansion of Edwinstreet Middle School (£91,362)
- HCC Expansion of Freeman College (93,811)

- HCC Reconfiguration of adult lending area at Buntingford Library (£10,865)
- HCC Reconfiguration of the youth lounge at the Buntingford Young Peoples Centre (£2,683)
- Provision of Fire Hydrants
- HCC Sustainable transport £72,750
- Arrangements for the future maintenance and stewardship of the public realm/highways/bridges/Suds, public open space and play equipment.
- Contribution towards Buntingford Community Area Transport £26,780
- EHDC (subject to the identification of projects and compliance with CIL Regulations)

Community/village halls	£16,154
Outdoor Sports Facilities	£151,965
Open Space maintenance (Children and Young People)	£17,154.85
Recycling Facilities	£4,680

### **Conditions**

1. Three year time limit (1T12)
2. Approved plans (2E10) (amended to include approved documents and reports)
3. Samples of materials (2E12)
4. Details of external lighting (2E26)
5. Prior to commencement of the development hereby permitted, the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number ITL14234-GA-007 Rev C. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.



Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway.

6. Prior to the commencement of the development, a visibility splay measuring 2.4m x 43m shall be provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

Reason: In the interests of highway safety.

7. Prior to final occupation, the scheme to widen the highway to 5.5m on Aspenden Road, including associated pedestrian safety improvements and priority working scheme, as illustrated on approved in principle drawing number ITL14234-GA-007 Rev C shall be provided and maintained thereafter.

Reason: In the interests of highway and pedestrian safety.

8. Prior to the first occupation, vehicular and pedestrian access to and egress from the adjoining highway shall be limited to the access shown on drawing number ITL14234-GA-007 Rev C only. Any other access or egress shall be permanently closed, and the footway / highway verge shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority, concurrently with the bringing into use of the new access.

Reason: In the interests of highway safety and amenity.

9. No development shall commence until full details (in the form of scaled plans and / or written specifications), have been submitted to and approved in writing by the Local Planning Authority to illustrate the following:

I. Roads, footways, cycleways, foul and on-site water drainage; II. Roads and footway; III. Visibility splays; IV. Access arrangements,

including refuse vehicle tracking; V. Parking provision in accordance with adopted standard; VI. Loading areas; and VII. Turning areas.

Reason: To ensure satisfactory development of the site and a satisfactory standard of highway design and construction.

10. No development shall commence until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).

Reason: To ensure satisfactory development of the site and to ensure estate roads are managed and maintained thereafter to a suitable and safe standard.

Three months prior to first occupation the applicant shall submit a Travel Plan for highway/planning authority approval with the aim to promote alternative modes of transport to car.

Reason: To promote sustainable modes of transport.

11. The development permitted by this planning permission shall be carried out in accordance with the principles of the approved Flood risk assessment and Drainage Strategy carried out by Jubb Consulting Engineers reference 18274-FRA-01 v4 dated 17 January 2019 and the following mitigation measures: 1. Limiting the surface water run-off to a maximum of 7.4l/s during all events up to and including the 1 in 100 year plus 40% for climate change event. 2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change (40%) event. 3. Implement drainage strategy based on discharge of surface water into the Main River utilising permeable paving, swales and attenuation basin.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reasons:

- To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site.
- To reduce the risk of flooding to the proposed development and future occupants.

12. No development shall take place until the final design of the drainage scheme is completed and sent to the LPA for approval. The surface water drainage system will be based on the submitted approved Flood risk assessment and Drainage Strategy carried out by Jubb Consulting Engineers reference 18274-FRA-01 v4 dated 17 January 2019. The scheme shall also include:

The surface water drainage scheme should include:

1. A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points into any storage features. If areas are to be designated for informal flooding, these should also be shown on a detailed site plan.
2. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. All corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event.
3. Ensure the outfall into the Main River is available for discharge as a minimum up until the 1 in 30 year event.
4. Detailed infiltration testing in accordance with BRE Digest 365 at the proposed location of permeable paving. Where infiltration is not feasible the permeable paving should connect back into the wider site system.

5. Ensure that the finished floor levels are set no lower than 85.02m above Ordnance Datum.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent the increased risk of flooding, both on and off site.

13. No development shall take place until a landscape and ecological management plan, including long-term design objectives and mitigation actions shall be submitted to, and approved in writing by, the local planning authority. The landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- details of any new habitat created on site
- details of treatment of buffers around water bodies, including lighting schemes.
- the Biodiversity value of a site, determined by applying a locally approved Biodiversity Metric where appropriate.
- details of invasive species management plan.

Reason(s): To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with National Planning policy framework paragraph 170, 175 and East Herts Local Plan policy NE3 Species and Habitats

14. No occupation of the development shall take place until a suitable scheme, based on up to date odour impact assessment for protecting the proposed residential dwellings from odour from the sewage treatment works has been submitted to and approved in writing by the local Planning Authority in consultation with Thames Water) No dwelling identified as likely to be affected by odour shall

be occupied until the scheme has been implemented in accordance with the approved details and it shall be retained in accordance with those details thereafter.

Reason: To ensure an adequate level of amenity for residents of the new dwellings in accordance with Policy EQ4 of the adopted East Herts District Plan 2018.

15. No development approved by this permission shall take place until a Phase 3 Remediation Strategy, to address the contamination risks identified in the previously submitted GEA Desk Study and Ground Investigation report dated May 2013 (RefJ13107), has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include an options appraisal giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged as complete and arrangements for contingency action.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with the NPPF, in order to protect human health and the environment in accordance with Policy EQ1 of the adopted East Herts District Plan 2018.

16. Prior to any permitted dwelling being occupied a validation report shall be submitted and approved in writing by the Local Planning Authority to demonstrate the effectiveness of any agreed Remediation Strategy. Any such validation shall include responses to any unexpected contamination discovered during works.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with the NPPF, in order to protect human health and the environment in accordance with Policy EQ1 of the adopted East Herts District Plan 2018.

17. The applicant is advised that any unsuspected contamination that becomes evident during the development of the site shall be

brought to the attention of the Local Planning Authority and appropriate mitigation measures agreed.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with the NPPF, in order to protect human health and the environment in accordance with Policy EQ1 of the adopted East Herts District Plan 2018.

18. Prior to the first occupation of the development hereby approved, measures to facilitate the provision of high speed broadband internet connections to the development shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable and method of delivery for high speed broadband for each residential unit. The details shall thereafter be implemented in accordance with the approved details and made available for use prior to first occupation of the residential unit to which it relates.

Reason: In order to ensure the provision of appropriate infrastructure to support the future sustainability of the development in accordance with Policies DES4 of the East Herts District Plan 2018.

19. The garage(s) hereby approved shall be used for the housing of private vehicles solely for the benefit of the occupants of the dwelling of which it forms part and shall not be used as additional living accommodation or for any commercial activity.

Reason: To ensure the continued provision of off-street parking facilities and to protect neighbour amenity in accordance with Policies TRA3 and EQ2 of the East Herts District Plan 2018

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any amending Order, the areas shown for parking on the approved plan(s) shall be retained for such use.

Reason: In the interests of highway safety in accordance with Policy TRA3 of the East Herts District Plan 2018.

21. The footpath linkages through the site shown on the approved plans shall be completed prior to the first occupation of any of the dwellings hereby approved and thereafter retained free of obstruction.

Reason: In the interests of promoting sustainable transport options in accordance with Policy TRA1 of the East Herts District Plan 2018.

22. Prior to first occupation of the development hereby approved 1 electric vehicle charging point shall be provided for each dwelling with a garage or allocated parking space.

Reason: To help support improvements in air quality and in accordance with Policy TRA3 and CC2 of the East Herts District Plan 2018

23. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995 as amended (or any other order revoking, further amending or re-enacting that order) no means of enclosure of any height shall be erected or constructed adjacent to a highway used by vehicular traffic without the prior written approval of the Local Planning Authority.

Reason: To maintain the open and verdant character of the estate in accordance with the design concept in the interests of design and visual amenity and to ensure that adequate space is maintained for the manoeuvring of larger vehicles including refuse vehicles in accordance with Policies DS4 and TR2 of the East Herts District Plan 2019

### **Informatives**

1. Other legislation (01OL)
2. Street naming and numbering (19SN)

3. Highway works (06FC2)

**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 and any relevant material considerations. The balance of the considerations is that permission should be granted.



**KEY DATA****Residential Development**

<b>Residential density</b>	<b>Approximately 22 units/Ha</b>	
	Bed Rooms	Number of units
Number of existing units demolished	0	0
Number of new flat units	1	6
	2	2
	3	
Number of new house units	1	0
	2	15
	3	27
	4+	15
Total		65

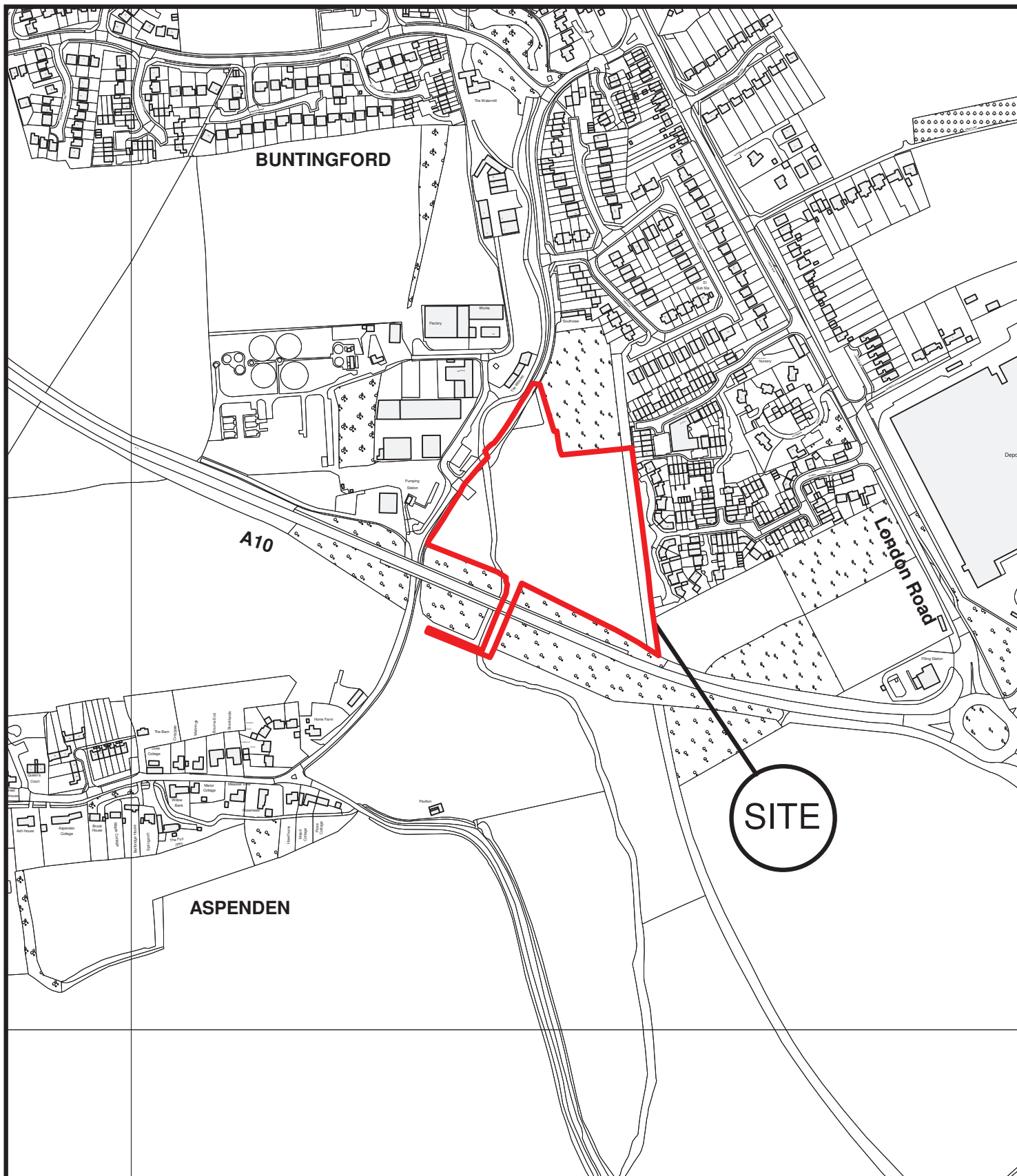
**Affordable Housing**

<b>Number of units</b>	<b>Percentage</b>
26	40

**Residential Vehicle Parking Provision****District Plan Parking Standards**

Parking Zone	Zone 4	
Residential unit size (bedrooms)	Spaces per unit	Spaces required
1	1.50	9
2	2.00	34
3	2.50	67.5
4+	3.00	45
Total required		156 (rounded up)
Accessibility		

reduction	N/A	
Resulting requirement		
Proposed provision		156



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**East Herts Council**  
 Wallfields  
 Pegs Lane  
 Hertford  
 SG13 8EQ  
 Tel: 01279 655261

**Address: Land East of, Aspenden Road, Buntingford, Herts**

**Reference: 3/18/2457/FUL**

**Scale: 1:5000**

**O.S Sheet: TL3628**

**Date of Print: 5 December 2013**

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**EAST HERTS DISTRICT COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE  
ITEMS FOR REPORT AND NOTING  
May 2019**

<b>Application Number</b>	3/17/0781/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Wheelwrights Farm Rowney Lane Dane End Ware SG12 0JY
<b>Appellant</b>	Mr J Cash
<b>Proposal</b>	Change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one Gypsy family, including stationing of one mobile home, one touring caravan, laying of hardstanding, improvements of existing access and installation of septic tank - Retrospective application
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/17/1867/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Committee
<b>Address</b>	Hertford Golf Course London Road Hertford SG13 7NS
<b>Appellant</b>	Mr A RUBINO
<b>Proposal</b>	Change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/0106/ADV
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The White Lion London Road Sawbridgeworth CM21 9EN
<b>Appellant</b>	Mr Millar
<b>Proposal</b>	1 no. externally illuminated hanging sign (retrospective)
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/0107/LBC
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The White Lion London Road Sawbridgeworth CM21 9EN
<b>Appellant</b>	Mr MILLAR
<b>Proposal</b>	1 no. externally illuminated hanging sign (retrospective)
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/0324/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Birch Farm Cottage White Stubbs Lane Bayford Broxbourne EN10 7QA
<b>Appellant</b>	Mr Mario Ferraro
<b>Proposal</b>	Demolition of existing property and erection of new house and garage with associated parking
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/1219/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	11 New Road Bengeo Hertford SG14 3JJ
<b>Appellant</b>	Ms S Garner
<b>Proposal</b>	Hip to gable extension, to include the provision of two rear and two front elevation rooflights and the insertion of a side elevation second floor window.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/1274/CLE
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	St Augustine Court Wharf Road Bishops Stortford CM23 3GE
<b>Appellant</b>	St
<b>Proposal</b>	Use of the Caretakers Flat as a single dwelling.
<b>Appeal Decision</b>	Withdrawn

<b>Application Number</b>	3/18/1714/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Thorley Houses FarmThorley Lane WestThorleyBishops Stortford CM23 4BN
<b>Appellant</b>	Mr And Mrs D Osborn
<b>Proposal</b>	Replacement single-storey rear extension
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/1789/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land Adj To ElmsSlough RoadAllens GreenSawbridgeworth CM21 0LR
<b>Appellant</b>	Mr P Faud
<b>Proposal</b>	Erection of 1 no. 5 bedroomed dwelling with carport and associated access and landscaping.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/1880/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	95 Dunmow RoadBishops Stortford CM23 5HF
<b>Appellant</b>	Mr Michael Horwath
<b>Proposal</b>	Remove hedge and replace with 2 metre high acoustic fencing .
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/2056/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	7 Manor RoadBishops Stortford CM23 5HU
<b>Appellant</b>	Mr Oliver Acland
<b>Proposal</b>	Replacement of ground and first floor timber windows (front elevation) with white double glazed UPVC windows .
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2058/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Land To The Rear Of 33 Homefield RoadWare SG12 7NG
<b>Appellant</b>	Mr Jenkins
<b>Proposal</b>	Erection of 1 no. one bed bungalow with new vehicle access and parking
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2100/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	7A Lower GreenTewinWelwyn AL6 0JX
<b>Appellant</b>	Mr And Mrs Hamby
<b>Proposal</b>	First floor front extension and insertion of window to flank elevation
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2214/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	29 High StreetWatton At StoneHertford SG14 3SX
<b>Appellant</b>	Mr & Mrs A. Hunter
<b>Proposal</b>	Raising roof ridge. Creation of 1 no. rear dormer window, insertion of 2 no. rooflights and 2 no. sunpipes.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/2276/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Amwell LodgeCautherly LaneGreat AmwellWare SG12 9SN
<b>Appellant</b>	Mr And Mrs M And D Steele
<b>Proposal</b>	Single storey side extension and fenestration alterations to the front elevation.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/2401/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Birchwood26A Birch GreenHertford SG14 2LU
<b>Appellant</b>	Mr Graville
<b>Proposal</b>	Demolition of stable block and outbuilding and erection of detached double garage.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2442/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	BrienzAlbury RoadLittle HadhamWare SG11 2DN
<b>Appellant</b>	Ms J Earthrowl
<b>Proposal</b>	Erection of first floor extension and associated alterations to ground floor.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/2471/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	20 Desborough DriveTewin WoodTewin AL6 0HJ
<b>Appellant</b>	Mr & Mrs M & J Hussey
<b>Proposal</b>	Demolition of garage. Single storey side extension and two storey rear extension. Alterations to front and rear fenestration.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/18/2476/FUL
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Bakers FarmHigh Wych LaneHigh WychSawbridgeworth CM21 0JL
<b>Appellant</b>	Ms Kirstie Neilson
<b>Proposal</b>	Construction of 1 no pair of 3 bed semi-detached house and associated garages with parking and access road.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/18/2719/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	32 London RoadHertford HeathHertford SG13 7PN
<b>Appellant</b>	Mr Scott Carter
<b>Proposal</b>	Extension of drop kerb
<b>Appeal Decision</b>	Dismissed

Background Papers

Correspondence at Essential Refusedeference Paper 'A'

Contact Officers

Sara Saunders, Head of Planning and Building Control – Extn: 1656

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## Appeal Decisions

Inquiry Held on 15 May 2018, 22 October 2018, 26-29 November 2018 and 11 January 2019

Site visit made on 15 May 2018

**by Andrew R Hammond MA MSc CEng MIET MRTPI**

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

**Decision date: 28 March 2019**

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### **Appeal A Ref: APP/J1915/C/17/3174667**

**Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY**

- 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 made by Mr James Cash against an enforcement notice issued by East Hertfordshire District Council.
  - The enforcement notice, numbered E/17/0114/ENF was issued on 5 April 2017.
  - The breach of planning control as alleged in the notice is without planning permission, the stationing of caravans/mobile homes on the land for residential use.
  - The requirements of the notice are cease the unauthorised residential use of the land and remove the caravans/mobile homes from the land.
  - The period for compliance with the requirements is 4 Months from the date the notice comes in to effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a), (f) & (g) of the Town and Country Planning Act 1990 as amended.
- 

### **Appeal B Ref: APP/J1915/C/17/3174668**

**Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY**

- 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 made by Mr James Cash against an enforcement notice issued by East Hertfordshire District Council.
  - The enforcement notice, numbered E/17/0114/ENF was issued on 5 April 2017.
  - The breach of planning control as alleged in the notice is the unauthorised laying of hard standing and installation of drainage works on the site.
  - The requirements of the notice are remove the hard standing and installed drainage and any resultant material from the land.
  - The period for compliance with the requirements is 4 Months from the date the notice comes in to effect.
  - The appeal is proceeding on the grounds set out in section 174(2)(a) & (g) of the Town and Country Planning Act 1990 as amended.
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### **Appeal C Ref: APP/J1915/W/17/3177630**

**Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY**

- 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 James Cash against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/0781/FUL, dated 27 March 2017, was refused by notice dated 25 May 2017.
  - The development proposed is change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank.
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### **Decision Appeal A**

1. It is directed that the enforcement notice be corrected: by the deletion of the words "Without planning permission, the stationing of caravans/mobile homes on the land for residential use." and the substitution of the words "without planning permission the material change of use of the land and buildings from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential gypsy site." in the matters which appear to constitute the breach of planning control. Subject to this correction the appeal is allowed and the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY, as shown on the plan attached to the notice, for a mixed use of stabling/keeping of horses and the stationing of caravans/mobile homes on the land for residential use subject to the conditions in Appendix A.

### **Decision Appeal B**

2. It is directed that the enforcement notice be corrected: by the addition of the Plan B annexed to this decision to the enforcement notice; by the deletion of the words "Remove the hard standing and installed drainage " and the substitution of the words "Remove the hardstanding shown edged and cross hatched red on Plan B and the septic tank and associated drainage works" in the requirements of the notice. Subject to these corrections the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the laying of hardstanding and installation of drainage works on the land at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY subject to the conditions in Appendix A.

### **Decision Appeal C**

3. The appeal is allowed and planning permission is granted for change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank at Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY in accordance with the terms of the application, Ref 3/17/0781/FUL, dated 27 March 2017, subject to the conditions attached as Appendix A.

### **Application for Costs**

4. An application for costs was made by Mr James Cash against East Hertfordshire District Council. This application is the subject of a separate Decision.

## **Procedural Matters**

5. The Inquiry was related to three separate appeals, Appeal A against an enforcement notice alleging a material change of use; Appeal B against an enforcement notice alleging operational development; and Appeal C against refusal of planning permission. The operational development in Appeal B facilitated the change of use alleged in Appeal A. The allegations in appeals A & B taken together constitute the development which is the subject of Appeal C. Although it is necessary to determine each of these appeals in its own right, to avoid duplication I have dealt with the appeals together as indicated.
6. Subsequent to the issue of the enforcement notices and consideration of the planning application the Council have adopted the East Hertfordshire Local Plan 2018 as part of the Development Plan. The appeals have been determined on the basis of the adopted plan.

### **The Enforcement Notice – Appeal A**

7. The allegation in the notice is without planning permission, the stationing of caravans/mobile homes on the land for residential use. It is clear that the notice attacks a change of use of the land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential gypsy site. No injustice would be caused to any party by correcting the notice to that effect.
8. The enforcement notice requires the removal of caravans/mobile homes from the land. It is clear on the face of the notice that this relates to those structures brought onto site for residential purposes.

### **The Enforcement Notice – Appeal B**

9. The notice alleged “the unauthorised laying of hard standing and installation of drainage works on the site” and required “remove the hard standing and installed drainage and any resultant material from the land.” The appellant had appealed on ground (f) on the basis that there was pre-existing lawful hardstanding and surface water drainage on the appeal site and that the requirements were excessive in that they included removal of lawful works. The Council confirmed at the Inquiry that the notice was intended to attack additional hardstanding and the provision of a septic tank and associated works and an agreed plan showing the additional hardstanding was produced. It was agreed that no party would be caused injustice by the correction of the notice in that respect and on that basis the appellant did not pursue the ground (f) appeal.

### **Reasons: Appeal C, Appeal A ground (a) and Appeal B ground (a)**

#### **Main Issues**

10. The main issues in these appeals is the sustainability of the appeal site as a site as a residential caravan site for one gypsy family; the effect of the development on the setting of heritage assets; and the effect on the character and appearance of the countryside.

#### ***Sustainability***

11. The Council’s reasons for refusal, in Appeal C, was that the appeal site was in an unsustainable location for a gypsy site. This stance was supported by the Friends of Rowney Lane (FORL), a ‘Rule 6 Party’ who participated in the Inquiry.

12. The Statement of Common Ground describes the appeal site as comprising 0.2 hectare of land located along the south-eastern side of Rowney Lane, Dane End and forming part of a larger holding extending in total to about 3.24 hectare.
13. The appeal site contains a substantial timber stable building around 40m in length parallel to the road and it is common ground that there was originally a mobile home located to the north-east within a domestic garden.
14. The site is substantially screened by woodland and the lawful stable building along the site frontage with Rowney Lane and by woodland to the east. New hedgerows have been planted along the south-western and north-eastern boundaries of the appellant's land holding which is mostly laid to grass for the purposes of grazing horses but includes around 0.8 hectare of woodland.
15. Access to the appeal site is from Rowney Lane via an existing entrance located at the south-western end of the site frontage. The appeal site is less than 200m (in a direct line) from the closest housing, Potters Wood Close to the north-east and Rowney Priory to the south-west. At Rowney Priory, in addition to the original Grade II listed dwelling, there are a number of associated buildings in residential use such as to form a distinct cluster of dwellings and outbuildings including a substantial garage building to the north-east of the Priory.
16. The appeal site is located around 2.6km from Dane End village, the closest settlement containing local community services and facilities, including a primary school and a village shop.
17. Policy GBR2 of the East Hertfordshire Local Plan 2018 (LP) makes clear that planning permission will be granted for accommodation for gypsies and travellers in accordance with Policy HOU9. Policy HOU9 carries a presumption in favour of proposals for gypsy and traveller sites outside of the Green Belt, subject to compliance with 8 criteria. The Council originally cited only conflict with Criterion II(a) which requires accommodation for gypsies and travellers to be in a sustainable location in terms of accessibility to existing shops, social, educational and health services and potential sources of employment. The criterion is, however, silent on distances or on means of access other than the private motor car.
18. Planning Policy for Traveller Sites (PPTS) sets out Government policy in respect of traveller sites and acknowledges that gypsy sites may be located in rural or semi-rural areas provided that such sites do not dominate the nearest settled community. Policy H (paragraph 25) states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.
19. In support of the argument that the appeal site is in an unsustainable location the Council cited a previous appeal decision T/APP/C/96/J1915/643817-18, dated 12 June 1997, against an enforcement notice issued on 11 June 1996 alleging a material change of use of the land from use for stabling, grazing and riding of horses to a mixed use for stabling, grazing and riding of horses and the standing of a caravan for human habitation.

20. However, that decision related to a caravan for general residential purposes and not for accommodation for gypsies or travellers for which the provisions of PPTS apply. Furthermore, both PPTS and the National Planning Policy Framework (the Framework) postdate that decision.
21. Both main parties produced examples of decisions where the sustainability of the appeal site was a main issue. However, in the light of the lack of any quantifiable criteria in local or national policy the question of sustainability in relation to distance to services and accessibility is a matter for the decision maker, taking account of local circumstances.
22. The Council and FORL also cited paragraph 25 of PPTS which states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Both parties sought to rely on *Braintree DC v SSCLG [2018] EWCA Civ 610* in support. However that case related to two dwellings with specific reference to paragraph 55 of the (then) Framework and the use of the word 'isolated' in that document cannot be equated to the reference to 'away from existing settlements' in PPTS. In his judgement Lindblom LJ held that "Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand" and continued "What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a 'community', a 'settlement', or a 'village'. There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach. Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decisionmaker".
23. Furthermore, PPTS also does not define what is meant by 'settlement' in that document and there is no suggestion that the expression should be limited to designated settlements. Paragraph 25 continues with 'Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.' PPTS recognises, therefore, that traveller sites that are not within, or contiguous with, the nearest, undefined, settled community are not unacceptable in principle.
24. FORL argue that Potters Wood Close and Rowney Priory are not settlements in that the numbers of dwellings are small, are not accessible to the public and do not front a highway. However there is little substance to this argument. There is no reason why a settlement should not be accessed via a private road or driveway and both Potters Wood Close and many of the dwellings adjacent to Rowney Priory are visible from the highway with some adjacent to the road.
25. The appeal development is close to although not contiguous with established small settled communities at Potters Wood Close and Rowney Priory and is not, in principle, in conflict with the Framework or PPTS in respect of its location.

26. Factors to be taken into account in relation to traveller sites are set out at paragraph 13 of the PPTS but the NPPF also has a presumption in favour of sustainable development at its heart. Both documents indicate that there are economic, social and environmental dimensions rather than simply the narrow question of how far the site is from local services and facilities and whether there would be undue reliance on the car. PPTS states, at paragraph 13, that local planning authorities should ensure that traveller sites are sustainable economically, socially and environmentally and at sub-paragraph h) of paragraph 13 states that local planning authorities should ensure that policies reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability. These wider considerations did not form part of the reasoning by the Inspector in a previous appeal at a nearby site at Elmfield Stables, Throcking (APP/J1915/A/12/2187829).
27. Whilst it is accepted that the appellant would be reliant on a private car to access services in Dane End, some 2.6km distant, given the wider consideration of sustainability in the Framework and the specific considerations of gypsy and traveller sites in PPTS, the appeal site is not in an unsustainable location and is not, therefore, in conflict with LP Policy HOU9 II(a).

### **Heritage**

28. Section 66(1) of the *Planning(Listed Buildings and Conservation Areas) Act 1990* states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
29. Furthermore, one of the core planning principles of the National Planning Policy Framework is that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
30. Whilst the Council maintained the position that there was no heritage harm, the case of the Friends of Rowney Lane (FORL) was that the appeal development harms the setting of Rowney Priory and that furthermore the 'parkland' associated with the Priory is a heritage asset itself, albeit not designated, and that the development is harmful to that heritage asset.

### **Rowney Priory**

31. Rowney Priory is Grade II listed, the first listing being 4 December 1951. The list description describes it as 'a country house, now 2 houses' (subsequently converted to a house and 3 flats) 'said to incorporate fabric of a Benedictine nunnery founded in 1164.' The list description continues to describe in some detail the external appearance of the building and limited description of internal features. Whilst there is also a listed medieval stone coffin on an island in a small lake within the laid-out gardens there is no further mention of the grounds or setting of the priory.
32. The significance of Rowney Priory as a heritage asset is, therefore, its visual appearance and historic interest. FORL accept that the Priory is not physically



harmed by the appeal development and that there is no substantial harm to the significance of Rowney Priory.

33. Indeed, given the physical separation, it is reasonable to conclude that there is no harm to the Priory itself. However, considerable weight needs to be given to any harm to the setting of the building. This is dealt with further below.

#### *The 'parkland'*

34. FORL suggest that Rowney Priory sat within an extensive area of designed parkland, including the appeal site, and that the parkland was so designed to enhance the appearance of, and views from, the Priory. The priory sits within designed gardens and the area to the east of the Priory is substantially open, with distant backdrops of woodland and with specimen trees closer, and a drive afforded access to the Priory from a lodge to the south-east, no doubt providing a dramatic approach to the house.
35. Whilst FORL (and Hertfordshire Gardens Trust) produced much in the way of evidence aimed at demonstrating that the wider area was designed parkland, there is little of substance other than speculative interpretation of historic plans and maps which have little or no detail or annotation to endorse the conclusion that there was ever a designed landscape, perhaps with the exception of the specimen trees, beyond the ornamental gardens of the Priory. Furthermore, whilst not definitive, the listing of the Priory made no reference to any historic parkland or to the setting of the listed building.
36. Whilst it is equally the case that there is little, if any, evidence that there was never a designed landscape in the area towards the appeal site, it is clearly apparent that the appeal site does not sit within designed parkland, if it ever did. It contains no features of a designed landscape.
37. It is therefore reasonable to conclude that the appeal development does not cause harm to an undesignated heritage asset, namely a designed parkland.

#### *The setting of Rowney Priory*

38. The setting of a heritage asset is not limited to its curtilage or its immediate surroundings. Indeed, the lack or existence of a visual or physical connection between a development site and a heritage site is not a determining factor when considering the setting, the framework definition of 'setting' being the surroundings in which a heritage asset is experienced.
39. As reasoned above, there is no conclusive evidence that the appeal site was ever part of a designed landscape and, whilst it did form part of the historic Priory estate, it has not been demonstrated that there was a clear functional relationship. Even if there were any historic and/or functional link with Rowney Priory, it is clear that the setting of heritage assets alters with time.
40. Nevertheless, the mobile home on the appeal site is currently visible from the Priory and its immediate surroundings and therefore does affect to a limited extent the setting and the setting's character, although it is doubtful that there are few locations, other than the appeal site itself, where the mobile home appears against the backdrop of the Priory within its immediate surroundings. The mobile home could be screened from view, or its effect mitigated, by soft landscape works. Whilst FORL contend that this would be detrimental in screening views of open countryside beyond, the backdrop to the view across

the appeal site is a belt of trees and there is no substantial open area to be screened from view.

41. Given that the appeal site is somewhat distant from the Priory and that the appeal development must be considered in the context of the substantial lawful stable development on the site, including the potential for the lawful parking of vehicles, including horseboxes and trailers any harm is limited and less than substantial but is nevertheless of considerable weight when balanced against any benefits of the appeal development.

### ***Character and Appearance***

42. The appeal site is substantially screened from Rowney Lane by existing hedgerows and the lawful stable building. Any effect on the character and appearance of the countryside must be assessed in consideration of the effect of the existing lawful development on the site, including the unrestricted parking of vehicles associated with the keeping of horses.
43. LP Policies HOU9 and GBR2 provide for gypsy and traveller sites in the countryside provided they do not cause undue harm to visual amenity or the character of the countryside.
44. Furthermore, PPTS states, at paragraph 26(d) that local authorities should attach weight to not enclosing a site with so much hard landscaping, high walls or fences, that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. It follows that it is envisaged that gypsy and traveller sites will be visible from the public domain and that a degree of visual harm resulting from such sites in the countryside will be inevitable. However, such harm cannot be compared directly to similar harm resulting from non-traveller development and whilst the latter may be unacceptable the former may not be. Public views of the appeal site would be extremely limited, and any harm could be mitigated by appropriate landscaping and boundary treatment, which could be controlled by condition.
45. Whilst it is inevitable that there would be some effect on the character and appearance of the countryside, the weight to be attached to any harm is, therefore limited.

### ***Intentional Unauthorised Development***

46. In 2015 the Secretary of State issued a planning policy statement on Green Belt protection and intentional unauthorised development. This policy statement, which the Government has very recently confirmed still applies, makes intentional unauthorised development a material consideration to be weighed in the determination of planning applications and appeals. The reasons given for the policy were explained as that it applied where there has been no opportunity to appropriately limit or mitigate the harm that has taken place.
47. In this instance a planning application was submitted prior to the issue of the enforcement notices giving the Council the opportunity to limit or mitigate harm by the imposition of planning conditions or to refuse the application and then issue an enforcement notice requiring the land to be returned to its former condition



48. In the current appeals, although the residential use of the site amounts to intentional unauthorised development the weight to be attached to this in the determination of the appeal is limited.

### ***Other Matters Raised in Objection***

49. The Council belatedly raised an objection based on conflict with LP Policy HOU9 II(e), suggesting that the appellant and his family could not integrate with the settled community as any 'settled community' is remote from the site.
50. The proximity of the appeal site to 'settlements' is dealt with above under sustainability. Nevertheless, the Council's late objection on this basis is based on conflating 'settled community' and 'settlement'. It is well established that with regard to gypsy and traveller policy the term 'settled community' refers to the wider non-traveller community. There is no constraint on the appellant and his family using the same facilities such as shops, garages pubs etc. as the local settled community in the vicinity. There is no conflict with LP Policy HOU9 II(e).
51. Before the Inquiry, doubt was cast on whether the appellant satisfied the definition of gypsy or traveller in PPTS. The Council continued to suggest that, in order to benefit from LP Policy HOU9 on the provision of gypsy and traveller sites, it is necessary for the applicant to be a gypsy. This is clearly not the case. Any developer can seek planning permission for a traveller site and the status of the applicant only becomes relevant if personal circumstances tip the balance and a personal permission, in addition to a generic 'gypsy & traveller occupancy condition' was appropriate.
52. Nevertheless, Mr Jarman, giving evidence for the Council, accepted that Mr Cash qualified as a 'PPTS gypsy'.
53. The Friends of Rowney Lane contended that the appeal site was being used for commercial purposes including the sale of animal feeds, involving movements and siting of heavy goods vehicles. The appellant explained that he had allowed another party to keep a small number of horses on the site and it appeared that that person had been operating a business from the premises, without his permission, during his time travelling for work. Any such use had ceased. Regardless, the enforcement notices did not allege any commercial use nor did the planning application include such use. Any planning permission granted by virtue of the appeals would not include commercial use and conditions could preclude such use or the parking of vehicles above 3.5 tonnes. Very little weight has been afforded to this matter in the determination of the appeal.

### **Need for Gypsy Sites in East Hertfordshire**

54. It is the Council's contention that there is no unmet need, as identified in the GTAA, and that sufficient sites have been allocated in the Development Plan to meet the need of the travelling community. However, the appellant disputed the Council's figures.
55. The Council argued that it was not appropriate for the appellant to dispute the findings on supply which were found to be robust by the Inspector conducting the Examination in Public of the Development Plan and that if the appellant wished to dispute the findings he should have done so at the examination stage. That is not so, any appellant is entitled to question the 5 years supply position regardless of whether an examination Inspector has found the figures to be robust.

56. It was clear during cross-examination that of the 18 families identified in the district 4 (22% of the identified population) were not interviewed and their future needs were not identified or catered for.
57. Of the 18 families 10 were 'cultural' families that did not meet the definition in PPTS in that they were not travelling. No provision was made for population growth from those families as it was assumed the children would not adopt a travelling lifestyle.
58. No provision was made for families currently on unauthorised pitches.
59. Whilst there is an identified household need for a total of 5 pitches emerging from existing sites at Esbies and The Stables these are discounted by 50% on the basis of half the emerging families moving out of the area.
60. Based on the above it is reasonable to conclude that the Council has underestimated the need for pitches arising over the next 5 years.
61. The appellant proposes that the need arising should be a minimum of 14 pitches (4 from the unlawful pitches at Esbies and 10 arising from household formation from the 8 families meeting the PPTS definition. It is further suggested that household formation from the 10 'cultural' families and the 4 families who were not interviewed should be added.
62. The need arising is likely to be somewhere between that considered by the Council, which disregards some specific factors, and that put forward by the appellant. It is reasonable to conclude, therefore, that the Council's provision is unlikely to meet the emerging need and that there is as a result an unmet need for gypsy and traveller pitches in East Hertfordshire. That is a matter of substantial weight in the determination of the appeal.

### **Alternative Sites**

63. All parties accepted that there are no available public sites in the district, and that all private sites, which would not in any event be available to the appellant, are full.
64. It was suggested by the Friends of Rowney Lane that, as a named individual in the occupancy condition on the planning permission for his father's site at Tom's Lane, the appellant could occupy a pitch there. It was undisputed at the Inquiry that there are more individuals listed in the condition than could lawfully occupy the site and that the site was currently full. There is no pitch available to the appellant at Tom's Lane.
65. Whilst it is not incumbent upon the appellant to demonstrate that he has made all reasonable efforts to obtain a lawful site it was clear that he has attempted so to do and has been on the waiting list for a public site in Hertfordshire for some time with no prospect of being accommodated in the near future, according to the Hertfordshire Gypsy Section Head.
66. Additional sites may become available in the longer term within Birchall Garden Suburb, a potential development straddling the border with Welwyn Hatfield Borough, subject to that development proceeding. However, there is no certainty as to any timescale and no gypsy pitches would be available to the appellant within any reasonable timescale. (See also section on 'Temporary Permission'.)

67. The lack of available and suitable sites is a material consideration of weight in favour of the appellant.

### **Personal Circumstances**

68. In the event that planning permission for a generic gypsy and traveller site is not justified then the personal circumstances of the appellant and his family are a material consideration to be taken into account if considering a personal planning permission.
69. The appellant and his wife have a very young daughter and the appeal site would enable consistent access to medical services and, at the appropriate stage, to educational services. It has been established that the best interests of children is a primary consideration with no other consideration being inherently more important.

### **Human rights**

70. As regards Article 8 of the European Convention on Human Rights the appellants and their children are currently living on the appeal site, albeit without the benefit of planning permission, and dismissal of the appeals would be likely to result in their removal from the site and interference with their home and private and family life. It is necessary to consider whether it would be proportionate to refuse planning permission in all the circumstances of the case.
71. The need to maintain a gypsy lifestyle is an important factor in the decision making process. Those gypsies without an authorised site face difficulties in endeavouring to continue their traditional way of life within the law. There is no site currently available within East Hertfordshire and that lack of alternatives makes any interference with the appellants' private and family rights more serious. This is a matter of substantial weight in consideration of a personal permission.

### **Temporary permission**

72. Where a permanent permission is not justified the lack of alternative available sites and the likelihood of suitable sites becoming available in the foreseeable future a temporary permission, resulting in lesser harm by virtue of its temporary nature, may be appropriate.
73. The need for all sites within East Hertfordshire identified in LP Policy HOU9 for provision up to 2027 arise from identified need other than that of the appellant. Should Welwyn Hatfield Borough Council bring forward the Birchfield Garden Suburb, spanning the border with East Hertfordshire, a further two pitches would be available to East Hertfordshire before 2027 but these would be to meet the needs of families on unauthorised pitches at Esbies. It is clear, therefore, that circumstances will not change so as to make provision of an alternative site within the foreseeable future so as to render a temporary planning permission appropriate.

### **Overall Balance and Conclusions: Appeal C, Appeal A ground (a) and Appeal B ground (a)**

74. As reasoned above, the appeal site is not in an unsustainable location in terms of national policy, as expressed in PPTS, or LP Policy HOU9. There is no conflict with the Development Plan in this respect.

75. Limited harm is caused to the character and appearance of the countryside. However, PPTS acknowledges that gypsy and traveller sites are acceptable in principle within the countryside and that a degree of harm in this respect is inevitable.
76. Paragraph 193 of the National Planning Policy Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
77. In addition, Paragraph 194 explains that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
78. As reasoned above, some limited harm to the setting of Rowney Priory results from the appeal development. However, given the distance from the Priory and the scale of the development, the development does not adversely affect the significance of the designated heritage asset itself, namely its visual appearance and historic interest.
79. Nevertheless, the limited harm to the setting carries considerable weight to which must be added the limited weight attributable to harm to the character and appearance of the countryside and the weight attached to intentional unauthorised development.
80. As reasoned above, despite the case for the Council, there is an unmet need for gypsy and traveller sites within East Hertfordshire. The provision of a permanent gypsy pitch at the appeal site would be a public benefit of substantial weight.
81. Given the importance given in the National Planning Policy Framework to the protection of heritage assets the provision of a single permanent pitch *per se* would not outweigh the albeit limited harm to the setting of Rowney Priory.
82. Nevertheless, considerable weight also falls to be attached to the personal circumstances of the appellant and his family who have had an established need for a permanent home and have made reasonable attempts to secure one.
83. The appeal site would afford a stable base from which to access health care for the family and the future educational needs of their daughter. Access to health care and education is clearly in the best interests of the daughter. The best interests of the child are a primary consideration and, whilst not in themselves, determinative, it is established that no other factor can be given greater weight. In this case any limited harm to the setting of Rowney Priory cannot carry greater weight than the best interests of the new-born daughter of the appellant.
84. The best interests of the child, added to the public benefit of the provision of a single gypsy pitch, reducing the unmet need, and the private interests of the appellant in the provision of a stable and secure base for him and his family outweigh the limited harm identified above.

85. For the reasons given above, and taking account of all material matters raised, the appeals should be allowed and planning permission granted for change of use of land from use for stabling/keeping horses to a mixed use for stabling/keeping horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding, improvement of existing access and installation of septic tank.

#### **Overall Conclusion Appeal A**

86. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on grounds (f) and (g) does not therefore need to be considered.

#### **Overall Conclusion Appeal B**

87. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

#### **Overall Conclusion Appeal C**

88. For the reasons given above I conclude that the appeal should be allowed.

#### **Conditions**

89. A condition restricting occupation of the site to gypsies and travellers is necessary as the residential use of the site is only justified on the basis of the policies in PPTS.
90. As the personal circumstances of the appellant are a determining factor a condition restricting occupation of the site to named individuals is also necessary.
91. A condition restricting the number of caravans on the site to a maximum of one static caravan/mobile home and one touring caravan is necessary in the interests of visual amenity.
92. A condition requiring the development to be completed in accordance with approved plans is necessary in the interests of proper planning.
93. A condition requiring the submission, approval and implementation of a site development scheme covering layout, access, landscaping, external lighting and foul and surface water drainage is necessary in the interest of visual and environmental amenity.
94. A condition requiring the replacement, as necessary, of trees or plants forming part of the approved landscaping is necessary in the interest of visual amenity as is a condition preventing commercial activity or the parking of vehicles over 3.5 tonnes.

*Andrew Hammond*

Inspector



## Plan B

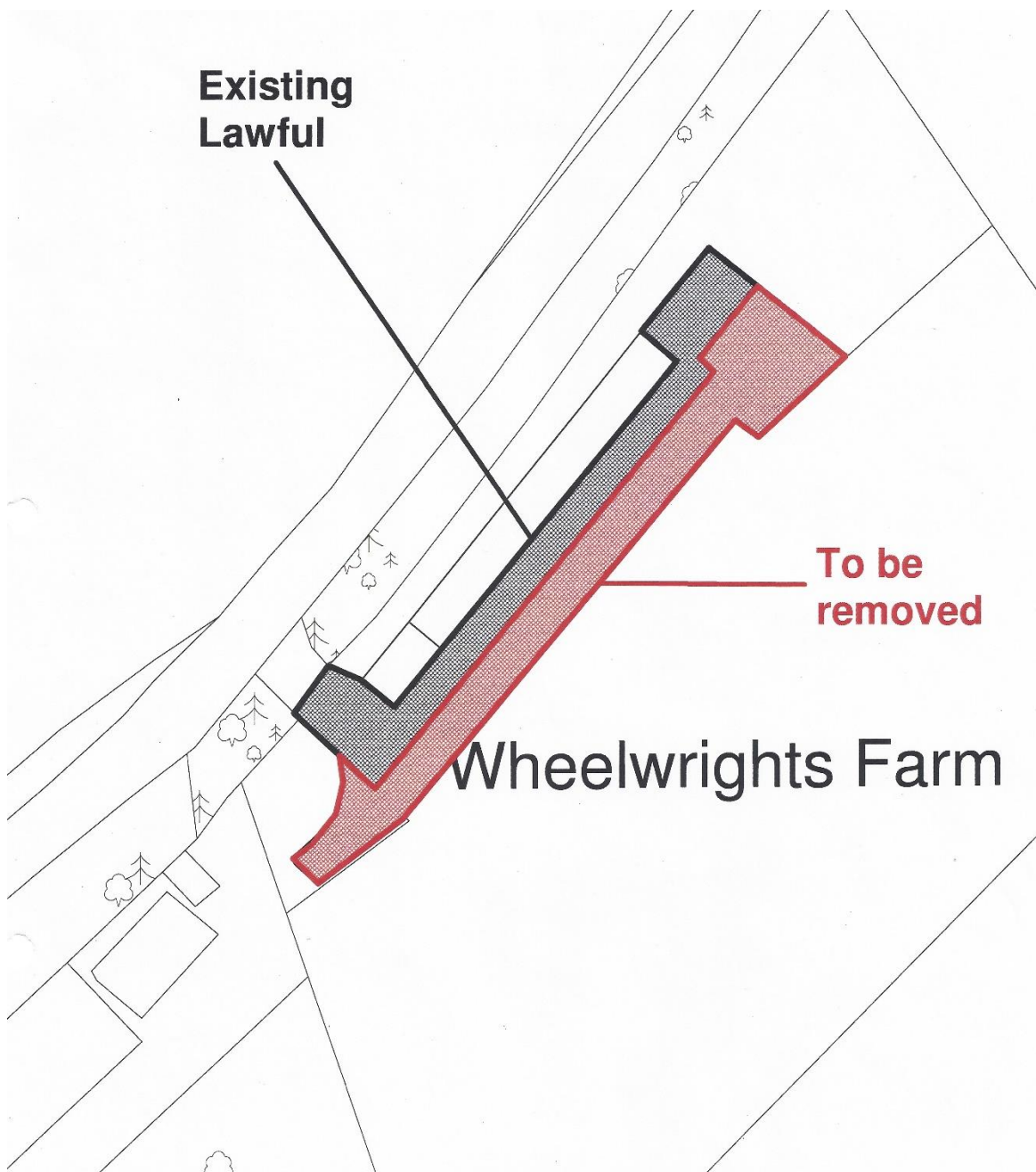
This is the plan referred to in my decision dated: 28 March 2019

by **Andrew R Hammond MA MSc CEng MIET MRTPI**

**Land at: Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY**

**Reference: APP/J1915/C/17/3174668**

Scale: not to scale





## **APPEARANCES**

FOR THE APPELLANT: Mr Michael Rudd of Counsel

He called: Mr Philip Brown, P Brown Associates  
Mr James Cash, Appellant

FOR THE LOCAL PLANNING AUTHORITY: Mr Killian Garvey of Counsel

He called: Mr Simon Dunn-Lwin, East Herts DC  
Mr Steve Jarman, Opinion Research Services

FOR THE Friends of Rowney Lane: Mr Richard Langham of Counsel

He called: Mr Stephen Boniface  
Mr Michael Hearn  
Mr Martin Dewhurst  
Mr D Abbott

INTERESTED PERSONS:

Ms E Gregg-Smith, local resident  
Mr David Lang, local resident  
Ms Jaqueline Scott, local resident  
Ms Kate Harwood Hertfordshire Gardens Trust

## **Appendix A Schedule of Conditions**

- 1) The occupation of the site hereby permitted shall be carried on only by the following and their resident dependants: James Cash and Julie Donna Cash.
- 2) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).
- 3) When the land ceases to be occupied by those named in condition 1 above the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to or erected on the land, and/or works undertaken to it in connection with the use, shall be removed and the land shall be restored to its condition before the development took place.
- 4) No more than 2 caravan(s), as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no more than 1 shall be a static caravan) shall be stationed on the site at any time.
- 5) The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in i) to iv) below:
  - i) Within 3 months of the date of this decision a scheme for the means of foul and surface water drainage of the site; proposed and existing external lighting on the boundary of and within the site; the layout of the site, including the siting of caravans, plots, hardstanding, access roads, parking and amenity areas; tree, hedge and shrub planting and where appropriate earth mounding including details of species, plant sizes and proposed numbers and densities; together with the restoration of the site to its condition before the development took place, when the site is no longer occupied by those permitted to do so, (hereafter referred to as the site development scheme) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - ii) If within months of the date of this decision the local planning authority refuse to approve the scheme or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - iii) If an appeal is made in pursuance of ii) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.



- 6) If, within a period of 5 years from the date of planting, any tree or shrub planted as part of the landscaping approved under Condition 5 (or any tree or shrub planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.
- 7) No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
- 8) No commercial activities shall take place on the land, including the storage of materials.

**End of Schedule of Conditions**



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## Costs Decision

Inquiry Held on 15 May, 22 October, 26-29 November 2018 and 11 January 2019  
Site visit made on 15 May 2018

**by Andrew R Hammond MA MSc CEng MRTPI**

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

**Decision date: 28 March 2019**

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**Costs application in relation to Appeals Ref: APP/J1915/C/17/3174667; APP/J1915/C/17/3174668; and APP/J1915/W/17/3177630  
Wheelwrights Farm, Rowney Lane, Dane End, Ware, Hertfordshire SG12 0JY.**

- The application is made under the Town and Country Planning Act 1990, sections 78, 174, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr James Cash for a partial award of costs against East Hertfordshire District Council.
  - The inquiry was in connection with appeals against enforcement notices alleging change of use of land to a mixed use of stabling/keeping of horses and the stationing of caravans/mobile homes on the land for residential use and associated operational development; and an appeal against the refusal of planning permission for change of use of the land to a mixed use for stabling/keeping of horses and as a residential caravan site for one gypsy family including stationing of one mobile home, one touring caravan, laying of hardstanding improvement of existing access and installation of septic tank.
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### **The submissions for Mr James Cash**

1. The application was formally produced in writing and submitted that the adjournment of the Inquiry on 15 May 2018 was necessitated by the Council's unreasonable behaviour in failing to produce substantive evidence until the week before.
2. As a result, the appellant was caused wasted costs in the form of attendance on 15 May of his planning consultant, his advocate and himself.

### **The response by East Hertfordshire District Council**

3. The Council confirmed in closing submissions that it did not resist the application for a partial award of costs.

### **Reasons**

4. The Planning Practice Guidance advises that costs may 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.
5. The Council had accepted that the failure to produce evidence in accordance was as a result of an 'administrative error'. The timing by which the evidence was provided was such that the appellant was disadvantaged and there was no option but to adjourn to a future date.

6. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

### **Decision**

7. The application for an award of costs is allowed in the terms set out below.

### **Costs Order**

8. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that East Hertfordshire District Council shall pay to Mr James Cash, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in attendance on 15 May 2018; such costs to be assessed in the Senior Courts Costs Office if not agreed.
9. The applicant is now invited to submit to East Hertfordshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*A R Hammond*

Inspector



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## Appeal Decision

Inquiry Held on 19-22 March 2019

Site visit made on 22 March 2019

**by D J Board BSc (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14<sup>th</sup> May 2019**

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**Appeal Ref: APP/J1915/W/18/3212628**

**Hertford Golf Course, London Road, Hertford, SG13 7NS**

- 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 Belview Golf Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/1867/FUL, dated 8 August 2017, was refused by notice dated 29 March 2018.
  - The development proposed is described as the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural land to golf course; erection of golf club house with bar, restaurant, changing and pro shop facilities; incorporation of a water harvesting scheme for sustainable irrigation and an improved drainage system through the importation of recovered soils; upgraded practice facility including covered practice bays; and enhanced landscaping at Hertford Golf Course, London Road, Hertford, SG13 7NS in accordance with the terms of the application, Ref 3/17/1867/FUL, dated 8 August 2017, subject to the conditions in Annex A.

### Procedural Matters

2. The description of development was amended from the original application form and agreed with the Council. This is reflected in the decision notice, appeal form and Statement of Common Ground (SOCG). Accordingly, I have taken the description of development from the SOCG.
3. A set of plans was submitted with the appeal. These plans sought to align the information across a number of the plans with the revised grading plan that had already been submitted to the Council as part of the application process. One of the plans is an updated phasing plan. However, it was suggested at the inquiry that this could be dealt with by condition. I have considered this in my decision. Therefore, I am satisfied that no parties' interests would be prejudiced by my taking the additional plans into account. The appeal is considered on this basis.

4. The Council's reasons for refusal did not refer to policies from the development plan. Since the Council made its decision the East Herts District Plan (DP) has been adopted. I have been provided with policies from the plan in the evidence from the main parties.

### **Background and Main Issues**

5. There are previous consents for the site that were referred to at the inquiry. These are an outline and reserved matters<sup>1</sup> planning application for an 18 hole pay and play golf course and clubhouse and ancillary building and facilities. A subsequent planning permission was granted for a Greenkeeper's dwelling<sup>2</sup> that has been erected. Notwithstanding the Council's reason for refusal and the potential fallback position associated with the previous consents I have dealt with the scheme in its totality as set out in the description of development.
6. Accordingly, the main issues in the appeal are:
- Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (The Framework), including the effect of the proposal on the openness of the Green Belt;
  - the effect of the proposal on highway safety; and
  - if the development is inappropriate, 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 within the Green Belt.

### **Reasons**

7. The Framework contains national Green Belt policy. DP Policy GBR1 effectively defers to the Framework. Paragraph 133 of the Framework is clear that '*...the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence*'. It is common ground that the relevant parts of the Framework are paragraphs 145 (b) and 146 (b) & (e). These exceptions require schemes to preserve the openness of the green belt and not conflict with the purposes of including land in it. Therefore, whether the scheme would be inappropriate or not turns on the effects on openness. Therefore, I have considered the elements of the appeal scheme and the effect they would have on openness.

#### *Operational development - proposed importation and earthworks*

8. As presented at the inquiry the areas of dispute focus on the effects that would arise from the importation and re profiling as a result of the implementation of the appeal scheme. In particular, the Council's reason for refusal specifically refers to the importation of material and land level changes. The material would be required to facilitate the earthworks associated with creation of the rainwater harvesting system and an 18-hole golf course layout. The appeal scheme would lead to changes to the topography of the site in the areas described as the 'eastern field' and 'western field'. There would be two 'water

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<sup>1</sup> LPA Refs 3/03/0161/ON & 3/05/0721/RP

<sup>2</sup> LPA Ref 3/10/0979/FP

harvesting zones' created with one in each of the areas. These would include water harvesting basins and storage ponds.

9. At the inquiry the evidence of the landscape witnesses was focussed on the visual impacts of the scheme in order to inform an understanding of the effect of the visual changes arising from the scheme on openness. It is in this context I have used this evidence to inform my consideration of the case. The landscape witnesses agreed that the baseline for assessment could be the existing and the existing plus the extant planning permission. Nonetheless I have based my initial assessment of the effect of the appeal scheme. Specifically, consideration of the change from a field landscape to a golf course landscape. The western part of the site falls within the 'Bayfordbury, Brickendonbury and Balls Parkland' Landscape Character Area and the eastern area within 'Hertford Heath'. Some of the key characteristics of these areas are undulating parkland and farmland landform. There are trees and woodland areas as well as irregular and irregular to medium field patterns.
10. The western field would be re profiled for water harvesting only. The plans show the boundary of the harvesting zone. It would not cover the entirety of the western field area and would not encroach into the northern area. This part of the site already has a natural gradient and I heard at the inquiry and was able to see on site how the scheme would utilise this break of slope. The submitted plans, viewpoint analysis and section drawings demonstrate that the scheme would create gentle slopes. In this regard the change in land levels would not be significant. Furthermore, the re profiling would not create sharp or prominent features. Accordingly, I find that this element of the scheme would preserve the openness of the Green Belt and would not conflict with purposes of including land in it.
11. The eastern area of the site would also include regrading. This area would also include buildings, which I deal with separately below. In terms of the effects of importation the eastern field would also be re profiled to create an undulating landform that would allow the creation of further rainwater harvesting and storage. In this area the changes in levels would be greater than the western area. Nevertheless, the land falls away from London Road. The changes would not harm the sense of an undulating area that gently falls away from the road. In addition, these changes would not create harsh or intrusive features. Therefore, I find that they would preserve the openness of the Green Belt and would not conflict with purposes of including land in it.
12. I have found that the re profiling to form the golf course would not harm openness and would reflect the mainly undulating landscape characteristics. This is reinforced by the limited long range views. As such whilst I appreciate that the landscape would not be entirely unchanged it would be preserved, and the appeal scheme would not truncate views. Closer to the site the scheme would be visible from some points on the public rights of way<sup>3</sup>. Nonetheless, to the south views of the re profiling in the western field would be at a distance or woodland would intervene. Views of the eastern field would be closer but dispersed by the location of the footpath behind existing trees and hedgerow. Therefore, having considered the submitted plans and walked the site and its surrounds on the site inspection I am satisfied that the design of the course would respond to the existing landscape setting. The course layout would

<sup>3</sup> Appendix 3 Mr Denney Proof of Evidence

utilise the levels and would not result in excessive areas of unduly prominent changes to the undulating ground. Overall, the course layout of approaches, greens and bunkers would preserve openness.

13. The Council submitted that there would be visual effects on openness resulting from the amount and duration of construction. In particular the number of HGVs, the haul road and construction compound. The appellants are clear that the scheme would be constructed in a phased manner. Whilst this can be agreed as part of a planning condition it is clear that a two phase approach is preferred.
14. The haul road would be located broadly to the north of the site and extend into both the western and eastern areas. The plans show that a compound could be positioned close to the access point. Within the overall site area, the size of the compound would not be substantial, and its final position could be agreed using an appropriately worded condition. The HGV movements would be frequent for the duration of the importation phase. I appreciate that the vehicles would not be small and would therefore be visible at some points along the haul road. The Highways evidence suggests that based on the number of loads per day the phasing could be anything between 5-18 months. The use of a condition gives the Council control on the maximum number of movements (5 months) and clearly if there are fewer movements then the phasing would be over a longer duration. Either way the duration of the HGV movements would not be unreasonable in my view to enable the construction of the golf course and this would not be a long-term effect. In addition, I am satisfied that the appellants have demonstrated that the haul road and compound could be located to minimise the impact. Furthermore, these operations would be intrinsically linked to the provision of the golf course scheme. In this regard I agree with the appellants that it is reasonable to take a broad view and that these construction elements, which have a clear purpose linked to the development of the site as a golf course, would preserve openness.

#### *Operational development - buildings*

15. There are a number of buildings in place on the site already, in particular a maintenance building, green keepers house and a car park. A club house has already been consented and it remains part of the appeal proposals. Its physical form would not change but the internal layout has been amended. Nonetheless, the appellants confirmed it would be built at grade and its location would be where the levels would allow it to be tucked into the site close to other buildings and the car park area. In addition, the Council's reason for refusal focussed specifically on the amount of importation and the associated land level changes. There was no suggestion that the clubhouse, car park, green keepers house or maintenance building would be works that would not be expected within a golf course development. I have no reason to disagree.
16. The appeal scheme would add covered practice bays to the layout. The Council raised the issue of the level changes around the new covered practice bays. This is shown on the plans as a small area of fill to form a flat base. The structures are described by the appellants as low monopitch timber structures. They would be simple and due to their design and appearance would not be intrusive. The inquiry was told that there is no intention to flood light them or provide netting. Nonetheless, lighting could be controlled by condition.



Furthermore, as with the other structures they are a form of operational development that would not be unexpected with a golf course.

17. The Council has drawn my attention to other appeal decisions<sup>4</sup>. The Epping Road scheme was found to be inappropriate as the judgement of the Inspector was that, unlike my view of this scheme, the changes proposed were significant. In the case submitted as ID12 the concern of the Inspector regarding the road was that it would be wide and over a substantial distance without a clearly identified use or purpose associated with it. This is clearly distinct from the operational development associated with the appeal scheme which has been clearly shown to be linked to the land use applied for. Therefore, having considered the operational development outlined in the preceding paragraphs in its entirety as part of a scheme for a golf course, for the reasons set out above, I consider that it would preserve openness.

*Conclusion on whether inappropriate*

18. Overall, I have considered the nature of the various components of the scheme and their purpose in association with the golf course use, which itself can be considered not inappropriate in the Green Belt. Due to their purpose, scale and location the spatial and visual impacts arising from the totality of the scheme would preserve the openness of the Green Belt in this location. I therefore conclude that the scheme would not be inappropriate development in the Green Belt and would therefore accord with paragraphs 145 (b) and 146 (b) & (e) of the Framework and DP Policy GBR1.

*Highway safety*

19. The reason for refusal refers to the additional traffic movements arising from the proposal and the effect of this on the highway safety of road users and pedestrians. In considering this the Council advanced at the inquiry its concerns regarding the forward visibility for vehicles, in particular for those turning right into the site. The access would be taken from the London Road which is a B class road that provides a link to and from the A414. It is subject to both 30 and 40 mph speed limits. The speed limits at the site access point being 40 mph. A footway exists along the road between the A414 and Hertford Heath.
20. There was a significant amount of discussion regarding the position of the access to the site. In particular whether in its current location it was in fact permitted in accordance with the previous consents. Nonetheless, the scheme as applied for, and before me for consideration would be accessed from the point shown 'as built'<sup>5</sup> on the submitted plans. Therefore, I have considered this access on its merits as submitted to serve the appeal scheme.
21. The access as built has been designed in accordance with the Design Manual for Roads and Bridges (DMRB). It has also been subject to a road safety audit and adopted by the Local Highway Authority (LHA). There was no dispute that the design speed dictates the forward visibility. The appellants advised that a 40-mph design speed was agreed with the LHA and the requirement for visibility at this speed would be 120m. The LHA did not object to the appeal scheme.

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<sup>4</sup> ID12 – APP/P0240/W/17/3174328; APP/Z1585/A/10/2142721

<sup>5</sup> Plan 820.71



22. The Council expressed its concern that both its and the appellants speed surveys demonstrate that there would be a requirement for greater visibility. More specifically that there is a bend in the road for vehicles on approach to the access and that when approaching vehicles are travelling faster that there is a need for turning vehicles to be able to see further ahead. The Council's contention being that the actual forward visibility available, which they state is 119m<sup>6</sup>, would not be adequate. The appellants provided a further calculation of forward visibility<sup>7</sup>. This is taken from the point where a vehicle would begin turning into the site access and is given as 128m. Therefore, at a design speed of 40 mph the access could provide adequate forward visibility.
23. The final point to consider is whether the higher speeds should be considered as the Council suggest. There was agreement that the speed surveys show an 85% dry weather speed of 48.4 mph and that the derived wet weather speed from that would be 45.9 mph. The requirement for forward visibility from this was given as 130m. The Council contend that the design speed should allow for the fact that drivers will speed and therefore there should be an increase the requirement for visibility.
24. The appellants have been given advice from the LHA regarding design speed and propose an access that would accord with that requirement. I appreciate that the speed surveys show that drivers do speed on this stretch of road. I can also understand that the Council is seeking to consider the actual conditions on the road. Nonetheless, when considering speeding traffic in wet conditions the forward visibility of 128m would be very close to the 130m requirement for a trunk road. London Road is a B Class road and as such I consider that, given the 40-mph design speed requirement would be met in any event, it is reasonable to accept this limited deviation from the guidance for a higher design speed in this case.
25. When initial re grading took place at the site the appellants point out that about 12 400 cubic metres of material was imported over a period of about 5 months. This is estimated to have been about 20-30 lorry movements per day. Since the application was submitted the amount of fill material has been reduced as a result of the amendments to the reprofiling scheme. Therefore, the appeal proposal would now involve the importation of about 176 666 cubic metres of inert material to form the golf course. The evidence to the inquiry indicates that this could be over a period of 5 - 18 months. During the 18-month time period it is submitted that there would be about 32 loads or 64 movements per day (although the initial Transport Assessment considered up to a maximum of 120 loads per day, which broadly reflects a 5-month duration). Overall, the evidence presented demonstrates that, with a phasing arrangement in place, a realistic level of movements to meet either of the phasing scenarios could be accommodated and access the site without harm to highway safety.
26. The reason for refusal focussed on the importation activity. However, the Council also submitted that the site has not operated as a golf course and that an increase in use of the site has not been substantiated or tested. It suggested in its highways evidence that the proposals, through an increase in operations at the site, would add to safety issues and concerns. Nevertheless, no substantive evidence was advanced at the inquiry that would suggest that

<sup>6</sup> Appendix E Mr Hanks Proof of Evidence

<sup>7</sup> Appendix E Mr Hutchings Rebuttal using information from Appendix G of Mr Hanks Proof of Evidence

use of the access for the golf course use once the importation has ceased would be detrimental to highway safety. Furthermore, there is very limited information that suggests there are in fact significant safety issues or concerns at present. The LHA has confirmed<sup>8</sup> that accident data indicates that the area around the junction is operating with a low collision record. In addition, whatever view is taken on the issue of the extant consent as a fallback, it is not in dispute that the access operated without accident for about 2 years.

27. There was no dispute that the footway on London Road is well used. The concern of the Council and interested parties was about lorry movements from both the appeal scheme and in combination with the nearby business park during the times that travel to local schools would be taking place. A condition was suggested that would limit the hours of operation for HGVs in the term time of the nearby schools. I am satisfied that, given the low collision record, such an arrangement would be reasonable and enforceable in this case.
28. I therefore conclude that the appeal proposal would not have a harmful effect on highway safety. It would not conflict with DP policy TRA2 which amongst other things requires new development to be acceptable in highway safety terms and to ensure that safe and suitable access can be achieved.

#### *Other Matters*

29. There was a significant amount of discussion regarding the fallback position that the appellants submit exists due to the extant planning permissions. I appreciate that it is the Council's position that this is not the case as it considers that condition 8 of 3/03/0161/GN has not been complied with. However, in this case I have found that the appeal proposal as a whole would not be inappropriate development in the Green Belt. As such there is no requirement to consider whether very special circumstances exist.
30. I have carefully considered the additional comments (not discussed within the main issues) made by interested parties regarding landfill operations, lorry queuing, demand for a golf course and the effect on heritage assets.
31. There has been concern from interested parties that the re profiling of the site would necessitate the importation of landfill waste. There is no evidence to substantiate this and the appellants supplementary information<sup>9</sup> provided to the inquiry makes clear that this is not a landfill scheme. There is no objection from the Environment Agency who would be responsible for issuing a permit to govern the amount and quality of imported inert material should it be required. The Agency's permitting regime sits outside of the planning system, but I have no evidence that would lead me to conclude that the importation of the proposed volumes of inert waste would be harmful to the environment or human health more generally such that it is likely that a licence would not be issued. As such this would not form a reasonable basis for dismissing the appeal proposal.
32. There is concern that lorries have in the past queued on approach to the site and I was provided with photos showing this scenario. I appreciate that these issues are of concern to near neighbours. However, I have no evidence from the LHA or the highway witnesses that would suggest that it is likely that queuing vehicles would be a recurring issue should the scheme go ahead. In

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<sup>8</sup> Email from Mr Sowerby Appendix G Mr Hutchings Rebuttal

<sup>9</sup> ID6

addition, the phasing and lorry movements are subject to detailed conditions and I am satisfied that these offer reasonable controls.

33. I was provided with evidence regarding the need for this particular type of golf course in this location. It was suggested by an interested party that golf as a sport was in decline. By contrast the appellants witness on this topic referred me specifically to information about drive times, population, market need and the pay and play experience. This information in itself is not determinative and neither view alters my assessment of the main planning issues in this case.
34. I was referred to the nearby listed building (Grade I) and registered park and garden (Grade II) at Balls Park and the listed building Jenningsbury Farm (Grade II). Heritage issues did not form part of the reasons for refusal of the Council. However, as part of my site inspection I was able to view the site from Harrison Lane and across the Balls Park parkland<sup>10</sup>. I am satisfied that distance between these points and the scheme is such that there would not be a harmful effect on the setting of the listed buildings or the registered park and garden.

### Conditions

35. I have considered the conditions put forward and discussed at the inquiry against paragraph 55 of the Framework, the Planning Practice Guidance and where necessary I have amended the wording in the interests of precision. Conditions 1 & 2 are required because they set the necessary time limit and the approved plans as this provides certainty. Following the inquiry session on conditions it is my view that the inclusion of the detail of the construction compound and welfare facilities within condition 7 would allow the Council to consider and agree a suitable location. As such it is not necessary to include this plan in the list in condition 2.
36. Conditions 3, 4, 5, 6 and 12 are necessary to protect the character and appearance of the locality. Conditions 7, 8, 14, 15 & 17 are necessary to ensure that the construction process is controlled and in the interests of highway safety. Condition 15 would also protect the living conditions of existing occupiers of nearby properties. Condition 9 is required to secure the programme of archaeological works. Conditions 10, 11 and 18 are necessary to secure the details and implementation of the drainage strategy and surface water drainage system. Conditions 13 and 16 would ensure that there would not be harm to protected species and ecological value of the site.
37. I have amended condition 18 to require the measures to be carried out prior to the first use of the golf course and I have deleted the tailpiece. The Council suggested a condition regarding the levels of the clubhouse and practice bays over and above the submitted plans. The grading plan and section drawings form part of the approved plans condition. Therefore, I do not consider that an additional condition is necessary.
38. A condition was initially suggested by the Council to restrict the use of the clubhouse building. At the inquiry session the Council withdrew this condition. This was based on the discussion that confirmed that the clubhouse building would be used in connection with the use of the site as a golf course. This is the basis on which I have considered the building. It was agreed that any

<sup>10</sup>Ms Westover Proof of evidence Appendix Photographs 27 & 28

other use of the building that was over and above an ancillary function would not be within the scope of the appeal scheme.

### **Conclusion**

39. The proposal would not be inappropriate development in the Green Belt and it would not have a harmful effect on highway safety. Therefore, for the reasons given and having regard to all other matters raised and subject to the conditions outlined above the appeal is allowed.

*D J Board*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Simon Aley

Solicitor to the Council

He called  
Anne Westover  
Nathan Hanks  
Nik Smith

Essex County Council  
Transport Planning Associates  
Consultant to East Herts District Council

### **FOR THE APPELLANTS:**

Giles Cannock QC

Instructed by Peter Nesbit, Eversheds Sutherland  
(International) LLP

He called  
Brian Denney  
Richard Hutchings  
Mark Smith  
Karl Craddick

Senior Director, Pegasus Planning Group Limited  
Director, WSP Limited  
Owner, Smith Leisure  
Savills

Also present  
Bruce Weller  
Peter Nesbit  
Kirsty Smith  
Laura Power  
Frances Horne

Weller Designs  
Eversheds Sutherland  
Eversheds Sutherland  
Eversheds Sutherland  
Pegasus Group

### **INTERESTED PERSONS:**

Tony Rubino  
John Rubino  
Suzanne Rutland Barsby  
Stephen Wansell  
Patsy Bamford  
Martin Berry

Ward Councillor

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Appendix to Mr Hutchings Proof of Evidence
- 2 Statement of Common Ground
- 3 Schedule of plans
- 4 Opening statement of behalf of the appellants
- 5 Opening statement on behalf of the Council
- 6 Statement from Weller Design
- 7 Weather graphs for Hertford September, November & December 2018
- 8 DMRB 9/93
- 9 Hertfordshire County Council flow chart of technical approval process
- 10 Extract from the Highway Code, stopping distances
- 11 BBC News Article – Climate Change: Water Shortages in England 'within 25 years'
- 12 Appeal decision APP/P0240/W/17/3174328
- 13 Europa Oil and Gas Limited v Secretary of State for Communities and Local Government, Surrey County Council, Leath Hill Action Group
- 14 Hart Aggregates v Hartlepool Borough Council
- 15 Disputed conditions
- 16 Site visit note
- 17 Refinements to agreed conditions
- 18 Council's closing submission
- 19 Appellant's closing submission

## **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- 20 Consolidated planning conditions document following conditions session at the inquiry
- 21 Appellant's written agreement to pre commencement conditions

## **Annex A – Conditions**

1. The development hereby permitted shall commence before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: 820.61 Rev B; H1688 41 C; H1688 200; 820.54 Rev B; 820.58 Rev B; 820.63 Rev B; 820.78a; 820.78b, 820.78c, 820.78d, 820.78e & 820.78f.
3. No construction of the clubhouse or practice bays shall commence until details of the external appearance, including samples of materials to be used in their construction and details of any associated car parking have been submitted to and approved in writing by the Local Planning Authority. The clubhouse and practice bays shall be constructed in accordance with the approved details.
4. Notwithstanding the submitted plans, no development shall commence at the site before full details of both hard and soft landscape have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
  - Hard surfacing materials
  - Hard boundary treatments and other means of enclosure
  - Retained historic landscape features and proposals for restoration
  - Planting plans noting schedules of plants with planting sizes and proposed numbers/densities.
  - Details of how existing and proposed water courses would be incorporated into the landscaping scheme
  - Details of trees to be removed and retained and details of how retained trees would be protected during construction
  - Timetable for the implementation and completion of the landscape scheme

The development shall be carried out in accordance with the approved scheme. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved.

5. A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local planning authority prior to the prior to the first use of the site as a golf course. The landscape management plan shall be carried out as approved.
6. No development shall commence until details of all external lighting proposed at the site has been submitted to and approved in writing by the Local Planning Authority. The details shall show the locations, design and luminance levels of the lighting proposed together with the hours within which the lighting would be used. The details shall be implemented as approved.
7. No development shall commence at the site before a Construction and

Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction and Environmental Management Plan shall include the following:

- Details of phasing for the importation of material and construction works at the site;
- Details of construction vehicle movements and construction access arrangements, including numbers, routing and timings;
- Details of a means to monitor, record and confirm the inert materials being imported;
- Location and details of wheel washing facilities and details of the measures to be taken to ensure that the public highway is kept clean of any material that is deposited upon it;
- Details of soils importation contractors' compound, office and welfare facilities;
- Details of associated parking areas and storage of materials clear of the public highway;
- Details of the haul routes across the site and means of protection of natural features;
- Hours of on-site working;
- Details of proposed hoarding;
- Details to undertake best management practices for the impacts of noise, dust and air quality;
- Details of temporary facilities associated with the construction of the golf course.

The development shall be carried out in accordance with the approved Plan.

8. All HGVs shall enter the site turning right from London Road and shall exit the site turning left onto London Road.
9. The development hereby permitted shall be carried out in accordance with the programme of archaeological work contained within the Written Scheme of Investigation dated January 2015.
10. No development shall commence at the site before a Surface Water Sustainable Drainage Scheme (SWSDS) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
  - detailed engineered drawings of the proposed sustainable drainage features including their size, volume, depth and any inlet/outlet features and all corresponding calculations/modelling for the 1 in 1 year, 1 in 30 year, 1 in 100 year and 1 in 100 year + climate change rainfall events;
  - a site plan with the final topographical levels of the site;
  - details of any changes to the current surface water flow routes arising from the changes to the site levels and an assessment of their impacts on the ordinary watercourse which arise within and adjacent to the development site; and
  - details of any exceedance flow paths for rainfall events in excess of the 1 in 100 year + climate change rainfall event that are beyond the design capacity of the system.

The development shall be carried out in accordance with the approved scheme



prior to the first use of the site as a golf course.

11. Within one month of the completion of the Surface Water Sustainable Drainage Scheme the site operator shall provide infiltration test results for all areas where infiltration is being used as a mechanism to discharge surface water to the Local Planning Authority. In the event that the tests do not confirm the predicted infiltration rates, an alternative scheme or mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the site as a golf course.
12. Details of the location, amount and design of cycle parking at the site shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the site as a golf course. The cycle parking shall be provided in accordance with the approved details prior to the first use of the site as a golf course.
13. The development shall be carried out in accordance with the mitigation and compensation/enhancement measures set out within the submitted Ecological Assessment Report – Bi Annual Appraisal (August 2018).
14. There shall be no more than 120 two-way HGV movements using the access from/to London Road on any one working day. Written records of HGV movements in and out of the site shall be maintained by the site operator. Such records should be made available for inspection by the Local Planning Authority upon request.
15. Importation of inert material to the site shall only take place between the hours of 07:00 to 08:00, 09:15 to 15:00 and 16:00 to 17:00 Mondays to Fridays inclusive during the term-time operational periods of Simon Balle School. Importation of inert material to the site shall only take place between the hours of 07:00 to 17:00 Mondays to Fridays inclusive outside of term-time. Importation of inert material to the site shall only take place between the hours of 08:00 and 14:00 on Saturdays and shall not take place on Sundays or Public Holidays.
16. No development shall commence at the site before a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. This is to be based on the Ecological Assessment Report and approved Landscape Plan/s for the site. The Plan shall include details of:
  - i. The management prescriptions for the landscape and ecological features including existing trees, hedgerows, copses, watercourses, proposed planting, water features, rough grassland, wildflower areas, wetland and marginal planting; and
  - ii. Preparation of a works schedule for the management prescriptions.

The development shall be carried out in accordance with the approved Landscape and Ecological Management Plan.
17. No development shall commence until a Development Phasing Scheme is submitted to and approved in writing by the Local Planning Authority. The Development Phasing Scheme shall identify the sequence of the components

of the development including earthworks, the water harvesting scheme, landscape and planting works and buildings. The development shall only be carried out in accordance with the most recent Development Phasing Scheme approved in writing by the Local Planning Authority.

18. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment and Surface Water Management Strategy dated June 2017 and the following mitigation measures:

- a) provision of attenuation to prevent increase in surface water runoff volumes;
- b) implementation of the proposed drainage strategy which is based on attenuation and discharge into the ordinary watercourses;
- c) an updated detailed drainage plan showing all of the sustainable drainage system features to be implemented and the detail of the final discharge point into the ordinary watercourse; and
- d) limiting the surface water discharge from catchments A to E of the eastern side of the site (as shown on Figure 6 of the Flood Risk Assessment and Surface Water Management Strategy) to the ordinary watercourse at a rate equal to or less than 1 in 1 year Greenfield runoff rate.

The mitigation measures shall be fully implemented prior to the first use of the site as a golf course in accordance with the timing/phasing arrangement.

END



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## Appeal Decisions

Site visit made on 11 March 2019

**by Susan Ashworth BA (Hons) BPL MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> May 2019**

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### **Appeal A: APP/J1915/H/18/3202160**

#### **The White Lion, London Road, Sawbridgeworth, CM21 9EN**

- 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 Greene King Pub Co against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/0106/ADV, dated 16 January 2018, was refused by notice dated 22 March 2018.
  - The advertisement proposed is installation of 1x replacement pictorial panel to existing gibbet.
- 

### **Appeal B: APP/J1915/Y/18/3202161**

#### **The White Lion, London Road, Sawbridgeworth, CM21 9EN**

- 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 made by Greene King Pub Co against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/0107/LBC, dated 16 January 2018, was refused by notice dated 22 March 2018.
  - The works proposed are installation of 1x replacement pictorial panel to existing gibbet.
- 

## **Decisions**

1. Appeal A: The appeal is allowed and advertisement consent is granted for the installation of 1x replacement pictorial panel to existing gibbet at The White Lion, London Road, Sawbridgeworth, CM21 9EN in accordance with the terms of application ref: 3/18/0106/ADV, dated 16 January 2018 and subject to the following condition:
  1. The development hereby permitted shall relate to the following approved plan: 133769.
2. Appeal B: The appeal is allowed and listed building consent is granted for the installation of 1x replacement pictorial panel to existing gibbet at The White Lion, London Road, Sawbridgeworth, CM21 9EN in accordance with the terms of application ref: 3/18/0107/LBC, dated 16 January 2018 and the plan, ref: 133769, submitted with it.

## **Preliminary Matters**

3. The White Lion is a Grade II Listed Building dating from the C16 with later additions and lies within the Sawbridgeworth Conservation Area. Advertisement consent and listed building consent were sought for a replacement hanging sign to the front elevation of the property. The remit of

both regimes is different. However, the main issues I have identified below relate to either the advertisement appeal, the listed building appeal, or to both. To reduce repetition and for the avoidance of doubt, I have dealt with both appeals together within a single decision letter.

4. At the time of my site visit the proposed sign had already been installed. I have dealt with the appeal on that basis.
5. Since the applications were refused, the Council has adopted a new local plan, the East Herts District Plan, October 2018 (the District Plan). A new National Planning Policy Framework (the Framework) was also published in July 2018. I have referred to the policies in those documents, the most up to date policies, in my decision.

### **Main Issues**

6. The main issues in this case are the effect of the proposal on the special architectural and historic interest of the listed building and, linked to that, whether the proposal would preserve or enhance the character or appearance of the Sawbridgeworth Conservation Area.

### **Reasons**

7. The White Lion, a two-storey building constructed in red brick, lies in a prominent location at the junction of Bell Street and London Road, close to a pedestrian crossing. Situated at the back of the footpath, the building is highly visible in the public realm.
8. The significance, or special interest, of the building lies in its age, its architectural detailing and its history as a coaching inn. The list description sets out several features of architectural interest on the building and describes that west facing block to London Road, where the sign is located, as a 'splendid show front', an impressive C18 brick edifice reflective of the importance of stage coach travel in that period. The entrance door, the list description sets out, is set in 'a wide wooden Doric doorcase with rusticated pilasters and full entablature'.
9. The Sawbridgeworth Conservation Area Appraisal notes that the White Lion is a landmark building within the Conservation Area, a visually important building which makes a statement and holds an important corner position at the entrance to what was the medieval part of the town.
10. The hanging sign, which is externally illuminated, is a double-sided fret cut panel positioned above the entrance door. It features a traditional image of a lion and flag in 3D. The main part of the sign, excluding the bracket, extends from the sill of the first-floor windows to below the decorative cornice above the doorway.
11. The sign, which measures some 1400mm x 900mm, is not excessive and does not appear dominant, in terms of its size or scale, on what is a substantial and architecturally robust elevation. Moreover, whilst the sign hangs down over the door surround and the top of the doorway itself, given its slender profile it does not significantly obscure or visually distract from the detailed architectural elements of the elevation noted above.

12. I acknowledge the Council's point that the sign is not a traditional timber painted hanging sign. However, as a result of its fret-cut design, the sign has a visually 'lightweight' effect, which, in combination with the traditional image portrayed on it, ensures that it is neither overbearing on the frontage of the building or out of place in its context.
13. Consequently, whilst the proposal would not be consistent with all of the requirements of Policy HA6 of the District Plan relating to Advertisements in Conservation Areas, in that it is not a traditional hanging type sign, it is nevertheless sensitive to the architecture of the building on which it is located.
14. I note the Council's concern that a previous swan neck bracket has not been preserved. However, there is no detail or evidence of the significance of this bracket before me. The sign is attached to what seems to me to be a simply designed gibbet to which no objection has been raised.
15. Accordingly, the proposal does not have an adverse effect on the architectural or historical interest or significance of the listed building. In that respect the proposal is consistent with the requirements of Policy HA7 of the District Plan, which relates to listed buildings, paragraph 192 of the Framework which sets out the desirability of sustaining and enhancing the significance of heritage assets and paragraph 132 of the Framework which seeks to avoid poorly sited and designed advertisements. For similar reasons I am also satisfied the proposal preserves the character and appearance of the Conservation Area, consistent with the requirements of Policies HA1 and HA4 of the District Plan.

### **Conditions and conclusion**

16. No conditions have been suggested in the event of the appeals being allowed. However, in order to provide certainty, I have specified the approved plan.
17. Therefore, on that basis, and taking into account all matters raised, the appeals are allowed.

*S. Ashworth*

INSPECTOR



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## Appeal Decision

Site visit made on 31 January 2019

**by G Ellis BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13<sup>th</sup> May 2019**

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**Appeal Ref: APP/J1915/W/18/3207094**

**Birch Farm Cottage, White Stubbs Lane, Bayford EN10 7QA**

- 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 UK Salvo Developments Limited against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/0324/FUL, dated 9 February 2018, was refused by notice dated 10 April 2018.
  - The development proposed is the demolition of existing property and erection of new house and garage with associated parking
- 

### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. Since the refusal of the application East Herts District Plan, October 2018, (EHDP) has been adopted. As such, policies HSG8 and GBC1 of the East Herts Local Plan Second Review April 2007 (EHLP) referred to in the decision notice are no longer in place.
3. The Council in their statement indicate that the relevant policies are now GBR1, DES2, DES3, TRA2, TRA3, and NE3 of the EHDP. These relate to a range of aspects including landscaping and parking. Given the reason for refusal is only on the grounds of impact on the Green Belt I have taken the relevant policy in that regard to be GBR1. The appellant has been given an opportunity to comment on the changes to the development plan.

### Main Issues

4. The main issues are: -
  - Whether or not the proposal would be inappropriate development in the Green Belt;
  - The effect of the proposal on the openness of the Green Belt;
  - If the proposal is inappropriate development, whether there are material considerations which, together, clearly outweigh the harm to the Green Belt and any other harm, and which amount to very special circumstances which would be necessary to justify the proposal.

## Reasons

### *Inappropriate Development*

5. EHDP policy GRB1 reverts to the National Planning Policy Framework (the Framework) for the consideration of planning applications in the Green Belt. The Framework indicates that the Government attaches great importance to Green Belts. All new buildings are to be regarded as inappropriate development subject to a small number of exceptions. These include *d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.*
6. The appellant has also referred to exception *g)* in relation to limited infilling or redevelopment of previously developed land. Both exceptions are potentially applicable to the replacement dwelling, but in order to apply both require an assessment in relation to the impact compared to that being replaced.
7. The scale of the increase is a matter of disagreement between the parties, with various figures having been referred to. The parties agree that the existing dwelling, which is a two storey house with a conservatory and attached garage has a footprint of 126.6 m<sup>2</sup>, and a total floor area of 186.4 m<sup>2</sup>. The appellant indicates that the replacement dwelling would be 194m<sup>2</sup> and 309m<sup>2</sup>, respectively. The Council has much higher figures, but they also appear to include the detached garage. Notwithstanding the different measurements, even on the appellant's figures the replacement dwelling would be 53% larger in footprint and 47% in floor area. In my view with reference to these figures and the plans the size of the new dwelling would be materially larger.
8. The alternative assessment under exception (g) is that the proposed development will not have a greater impact on the openness. The Framework at paragraph 133 advises that openness is one of the essential characteristics of Green Belts.
9. The property is sited within a plot set back from White Stubbs Lane with an intervening area of trees. This screening is to be further reinforced by proposed planting. The existing dwelling is relatively modest in scale and faces towards White Stubbs Lane. The replacement dwelling is re-orientated 90 degrees towards Birch Farm Place, which comprises a recent development of three large detached properties and provides access to Brick Farm. While screening would limit views of the property by virtue of the scale of the development, which in addition to the house comprises a double garage, there would be an increase in the spread of built form at the site. Therefore, I find that the proposal would have a greater impact on openness than the existing development.
10. The appellant has also provided figures based on the property with extensions which could be constructed under permitted development rights (PD). However, this is not a matter which effects my assessment in relation to whether the development is inappropriate development. The comparative assessment is as set out in the Framework with the building ***it replaces*** under criterion (d) and ***existing development*** under criterion (g). I shall though in any event examine the permitted development fall-back position under the 'Other Considerations' section below.
11. I therefore conclude on this matter that the proposal would be inappropriate development as neither of the exceptions (d) or (g) set out in paragraph 145 of



the Framework would apply. In accordance with paragraph 144 of the Framework I attach substantial weight to this harm. In addition, further harm would occur by reducing the openness of the Green Belt to a moderate degree.

#### *Other Considerations*

12. The property is located adjacent to a small enclave of large detached houses. The appellant indicates that these houses were part of a redevelopment which replaced a large barn and other structures. The introduction of these properties has undoubtedly changed the character of this area. The design and scale of the proposed dwelling would reflect these properties and its orientation would assimilate it as part of Birch Farm Place.
13. I note that the Council considered that the size and design would not cause harm to the character and appearance of the area which they attributed as a neutral impact. Birch Farm Place has already established residential development in this locality and the proposed development would effectively complete this cluster of properties. I therefore consider this to be a factor in support of the development of moderate weight.
14. The appellant indicates that the existing building is in a relatively poor state of repair and would require substantial investment to bring it up to modern standards. I note from my site visit that the property is not lived in and would require some work, although this is a matter of neutral weight.
15. The appellant has recently obtained Prior Approval in relation to an 8m deep single storey rear extension, and a Lawful Development Certificate for part demolition of rear extension, conversion of garage, single storey extension and first floor rear extension. These applications demonstrate the extent to which the property could be extended under PD, and I accept that these options would notably increase the scale and footprint of the property. However, given the appellant's position regarding the investment required to bring the property up to standard I question if these would be implemented. While the appellant suggests that the footprint with PD would be larger than the proposed scheme, having regard to the illustrated proposals provided, in my view, they would not be significantly more harmful in terms of scale and design. Nor would they have a greater impact on openness. As such this is a matter to which I only give limited weight.
16. No other harm has been identified. Submitted protected species, contamination and arboricultural reports demonstrate that any potential impacts have been adequately assessed and that where necessary appropriate protections would be put in place. However, I consider these to be matters of neutral weight.

#### *Green Belt Balance*

17. I have found that the appeal proposal would be inappropriate development in the Green Belt. The Framework, paragraph 143, advises that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. I have also found that the proposal would result in a moderate loss of openness.
18. Overall, I find that the other considerations in this case do not clearly outweigh the Green Belt harm that I have identified. Looking at the case as a whole, I consider that the very special circumstances necessary to overcome the Green



Belt harm have not been demonstrated. As such, the development would conflict with the provisions of the Framework and EHDP policy GRB1.

**Conclusion**

19. For the reasons explained, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

*G Ellis*

INSPECTOR

## Appeal Decision

Site visit made on 17 May 2019

**by K E Down MA(Oxon) MSC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> May 2019**

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**Appeal Ref: APP/J1915/D/19/3224922**

**11 New Road, Bengoe, Hertford, SG14 3JJ**

- 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 Ms S Garner against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/1219/HH, dated 24 May 2018, was refused by notice dated 4 January 2019.
  - The development proposed is erection of a loft conversion and ground floor extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a loft conversion and ground floor extension at 11 New Road, Bengoe, Hertford, SG14 3JJ in accordance with the terms of the application, Ref 3/18/1219/HH, dated 24 May 2018, and the plans submitted with it.

### Main Issue

2. There is one main issue which is the effect of the proposed hip to gable extension on the character and appearance of the host dwelling, the street scene of New Road and the Hertford Conservation Area (CA).

### Procedural matter

3. The hip to gable extension has been completed. Although the description of development includes a ground floor extension this is not shown on the submitted plans and a part single and part two storey rear extension is being constructed. It is understood from the evidence that this was permitted by the Council under ref. 3/18/0663/HH. In addition, I saw that a rear dormer has been inserted. This does not form part of the proposed development before me to consider and it is thus not within my jurisdiction. This decision therefore related solely to the hip to gable element of the roof extension.

### Reasons

4. The appeal site comprises a mid 20<sup>th</sup> century semi-detached house in a row of similar dwellings. It lies within the Hertford CA. The Hertford Conservation Area Appraisal and Management Plan (CAAMP), 2017, places it within Area 2, the North West Quadrant. According to the CAAMP the key attributes of this area include the listed Holy Trinity church which lies opposite the appeal site in a
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large, well vegetated churchyard, and significant areas of 19<sup>th</sup> and early 20<sup>th</sup> century terraced housing.

5. The National Planning Policy Framework (NPPF) makes clear that conservation areas are designated heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset, the NPPF advises that great weight should be given to the asset's conservation. Significance can be harmed through alteration of the heritage asset or development within its setting.
6. The CAAMP at paragraph 5.214 describes the appeal dwelling and its neighbours as unremarkable but states that the repetitive nature of materials, design and roofs with central chimneys is not unpleasant. Following a CA boundary review, the dwellings appear to be retained in the CA mainly due to their proximity to the listed church and the fact that this area links two parts of the CA. The assessment of the dwellings is a fair one. They are not characteristic of the wider CA but neither do they materially detract from it. In my view they have a neutral effect on the character and appearance of the CA and its significance.
7. The appeal dwelling and its neighbours form part of a large estate of similar dwellings which lies to the north of New Road. Most of the estate lies outside the CA. Within it hip to gable extensions, similar to the one proposed, are not uncommon and have become characteristic of and assimilate well into the street scene. The proposed extension would therefore be in keeping with development in the surrounding area. It would respect established building lines, layouts and patterns and be of a scale, proportion, form, design and character that accords with and complements the surrounding area.
8. In terms of the dwellings in New Road, the appeal dwelling and its attached pair are flanked by similar pairs and set back slightly from them. There are no other hip to gable extensions on the dwellings in New Road. Nevertheless, replacement windows and roof tiles reduce the original uniformity of the row. I am therefore satisfied that, owing to its unobtrusive, mid-row location, the retention of the characteristic central chimney and the existing variations between dwellings, the proposed extension would not be materially detrimental to the character or appearance of the host dwelling, its semi-detached pair or the row of other similar dwellings.
9. Turning to the effect on heritage assets, the modest scale and character of the proposed extension, together with its separation distance from Holy Trinity, including the churchyard, would ensure that it had no effect on the significance of the listed building or its setting. Moreover, its discreet position within a row of unremarkable buildings which have a neutral effect on the heritage value of the CA would ensure that there was no harm to the significance of the CA and that its character and appearance was preserved.
10. It is concluded on the main issue that the proposed hip to gable extension would have no materially detrimental effect on the character or appearance of the host dwelling or the street scene of New Road and would preserve the character and appearance of the Hertford CA and its significance as a heritage asset. In consequence there would be no conflict with Policies HA4, HOU11 and DES4 of the East Herts District Plan, 2018, which taken together expect

extensions to dwellings in conservation areas to have a high standard of design and layout that is of a scale, form and design which is appropriate to the character, appearance and setting of the existing dwelling, reflects and promotes local distinctiveness and preserves the special interest, character and appearance of the CA.

11. The proposed development has been carried out. There is thus no need for the statutory commencement condition or for a condition requiring the development to be carried out in accordance with the approved plans or in materials to match the host dwelling. The Council does not suggest any other conditions and I agree that none is necessary.
12. For the reasons set out above and having regard to all other matters raised, including the lack of objection from Hertford Town Council and the support of the Local Councillor, the Parochial Church Council of Bengoe and neighbouring occupiers, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR



## Appeal Decision

Site visit made on 2 January 2019

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23<sup>rd</sup> May 2019

Appeal Ref: APP/J1915/D/18/3215257

Thorley Houses Farm, Thorley Lane West, Thorley, Bishops Stortford  
CM23 4BN

- 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 David and Mrs Elizabeth Osborn against the decision of East Herts Council.
- The application Ref 3/18/1714/HH, dated 27 July 2018, was refused by notice dated 11 October 2018.
- The development proposed is described as *'To replace existing single-storey modern rear lean-to Kitchen extension 2.630m deep, with a new extended version 4.700m deep in a similar form'*.

### Decision

1. The appeal is allowed and planning permission is granted *'To replace existing single-storey modern rear lean-to Kitchen extension 2.630m deep, with a new extended version 4.700m deep in a similar form'* at Thorley Houses Farm, Thorley Lane West, Thorley, Bishops Stortford CM23 4BN in accordance with the terms of the application, Ref 3/18/1714/HH, dated 27 July 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1507-10, 1507-18 and 1507-19A.
  - 3) Notwithstanding condition 2) no development shall take place until samples and details of the external materials and finishes of the construction and making good have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

### Procedural Matters

2. Since East Herts Council's refusal of the application Ref 3/17/1124/HH, the Council adopted a District Plan on 23<sup>rd</sup> October 2018, which replaces the East Herts Local Plan (Second Review) 2007. In line with Planning Practice Guidance, my consideration of the issues of the appeal has therefore been on the basis of the policies of the East Herts District Plan 2018 and the National Planning Policy Framework (the Framework). The Council and the appellant

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have confirmed that that their cases have not been prejudiced by this change to the development plan.

### **Main Issues**

3. The main issues are

- whether the proposal would be inappropriate development in the Green Belt for the purposes of the Framework and development plan policy; and
- if the development is inappropriate, 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**

#### *Inappropriateness*

4. The appeal site is a substantial Grade II listed two storey detached dwelling on a large plot within the rural area of Thorley and the Green Belt. The proposal involves the removal of an existing single storey rear extension and the construction of a larger single storey rear extension in the same location.
5. Section 13 of the Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It states that construction of new buildings should be regarded as inappropriate in the Green Belt, except for listed exceptions. This includes extensions or alterations of a building provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the East Herts District Plan 2018 (the District Plan) states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
6. The Framework defines "original building" as a building as it existed in July 1948 or, if constructed after that date, as it was originally built. There is no definition within the Framework as to what would constitute a disproportionate addition and I have not been made aware of any within the District Plan
7. The Council has calculated that the proposal for a larger replacement rear extension would lead to an approximate 6.5% increase in the size of the dwelling as it currently stands. The Council has calculated that the increase in floor space to be approximately 129%, when the proposal is added cumulatively to all previous additions to the original building since 1948.
8. The Council, however, acknowledges that the proposed extension would not be of disproportionate size but considers that the cumulative additions to the property, including the proposal, would result in disproportionate increase in size over that of the original building. The Council has therefore concluded, on that basis, that it would constitute inappropriate development in the Green Belt, contrary to the Framework and the District Plan.
9. In this case, the Council has considered that it is only the size of the farmhouse, as it was in 1948 that should be considered as the original building. The Council has not included the original barn, which is contemporary with the

farmhouse, as forming part of the original building on the site and has, therefore, made its calculations and drawn its conclusions on that basis.

10. However, the appellant argues there is a strong case for the barn to be considered as forming part of the original building on the site. Both farmhouse and the barn were on the site in 1948, sit in very close proximity of the site and have a strong historic, functional and formal relationship. Even though not directly connected, this close relationship is historically established and is visually readable in the landscape and, for the purposes of considering the development in terms of Section 13 of the Framework I find, therefore, that the house and barn should be considered as the original buildings on the site.
11. Planning approval was granted for the house to be extended into the barn, which has increased the amount of residential floorspace in the dwelling. Whilst this has enlarged the size of the dwelling the size of the original buildings on the appeal site are ostensibly the same. That said it is both logical and reasonable for the Council to conclude that the accommodation in the barn is an extension to the house.
12. The Framework sets out that the extension or alteration of a building is not inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building. As the Framework concerns itself with size of original building rather than their use this is an important difference in the context of what could be regarded as inappropriate development in the Green Belt, I have given substantial weight to the appellant's gross floor area calculations when considering whether the proposal is a disproportionate addition over and above the size of the original building.
13. I have not been provided with any volumetric measurements. However, without any specific national or local guidance on the matter, the mathematical calculations on floor area do not point me to a situation where the scheme would clearly result in disproportionate additions over and above the size of the original building. Whilst the uplift may be at the outer limits of acceptability, the cumulative additions would not result in a disproportionate addition over and above the size of the original building when viewed as a whole.
14. Taking all of the above in to account I find that the proposal would not result in a disproportionate addition over and above the size of the original building.
15. For the reasons given above, I conclude that the proposal would not be inappropriate development in the Green Belt and would not therefore be in conflict with Policies GBC1 and ENV5 of the East Herts Local Plan (Second Review; Policy GBR.1 of the District Plan or with Chapter 13 of the Framework.
16. Given the above factors the proposal would not, in my view, represent a disproportionate addition over and above the original building and can therefore be regarded as not inappropriate in the terms of Paragraph 145 of the Framework. As I have come to this conclusion it is not necessary for me to consider the impact of the development on openness.

#### **Other Matters**

17. The Council has given Listed Building Consent (ref: 3/18/1715/LBC) for the proposed development that is the subject of this appeal. In my consideration of

this appeal I have had regard to my statutory duties under sections 66(1) and 77(1) Planning (Listed Building and Conservation Areas) Act 1990 and find that the proposal does not harm the listed building or its setting.

#### **Conditions**

18. The Council have recommended standard conditions with regard to the commencement of development to ensure compliance with legislation and a plans condition for the purposes of precision. A condition is recommended to ensure that the materials match those in the existing building. All three conditions are both reasonable and necessary.

#### **Conclusion**

19. For the reasons given above I conclude the proposal would not be inappropriate development with the Green Belt. In all other respects the proposal is acceptable to the Council and I have found no reason to disagree. Having had regard to all other matters raised the appeal should succeed subject to the conditions outlined above.

*Victor Callister*

INSPECTOR





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## Appeal Decision

Site visit made on 24 April 2019

**by Mark Reynolds BSc (Hons) MSC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 16 May 2019**

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**Appeal Ref: APP/J1915/W/19/3221101**

**Land adjacent to Elms, Slough Road, Allens Green, Sawbridgeworth, Herts, CM21 0LR**

- 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 Peter Faud against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/1789/FUL, dated 23 July 2018, was refused by notice dated 23 October 2018.
  - The development proposed is one new five bedroomed, two storey detached house with separate vehicle carport.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the suitability of the site to accommodate a dwelling having regard to local and national policy.

### Procedural Matter

3. Subsequent to the lodging of this planning appeal, East Hertfordshire District Council (the Council) adopted the East Herts District Plan (2018) (LP) which has replaced the policies of the East Herts Local Plan Second Review 2007 referred to in the Council's decision notice. I am considering the appeal on the basis of the recently adopted plan.

### Reasons

4. Allens Green is identified in the (LP) as a 'Group 3 Village'. Within such settlements, LP policy VILL3 advises that limited infill development, identified in an adopted Neighbourhood Plan (NP) will be permitted subject to a list of criteria. Allens Green does not benefit from a NP and the proposal is therefore contrary to the terms of policy VILL3. The appeal site is also located in the 'Rural Area Beyond the Green Belt' within this area LP policy GBR2 allows for infilling or the partial or complete redevelopment of previously developed land where such sites are in sustainable locations, and they are appropriate to the character, appearance and setting of the site and/or surrounding area.
5. The appeal site is described as a vacant site and as being disused and overgrown by the appellant. The design and access statement identified that it is poor quality unproductive agricultural land. I observed that the site appears

to have formed part of a larger agricultural field which is consistent with the evidence before me. I do not find that the appeal site comprises previously developed land, it is not, and does not appear to have been occupied by a permanent structure and appears to have last been in agricultural use, thereby it is excluded from the National Planning Policy Framework (the Framework) definition of previously developed land. The appeal proposals would therefore also be contrary to the terms of LP policy GBR2

6. The appellant argues that the site is sustainable and that development here may support local shops and facilities. The accompanying text to policy VILL3 records that Group 3 villages are generally amongst the smallest in East Herts and that the villages have a poor range of services and facilities meaning that it is often necessary for local residents to travel outside the village for most of their daily needs. I observed that the village has a public house but I have not been presented with any evidence that Allens Green benefits from any other services. The village appeared not to be served by public transport and I have been presented with no evidence that the village is an accessible location by means other than the private car. It is located some distance from Harlow and Bishop Stortford as the closest significantly sized settlements.
7. The appeal site itself is located along an unlit road which does not have the benefit of a footway and is bounded by mature hedges on both sides of the road with no refuge for pedestrians available. The site is not isolated and paragraph 79 of the Framework is not therefore applicable. This notwithstanding, there would still be negative effects arising from the location in terms of the dependency on private vehicles and the lack of accessibility of local services for future occupiers. These factors weigh significantly against the proposal and run contrary to the LP policies seeking to promote sustainable development and the similar aims expressed in the Framework.
8. Policy VILL3 allows for infill development where there is a NP. This allows communities within the smaller settlements to determine whether they wish to have a small level of additional housing and for this to be a locally driven process. That Allens Green does not have a NP at present does not mean that one could not come forward in the future. The Council's published position is that a 6.2 year housing land supply exists meaning that the Council's housing policies may be given full weight in my decision. Whilst this would be a windfall site, there is no evidence before me that it is required to maintain housing delivery within the district and the proposal is contrary to the terms of LP policies VILL3 and GBR2.

### **Other matters**

9. I acknowledge the design of the proposed dwelling to be acceptable, that it would minimise the loss of countryside, and that it would represent infilling and would therefore in part be policy compliant. The absence of harm in these respects is however a neutral factor. The proposal would make a modest contribution to housing delivery, albeit in a context where adequate provision is currently being made. It would provide employment during construction and may bring economically active people into the area with a resultant increase in spending in the locality. I attribute moderate weight to these benefits of the scheme. This does not though outweigh the harm which would result given the site's poor accessibility to services and facilities and the heavy dependence upon the private car which would result.

10. It is argued that the appeal proposals represent the most compatible use for the site and that alternative uses may be unacceptable. I must though determine the acceptability of the proposals before me as part of this appeal and I attach limited weight to this argument. It has been put that were the site located within the Green Belt, limited infilling within the village would be acceptable. As the site is not located within the Green Belt I do not consider that this weighs in favour of the proposal.

### **Conclusion**

11. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Mark Reynolds*

Inspector



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## Appeal Decision

Site visit made on 1 March 2019

**by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> May 2019**

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**Appeal Ref: APP/J1915/D/19/3219787**

**95 Dunmow Road, Bishop's Stortford, CM23 5HF**

- 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 Michael Horwath against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/1880/HH, dated 19 August 2018, was refused by notice dated 15 October 2018.
  - The development proposed is to remove the hedge and replace with 2 metre high acoustic fencing at 95 Dunmow Road, Bishop's Stortford, CM23 5HF.
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### Decision

1. The appeal is allowed and planning permission is granted for the removal of hedge and replacement with 2 metre high acoustic fencing at 95 Dunmow Road, Bishop's Stortford CM23 5HF in accordance with the terms of the application, Ref 3/18/1880/HH, dated 19 August 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following plans: TQRQM18127212140196 (Location Plan); TQRQM18127213421611 (Site plan); RB/2/619 (Block Plan) and 06 J7/01043.
  - 3) Notwithstanding the height details shown on illustrative plan ref 06/J7/01043, the fence shall not exceed 2 metres in height.
  - 4) All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

### Preliminary Matters

2. The Council amended the description of development in the interests of brevity. I am satisfied that the Council's description is more accurate and precise than the very long description used by the appellant and have therefore also used the shorter description of development for the appeal.

3. The appellant has supplied plans showing a 2m fence (shown on plan Ref RB/2/619) and describes the fence as 2m (with 50mm embedded), the Council's decision is also based on a 2m fence. However, on submitted plan Ref 06 J7/01043, it is shown as 2.51m (with 80mm embedded). It has been confirmed to me by the appellants that the fence is to be a maximum height of 2m. I have therefore stated 2m as the height in the revised description of development.

### **Main Issues**

4. The main issue is the effect of the proposal on the character and appearance of the area.

### **Reasons**

#### *Character and Appearance*

5. 95 Dunmow Road fronts on to Stortford Hall Park, where it is bounded by a low garden wall. This garden wall extends around the boundary to Dunmow Road, augmented by a thick evergreen hedge. The majority of private garden area serving the property is situated between the house and Dunmow Road and is the area the appellant wishes to fence off.
6. I acknowledge that the low wall and hedgerow makes a positive contribution to the character and appearance of the area. However, I have considered the evidence submitted by the appellant in terms of other locations where similar fencing has been used as domestic boundary treatments adjacent to public highway. As such, I am satisfied that the use of timber in the locality would not be out of place.
7. A timber fence in this location of the height proposed would not be particularly conspicuous and over time, the appearance of the fence would soften. The appellant plans to plant a laurel hedge around the base of the fence which would serve to soften its appearance further.
8. Overall, I do not consider the proposed fence would be overly conspicuous within the street scene, particularly as it would be augmented with a laurel hedge to the front of the fence. I consider this is capable of being implemented through the use of a planning condition. I therefore consider the proposals are in accordance with DES4 of the adopted East Hertfordshire District Local Plan (2018) (LP) and saved policy ENV1 of the East Hertfordshire Second Local Plan Review 2007 (SLP) both of which seek design quality and design that reflects local distinctiveness.

### **Conclusions**

9. The Council have put forward conditions should the appeal be allowed. I have had regard to these in light of the tests in the Framework and national Planning Practice Guidance. I have imposed a standard condition which limits the lifespan of the planning permission and I have specified the approved plans, for the avoidance of doubt and in the interests of proper planning. Finally, I have imposed a condition to ensure that the proposed landscaping is implemented in accordance with Policies DES3 and DES4 of the LP. I note the Council's concerns regarding the longevity of landscaping but consider the requirement to replace failed landscaping within 5 years to be sufficient time for landscaping to become established.

10. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

*Sian Griffiths*

INSPECTOR



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## Appeal Decision

Site visit made on 30 April 2019

**by K Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 14 May 2019**

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**Appeal Ref: APP/J1915/D/19/3221342**

**7 Manor Road, Bishop's Stortford CM23 5HU**

- 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 Oliver Acland against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2056/HH, dated 11 September 2018, was refused by notice dated 13 December 2018.
  - The development proposed was originally described as *'Replacement of existing single glazed timber bays windows situated on the ground and first floor of the property with double glazed uPVC windows of equivalent design. The replacement bay windows will be the same size and shape as the existing bay windows (the design will be as fitted to the neighbouring property, No. 9 Manor Road - please see attached photo).'*
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### Decision

1. The appeal is dismissed.

### Preliminary Matter

2. On 19 February 2019, the Government published a revised National Planning Policy Framework (the Framework). The revised Framework does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Bishop's Stortford Conservation Area (BSCA).

### Reasons

4. The appeal site is a semi-detached dwelling forming part of a group from 7 to 15 Manor Road which is identified in the Conservation Area Appraisal (CAA) as *'Tall early 20th century residences constructed of brick with tiled roofs and prominent chimneys with pots. Bay windows to both floors; some decorative wooden detailing. Some replacement windows detract but overall mass and scale is pleasing.'* The wider street scene generally continues this palette of materials, with some variation to the design and scale of the buildings. The street contributes to the significance of the BSCA through the townscape created by the historic architecture and consistency of materials of the buildings, including timber windows.
5. The Council made an Article 4 Direction on 14 June 2017 (confirmed on 15 November 2017) removing permitted development rights to undertake,

amongst other things, replacement of doors or windows within the BSCA. The Direction makes clear that it was introduced in response to concerns that the attractive character and appearance of the BSCA was being spoiled by poor quality extensions and alterations to some of the properties.

6. The appellant points to examples of plastic framed windows on neighbouring properties along Manor Road, including the other half of the semi-detached pair at No 9 and at No 13 within the same group. However, the CAA identifies that these replacement window 'detract' from the group. I viewed the windows along Manor Road and found that most properties retained timber windows, with intermittent plastic frames to some properties. I am not provided with evidence of when other plastic windows on Manor Road were installed but given the Article 4 Direction has been in effect only since June 2017, it is likely that several of the neighbouring windows were altered before this date and formed part of the justification for introducing the Direction. Accordingly, I give limited weight to these examples as precedent for the proposal before me.
7. The appellant states that the bay windows are in a very poor state of repair, that a formal survey found wet rot to the frames and that they no longer sit square, resulting in draughts, heat loss and noise from traffic and passing pedestrians. However, I am not provided with a copy of any survey by the appellant to substantiate their condition. I observed the windows had flaking paint and some resulting evidence of water ingress to the outside. Inside, I did not see the windows to be out of shape, nor did I note draughts, although I accept my visit was a brief snapshot during relatively mild and calm conditions.
8. A building's fenestration is an important component in defining its visual and architectural character. The appellant states that the proposed replacement windows would match the existing timber windows in design and proportions, and that they would match the plastic framed windows next door at No 9. However, I am provided with no detailed plans showing the design of the proposed windows. The Council makes reference to a manufacturer's brochure but this has not been provided in evidence. In the absence of plans or detailed specifications, I cannot be satisfied that the proposed windows would be as described by the appellant.
9. Even if I accept that the windows would match those at No 9, UPVC frames would introduce a design and material finish that is uncharacteristic of the building's age and character, and which is not the prevailing framing material within the surroundings. UPVC is a material with an evident artificial texture and a more uniform finish, both as new and when aging, compared to painted timber windows. The use of a white finish and retention of the glazing pattern would provide consistency with the windows at No 9. However, the windows at No 9 have thicker frames and casements which sit proud of the sub-frame, rather than recessed into the frame as on the existing timber windows. They therefore do not exhibit the detailing of the existing windows and if replicated on the appeal building would be harmful to its historic character.
10. I acknowledge that there are examples of plastic framed windows within the street, but from my observations they are intermittent and not in the majority. They are not sufficient, therefore, to alter the overall traditional character and appearance of the street, and do not justify the further erosion of the character and appearance of the BSCA by the proposed UPVC framed windows to the front of the appeal site. I also appreciate that the other windows in the house



are plastic framed, however the windows subject to the appeal are to the most public elevation of the building, and the uniformity created across the dwelling would not justify the harmful visual impact when viewed from the front.

11. I am referred to a number of Council decisions, and one appeal decision, where non-timber frames have been permitted in the BSCA. I note that these examples relate to addresses in other parts of Bishop's Stortford. I am not provided with full particulars of these other decisions to enable me to determine if these situations are, in fact, comparable to the appeal scheme before me. Therefore, these are not determinative factors in the appeal, which I have considered on its own merits.
12. For the reasons set out above, I find that the proposed replacement of the timber windows with UPVC windows to the front elevation would fail to preserve or enhance the character and appearance of the BSCA. The proposal would conflict with Policies HA1 and HA4 of the East Herts District Plan (October 2018) (the EHDP), which respectively require development proposals to preserve and where appropriate enhance the historic environment of East Herts, and the special interest, character and appearance of conservation areas through, amongst other things, use of materials and design details which reinforce local character and are traditional to the area.
13. When considered in light of the heritage asset as a whole, the impact of the proposal would be localised in nature and therefore I regard the harm as less than substantial within the meaning of the Framework. Paragraph 196 directs that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.
14. The appellant submits that the proposed windows would provide increased energy efficiency, addressing existing problems of heat loss and reducing central heating use, in line with the Council's approach to tackling climate change in Chapter 22 of the EHDP. However, I have no details of the proposed windows or their potential energy performance, nor substantive evidence to suggest that UPVC windows significantly outperform well installed and maintained double glazed timber windows in this regard. Even if I accept that the proposed windows would address these problems, the public benefits arising from this would be limited given the small scale of the development. Similarly, improved noise performance from double glazing could also be achieved using timber frames. Therefore, I afford limited weight to this benefit.

## **Conclusion**

15. The public benefits put forward are not sufficient to outweigh the great weight to be given to the less than substantial harm that would be caused to the designated heritage asset by the proposal. The appeal scheme would be contrary to the development plan taken as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. The appeal is therefore dismissed.

*K Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 7 May 2019

**by Chris Couper BA (Hons) DiP TP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 May 2019**

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**Appeal Ref: APP/J1915/W/19/3221849**  
**33 Homefield Road, Ware SG12 7NG**

- 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 Jenkins against the decision of East Herts Council.
  - The application Ref 3/18/2058/FUL, dated 17 September 2018, was refused by notice dated 19 December 2018.
  - The development proposed is the construction of a new one bedroom bungalow.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The appellant states that it would be possible to reduce the proposed bungalow's roof pitch to match the roofs at 62A and 64 High Oak Road. As part of the appeal, he submitted drawing no. 13638-Sk-1-1<sup>st</sup> to demonstrate this.
3. However, the Planning Inspectorate Procedural Guide: Planning Appeals – England 2019 states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought.
4. I do not have full elevational drawings of the proposed amendment, which would significantly alter the appearance of the building, and I am therefore not satisfied that this could be dealt with by a condition as suggested. Consequently, I have determined the appeal on the basis of the drawings which were before the Council, and on which interested parties commented.

### Main Issues

5. The main issues are the effect of the proposed development on:
  - The character and appearance of the area; and
  - The living conditions of nearby occupiers.

## Reasons

### *Character and appearance*

6. In common with nearby properties along this side of Homefield Road, No 33 is a semi-detached bungalow. The pairs are fairly regularly spaced, with the gaps between them affording glimpses through to land to the rear. Their gardens are mostly fairly long, largely open or landscaped, and contain just a few modest outbuildings. Consequently, although many of the bungalows have been extended, some at roof level, the nearby pattern of development on this side of the road is fairly consistent and reasonably spacious. On the opposite side of Homefield Road the layout is far less regular, and the buildings much more varied.
7. As a result of this scheme, No 33's garden would be divided, with the rearmost section accommodating the proposed small bungalow. It would be sited fairly close to three of the plot's four boundaries, and would be visible from Homefield Road, such as between Nos 31 and 33, as well as from nearby properties. Although in the streetscene there are glimpses of dwellings beyond the pairs of bungalows along this stretch of the road, this one would be significantly closer compared to them; and the retained garden of No 33 would be significantly shorter than the others in this row, including Nos 35 and 37.
8. Consequently, although the proposed bungalow's height and scale alone would not appear out of place, considered with its siting and layout, the scheme as a whole would result in a cramped form of development, and would undermine the prevailing more spacious character along this part of Homefield Road.
9. To the south of the site, and fronting High Oak Road, the development pattern is significantly less spacious and, as set out at paragraphs 4.6 and 4.7 of the appellant's statement, there are some dwellings with little or no amenity space.
10. The bungalows at Nos 62A, 64 and 66 High Oak Road are located very close to the southern side of a short, narrow driveway; and from where the proposed bungalow would be accessed. Whilst this scheme would broadly reflect aspects of those bungalow's siting and form, given its position fairly close to the opposite side of the driveway, and the significant proportion of the plot's width that would be covered by the building, it would contribute to a rather overwhelming sense of containment in that area. However, given the less regular and denser settlement pattern here, the harm would be limited.
11. Amongst other things, Policy DES4 of the East Herts District Plan 2018 ('EHDP') requires proposals to be of a high standard of design and layout, which reflects and promotes local distinctiveness. Whilst it encourages making the best possible use of available land, it also states that this should be done by respecting or improving upon the character of the surrounding area, having regard to matters such as scale, siting and layout.
12. As the scheme would significantly harm the character and appearance of the area, it would conflict with that policy, along with the broadly similar stance in the National Planning Policy Framework 2019 ('Framework'), particularly at paragraph 127.

*Living conditions*

13. The proposed bungalow would be located close to a timber outbuilding within the garden of The Manse, which would significantly screen it from the house some distance beyond. It would be set-in from the side boundary of the long garden at 31 Homefield Road, with that part closest to the boundary comprising a blank flank wall.
14. Although Nos 62A and 64 have windows facing the narrow driveway, the proposed bungalow would not be directly opposite either of those dwellings. Given its siting, its single storey hipped roofed form, and its 'L' shaped footprint, the scheme would not have an overbearing impact on the outlook from either of those properties.
15. There would be a gap between the proposed bungalow and the rear face of 33 Homefield Road, including its conservatory. That gap would be sufficient to prevent this single storey building from having a domineering impact on existing and future occupants of that property.
16. Consequently, the scheme would not impact the living conditions of adjacent occupiers to a harmful degree. On this issue, it would not therefore conflict with EHDP Policy DES4's requirement to avoid a significant detrimental impact on neighbouring amenities, or with the requirement for a high standard of amenity in the Framework.

*Other matters*

17. At paragraph 11 the Framework sets out that the most relevant development plan policies for determining an application shall be considered out-of-date where the Housing Delivery Test ('HDT') indicates that the delivery of housing was substantially below the housing requirement over the previous three years. The 2018 HDT measurement for East Hertfordshire is 76%. Whilst it is unclear whether or not the Council has prepared an Action Plan to address the matter, having regard to Annex 1 of the Framework, that is above the level at which the 'tilted balance' in paragraph 11 d) is triggered.
18. Nevertheless, the scheme would contribute to the supply of housing, although as only one unit would be delivered, that constitutes only a modest benefit.

**Planning Balance and Conclusion**

19. I have noted that this scheme was amended in terms of its scale, footprint and plot size compared to a previously refused application. Notwithstanding that, having considered this scheme on its merits, I have found that, whilst it would not impact neighbouring occupiers' living conditions to a harmful degree, it would significantly harm the character and appearance of the area.
20. The scheme's modest benefit does not outweigh the significant harm it would cause. I have considered other matters raised by interested parties, but given my findings on the main issues, it has not been necessary for me to address them further. The scheme would conflict with the development plan when considered as a whole, and the appeal is therefore dismissed.

*Chris Couper*

INSPECTOR



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## Appeal Decision

Site visit made on 29 April 2019

**by T A Wheeler BSc (Hons) T&RP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 May 2019**

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**Appeal Ref: APP/J1915/D/19/3221840**

**7a Lower Green, Tewin AL6 0JX**

- 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 Leo Hamby against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2100/HH, dated 29 September 2018, was refused by notice dated 27 November 2018.
  - The development proposed is: 1<sup>st</sup> floor extension at the front of the dwelling and new window in existing side wall.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The Council refers to adverse impact on the setting of the adjacent Grade II Listed Building. I did not receive a copy the listing details and therefore asked the Council to supply these to me so that I could properly understand the significance of this asset.

### Main Issues

3. These are the effects of the proposal on 1) the character and appearance of the Tewin Conservation Area (TCA) and the setting of the Listed Building, 8 and 9 Lower Green; and 2) the living conditions of the occupiers of the adjoining property at no 7 Lower Green.

### Reasons

*The character and appearance of the conservation areas and the setting of listed buildings*

4. The appeal property is situated close to the Lower Green within Tewin Village. It is a semi-detached two storey house, built of red brick and tiled roofs and dates from the 1970s. It is one of a few modern buildings that fronts onto the village green, and in terms of its siting, scale and massing sits comfortably within its setting.
5. The adjoining property has a 'catslide' roof to a front projection, which also contains a small dormer window. The appeal property has a ground floor extension to the front with a pitched roof. The existing extension, to a limited extent, appears obtrusive within the street scene, and it is markedly different from its neighbour.

6. The proposal would create a new master bedroom at first floor over the existing front projection. The gable end roof would be raised to align with the eaves level of the main house. Two forward facing windows would be aligned with the existing ground floor windows, and the external walling would be rendered at first floor level. In the side gable of the existing property an additional window would be created to serve a new on suite.
7. The proposal would increase the obtrusiveness of the front projection due to the increase in height and expanse of wall. It would also unbalance the existing relationship between the two semi-detached properties, making the appeal property the dominant element and not subservient to the dwelling. The proposed use of render seeks to be sympathetic to other buildings, in particular the Listed Building at nos 8 and 9, however in my view this would add visual confusion.
8. This proposal would therefore have an adverse effect on the character and appearance of the TCA, and the setting of the listed building. The harm to these designated heritage assets would be classed as less than substantial. That does not mean they would be insignificant. I have considered whether any public benefits arising from the proposal would outweigh the less than substantial harm. The enlargement of the dwelling may make the property more suitable for larger families however when weighed against the importance which local and national policies give to the conservation of the historic environment that is not a decisive factor.
9. For proposals in conservation areas, Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing character or appearance. Under Section 66(1) of the Act consideration must also be given to whether the granting of planning permission for the development would preserve the setting of the neighbouring listed buildings. The proposal does not meet these tests.
10. I therefore conclude that the proposal would fail to preserve the character and appearance of the host property and the Tewin Conservation Area, and would therefore not comply with policies DES4, HOU11, HA4 and HA7 of the East Herts District Plan 2018 (EHDC) which seek, amongst other things, to ensure that new development respects and complements the character of the area, achieves a high standard of design and preserves or enhances conservation areas and the setting of listed buildings.

#### *The living conditions of neighbours*

11. The adjoining property has a ground floor living room window and first floor bedroom window from which the proposed extension would be visible. Although there would be no new windows within the flank wall of the proposed extension, and therefore no loss of privacy for the neighbour, the outlook from these windows would be significantly reduced and some loss of daylight would occur. This would have a significant adverse effect on the living conditions of the neighbour.
12. I therefore conclude that the proposal would cause harm to living conditions, for which reason the proposal would not comply with policies HOU11 and DES4 of the EHDC, which seek to ensure that developments are well designed and do not harm the living conditions of the occupiers of neighbouring properties.

**Conclusion**

13. For the above reasons, the appeal is dismissed.

*Tim Wheeler*

INSPECTOR



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## Appeal Decision

Site visit made on 17 May 2019

**by K E Down MA(Oxon) MSC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> May 2019**

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**Appeal Ref: APP/J1915/D/19/3223617**

**29 High Street, Watton at Stone, Hertford, SG14 3SX**

- 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 A Hunter against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2214/HH, dated 8 October 2018, was refused by notice dated 7 December 2018.
  - The development proposed is the replacement of the existing shallow pitch hipped roof with an increased pitch hipped roof to form two bedrooms in the roof space.
- 

### Decision

1. The appeal is allowed and planning permission is granted for the replacement of the existing shallow pitch hipped roof with an increased pitch hipped roof to form two bedrooms in the roof space at 29 High Street, Watton at Stone, Hertford, SG14 3SX in accordance with the terms of the application, Ref 3/18/2214/HH, dated 8 October 2018, 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: 2018-154-P-100A, 2018-154-P-201A, 2018-154-P-202A, 2018-154-P-211A, 2018-154-P-221A, 2018-154-P-501B, 2018-154-P-502A, 2018-154-P-511B, 2018-154-P-512A and 2018-154-P-521B.
  - 3) Except in respect of the roof tiles which shall be as described in the approved plans, the materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Main Issues

2. There are two main issues. Firstly, the effect of the proposed roof replacement on the character and appearance of the host dwelling and the surrounding area, including the Watton at Stone Conservation Area; and secondly, the effect of the proposed roof replacement and rear dormer windows on the living conditions of occupiers of surrounding properties with respect to outlook, privacy and amenity.
-



## Reasons

3. The appeal dwelling is a large, detached house on a generous plot. It is similar to the neighbouring dwellings at Nos 25 and 27 but has a significantly shallower roof pitch. It lies on the corner of High Street and Aylott Court, a modern development of dwellings with steeply pitched roofs. Beyond Aylott Court is a terrace of four historic and attractive alms houses. This has a shallow pitched, gable ended roof with substantial feature chimneys which dominate the dwellings and are prominent in the street scene.
4. Although the Council's delegated report states that the appeal dwelling lies within the Watton at Stone Conservation Area (CA) the submitted CA plan shows it and Nos 25 and 27 lying just outside the CA. Dwellings in Aylott Court and the alms houses are within the CA. The National Planning Policy Framework (NPPF) makes clear that conservation areas are designated heritage assets. When considering the impact of a proposed development on the significance of a designated heritage asset, the NPPF advises that great weight should be given to the asset's conservation. Significance can be harmed through alteration of the heritage asset or development within its setting.
5. The existing shallow roof of the appeal dwelling gives it an oddly squat and ill-proportioned appearance which is emphasised by the eaves height, which is similar to that at No 27, and the significant footprint of the house. The proposed steeper pitched replacement roof would make the dwelling look more like Nos 25 and 27 which, by contrast, are well proportioned houses of traditional design. The central rear dormer would sit below the central ridge, well up from the eaves and away from the hips. Its sloping roof would reduce its prominence. Overall, it would be of a scale and design that was sympathetic to the host dwelling and did not dominate the roof form. Proposed roof lights in the side facing hips would have no material effect on the character or appearance of the dwelling. The proposed alterations would therefore have a positive effect on the character and appearance of the host dwelling.
6. In terms of the street scene of High Street, most nearby dwellings both inside and outside the CA have noticeably steeper roofs than the appeal dwelling and it is therefore something of an anomaly. The proposed alterations would thus improve its harmony with other dwellings.
7. The Council raises concerns regarding the effect of the higher replacement roof on the character, appearance and setting of the smaller alms houses and the wider CA. However, the wide gap between the appeal dwelling and the alms houses created by Aylott Court which has a wide verge adjacent to No 29 and the set back of No 29 from the alms houses, coupled with the tall vegetation on the boundary between the appeal dwelling and Aylott Court would ensure that the character and appearance of the alms houses, including their setting, and that of the wider CA was preserved such that there was no harm to the significance of the CA.
8. It is concluded on the first main issue that the proposed roof replacement would have no materially detrimental effect on the character or appearance of the host dwelling or the surrounding area and would preserve the character and appearance of the Watton at Stone CA. In consequence, there would be no conflict with Policies DES4, HOU11 and HA4 of the East Herts District Plan (LP),

2018. Taken together, these expect extensions to dwellings that may affect the setting of a conservation area to have a high standard of design and layout that is of a scale, form and design which is appropriate to the character, appearance and setting of the existing dwelling, reflects and promotes local distinctiveness and preserves the special interest, character and appearance of the CA.

9. Turning to the effect on living conditions, the Council's concern appears to be in respect of 1 Aylott Court and I agree that there would be no material effect on any other dwelling. No 1 has a first floor window that faces towards High Street and, at an angle, the rear elevation of the appeal dwelling. In terms of outlook, the separation distance, offset angle of view and the proposed hipped roof would ensure that there was no material visual intrusion or loss of outlook from this window. With respect to privacy, although both of the proposed bedrooms would have outlook to the rear, the angle of view would limit any overlooking of the window in No 1 which in any case faces the vehicular and pedestrian access into Aylott Court which is likely to lead to some potential loss of privacy.
10. It is concluded on the second main issue that the proposed roof replacement and rear dormer windows would have no materially harmful effect on the living conditions of occupiers of surrounding properties with respect to outlook, privacy or amenity. In consequence, there would be no conflict with Policies DES4 or HOU11 of the LP which taken together expect extensions and alterations to dwellings to be of a scale, mass and form that is appropriate to the surrounding area, such that they avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and ensure that their environments are not harmed by, amongst other things, inadequate privacy.
11. In addition to the statutory commencement condition, the Council suggests conditions requiring the development to be carried out in accordance with the approved plans and in materials which match the existing dwelling. I agree that these are necessary to provide certainty and in order to protect the character and appearance of the host dwelling and the surrounding area. I will alter the standard wording of the materials condition to reflect that the roof tiles are proposed to be in keeping with nearby dwellings and not to match the existing grey concrete tiles. The Council proposes a further condition, requiring the windows in the rear dormer to be obscure glazed and have fanlight openings. However, in view of my findings on the second main issue with respect to privacy I do not consider this necessary. Neither would it be reasonable since two of the three windows provide the main source of outlook to the proposed bedrooms.
12. For the reasons set out above and having regard to all other matters raised, including the representations of the Watton at Stone Parish Council regarding overdevelopment, I conclude that the appeal should be allowed.

*KE Down*  
INSPECTOR

# Appeal Decision

Site visit made on 30 April 2019

**by K Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 May 2019**

**Appeal Ref: APP/J1915/D/19/3220413**

**Amwell Lodge, Cauthery Lane, Great Amwell SG12 9SN**

- 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 M & D Steele against the decision of East Hertfordshire District Council.
- The application Ref 3/18/2276/HH, dated 12 October 2018, was refused by notice dated 13 December 2018.
- The development proposed is a single storey side extension.

## Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension at Amwell Lodge, Cauthery Lane, Great Amwell SG12 9SN, in accordance with the terms of the planning application Ref 3/18/2276/HH, dated 12 October 2018, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13181-S001 (Existing Plans and Elevations); 13181-P001-A (Plans and Elevations as Proposed).
  - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 13181-P001-A (Floor/Elevation - Proposed).

## Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

## Main Issues

3. The site lies within an area of Green Belt. Therefore, the main issues are:
  - Whether the proposal is inappropriate development in the Green Belt;
  - The effect on the openness of the Green Belt;
  - If the development is inappropriate, whether any 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 it.

## Reasons

### *Whether inappropriate development in Green Belt*

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of development which are not regarded as inappropriate. This includes 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.
5. Policy GBR1 of the East Herts District Plan (October 2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
6. The original building, as evidenced by photographs supplied by the appellant, was a flat roofed structure over two floors. The Council puts the original floor space at 121.25m<sup>2</sup>. The permission granted in 2003<sup>1</sup> included the introduction of a pitched roof, various extensions and a detached garage. Along with a historic permission from around 1962<sup>2</sup> (based on the notation of the planning reference), the Council puts the cumulative floorspace of extensions to the original dwelling at 78.75m<sup>2</sup>, an increase of approximately 64.9%. If the detached garage is included, this increase would be 95.25m<sup>2</sup>, or 78.6%. However, the Council is uncertain if the garage replaced an existing structure, and therefore I have taken the figures excluding the garage into account.
7. The proposed extension would add 14.35m<sup>2</sup> of floorspace, equating to an 11.8% increase over the original dwelling, and a cumulative increase of some 76.8%. The Council accepts that the proposed extension, taken by itself, would not be a disproportionate addition relative to the original dwelling. However, for the purposes of Paragraph 145 of the Framework, it is necessary to consider whether all of the extensions, taken cumulatively, would amount to disproportionate additions.
8. The Framework itself does not define 'disproportionate' and makes no reference to the effect on openness of the Green Belt in relation to this particular exception to inappropriate development. The Council does not refer me to any definition of 'disproportionate' in the EHDP or any supporting guidance. Therefore, there is discretion in the assessment of whether the proposal would meet the exception in this case.
9. The appellant does not dispute the measurements given by the Council but explains that a significant part of the 2003 extension was to create a pitched roof on the property with living space inside. When compared to the historic pictures, it is evident that the past extensions have substantially re-designed the building as a whole. Viewed on site, a single hipped roof structure spans over the main two storey section of the building, which provides a coherent main core to the building to which the existing two storey rear wing and single storey side extension appear distinctly subservient in scale. The proposed extension would be a modest, single storey structure at low level within the space between these two extensions which would not significantly alter the overall scale or shape of the building.

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<sup>1</sup> Council Ref 3/02/2679FP – granted 20 February 2003

<sup>2</sup> Council Ref 3/62/1076

10. A 76.8% cumulative increase in floorspace is considerable. However, the arrangement of the existing extensions creates a largely unified building, and I am mindful of the fact that much of the increase is attributed to the need to add a roof to the structure. Given this, and my observations on site, I am of the view that the existing extensions are not disproportionate in size, and that the addition of the proposed extension, in view of its modest scale and position, would not result in disproportionate additions over and above the size of the original building.
11. Therefore, I find that the proposal would not be inappropriate development in the Green Belt and would accord with Policy GBR1 of the EHDP and the provisions of the Framework.
12. With respect to openness and the purposes of the Green Belt, given my findings that the proposal would not be inappropriate development in the Green Belt, the proposal would, by definition, not have an adverse impact on the openness of the Green Belt or the purposes of including land within it.
13. As the proposal does not amount to inappropriate development, there is no requirement to assess if there are other considerations that amount to very special circumstances.

### **Other Matters**

14. The Council did not refuse permission in respect of the effect of the proposal on the character and appearance of the Great Amwell Conservation Area, on neighbouring living conditions or archaeology. From all I have seen and read, I have no reason to reach different conclusions in these respects.

### **Conclusion**

15. I have found above that the proposal would not be inappropriate development in the Green Belt in accordance with paragraph 145 of the Framework and Policy GBR1 of the EHDP. Moreover, there would be no harmful effects on the openness of the Green Belt. Consequently, there is no conflict with the development plan or the Framework and so the appeal should succeed.
16. I have imposed the standard time condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring adherence to the proposed materials is needed in the interests of the character and appearance of the host dwelling and the surrounding conservation area.
17. For the foregoing reasons and having regard to all other matters raised, the appeal is allowed.

*K Savage*

INSPECTOR



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## Appeal Decision

Site visit made on 26 April 2019

**by E Griffin LLB Hons**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 May 2019**

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**Appeal Ref: APP/J1915/D/19/3221791**

**26A Birchwood, Birch Green, Hertford SG14 2LU**

- 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 Graville against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2401/H dated 29 October 2018 was refused by notice dated 21 December 2018.
  - The development proposed is demolition of existing stable block and outbuilding and erection of detached double garage.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. A revised National Planning Policy Framework (the Framework) was published in February 2019 after the issue of the Council's decision. However, as any policies that are material to this decision have not fundamentally changed in the Framework, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.
3. A previous appeal decision reference APP/J1915/D/18/3199500 relating to a triple garage on the appeal site in a similar location was dismissed on the 20 June 2018 (the previous appeal decision).

### Main Issues

4. The main issues are:
  - Whether the proposal would be inappropriate development within the Green Belt;
  - The effect of the development on openness in the Green Belt; and,
  - If it is inappropriate development, 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

### *Whether Inappropriate Development in the Green Belt*

5. Birch Green is a village that is rural in character. The appeal site is a substantial modern two storey detached dwelling in spacious grounds with a timber stable block and outbuilding (the stable buildings) beyond a large area of hardstanding to the south side of the dwelling. The stable buildings are separated from the area of hardstanding by a wooden fence with gates and allow access to a grassed area to the rear.
6. The National Planning Policy Framework (the Framework) identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful and should not be approved except in very special circumstances. In addition, the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions set out in Paragraph 145 of the Framework.
7. The appellant seeks to rely upon the exception contained in paragraph 145 d) of the Framework which refers to the replacement of a building not being inappropriate provided that the new building is in the same use and not materially larger than the one it replaces.
8. The appellant considers that the proposed garage would be a replacement building for the stable buildings that would be demolished as part of the appeal proposal. However, the respective buildings are not in the same location. The Council indicates that the distance between the appeal dwelling and the proposed garage is approximately 42 metres whereas the distance between the buildings and the appeal dwelling would be approximately 6 metres.
9. There is no Framework definition of a replacement dwelling. However, a replacement building would normally suggest a building in a similar location so that the original building would be lost and not be capable of being rebuilt as it had been replaced. If the appeal proposal were to proceed then subject to obtaining appropriate approvals, further development on the stable buildings land could take place in the future. I therefore do not consider that the proposed garage next to the appeal dwelling is a replacement building for the stable buildings due to their respective locations.
10. Even if I had found that the proposed garage could be considered to be a replacement, the respective buildings would then have to be in the same use to fall within the exception. The appellant refers to the stable buildings as being for a use incidental to the enjoyment of the dwelling but provides no further information about the use of the buildings. Use as a stable is not a use as a garage or a use incidental to the enjoyment of the dwelling. I have no information about the use of the modest outbuilding which is smaller than the stable block and is made of the same materials as the stable block but has a side window.
11. The appellant refers to the stable buildings as being within the curtilage of the appeal dwelling. The Council notes that the stable buildings were not included in the red line boundary for the previous appeal. However, for the purpose of

this appeal, curtilage is not a determinative factor as the exception relied upon refers to the use of the buildings rather than their location.

12. Therefore, the appeal proposal does not fall within the exception set out in Paragraph 145 d) of the Framework as the proposed garage is neither a replacement dwelling nor in the same use as the stable buildings that would be demolished.
13. Paragraph 145 c) of the Framework provides a further exception which refers to the extension of a building not resulting in a disproportionate addition over and above the size of the original building. In accordance with the glossary to the Framework, the reference to "original building" means the building as originally constructed. This exception was relied upon by the appellant in the previous appeal decision for a triple garage.
14. A figure of an 88% increase in floor space compared to the original dwelling was not disputed between the parties in the previous appeal decision. The same percentage increase is referred to by the appellant for this appeal although neither party have provided details of how the percentage was calculated or whether the stable buildings were included in the calculation. However, the appellant does refer to the 88% figure arising from consideration of a planning approval that was granted for a number of extensions in July 2017.
15. The appellant considers that demolishing the stable buildings and allowing the appeal would mean that the percentage increase would remain at 88%. However, in the absence of any breakdown of the agreed 88% calculation, there is limited evidence that the stable buildings were included originally in the percentage increase calculation. In any event, irrespective of whether or not the stable buildings with a floor space of approximately 50 square metres were included in the calculation of the 88 % increase, the base line percentage increase from the original building would still be a significant one.
16. The proposed garage would increase the overall footprint of built development and add bulk at the side of the building. Together with existing extensions, it would represent an increase in size of the original dwelling which I consider to be disproportionate.
17. The Framework advises that due weight should be attached to relevant policies according to their consistency with the Framework. As Policy GBR1 of the East Hertfordshire District Plan 2018 (the District Plan) states that planning applications in the Green Belt will be considered in line with the provisions of the National Planning Policy Framework, it can be attached full weight.
18. As the exceptions do not apply, the appeal proposal would be inappropriate development in the Green Belt. The Framework advises that substantial weight should be given to any harm to the Green Belt. It would also conflict with Policy GBR1 of the District Plan.

### *Openness*

19. The openness of the Green Belt is clearly evident around the appeal dwelling, particularly with views of open fields at the rear. The appeal proposal would be to the side of the dwelling and would not be visible from the driveway. I accept that the loss of openness directly attributable to the appeal proposal would not be great itself, but it would diminish the openness to the side of the dwelling



and add significant bulk to the appeal dwelling. I do not consider that the demolition of the stable buildings to the edge of the appeal site has an impact upon the consideration of openness of the proposed garage which is in close proximity to the substantial appeal dwelling.

20. Therefore, I conclude that there would be a moderate loss of openness undermining the fundamental aim of keeping land permanently open which would conflict with the Green Belt purpose of safeguarding the countryside from encroachment and keeping land open.

#### *Other Considerations*

21. The appellant indicates that the District Plan has been adopted since the previous appeal decision was made and refers to other policies in the District Plan but provides limited details. I note that the appeal proposal is now classified as a Group 2 village whereas it was previously a Group 3 village. However, the appeal site is still within the Green Belt and Policy GBR1 therefore applies. This matter therefore attracts little weight.

#### **Conclusion**

22. The Framework indicates that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. The effects of the openness and the purpose of safeguarding the countryside from encroachment is moderate. The Framework establishes that substantial weight should be given to any harm in the Green Belt. The other considerations that arise do not clearly outweigh the harm. Consequently, very special circumstances do not exist.
23. For all the reasons given, I conclude that the appeal should be dismissed.

*E Griffin*

INSPECTOR

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## Appeal Decision

Site visit made on 30 April 2019

**by K Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 May 2019**

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**Appeal Ref: APP/J1915/D/19/3220497**

**Brienz, Albury Road, Little Hadham SG11 2DN**

- 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 Ms J Earthrowl against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2242/HH, dated 4 November 2018, was refused by notice dated 7 January 2019.
  - The development proposed is the erection of a first floor extension and associated alterations to ground floor.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a first floor extension and associated alterations to ground floor, at Brienz, Albury Road, Little Hadham SG11 2DN, in accordance with the terms of the planning application Ref 3/18/2242/HH, dated 4 November 2018, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ERT018\_OS (Site Location Plan); ERT018\_BP (Block Plan); ERT018\_01A (Existing Details); ERT018\_02B (Proposed Details).
  - 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.

### Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

### Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

4. The appeal site is located along a rural road with ribbon development on both sides and contains a bungalow set back from the road on a narrow deep plot. It spans across much of the width of the site and features a hipped roof. The size and layout of the appeal site is similar to neighbouring properties. The other dwellings vary in their detailed design, but largely take the form of modest bungalows or dormer bungalows which lends an element of consistency to the street scene. The appellant refers to a number of the properties having undergone recent extension or redevelopment, including the adjacent property, Lairds Folly, which is a large, dormer bungalow with a prominent front facing gable.
5. The proposal would add a first floor to the building by raising the roof height between around 1.3 and 1.7 metres, creating gable ends to both sides and inserting dormer windows and rooflights to the front and rear roof slopes. A porch would be added to the front elevation to create a new main entrance to the dwelling.
6. The existing dwelling is modest in scale and has an unassuming presence within the street scene. The extension would add considerably to the upper parts of the building, creating a more substantial structure. It would, however, be almost fully within the existing footprint of the dwelling, with only a small oversailing section at the front. The proposed roof shape would relate well to the existing scale, footprint and design of the dwelling, creating a unified and coherent form which would not appear disproportionate or incongruous.
7. In terms of detailed design, the proposed front dormers would centre over windows on the ground floor. The proposed rooflights, given their number and positions, would clutter the front roof slope somewhat; however, due to their modest size they would appear subservient to the dormer windows and would not detract significantly from the appearance of the building. With the addition of the proposed porch, I find that the front elevation, overall, would enhance the appearance to the building.
8. Larger dormer windows are proposed to the rear. These would be screened from public view and seen only from the rear gardens of the appeal site and the properties to either side. Nevertheless, the dormers would not be excessive in size and would occupy suitable positions on the roof slope. These elements would not be harmful in scale or appearance.
9. The introduction of gable ends would not be out of character with the area, given their prominent presence on the adjacent property, Laird's Folly, and others including Windmill Croft and White Bungalow. Although the proposed dwelling would have greater bulk towards the sides of the site, it would continue to sit well back in its plot, with separation from the boundaries on either side. I noted similarly wide site coverage to Laird's Folly. In this context, the proposed dwelling would not appear cramped or at odds with the spacious character of surrounding dwellings.
10. The additional ridge height would be partially visible from Albury Road amidst the foliage along the roadside and between dwellings. However, this height would be seen in context with the presently taller building at Laird's Folly, and the proposed dwelling would not exceed the height of this neighbouring property by a significant margin. Moreover, the presence of trees and

hedgerows both in the foreground and behind the dwellings breaks up longer views and would help to embed the built form into the landscape. Therefore, the overall scale of the dwelling would not be excessive or discordant within the street scene.

11. For these reasons, I find that the proposal would preserve the character and appearance of the area. Consequently, there would be no conflict with Policies VILL2, HOU11 or DES4 of the East Herts District Plan (October 2018). Together, these policies require development to be well designed and in keeping with the character of the village; appropriate in size, scale, mass, form, siting, design and materials; for extensions to be subservient and to utilise modest detailing to dormer windows.

### **Other Matters**

12. The Council did not oppose the application in respect of the effect on neighbours' living conditions or highway safety. From all I have seen and read, I have no reason to reach different conclusions in these respects.

### **Conditions**

13. I have imposed the standard time limit condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring the proposed materials to match those of the existing dwelling is needed in the interests of the appearance of the dwelling and wider area.

### **Conclusion**

14. For the foregoing reasons and taking all other matters into consideration, I conclude that the proposal accords with the development plan and the appeal should be allowed.

*K Savage*

INSPECTOR

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## Appeal Decision

Site visit made on 30 April 2019

**by K Savage BA MPlan MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 May 2019**

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**Appeal Ref: APP/J1915/D/19/3221452**

**20 Desborough Drive, Tewin Wood, Tewin AL6 0HJ**

- 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 M & J Hussey against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2471/HH, dated 7 November 2018, was refused by notice dated 4 January 2019.
  - The development proposed is a double storey rear and single storey side extension.
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### Decision

1. The appeal is allowed and planning permission is granted for a double storey rear and single storey side extension at 20 Desborough Drive, Tewin Wood, Tewin AL6 0HJ, in accordance with the terms of the planning application Ref 3/18/2471/HH, dated 7 November 2018, and subject to conditions set out in the attached schedule.

### Preliminary Matter

2. On 19 February 2019, the Government published an update to the National Planning Policy Framework (the Framework). This update does not materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by its publication.

### Main Issues

3. The site lies within an area of Green Belt. Therefore, the main issues are:
  - Whether the proposal is inappropriate development in the Green Belt;
  - The effect on the openness of the Green Belt;
  - The effect on trees;
  - If the development is inappropriate, whether any 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 it.

### Reasons

*Whether inappropriate development in Green Belt*

4. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt is inappropriate development but lists certain forms of

- development which are not regarded as inappropriate. This includes 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.
5. Policy GBR1 of the East Herts District Plan (October 2018) (the EHDP) sets out that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
  6. The Council states that the original building had a floorspace of approximately 140 square metres (m<sup>2</sup>) and has been extended several times. Together with the proposed extensions, the cumulative floorspace would amount to some 367m<sup>2</sup>. This, the Council points out, is an increase of 227m<sup>2</sup> or 162% compared to the original building. The appellants state that they have no basis on which to challenge the Council's figures, but question whether the removal of the garage has been factored into the calculations.
  7. The dwelling is a substantial, detached house sitting back from the road within large, mature grounds, similar to other properties on Desborough Drive and surrounding roads. The past extensions, with the exception of the detached garage, have integrated well with the existing building. A single roof structure spans across the whole width of the dwelling and the only evidence of a side extension appeared to be a small step in the rear building line. Nevertheless, these extensions have added considerably to the overall size of the dwelling.
  8. The proposed extensions would be significant in size in their own right. The rear, two storey extension, whilst relatively shallow in depth, would span around two thirds of the width of the dwelling, meeting and slightly overlapping the existing single storey extension and rising to main eaves level with hipped roof elements intersecting with the main roof. The side extension would replace the existing detached garage. In doing so, contiguous built form would stretch out from the dwelling slightly closer to the side boundary and extend further rearward to the line of the single storey rear extension.
  9. Even accounting for the removal of the garage, I am of the view that the size of the proposed extensions, when taken together with those previously added, result in disproportionate additions over and above the size of the original dwelling. Consequently, the proposal amounts to inappropriate development within the Green Belt and would conflict with Policy GBR1 of the EHDP and the provisions of the Framework.

#### *Effect on Openness*

10. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, and the essential characteristics of Green Belts are their openness and their permanence. Openness in terms of the Green Belt has a spatial aspect as well as a visual aspect.
11. The proposed extensions would be located to the side and rear of the dwelling, and in spatial terms would add built form where there presently is none. In some views the additional bulk of the extensions would be seen against the backdrop of the existing dwelling. However, the rear extension would be clearly seen in views from the road on East Riding. The dwelling also stands side-on to Firs Walk. On approach to the site from this direction, the additional depth of the extension would be evident. The additional bulk of the side extension would be seen from Desborough Drive and the adjacent property at No. 18.

Therefore, the proposal would add to the overall built form of the dwelling. Having regard to the overall size and position of the extensions, the proposal would result in a modest loss of openness.

### *Effect on Trees*

12. The appeal site is covered by the Tewin Wood Area Tree Preservation Order. The Council's concern arises from the proximity of several trees to the proposed side extension, and the absence of any arboricultural assessment of the potential impact of development on these trees. The Council's Landscape Officer was consulted but provided no comments on the application. The trees in question are identified on the plans as a Beech to the rear, an Ash to the front and a number of trees along the boundary adjacent to the proposed extension, identified as Holly trees, though there appeared to be other species when I viewed the area on site.
13. The Ash tree is located well forward of the existing garage and in the neighbouring property. The proposed extension would be no closer to this tree than the existing garage, and I am satisfied that it would be sufficiently distant to not suffer harm as a result of the development. The Beech tree is also some distance from the nearest point of the proposed extension at the rear and any incursion into the root protection area would be limited at best.
14. The side wall of the proposed extension would be set slightly closer to the boundary than the existing garage. I observed the trees in this area to be somewhat isolated between two garages, set immediately against boundary fencing and not of the same size or visual prominence as trees to the front or rear of the site. It is also relevant that the appellants could construct an outbuilding along a similar building line under permitted development (PD), as evidenced by a recently issued lawful development certificate<sup>1</sup> (LDC). In these circumstances, I consider that any potential effect on these trees could be addressed through planning conditions requiring details of the proposed groundworks within the vicinity of the trees and means of protection of trees during construction. I note the Council has suggested conditions to this effect.
15. For these reasons, I find that the proposed development would not have an adverse impact on trees, and would accord with Policy NE3 of the EHDP, which resists development which would result in the loss of or significant damage to trees, hedgerows or ancient woodland sites.

### **Other Considerations**

#### *Fall-back position*

16. The appellants draw my attention to two LDCs<sup>2</sup> issued by the Council in respect of similar development to that proposed which could be carried out under PD. One relates to a detached outbuilding to replace the double garage, whilst the other relates to a two storey rear extension.
17. The two storey rear extension would differ from that proposed only in that it would not adjoin the existing single storey rear extension. The resulting narrow gap would only be perceptible in views from within the rear garden, and in my

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<sup>1</sup> 3/18/0880/CLP – 18 June 2018

<sup>2</sup> 3/18/0885/CLP – 14 June 2018 and 3/18/0880/CLP – 18 June 2018



view, there would be no discernible difference in terms of visual impact or effect on openness between the two proposals.

18. The detached outbuilding proposed under the LDC would be a flat-roofed, rendered structure set on the footprint of the existing garage, but extending some 14.5 metres in depth, well beyond the depth of the proposed side extension forming part of this appeal. The Council argues that the side extension would have significantly greater height, massing and bulk than the outbuilding, and that the side extension could not be constructed under PD. The Council therefore considers the detached outbuilding does not represent a fall-back position for the appellants. The appellants point out that the side extension would be some 16% smaller in footprint than the PD detached outbuilding.
19. Viewed from the front, the side extension would appear larger given its connecting section, slightly wider footprint and shallow pitched roof. Viewed from the side or rear, however, the detached outbuilding would be significantly deeper and more conspicuous in comparison to the greater integration of the side extension through its matching of building lines, roof shape and materials.
20. Given that LDCs have been issued for these developments, I consider it a strong possibility that they would be implemented were this appeal to fail. The detached outbuilding, in particular, would be a discordant feature which would have a greater and more adverse effect on openness than would the proposed side extension, and its conflicting materials and form would harm the character and appearance of the area. Moreover, its depth would bring it into the root area of the aforementioned Beech tree and increase the risk of damage or loss to this protected tree.
21. Taking these considerations together, I find that the appeal scheme would have a less adverse effect on openness than would result from implementation of the PD schemes. Moreover, the appeal scheme would be preferable to the PD schemes in terms of design. Overall, I am satisfied that the appeal scheme would have a preferable effect to that of the PD schemes.

#### *Other matters*

22. The extensions would reflect the form and materials of the existing dwelling, and the Council raised no objection to the proposal's effect on the character and appearance of the area. Neither did the Council oppose the application in respect of the living conditions of neighbouring occupants, highway safety or the site's location in an Area of Archaeological Significance. I have no reason to reach different conclusions in these respects. These considerations are, however, neutral factors weighing neither for nor against the proposal.

#### **Planning Balance**

23. The proposal would not have a harmful effect on character and appearance, but the extensions would result in disproportionate additions to the original building and so would comprise inappropriate development in the Green Belt. There would also be some harm to the openness of the Green Belt.
24. However, I give significant weight to the potential fall-back schemes which may be implemented under PD, which would have a greater effect on openness and an inferior design compared to the appeal scheme.



25. I find that this other consideration is of sufficient weight to clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and effect on openness. Consequently, very special circumstances exist to justify inappropriate development in the Green Belt.
26. Although there would be conflict with the development plan, the balance of planning considerations in this case leads me to the view that the appeal should succeed.

### **Conditions**

27. The Council has suggested conditions in the event the appeal is allowed, which I have considered in light of the tests of conditions within the Framework and guidance of the Planning Practice Guidance and amended where necessary to meet those tests.
28. I have imposed the standard time limit condition and a condition requiring development to be carried out in accordance with the approved plans, to provide certainty. I also find that a condition requiring the proposed materials to match those of the existing dwelling is needed in the interests of the appearance of the dwelling and wider area.
29. As already indicated, conditions are necessary to require details of the proposed groundworks for the side extension, and protection measures during construction, in order to prevent harm to existing protected trees.

### **Conclusion**

30. For the foregoing reasons and taking all other matters into consideration, I conclude that the appeal should be allowed.

*K Savage*

INSPECTOR

### **Schedule – Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 13249-S001-1st (Plans and Elevations as Existing); 13249-P005-A (Plans and Elevations as Proposed); 13249-P006-1st (Roof Plan and Site Plans as Proposed).
- 3) The materials to be used in the construction of the external surfaces of the extensions hereby permitted shall match those used in the existing building.
- 4) Prior to the commencement of the single storey side extension hereby approved, details of the design of its foundations and how these will take account of existing trees and their roots, including the layout, positions, dimensions and levels of (a) service trenches (b) ditches (c) drains and (d) other excavations on site insofar as they may affect trees and hedgerows on or adjoining the site, shall be first submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.
- 5) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. Prior to the commencement of the single storey side extension hereby approved, all trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. 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 such size, species and in such number and positions as may be agreed with the Authority.

END OF SCHEDULE

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## Appeal Decision

Site visit made on 21 May 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 May 2019**

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**Appeal Ref: APP/J1915/W/19/3223825**

**Bakers Farm, High Wych Lane, High Wych CM21 0JL**

- 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 Ms Kirstie Neilson against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2476/FUL, dated 23 October 2018, was refused by notice dated 3 January 2019.
  - The development proposed is construction of 1No pair of 3 bed semi-detached houses and associated garages and access road.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - Whether or not the proposal is inappropriate development in the Green Belt;
  - The effect of the proposal on the openness of the Green Belt;
  - Whether or not the proposal would preserve or enhance the character or appearance of the High Wych Conservation Area (the CA), including consideration of the effect of the proposal upon the setting of Bakers Farm House, a grade II listed building, and upon existing trees/landscaping;
  - If the proposal were to be inappropriate development, whether or not the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

### Reasons

*Whether or not inappropriate development*

3. The revised Framework sets out that the construction of new buildings in the Green Belt shall be regarded as inappropriate development unless, amongst other exceptions, they represent limited infilling in villages. In this instance, the appeal site falls outside High Wych's defined village boundary. A playing field, that also contains a scout hut situated adjacent to the site boundary, is located between the site and the village boundary.

4. I accept that the proposal should not be discounted as potential infilling within a village purely on the basis that it is located outside of High Wych's defined boundary. Nonetheless, the boundary has been specifically designated by the Council to define the village's limits and the limits of where development would ordinarily be encouraged. The village boundary's position, whilst not determinative, is thus still relevant to my considerations here. The boundary is relatively tightly drawn in the case of High Wych. Indeed, I note that several key services and facilities that serve the village, including a primary school, church, memorial hall, public house and bus stop are situated to the south of the village and outside of its defined boundary.
5. Notwithstanding the aforementioned situation to the south of the village, the playing field, located to the west, provides a generous area of grassed land clear of built development (other than the scout hut, which is set away from the village boundary). Whilst I note that the playing field provides a recreational facility for villagers, the village boundary (where it abuts the playing field) marks a distinctive edge to the village where compactly laid out predominantly residential development gives way to open undeveloped land consisting of the playing field and adjoining rural fields/paddocks situated beyond. This finding is whilst noting the presence of discreetly scaled boundary treatment to part of the perimeter of the playing field.
6. I acknowledge that Bakers Farm appears on a historic map of the CA dating from 1874 (the historic map) and that Bakers Farm House's listing entry refers to High Wych Village. However, the historic map also highlights the very scattered and dispersed pattern of development that was historically in place in the High Wych area, with the Bakers Farm grouping appearing as an isolated cluster of development. I acknowledge that the village has grown inwardly between outermost features of note depicted on the historic map and picked out by the appellant as the Church Plantation to the south, Bakers Farm to the west, The Four Lanterns to the north and a track running north-south to the east. It however remains the case, due predominantly to the playing field's presence, that the Bakers Farm grouping continues to appear distinct and physically separate from the core of the village.
7. The proposed dwelling would be located to the east of Bakers Farm and to the west of the scout hut, such that the proposal could be thought of as infill between these built features. I also accept that the appeal site is of moderate size and that a proposal for a pair of semi-detached dwellings upon it could be considered limited in scale (particularly when noting the fair size of High Wych village as a whole). I am however not content, for the reasons set out above, that the proposal would represent limited infilling within a village.
8. Furthermore, I do not consider that the proposed location of the development adheres to the definition of previously developed land as set out in the revised Framework and therefore no other exceptions to the construction of new buildings being considered inappropriate in the Green Belt appear to apply to the proposal before me. For the above reasons, the proposal would be inappropriate development in the Green Belt and, in this regard, it would conflict with Policy GBR1 of the East Herts District Plan (2018) (the District Plan) and with the revised Framework in so far as these policies state that inappropriate development is, by definition, harmful to the Green Belt.

*Effect on openness*

9. The proposal's effect upon the openness of the Green Belt would be tempered to some degree by virtue of the presence of other built development at Bakers Farm and the existence of landscaping on and surrounding the appeal site. However, particularly noting that openness in terms of the Green Belt has a spatial aspect as well as a visual aspect, the proposal would introduce 2 substantial dwellings in a location that is currently clear of built development and situated close to the roadside frontage of the site. It would lead to a loss of openness.
10. For the above reasons, the proposal would cause harm to the openness of the Green Belt and would conflict with Policy GBR1 of the District Plan and with the revised Framework in so far as these policies state that the essential characteristics of Green Belts are their openness and their permanence.

*Character and appearance of the Conservation Area and the setting of the listed building*

11. I first note that the statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is to pay special attention to the desirability of preserving or enhancing the character and appearance of designated conservation areas, which is a matter of considerable importance and weight. Notwithstanding that the Council's second reason for refusing planning permission references only a failure to enhance (rather than a failure to either preserve or enhance) I shall consider this main issue of the appeal in accordance with the statutory duty.
12. The appeal site contains a grade II listed former farmhouse (Bakers Farm House) (the LB) and encompasses areas of the wider historic farmstead and a diverse range of outbuildings grouped to the former farmhouse's rear. External areas of the site situated close to its road frontage take the form of maintained residential garden land. Indeed, the proposal is focused on this garden land situated to the eastern side of the LB. Various planting is in place to the boundaries of the garden, including hedging and a number of trees to the roadside frontage and to the eastern boundary. There is also a substantial wooded belt of trees situated outside of the appeal site and opposite the site's frontage. The part of the appeal site earmarked for development is wholly contained within the CA.
13. The significance of the CA as a designated heritage asset is drawn in part from its heavily landscaped character interspersed by green open spaces and a scattered array of historic buildings that offer relevance to the historic evolution and rural history of the area. Indeed, the significance of the LB as a designated heritage asset is drawn, in part, from being one of these historic buildings relevant to the historic evolution of the area. Particularly when viewed alongside its associated former stable block to the west (which is also grade II listed) with its distinctive crow-stepped gables, the LB has a distinctive presence and is a fine example of an historic rural farmhouse such that it represents an attractive, important and significant feature within the CA.
14. As referenced in the High Wych Conservation Area Appraisal and Management Plan (October 2014) (the Appraisal), trees and small areas of woodland enhance many areas of the CA adding character and diversity to local

streetscenes. Indeed, the Appraisal specifically depicts important views to be protected across part of the appeal site's frontage.

15. I acknowledge that the existing scout hut, which does not contribute positively to the character or appearance of the CA, shields views of the site to a substantial extent when approaching from the east. In addition, the Bakers Farm grouping itself shields views when approaching from the west. However, as noted by the Council's Conservation Officer, the open garden land where the proposed dwellings would be sited still provides opportunities for fine views of the LB (of a short or localised nature) to be experienced.
16. The appellant has referred to the historic map and suggested that the garden land under consideration may have historically been separated from the LB due to an historical boundary having likely been in place. Even if this were indeed the case, the garden land in question, whilst not defined within the Appraisal as important open space to be protected, provides a beneficial break in development that is consistent with the CA's green and dispersed character.
17. I accept that the proposed dwellings would be of simple rectangular footprint and pitched roof form. They have been designed whilst taking cues from the local vernacular to provide articulation/visual interest and I note that locally relevant materials are intended to be used in construction. Indeed, I do not have undue concerns that the new dwellings would appear overly busy in character. I am also content that the newly proposed access/driveway, whilst of generous width and being not insignificant in length, would in itself be relatively discreetly located close to the eastern boundary of the site. It would also be possible to secure the use of surfacing materials sensitive to the site's setting.
18. However, due to their positioning, scale and prominence, the dwellings would significantly impede localised views of the LB and would effectively compete for prominence with this former farmhouse in the streetscene. The proposal would have the effect of diminishing the openness of the LB's setting and of reducing its contribution to the character and appearance of the CA accordingly.
19. Whilst the appellant has described the proposed dwellings as modest in scale, they would incorporate two floors of living accommodation beneath relatively steeply pitched roof features. The special qualities of the LB would be impinged upon, notwithstanding that an approximate 10m gap is proposed to be provided between it and the proposed dwellings. This gap would be far reduced in extent when compared to the current length of separation in place between the LB and the scout hut.
20. I accept that, from the roadside, glimpses of the agricultural fields that are situated to the rear of domestic garden land would likely still be possible across the site were the proposal to be implemented. However, for the reasons set out above, the proposal would still fail to preserve or enhance the CA's character or appearance and would lead to a loss of heritage significance. The proposal would also have a detrimental effect upon the setting of the LB, also resulting in a loss of heritage significance.

#### *Trees and landscaping*

21. Policy DES3 states that development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity

- value and/or of biodiversity value. The proposal is however supported by limited details with respect to existing trees and planting on the site and it is apparent that the vehicular access/driveway that is proposed would have implications for existing planting.
22. The appellant has stated that on-site removals would be limited to a small element of the road-fronting hedge, one large tree (although it is unclear from the evidence before me which tree), a couple of small trees and a clustering of bushes. It has also been stated that the vegetation forming the site's easternmost boundary will be retained in full.
23. It was apparent from inspection that, notwithstanding the appellant's assertions otherwise, there are trees located close to the eastern boundary that would be expected to be impacted upon by the newly proposed vehicular access/driveway, either directly or by virtue of development/excavation within their root protection areas. One of these trees, appearing to be an oak, is particularly prominent and appears to be stable and in good health. It is also widely visible across the playing field as one approaches the site from the east and makes an important visual contribution to the site and its surroundings.
24. I note that whilst small-scale tree/hedgerow removals could potentially be mitigated for by re-planting to an extent that net-improvements could be made, this is not necessarily the case with respect to mature specimens, particularly should they contribute significantly to the character or appearance of the CA.
25. Whilst the appeal site is not pinpointed within the Appraisal as being a general location of important trees, this does not mean to say that there are not important individual tree specimens located upon it. I consider that there would be the likely prospect of harm being caused to existing planting of value by the proposed development, such that insufficient assurances have been provided that the green and heavily landscaped character and appearance of the CA would be preserved in this context. It would not be appropriate for additional information in this regard to be secured via planning condition, particularly since amendments to the proposal would likely be necessitated.
26. Even setting aside these insufficient assurances that have been provided with respect to existing planting, for the reasons set out above, the proposal would lead to less than substantial harm being caused to the significance of the CA and to the significance of the LB (via harm to its setting). As set out in the revised Framework, any less than substantial harm should be weighed against the public benefits of the proposal.
27. The proposal would deliver 2 residential units and it is intended that additional landscaping be planted at the site (with anticipated visual and biodiversity benefits). The revised Framework reaffirms the Government's objectives to significantly boost the supply of homes and the site is located within a District where, based on the Government's published 2018 Housing Delivery Test Results, the number of homes delivered has not fully met the number of homes required over the previous 3 years. However, the contribution of only two dwellings alongside additional landscaping would be relatively modest and would not outweigh the identified harm that would be caused to either the CA or the LB's setting.



28. For the reasons set out above, the proposal would cause harm to the character and appearance of the CA and to the setting of the LB. It has also not been satisfactorily demonstrated that the proposal would have an acceptable effect upon existing trees/landscaping so as not to cause further harm to the character or appearance of the CA. The proposal conflicts with Policies HA1, HA4, HA7, DES2 and DES3 of the District Plan in so far as these policies require that development proposals should preserve and where appropriate enhance the historic environment of East Herts and must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity value and/or biodiversity value, in order to ensure that there is no net loss of such features.

#### *Other Matters*

29. I note that any advice offered to the appellant by the Council at pre-application stage would have been given on a without prejudice basis and thus would not be determinative with respect to any future planning application submitted. I also acknowledge that neither the Highways Authority nor the Parish Council have raised objections to the proposal. Whilst I am satisfied that the proposal raises no concerns in respect to highway safety, it has been necessary to assess the suitability of the proposal in a variety of other contexts.
30. I also note that the appellant has shared appeal decisions from elsewhere which I have carefully considered. Notwithstanding this, it should be noted that these other cases provide differing circumstances when compared to the appeal proposal before me and therefore are of limited relevance to my determination of this appeal.
31. For the avoidance of doubt, irrespective of whether or not the Council can currently demonstrate a five-year supply of deliverable housing sites, I have not applied the tilted balance as set out in paragraph 11 of the revised Framework. This is because the Green Belt provisions contained within the revised Framework provide a clear reason for refusing the proposal.

#### *Whether very special circumstances exist*

32. The revised Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. As already noted above, the proposal would deliver 2 additional housing units within a District where an under-delivery of housing has been identified and additional landscaping is proposed.
33. These contributions would not however clearly outweigh the significant harm identified to the Green Belt (including harm derived from loss of openness) and the other harms I have identified so as to amount to the very special circumstances necessary to justify the proposal. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

#### **Conclusion**

34. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR



# Appeal Decision

Site visit made on 17 May 2019

**by K E Down MA(Oxon) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30<sup>th</sup> May 2019**

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**Appeal Ref: APP/J1915/D/3225203**

**32 London Road, Hertford Heath, SG13 7PN**

- 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 Scott Carter against the decision of East Hertfordshire District Council.
  - The application Ref 3/18/2719/HH, dated 11 December 2018, was refused by notice dated 15 January 2019.
  - The development proposed is an extension of existing dropped kerb.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. There is one main issue which is the effect of the proposed extended dropped kerb on highway safety.

## Reasons

3. The appeal dwelling is a detached house on a wide plot. The site lies in the settlement of Hertford Heath which is characterised in this area by dwellings and commercial properties, including shops and a public house, arranged each side of the well used B1197 London Road. It has an existing dropped kerb some 4.5m wide which allows vehicular access to and from the London Road. Visibility appears good at the existing entrance where the speed limit is 30 mph and it is not suggested in the evidence that visibility is inadequate. Much of the appeal site frontage is hard surfaced to allow vehicle parking, with ample space to park three cars.
  4. The appellant wishes to widen the dropped kerb to some 9.9m in order to allow vehicles to enter and leave the site independently and in a forward gear. I accept that reversing onto London Road in this location could be potentially hazardous.
  5. Nevertheless, the Highway Authority has objected to the proposed widening of the dropped kerb due to it being a poor layout that would lead to highway safety concerns and states that its published guidance makes clear that a maximum width of 5.4m is permitted for a dropped kerb serving a dwelling. The
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Highway Authority does not explain clearly why the proposed layout raises a highway safety concern but states that it would not be prepared to install the proposed arrangement. I therefore give this objection significant weight.

6. Moreover, in this location, where the road is relatively wide, straight and well used and some traffic may be travelling in excess of the speed limit, I consider that a precautionary approach should be adopted in the case of highway safety.
7. The appellant has drawn my attention to numerous examples of other dropped kerbs nearby which are wider than 5.4m. However, I note that in the majority of cases these serve driveways to two or more adjacent dwellings where a wide dropped kerb arrangement would be difficult to avoid.
8. What is more, although the appellant argues that his aim is to enable access and egress to and from the site in a forward gear for all vehicles, which I consider to be desirable, it is not clear from the evidence that this could only be achieved through the proposed significant widening of the dropped kerb.
9. On balance, I find that the proposed development would have an unacceptable impact on highway safety which would be contrary to paragraph 109 of the National Planning Policy Framework.
10. It is concluded on the main issue that the proposed extended dropped kerb would have a materially detrimental effect on highway safety. It would therefore conflict with Policy TRA2 of the East Herts District Plan, 2018, which expects development proposals to ensure that safe and suitable access can be achieved for all users and that development is acceptable in highway safety terms.
11. For the reasons set out above and having regard to all other matters raised, including the willingness of the appellant to use permeable paving on the area of enlarged hard standing and the fact that no objection is raised with respect to character and appearance or living conditions, I conclude that the appeal should be dismissed.

*KE Down*  
INSPECTOR

PLANNING APPEALS LODGED MAY 2019  
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/18/1517/FUL	Proposed erection of 3no. dwellings	The HorseshoeWidford RoadMuch Hadham SG10 6AT	Refused Delegated	13/05/2019	Written Representation
3/18/1744/FUL	Erection of a two-bay car port	4 The MillHertingfordbury RoadHertford SG14 2SB	Refused Delegated	01/05/2019	Written Representation
3/18/1796/OUT	Outline Application seeking consent for Access, Appearance, Layout and Scale for the erection of 4no (2 storey) dwellings, 2 garages, associated car parking and new vehicular access.	Land At Upper Green RoadTewin	Refused Delegated	01/05/2019	Written Representation
3/18/1941/FUL	Erection of 2No 2 storey (2 bed) dwelling houses and a 3 storey block of 6 flats (3 x2 bed and 3x1 bed) together with associated landscaping and parking.	4 Francis RoadWare SG12 9HB	Refused Delegated	01/05/2019	Written Representation
3/18/1987/FUL	Creation of store/plant room	The BarnWare ParkWare SG12 0EA	Refused Delegated	29/05/2019	Written Representation
3/18/2047/HH	Construction of a timber pergola within the rear garden (retrospective). Proposed construction of red brick wall on one side of the structure, with external open air kitchen, stone fireplace, chimney flue and dining area.	Farriers CottageBaldock RoadCottered SG9 9PS	Refused Delegated	15/05/2019	Fast Track
3/18/2394/FUL	Change of use of amenity land to residential land. Construction of replacement boundary garden wall.	33 Ladywood RoadHertford SG14 2TE	Refused Delegated	14/05/2019	Written Representation
3/18/2518/FUL	Erection of 2no. four bed dwellings with double garages, new vehicular access and landscaping.	Land Adjacent To Widford RiseHunsdon RoadWidfordWare SG12 8RZ	Refused Delegated	21/05/2019	Written Representation
3/18/2532/OUT	Outline planning application for 1no. detached dwelling, double garage and associated landscaping. All matters reserved apart from access.	Land Adj To Bradbury BungalowHare StreetBuntingford SG9 0DY	Refused Delegated	28/05/2019	Written Representation
3/18/2670/FUL	1 Bedroom Eco Dwelling and Replacement Garage	Land To The Rear Of19A And B Paddock RoadBuntingford SG9 9EX	Refused Delegated	21/05/2019	Written Representation
3/18/2691/FUL	Erection of detached residential dwelling and two new vehicular accesses.	Land Adjacent To 24 Windmill WayMuch Hadham SG10 6BH	Refused Delegated	07/05/2019	Written Representation
3/18/2762/OUT	Outline application (all matters reserved except access) for the erection of 14 no. bed dwelling house.	Land Adj ToHigh Trees Farm1 Chapmore EndWare SG12 0HF	Refused Delegated	14/05/2019	Written Representation
3/18/2774/HH	Part single, part double storey rear extension.	15 The BourneWare SG12 0PU	Refused Delegated	29/05/2019	Fast Track
3/19/0089/FUL	Two additional outside tables and four chairs outside the shop.	8 Parliament SquareHertford SG14 1EY	Refused Delegated	07/05/2019	Written Representation
3/19/0098/HH	Single storey front extension. Single storey side extension. Single and two storey rear extensions and insertion of window to first floor flank elevation.	13 Windmill CottagesCold Christmas LaneThundridgeWare SG12 0SL	Refused Delegated	02/05/2019	Fast Track
3/19/0135/VAR	Variation of condition 7 (requiring 1st floor windows to be fitted with obscure glazing and non opening to a height of 1.7 metres above internal floor level) of planning permission 3/18/2170/FP dated 19.12.2018 for conversion of former public house into a single dwelling with partial demolition of the rear of the property to provide a terrace, garden area and double car port and changes to fenestration. Erection of a terrace of 2no 2 bedroom and 2no 3 bedroom cottages with 7no car parking spaces to the rear of 244 Hertingfordbury Road. The effect of the variation will allow the proposed first floor window openings in the rear elevation of the cottages to be fitted with clear glazing with the ability to be open fully.	244 Hertingfordbury RoadHertford SG14 2LG	Refused Delegated	14/05/2019	Written Representation
3/19/0152/HH	First floor side extension incorporating juliet balcony and insertion of roof light.	2 Winters Lane Walkern Stevenage SG2 7NZ	Refused Delegated	29/05/2019	Fast Track
3/19/0258/HH	Demolition of existing garage and erection of replacement garage	Crumps FarmWest RoadSawbridgeworth CM21 0LJ	Refused Delegated	02/05/2019	Fast Track

Background Papers

None

Contact Officers

Sara Saunders, Head of Planning and Building Control - Ext 1656

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**Public Inquiry and Hearing Dates**  
**All Hertford Council Chamber unless specified**

Application	Case Officer	Address	Proposal	Appeal Status	Procedure Type	Date/Location
3/18/1041/FUL	Fiona Dunning	10 Benington Road Aston Stevenage Hertfordshire SG2 7DX	Erection of five dwellings, 2no. 3-bed units and 3no. 4-bed units on the existing car park and garden with associated access, parking, refuse and private amenity space. Conversion of the existing, disused listed Public House to create 3no. 2-bed units with associated access, parking, refuse and private amenity space. Alterations to the listed building and partial demolition of areas of the existing flat roof rear extension area to form new entrances. Conversion of the Listed Barn to the rear of the Public House to create 1no. 2-bed unit with associated access, parking, refuse and private amenity space. Retained willow tree and landscaped open space to the centre of the scheme.	INPROG	Public Inquiry	19/06/2019 10:00 Room 27, Wallfields

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# DEVELOPMENT CONTROL

## Major, Minor and Other Planning Applications

**Cumulative Performance**  
(calculated from April 2019)

	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
<i>Total Applications Received</i>	202	438										

<i>Percentage achieved against Local and National Targets</i>	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
<b>Major %</b>	0%	0%										
<b>Minor %</b>	92%	95%										
<b>Other %</b>	96%	95%										

	<b>Targets for Local Performance (set by East Herts)</b>	<b>National Targets (set by Government)</b>
<b>Major %</b>	60%	60%
<b>Minor %</b>	80%	65%
<b>Other %</b>	90%	80%

Appeals	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
Total number of appeal decisions (Monthly)	16	17										
Number Allowed against our refusal (Monthly)	4	9										

Total number of appeal decisions (Cumulative)	16	33										
Number Allowed against our refusal (Cumulative)	4	13										

AGENDA ITEM NO. 6D

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