

**3/14/1408/FP – Demolition of the existing building and erection of a mixed use development comprising 101 residential (C3) apartments and employment (B1) space, along with associated highway and landscape works at Land at Crane Mead, Ware, SG12 9PT for Marks Mill LLP**

**Date of Receipt:** 31.07.2014

**Type:** Full - Major

**Parish:** WARE

**Ward:** WARE – CHADWELL

**RECOMMENDATION:**

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

- The provision of 6 affordable dwellings comprising a mixture of social rental and shared ownership.
- £60,102 towards Primary Education – index linked;
- £50,009 towards Secondary Education – index linked;
- £4,111 towards Childcare Facilities – index linked;
- £1,385 towards Youth Facilities – index linked;
- £11,302 towards Library services – index linked;
- £53,500 towards improvements to sustainable modes of transport – index linked;
- £25,090 towards parks and public gardens – index linked;
- £6,330 towards children and young people – index linked;
- £33,900 towards improvement to the towpath;
- A Travel Plan;
- A Legal Order to ensure that the proposed Public Right Of Way linking the site via the viaduct and to the towpath to the eastern side of the Swains Mill site, are protected and included within the Definitive Map;
- Monitoring fee of £310 per clause.

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

1. Three Year Time Limit (1T12)
2. Approved plans (2E103) – 4100/P01, P02, P03, P04, P05, P06, P07, P08, P09, P10A, P11, P14, P15, P18, P19, P20a, P21, P22, P23a, P24b, P25, P26, P27, P28A, P30, P31, P32, P34, P35, P36, P37, P38b, P39, P40, P41, P42, P43, P98, P100, P101, P102, P103, P104, P105, 201895-014-P4, L(92)001A, L(92)001B, L(92)001C, L(92)002, L(92)003 and L(92)004.
3. Programme of archaeological work (2E02)
4. Sample of materials (2E12)
5. Lighting details (2E27)
6. Communal TV facilities (2E28)
7. Materials arising from demolition (2E32)
8. New doors and windows (2E34)
9. Tree/hedge retention and protection (4P05)
10. Landscape design proposals (4P12) a, b, d, f, l, j, k and l
11. Landscape works implementation (4P13)
12. Landscape Maintenance (4P17)
13. Construction hours of working (6N07)
14. Prior to the occupation of the residential units, the glazing and ventilation design specifications for living room and bedroom windows, identified in SoundPLAN's Project No. 1212897 dated 17<sup>th</sup> July 2014, shall be fully implemented unless otherwise agreed in writing by the Local Planning Authority.  
  
Reason: To ensure an adequate level of protection against noise to future residents of the site, in accordance with Policy ENV25 of the East Herts Local Plan Second Review April 2007.
15. The development hereby permitted shall be carried out in accordance

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with the compensatory flood storage measures detailed within the approved flood risk assessment (FRA) Crane Mead Ware (reference: 201895, dated: 29 July 2014). The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing 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 flooding on site and elsewhere by ensuring that compensatory storage of flood water is provided and in accordance with Policy ENV19 of the East Herts Local Plan Second Review April 2007.

16. No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

- 1) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written.

Reason: To ensure protection of ground and surface water and in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

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17. No occupation of any part of the development hereby permitted shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect the water environment and in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: Any new source discovered during excavation and development must be adequately addressed in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

19. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To prevent the pollution of groundwater and in accordance with Policy ENV20 of the East Herts Local Plan Second Review April 2007.

20. Prior to the commencement of the development hereby permitted, a scheme to dispose of surface water shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: To protect ground and surface water and in accordance with

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policy ENV20 of the East Herts Local Plan Second Review April 2007.

21. Prior to the commencement of the development hereby permitted, full details in the form of scaled plans and/or written specifications, of the following shall be submitted to and approved in writing by the Local Planning Authority:- Roads, (including alterations to the carriageway of Crane Mead), footways, cycleways and pedestrian links; visibility splays in both directions at each of the vehicle accesses; wheel washing facilities; on-site parking provision for construction workers, and details of the delivery and storage of materials. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interest of highway safety

22. Prior to the occupation of any part of the development hereby permitted, a Management Plan shall be submitted to and approved in writing by the Local Planning Authority, and shall include details of the parking provision and layout to be provided with no restriction on the use of the car parking spaces shown by occupiers of, or visitors to, the buildings. The Management Plan shall thereafter be implemented and retained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To minimise the potential for on street parking and thereby safeguard the interest of safety and convenience of road users.

23. Prior to the demolition of the existing Swains Mill building, the employment areas of blocks 1, 2 and 3 shall be constructed in accordance with the approved plans and made available for occupation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure a continued provision of employment use at the site and in accordance with Policy EDE1 of the East Herts Local Plan Second Review April 2007.

24. Prior to the removal of any approved hedgerows and trees, (unless undertaken between the months of October-February), a qualified ecologist shall undertake same day observations and recording for nesting birds. If nesting birds are found then no removal of landscaping shall be undertaken. A record and observations and results shall be submitted to and approved in writing by the Local Planning Authority and any subsequent mitigation shall be undertaken in accordance with the findings of the survey.

Reason: To protect the habitats of breeding birds which are protected

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under the Countryside and Rights of Way Act 2000, and in accordance with Policy ENV16 of the East Herts Local Plan Second Review April 2007.

#### Directives:

1. Highway works (06FC2)
2. Planning obligation (08PO)
3. Groundwater Protection Zone (26GP)
4. Street Naming and Numbering (19SN)
5. Public Sewers (22PS)
6. Groundwater Protection Zone (28GP) insert 'Musley Lane'

#### Summary of Reasons for Decision

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

\_\_\_\_\_ (140814FP.LP)

### **1.0 Background**

- 1.1 The application site is shown on the attached OS extract. It is 0.86ha in area and is formed of two distinct sites that straddle Crane Mead comprising Swains Mill to the north and Starsgate, to the south. Swains Mill (0.40ha) is bounded by Wickhams Wharf to the west, the River Lea to the north, Mill Studio and the Magog unit to the east and Crane Mead to the south. Starsgate (0.46ha) is bounded by Viaduct Road to the west, Crane Mead to the north, Crane Mead Business Park to the east and the railway line to the south. Historically, Crane Mead has been industrial in nature, taking advantage of its proximity to the railway line. However, within the last 20 years, the area has been redeveloped to provide a mix of uses, including high-density housing and improved

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employment space at the Business Park.

- 1.2 The Swains Mill site comprises an industrial building with a footprint covering the majority of the plot. The Starsgate site was historically railway land but now comprises land used for car parking and a hand car wash currently operates from part of the site.
- 1.3 The application proposes the development of 101 residential flats comprising 46 x 1 bed, 36 x 2 bed and 19 x 3 bed and 2,011 square metres of B1 employment space. 107 parking spaces are proposed. The development is laid out over 6 blocks (Blocks 1/2, 3 and 7 on the Starsgate site and blocks 4, 5 and 6 on the Swains Mill site). Employment space is provided at ground floor within blocks 1, 2, 3, 5 and 6 and within the entire 3 storeys of block 7.
- 1.4 The scale of the blocks would vary – block 1/2 is 4½ storey at each end element of the block with a lower central element of 4 storey. Block 3 is 3½ storey, 4 and 5 are proposed at 4½ storeys, block 6 at 3½ storeys, and block 7 is 3 storey.
- 1.5 The main vehicular access to Crane Mead from Viaduct Road and the vehicular entry point to the Starsgate site remain unchanged. It is proposed to slightly relocate the vehicular entrance to Swains Mill. In total, 107 car parking spaces are proposed, 54 on Swains Mill and 53 on Starsgate. Cycle provision of 136 spaces for the residential element and 18 spaces for the employment use is also proposed.
- 1.6 Public amenity space is provided across the site, including an area of public green space to the west side of the Starsgate site, next to the office building and to the front of Block 3, and an open green space to the north-west of block 6. It is proposed to provide a new access (pedestrian and cycle) link across part of the Starsgate site leading through the underpass under Viaduct Road connecting through to the railway station. A dedicated footpath and landscaped areas is also proposed along the eastern flank of the Swains Mill site to provide attractive access to the towpath along the River Lea.

## **2.0 Site History**

- 2.1 The Council's planning records indicate that the Swains Mill site has been occupied by light industrial units within the compound of the existing building on the site for some time. The large, pre-fabricated building dates back to the 1950s.
- 2.2 Members may recall that planning permission was refused on 6<sup>th</sup>

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November 2013 under Ipa 3/13/1042/FP for residential development comprising 113 flats with associated car parking, landscaping and related work. The reasons for refusal were:

1. *The site is identified in the East Hertfordshire Local Plan as primarily reserved for employment use. The proposal would result in the loss of valuable employment land to the detriment of the economic wellbeing of the District and the Local Planning Authority does not consider that there is no reasonable prospect of the site being used for its designated employment use. The proposed residential use is not therefore justified and would be contrary to policies EDE1, EDE2 and WA7 of the East Herts Local Plan Second Review April 2007 and national planning policy guidance contained in the National Planning Policy Framework.*
2. *The proposed development fails to make adequate provision for affordable housing in accordance with policies HSG3 and HSG4 of the East Herts Local Plan Second Review April 2007 and national planning policies contained within the National Planning Policy Framework.*
3. *The design and layout of the proposed development on the Starsgate site provides for poor amenity and outlook for units closest to the Railway Line and fails to take the opportunity to improve the way the area works by completing the landscaped pedestrian / cyclist route between Crane Mead , The River Lee and Ware Station. The proposal is in these respects poorly designed, contrary to policy ENV1 of the East Herts Local Plan and guidance in the National Planning Policy Framework.*
4. *The Local Planning Authority is not satisfied, from the information submitted by the applicant, that the development makes adequate provision for financial contributions to mitigate the impact of the development. It would therefore be contrary to Policy IMP1 of the East Herts Local Plan Second Review April 2007.*

2.3 Prior to that 2013 application, previous applications on this part of the site include the following:

- 3/93/1692/ZA – Food Superstore, Non Food Retail Units, Petrol Filling Station and B1 Development Together With Car Parking Access and Highway Improvements. Refused by Secretary of State (11 Jan 1995).
- 3/85/0293/FP – Erection of Covered Storage Units. Approved with



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Conditions (11 April 1985).

- 2.4 In refusing the proposed retail redevelopment of the site in 1995, the Inspector objected primarily to the loss of employment land and the impact of the scheme on the vitality and viability of the town centre. Since this time, the wider Crane Mead area has been redeveloped for enhanced B1 businesses including the Crane Mead Business Park and for residential use, providing over 200 dwellings under the 1998 Crane Mead Development Brief.
- 2.5 In 2009, there was expressed intent made to the Council to develop the Swains Mill and Starsgate site to provide a major food store (Waitrose) but, following the Council granting consent for the Asda store at the Cintel site in Ware, no application was ever made.
- 2.6 The Starsgate site itself is undeveloped except for the purposes of car parking and a hand car wash facility. Previous planning applications include the following:
- 3/13/0265/AD – 4no non-illuminated signs to advertise car park and car washing facility. Split decision (18 April 2013).
  - 3/13/0264/FP – Use of land for car parking and car washing including retention of canopy and cabin. Approved with Conditions (19 April 2013).
  - 3/02/1020/FL – Temporary commuter parking facility. Approved with Conditions (15 April 2003).

### **3.0 Consultation Responses**

- 3.1 County Highways do not wish to restrict the grant of permission subject to conditions and the applicant entering into a Section 106 agreement to secure contributions towards sustainable transport measures.
- 3.2 They comment that in accordance with the National Planning Policy Framework the development should be located in or near to local service centres served by public transport and with good provision for access by walking and cycling. In this regard they comment that there are bus stops within 100m and 400m walking distance from the site and, being close to Ware town centre the site is well served by various buses. Ware railway station is within 300m walk and the national cycle route follows the towpath of the River Lee. The proximity of the proposed development in relation to Ware town centre would support

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the view that the development site is considered to be in a reasonably sustainable location.

- 3.3 Surrounding local roads and junctions have a good road safety record and capacity analysis for the Viaduct Road/Crane Mead junction shows the junction will operate well within the capacity for the development traffic.
- 3.4 The County Historic Environment Unit advise that the development is likely to have an impact upon heritage assets of archaeological and historic interest and recommend that a condition is included to secure the implementation of a programme of archaeological work.
- 3.5 English Heritage comment that the application should be determined in accordance with national and local policy guidance and on the basis of specialist conservation advice.
- 3.6 The Council's Planning Policy Team has made no comments but on the previous application recommended that permission be refused commenting that evidence indicates that the Crane Mead Employment Area is still performing well as an employment area. As an 'Amber' site, there are elements of the site that could use improvement but unless alternative provision is made, the site should be retained for employment purposes. Evidence also indicates the need for more employment land and therefore to lose more of Crane Mead will prejudice the ability of existing businesses to continue. The site is in a prominent, visible position and therefore the Council should seek to improve the employment offer of this land to support the Business Park and provide valuable local employment opportunities.
- 3.7 The Council's Environmental Health unit has advised that any permission granted should include conditions requiring noise control measures.
- 3.8 The Council's Landscape Officer has recommended consent. The amended building footprints now provide a more coherent street scene, but comment that block 7 appears 'squeezed tightly into the corner'. He further comments that the parking courtyards for the Swains Mill site are rather bland and featureless and hard landscape materials will need to be high quality. If approved, hard and soft landscaping conditions should be applied.
- 3.9 The Ramblers Association recommend that the access through to the towpath meets the requirements of a National Cycle Route and comment regarding whether stretches of the towpath can be reserved

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solely for recreational walking and not cyclists.

- 3.10 Thames Water raise no objection to the sewerage infrastructure and comment that proper provision of surface water drainage is the responsibility of the developer. There are a number of existing public sewers crossing the site and it may be advantageous for the developer to rationalise some of these sewers to achieve an improved site layout.
- 3.11 Affinity Water comment that the site is located within the groundwater Source Protection Zone of Musley Lane Pumping Station.
- 3.12 The Canal and River Trust express support that the river frontage is left open and request a condition to ensure that no tree planting is permitted within 5.0m of the waterway edge. The proposal will result in additional usage of the stretch of towpath across the site frontage. This will be facilitated by the provision of a public route along the edge of the (Swains Mill) site to create a link from Crane Mead. The quality of the towpath is poor and the Canal and River Trust request a financial contribution of £33,900 towards the improvement of the towpath to accommodate the additional usage.
- 3.13 Natural England comment that the proposal is unlikely to have a significant effect on the interest features for which the Lee Valley Ramsar and SPA has been classified.
- 3.14 The Environment Agency are satisfied that the development can proceed subject to conditions in regards to flood risk and contamination.
- 3.15 The Architectural Liaison Officer comments that the parking and cycle allocation between commercial and residential use is not clarified. Concerns regarding the pedestrian link to the rail station and whether the width allows for vehicles to access – bollards or similar will be required.
- 3.16 The Council's Housing Development Manager states that the scheme should seek to provide up to 40% affordable housing on the site with a tenure split of 75% rent and 25% shared ownership.
- 3.17 The District Valuation Service has been asked to provide an independent review of the applicant's Viability Assessment. This is required because the developer considers that the provision of affordable housing would make the scheme unviable. The DVS Report states that the scheme would be unviable if the applicant were asked to provide up to 40% affordable housing in line with Council policy. However, based on their calculations and evidence they consider that

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the development can provide 6 units of affordable housing.

3.18 The Planning Obligations Unit at Herts County Council request the following financial contributions:

- £60,102 towards Primary Education
- £50,009 towards Secondary Education
- £4,111 towards Childcare
- £1,385 towards Youth facilities
- £11,302 towards Library Services.

3.19 No comments have been received by Network Rail, Hertfordshire Ecology or the Councils Engineers Section.

#### **4.0 Town Council Representations**

4.1 Ware Town Council raise an objection on the grounds of:

- The proposed underpass will attract anti-social behaviour which could affect neighbouring properties. The land each side of the underpass is in private ownership and held by 2 property developers. It is not clear who maintains this.
- Loss of employment space
- Block 7 provides for employment space across four floors but does not include a lift which will render most of it inaccessible to disabled workers.

#### **5.0 Other Representations**

5.1 The application was publicised by way of neighbour notification, site notice and press notice. 20 letters have been received including one from the Ware Society raising the following objections:

- District does not have an oversupply of employment land;
- No other small units available in Ware to relocate to;
- Swains Mill is all but full, providing employment and benefit to Ware.
- Huge loss to Ware – loss of existing businesses and opportunity for start-up business with low rent;
- Crane Mead not ‘medium quality’ employment land – building still in a good structural condition;
- Opening up of the link under the bridge of Viaduct Road – opportunity for anti-social behaviour. Any affordable housing will add to the issue.

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- Question whether Ware needs additional housing – will not benefit the local community;
- Constraints on services such as local services, schools and doctors;
- Extra traffic will cause problems – congestion and safety concerns;
- Will put additional foot and cycle traffic on towpath – high level is dangerous;
- Disruption, noise and pollution caused by building works;
- Impact to amenity of Dixons Court from outlook;
- Overdevelopment;
- Existing train service from Ware already at capacity;
- Inadequate parking – would put strain on nearby residential areas.

Two letters have been received, supporting the proposal and commenting:

- Will provide much needed housing
- Will bring new footfall to local businesses
- Will enhance quality of the area with new landscaping
- New pedestrian access to the canal welcomed
- Will provide high quality B1 use, protecting employment in Ware and providing a boost to the local economy

## **6.0 Policy**

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

SD2	Settlement Hierarchy
WA7	Crane Mead
HSG3	Affordable Housing
HSG4	Affordable Housing Criteria
HSG6	Lifetime Homes
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR7	Car Parking Standards
TR12	Cycle Routes – New Developments
TR14	Cycling – Facilities Provision (Residential)
EDE1	Employment Areas
EDE2	Loss of Employment Sites
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime – New Development

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ENV16	Protected Species
ENV18	Water Environment
ENV19	Development in Areas Liable to Flood
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV25	Noise Sensitive Developments
BH1	Archaeology and New Development
BH2	Archaeology Evaluations and Assessments
BH3	Archaeological Conditions and Agreements
LRC3	Recreational Requirements in New Residential Developments
LRC9	Public Rights Of Way
IMP1	Planning Conditions and Obligations

6.2 The National Planning Policy Framework (NPPF) in its entirety is of relevance in the determination of the application. However, section 1 'Building a strong, competitive economy' and section 6 'Delivering a wide choice of high quality homes' are of particular relevance. The National Planning Policy Guidance (NPPG) is also of relevance.

## **7.0 Considerations**

7.1 The main considerations in the determination of the planning application relate to:

- Planning Policy Context
- The loss of Employment Land;
- Design, Scale and Layout
- Affordable Housing
- Flood Risk;
- Parking and Access;
- Neighbour Amenity;
- Financial Considerations; and
- Other matters

### Planning Policy context

7.2 The site is located in a sustainable location on the edge of the town centre of Ware wherein residential development would ordinarily be acceptable in principle. However, the site is a designated Employment Area within the Local Plan. Policy EDE1 of the Local Plan reserves such areas for industry, comprising Use Classes B1 (Business), B2 (General Industrial) and, where well related to the transport network, Class B8 (Storage and Distribution). Policy WA7 of the Local Plan

specifies that Crane Mead will be primarily reserved for industry comprising Class B1 Business space. Policy EDE2 states that development which would cause the loss of existing employment sites will only be permitted where the retention of the site for employment purposes has been fully explored without success.

- 7.3 However, the current proposal for major housing development should also be considered in the context of the Council's current lack of a 5 year housing supply. One of the benefits of the proposal is that redevelopment of this previously developed site would provide 101 units and make a meaningful contribution to the Council's housing supply shortfall. This is an important consideration. In policy terms, the shortfall in housing supply engages paragraph 14 of the National Planning Policy Framework (NPPF), which states that, for decision taking, this means 'granting (planning) permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.'
- 7.4 The weight that can be attached to Local Plan policies that seek to protect employment land is dependent on their degree of consistency with policies in the NPPF. The Local Plan and the NPPF share a common goal – the delivery of sustainable development - of which the NPPF identifies three dimensions; economic, social and environmental. As part of its economic role, the NPPF requires the planning system, at paragraph 7, to ensure that 'sufficient land of the right type is available in the right places and at the right time to support growth and innovation.'
- 7.5 Paragraph 22 of the NPPF states that 'planning policies should avoid the long-term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities.'
- 7.6 Accordingly, whilst Officers consider that there is a high degree of consistency between Local Plan Policies and those contained within the NPPF with regard to the provision and retention of employment land, consideration should be given to the viability of the employment land in question and to the other material planning considerations relevant to this particular application.

Loss of employment land

- 7.7 Crane Mead is long established as an industrial area. However, a 1998 Planning Brief identified part of the site as suitable for large-scale redevelopment to provide housing and employment uses. Mixed-use development duly followed including the residential Dixons Court and the Crane Mead Business Park. Following this, the current 2007 Local Plan considered it appropriate to identify the remaining areas, including Swains Mill, as protected employment areas.
- 7.8 The applicant's Planning Statement provides a Review of Employment Land. In reviewing the Council's evidence base, it concludes that:
- Ware is generally an unattractive location for businesses to locate, given the more desirable surrounding settlements with better connections to the strategic transport network;
  - The District has an oversupply of employment land/premises;
  - Crane Mead is, at best, a medium quality employment location;
  - Instead of improving poor quality employment land stock in Ware, delivering good quality and more strategically accessible employment sites on the outskirts of Ware will more successfully attract long-term investment.
- 7.9 The evidence base on which the applicant seeks to rely predominantly includes the Council's 2008 Employment Land Study completed by Halcrow and the 2012 DTZ Report providing Strategic Economic Development Advice and Employment Forecasts for East Hertfordshire. The 2008 Study had the primary objective of assessing the supply and demand for employment land and premises in East Herts over the period to 2021. The Study also assessed the quality of the district's employment sites based on a 'fit for purpose basis' grading them Green, Amber or Red as appropriate.
- 7.10 Crane Mead is listed as an 'Amber' site in the 2008 Study and this classification was maintained in the Council's 2013 Review entitled 'East Herts Employment Land Review Update 2013'. The applicant has drawn on this classification in concluding that Crane Mead is at best of medium quality as an employment location and refers specifically to p74 of the Study which states 'the area's low level of visibility and access points means that the overall market perception is low'. It should be noted however that the 2008 Study assessed the Crane Mead and Marsh Lane employment areas together and was more critical of the quality of the Marsh Lane area, which is less visible lying



to the south of the railway. It is inappropriate therefore to apply this statement to either the Swains Mill or Starsgate sites, both of which are in fact highly visible and easily accessible from Viaduct Road and by public transport (even more so with the opportunity to link the Crane Mead site with the station). This point was advanced when submissions were made previously for a mixed use retail scheme. The 2013 Review found the Crane Mead site specifically to be marketable, flexible and in a good position with low vacancy rates.

- 7.11 The 2008 Study also states that an Amber classification does not indicate sites should be considered for release - this is reserved for Red sites. Instead Amber sites are where 'employment uses remain viable but intervention in the future may be required to retain employment uses' (pg59). Moreover, the Study states that Employment Land Policy should safeguard Amber sites until it can be demonstrated that (i) they are no longer viable employment areas and (ii) their release will not lead to short term market imbalance i.e. under supply of land.
- 7.12 The previously refused scheme provided no employment space, whereas this application, in accordance with the 2013 Review which encourages B1 development at the site and in accordance with the Amber classification for 'intervention to retain employment', proposes redevelopment of the site for a mixed residential and employment use. The employment use includes the development of 2,011 square metres of B1 use contained solely within block 7 and the remainder at ground floor within blocks 1/2, 3, 5 and 6.
- 7.13 On the previous refused application another concern of Officers was that it had not been demonstrated that the site is not viable for employment use. With regard to the viability of the site for employment use, the test at paragraph 22 of the NPPF is whether there is a reasonable prospect of the site being used for its allocated employment use. In this regard no detailed marketing evidence has been provided, however turning first to the Starsgate site which was temporarily a commuter car park and is only being temporarily used as a hand car wash, Officers consider it unlikely that this site would in itself come forward for employment use without a wider proposal for mixed use. With regards to the Swains Mill building, this currently provides over 2000 square metres of employment floorspace and although the actual occupancy of this building is not clear, it can be ascertained from the site visit and third party responses that there are well established businesses operating from the building. The redevelopment proposes the equivalent amount of floorspace to that lost within the Swains Mill building. It is acknowledged that further designated employment land is lost as part of the proposal, but there are further wider planning benefits

that balance out the harm from the loss of this land – discussed later within the report.

- 7.14 On balance, Officers raise some reservations regarding the loss of overall land designated for employment use. However, as outlined with the submitted 'Availability and Viability Overview Report', the shortfall is not considered to have a significant adverse impact on the supply of employment land in the District. This development does achieve re-development for a high quality scheme with purpose built employment use. The employment areas for the majority being sited at ground floor of the residential blocks gives reassurance that the provision will materialise, and furthermore, the applicant has confirmed that they are agreeable to a condition or similar to ensure that the blocks on the southern site (which contains block 7 which is entirely employment use) are completed prior to the demolition of Swains Mill site to avoid temporary loss of employment space. In addition, the loss of some employment does need to be balanced against the wider benefits such as the impact the proposal makes to housing provision as well as overall improvements to an under utilised brownfield site and improved pedestrian links through the site to the railway station, town centre and to the river and towpath.

#### Design, Scale and Layout

- 7.15 A high standard of design is expected from all development proposals (policy ENV1), and this approach is reflected in the NPPF which places great importance on the quality of design. Policy ENV1 requires that development be compatible with the structure and layout of the surrounding area, complement the existing pattern of street blocks and relate well to the massing and height of adjacent buildings and the surrounding townscape. Policy ENV2 expects proposals to retain and enhance existing landscape features.
- 7.16 Swains Mill is an industrial building of utilitarian character. The Starsgate site is vacant except for a canopy structure associated with a temporary hand car wash operation. The character of buildings reflects the site's industrial past. Officers consider that new development should respect the site's history and surrounds. There are opportunities to maximise enjoyment of the riverside setting and improve links with the town.
- 7.17 In terms of layout the proposal is for 6 separate, mostly mixed use blocks – 3 on each part of the site. On the Swains Mill site, two blocks are oriented widthways with a 20m gap between which helps to improve aspect through the site and gives a feeling of spaciousness, something

that is also evident in the courtyards and landscaped gardens of surrounding residential blocks such as Wickhams Wharf. These intervening spaces provide views of the river, a feature which is aided by block 6 being oriented lengthways and being lower (3.5 instead of 4.5 storeys) in relation to the other blocks (4 and 5) on the Swains Mill site. On the Starsgate site, the 2 residential mixed use blocks are orientated parallel to Crane Mead with an active edge and landscaped buffer which creates a pleasant street frontage.

- 7.18 Surface car parking is provided between the blocks on the Swains Mill site with additional parking set against the existing car parking area to Wickhams Wharf. Officers note the comments of the Landscape Officer with regards the 'featureless' parking areas on the Swains Mill site. It is agreed that an appropriate condition would be necessary to ensure the use of high quality permeable surfacing and the use of colours and textures to improve the attractiveness of these areas. This can be conditioned along with full details of hard and soft landscaping. Nevertheless, the development does considerably improve the amenity value of this part of the site with the introduction of a tree lined public footpath along the eastern boundary and an amenity/landscaped area adjacent to block 6. With what limited space is available, this would represent an enhancement of the riverside setting.
- 7.19 To enhance the riverside setting further and encourage walking, a financial contribution is considered justified to secure improvement works to the adjacent towpath. The towpath forms part of the Lea Valley Walk and the National Cycle Network. The new development would intensify use of the towpath – both by the new residents and by the public due to the proposed new public footpath running along the eastern side of the Swains Mill site and linking with the town. The Canal and River Trust have sought a contribution of £33,900 and Officers would have no objection to this being included as part of any Section 106 agreement.
- 7.20 The proposal also makes a considerable improvement to the amenity of the vacant Starsgate site, which is currently underutilised and visually poor as a wide expanse of hardstanding. As detailed above, the siting of blocks 1/2 and 3 with Crane Mead creates a pleasant landscaped street frontage, and the public open space proposed to the front and side of block 3 is a key benefit.
- 7.21 The development also proposes to open up the underpass (currently overgrown) and secure pedestrian/cycle access under Viaduct Road and connecting the railway station. This is a positive aspect of the scheme that will assist with improving walking and cycling links in the

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town and helps to reduce dependency on the car. The arrangement of building and uses has been designed to encourage good natural surveillance of this route.

- 7.22 In terms of the scale of the blocks, the height of the higher blocks at 4 ½ stories (Blocks 4 and 5) is comparable to those in the immediate vicinity, such as Wickhams Wharf and lower than some of the blocks in the wider vicinity such as Stewarts Place. Block 6 is set down to provide building height graduation to respect the more sensitive riverside setting. Given their positions on the site of the Swains Mill building, blocks 4 and 5 would be reasonably prominent in Viaduct Road, however, they are separated from Viaduct Road by both Crane Mead itself and by the area of public open space. As such, in Officers view their height and position would provide legibility without appearing unduly prominent. The employment block to this site (Block 7), is of a lower scale at 3 storeys and has a comfortable relationship with Viaduct Road and within the site itself with the new improved links to the viaduct underpass.
- 7.23 The design and form of the blocks reflects the Maltings and warehousing buildings that have traditionally characterised this part of Ware. Reference is taken specifically from the Omega Maltings on the opposite side of the river, with the proposed blocks similarly incorporating double pitched, plain gabled roofs and a robust façade. Blocks 4 and 5 are designed with an undercroft to allow for vehicular access through the built form. This feature is evident at both Wickhams Wharf and Stewarts Place and therefore also reflects the character of surrounding buildings. External materials reflect warehouse traditions with combinations of horizontal dark stained weatherboarding and buff coloured stock bricks. High quality materials can be secured through condition. Facades are reasonably broken up by the use of differing materials and the presence of balconies. Officers are content that the scale and design of the buildings are typical of the surrounding area and that the overall design would have little or no impact on the adjacent Conservation Area.

#### Affordable Housing

- 7.24 Policy HSG3 of the Local Plan states that affordable housing provision will be expected on sites within the 6 main settlements proposing 15 or more dwellings or over 0.5 hectares. On suitable sites, the inclusion of up to 40% affordable homes will be sought as part of the proposed development of the site. This is consistent with the NPPF at paragraph 50, where it expects local planning authorities to deliver a wide choice of high quality homes, widen opportunities for home ownership and plan

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for a mix of housing.

- 7.25 Policy HSG4 addresses the suitability of a site to provide affordable housing having regard to the proximity of services and facilities, access to public transport, the economics of provision and the need to achieve a successful housing development and sustainable community.
- 7.26 The provision of affordable housing is a priority for East Herts Council and an identified high level of need in Ware is evidenced in the Housing Needs Survey 2005 and by other indicators. The location of the site on the edge of Ware town centre with a range of community facilities nearby and good access to jobs and public transport is considered suitable for the development of affordable units. The existing residential development within Crane Mead contains affordable housing.
- 7.27 In this instance the Council would seek that 40% affordable housing be provided as part of the development proposal with a tenure split of 75% rented and 25% shared ownership. However, in accordance with Policy HSG4 and the NPPF at para.173, careful assessment of the viability of the development is required to ensure unnecessary burdens are not put on developers that may make a scheme undeliverable.
- 7.28 The application has been accompanied by a Viability Assessment which balances the value of the existing land and the costs of the development against the development's overall value. This Assessment has been independently reviewed by the District Valuation Service (DVS) who have undertaken their own research into the private market values of the proposed units. DVS do not consider that 40% affordable housing provision is economically viable and recommend that 6 affordable units can be provided.
- 7.29 Whilst the provision is disappointing in that it is some way short of the desired provision, Officers are mindful that the delivery of any affordable housing generally is a benefit of the development, and should be balanced against any adverse impacts. In summary, the proposal is broadly in accordance with Local Plan Policies HSG3 and HSG4 and guidance contained within the NPPF.

#### Flood risk and drainage

- 7.30 Local Plan policy ENV19 and Section 10 of the NPPF seek to avoid inappropriate development in areas at risk of flooding. Paragraph 100 states that where development is necessary, flood risk should not be increased elsewhere. Policy ENV21 of the Local Plan advocates Best Management Practices for surface water drainage as advocated by the

Environment Agency.

- 7.31 The site is located partly in Flood Zone 2 and partly in Flood Zone 3a. Technical Guidance in the NPPF indicates that a residential use is an appropriate form of development within Flood Zones 1 and 2. The overall aim is to steer new development towards Flood Zone 1. Only where there are no readily available sites within Flood Zones 1 and 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the vulnerability of the land to flood risk and applying the Exception Test if required.
- 7.32 Officers have applied a Sequential Test to this development site and concluded that there are currently no readily available sites that are both 'deliverable' and 'developable'. This is because there are no sites that are of comparable size, are either owned by the applicant or for sale or that are not safeguarded in the Local Plan for another use or subject to the same flood risk constraints.
- 7.33 Given part of the site is in Flood Zone 3a, it is appropriate to apply the Exception Test in accordance with the Technical Guidance and paragraph 102 of the NPPF and to take into account the wider sustainability benefits and the site specific Flood Risk Assessment submitted.
- 7.34 The submitted Flood Risk Assessment assesses the risk to the area from flooding from all sources. The FRA helps to inform whether an exception can be made to allow a 'more vulnerable' residential development to be located in an area of high risk of flooding.
- 7.35 The Environment Agency studied the applicant's FRA and recommends that the development can proceed subject to detailed conditions. Officers are satisfied therefore that, subject to these conditions and the inclusion of a condition to agree a surface water management plan based on sustainable principles, the development is acceptable with regard to flood risk and drainage.
- 7.36 Notwithstanding the loss of employment land, and having regard to the fact that residential development can be accommodated on the site without significant risk of flooding, Officers consider that there would be wider sustainability benefits in the delivery of 101 residential units that would outweigh flood risk. This has taken into account the absence of other developable and deliverable sites and the fact that not all of the site is located within Flood Zone 3a.
- 7.37 In respect of foul drainage, there are public sewers crossing or close to

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the development site. Thames Water have raised no objection to the development although they would need to maintain access to these sewers and therefore building works should not come within 3.0m of them. A directive to this effect can be added to any permission granted.

- 7.38 In terms of land contamination, the applicant's contamination report has identified the need for further intrusive sampling due to the presence of an infilled pond and registered landfill in close proximity to the site. Accordingly, the Council's Environmental Health Officers have recommended that the development can proceed subject to reclamation of the site being carried out in accordance with the contamination report, and the presence of any significant unsuspected contamination being brought to the attention of the Local Planning Authority.

#### Parking / Access and Movement / Sustainable Transport

- 7.39 Policy TR2 states that highway proposals will be assessed against standards set out in Hertfordshire County Council's Roads in Hertfordshire Design Guide, 2001 and Policy TR7 states that car parking provision will be assessed in accordance with the District Council's car parking standards.
- 7.40 The application is supported by a Transport Statement which demonstrates that the existing junction with Viaduct Road functions well and can accommodate the traffic associated with the new development. Vehicular access to both sites would be provided directly via Crane Mead. Visibility splays would be provided at both access points. The internal access onto the Swains Mill site would run along the site's western boundary with turning space provided via two separate parking areas. The internal access road, together with parking for the site, runs along the southern flank of the Starsgate site with parking against the southern boundary. The plans indicate sufficient turning space for emergency and refuse vehicles on both sites.
- 7.41 An existing speed table will be relocated to the Swains Mill site access. This will reduce traffic speeds on Crane Mead on approach to the development and provide a safe crossing point for pedestrians. Pedestrian access would also be improved as a result of a dedicated footpath along the east side of the Swains Mill site and the introduction of public open space at the west side of the Starsgate site. The improvements to the towpath mentioned earlier in this report would also encourage use of this as a pedestrian route and cycleway.
- 7.42 The introduction of the pedestrian route under Viaduct Road is in keeping with the general aspirations of Policy WA7 in the Local Plan for

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improved connectivity, although the details and future maintenance of this link would need to be secured. The NPPF (Paragraph 17) encourages the fullest use of walking and cycling in new development.

- 7.43 In terms of car parking, the development proposes 107 spaces – 54 on the Swains Mill site and 53 on the Starsgate site. The Transport Assessment details that the spaces will be shared between the employment use and residential, in that the majority of the residential demand will be in the evenings and at night time whereas the employment land will generate parking demand during the working day. The maximum residential car parking provision based on EHDC parking standards would be 154 spaces. The employment land would be a maximum of 60 spaces. Officers agree that the demand for parking for employment use will be in the working day and that the majority of the residential will be within the evenings and night time, and therefore do not consider the approach regarding the shared use of the parking provision as unreasonable - a Management Plan to secure this shared use is to be secured via condition. Furthermore, based on the sustainable location and public transport alternatives in the vicinity, a reduction to 107 spaces providing (effectively a parking ratio of 1:1 for the residential) is considered acceptable. County Highways are also requesting that contribution of £53,500 towards sustainable transport is provided. A key objective of the NPPF is to promote sustainable transport and Officers consider that this contribution is reasonable and justified to promote alternative modes of travel to and from the development notwithstanding the provisions for the towpath and connecting paths through and beyond the site.
- 7.44 In terms of cycle parking provision the development would deliver 136 spaces for the residential units and 18 spaces for the employment uses. This is in excess of the Council's cycle parking standards and is considered to comply with Local Plan policy TR14.
- 7.45 In addition to sustainable transport contributions, County Highways' recommendation of approval is subject to the inclusion of conditions relating to details of access, junction and internal road layouts, hard surfacing and a construction management plan. Officers consider that these are reasonable, necessary and related to the development. Overall, Officers are satisfied that the proposal is acceptable in terms of highway safety, capacity and parking provision.

#### Neighbour Amenity

- 7.46 Policy ENV1 of the Local Plan requires development proposals to respect the amenity of occupiers of neighbouring buildings and those of future



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occupants and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight or privacy or by overshadowing.

- 7.47 In terms of future occupiers, Officers are satisfied that the new dwellings would be well appointed, reasonably spacious and provide a good standard of indoor and outdoor amenity space. Blocks 1/2 and 3 have been re-sited and designed such that the outlook is improved and the relationship with the railway is acceptable. Refuse storage is discretely included.
- 7.48 The application is accompanied by a Noise Assessment which concludes that the main noise source for new residents would be from Viaduct Road, rather than from any nearby employment uses, which actually do not generate significant levels of noise. The Council's Environmental Health Officer agrees with this assessment and has recommended that the noise control measures, principally comprising particular glazing specifications to some of the units as detailed in the noise assessment, are conditioned as part of any approval granted.
- 7.49 Officers note that some concern has been raised about the potential overlooking from Block 3 towards Dixons Court, opposite the road. However, the distance retained between these two blocks is in excess of 30m, considerably more than the 20m maintained between each new block and sufficient to avoid any overlooking impact or loss of privacy. Closer relationships are evident between the Magog building and the east elevation of block 5 – adequately mitigated for by the dual aspect units and lower height of the Magog building - and between the west elevation of block 6 and Wickham's Wharf where similar dual aspect, the lower height of block 6 and significant tree planting would all combine to protect residential amenity.
- 7.50 Officers also acknowledge the impact that the proposals will have with regard to generating noise on the site during the construction phase. Of course, whilst it can be intrusive, construction phase noise is transient and would not ultimately be harmful in the longer term.

### Financial Obligations

- 7.51 Herts County Council have requested financial contributions related to Primary and Secondary Education, Childcare facilities, Youth facilities, and Libraries. These are considered to be necessary and justified in accordance with the CIL Regulations 2010. As mentioned above, County Highways have requested a contribution towards sustainable transport measures and the Canal and River Trust have requested a

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contribution towards towpath improvement works. Officers regard these to be justified and fairly related in scale and kind to the development.

- 7.52 Contributions will also be required towards Parks and Gardens and Children's Play Facilities. Evidence indicates that existing provision of Parks and Gardens is below the minimum required provision in Ware and Officers consider there will be additional demand to use these facilities should the development proceed. There will also be additional demand for outdoor sport and recreation facilities but evidence shows that Ware is currently well served by existing facilities at both Wodsen Park Sports Centre and Presdales Recreation Ground. Wodsen Park Sports Centre has recently used s.106 monies to deliver additional Astro turf football pitches but at the current time the Council's Leisure Services Manager is not aware of any specific proposals to which additional Section 106 monies could be directed. As such, the Council would not request a contribution towards Outdoor Sports.
- 7.53 In terms of children's play facilities, it is acknowledged that the proposal includes a number of 1 bed flats which are unlikely to accommodate children. This contribution figure has therefore been calculated only the basis of the number of 2 and 3 bed units.
- 7.54 The contributions sought have been presented to the applicant and Officers have received confirmation that the applicant is willing to enter into a Section 106 agreement to commit to these obligations in the event that planning permission is granted.

#### Other matters

- 7.55 An Ecological Assessment has been submitted with the application indicating that detailed ecological work has been undertaken. The site itself is not subject to any statutory or non statutory nature conservation designation and much of the habitats at the site are of negligible ecological value. No objections have been received from Herts Biological Records Centre or Natural England, subject to conditions controlling site clearance and lighting provision and requiring the provision of site landscaping and opportunities to enhance biodiversity. Officers consider that these can reasonably be included as conditions and note that they reflect the recommendations of the submitted Ecology Report.
- 7.56 Officers note that previously Network Rail requested a condition requiring the provision of a trespass proof fence adjacent to the railway line boundary. Although they have not commented on this latest application, Officers consider that a trespass proof fence could be

required and the details agreed through planning condition.

- 7.57 It is noted that the County Council's Archaeologist has recommended that a scheme of archaeological investigation be carried out and an appropriate condition could also be included in the event of planning permission being granted.

## **8.0 Conclusion and Overall Balance**

- 8.1 The proposal for 101 flats has been considered in the context of the presumption in favour of sustainable development as contained in the NPPF. In accordance with paragraph 14 of the NPPF, Officers are required to consider whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 8.2 The adverse impact here is that the development would result in the loss of some employment land. However, the proposal does still provide for a significant level of employment provision. The proposed development is in a sustainable location and would make a meaningful contribution towards the Council's housing shortfall. (The Council views the delivery of affordable housing in the District as a priority – this scheme provides for only 6 units, which is therefore only given limited positive consideration in the overall balance. The layout, scale and design of the development would provide a high quality regeneration of brownfield land. Furthermore there would be amenity benefits derived from the improvements to the towpath, riverside setting and in the delivery of additional pedestrian connections to the town, not the least the link between Ware Station and the River Lee recreational areas and the provision of areas of open space.
- 8.3 Overall, having regard to the balance that needs to be struck, Officers consider that the harm caused by the development would be outweighed by the identified planning benefits and therefore recommends that permission be granted subject to the conditions as set out at the head of this report.