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Jeff Hughes
*Head of Democratic and Legal
Support Services*

MEETING : DEVELOPMENT MANAGEMENT COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : WEDNESDAY 25 JUNE 2014
TIME : 7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE:

Councillor Mrs R Cheswright (Chairman).
Councillors M Alexander, D Andrews, E Bedford, K Crofton, G Jones,
J Jones, P Moore, M Newman, P Ruffles, N Symonds and G Williamson.

Substitutes:

Conservative Group: Councillors S Bull, G Lawrence, T Page and
K Warnell

Liberal Democrat Group: Councillor M Wood

Independent Group:

*(Note: Substitution arrangements must be notified by the absent Member
to Democratic Services 7 hours before the meeting)*

CONTACT OFFICER: PETER MANNINGS
01279 502174

peter.mannings@eastherts.gov.uk

Please note that Officers have arranged a training session prior to this meeting, this is for new and returning Members of the Development Management Committee. This will include an update regarding legislation, probity and conduct. The session will run from 4.45 pm to 6.15 pm in Room 27, Wallfields, Hertford.

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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.)

AGENDA:

1. Appointment of Vice–Chairman

2. Apologies

To receive apologies for absence.

3. Chairman's Announcements

4. Declarations of Interest

5. Minutes – 30 April 2014

To confirm the Minutes of the meeting of the Committee held on Wednesday 30 April 2014 (Previously circulated as part of the Council Minute book for 14 May 2014).

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

(A) 3/13/1967/FP – Demolition of Sovereign House and redevelopment to provide 84 no. residential units, 83 car parking spaces, relocated sub-station and associated access, amenity space and landscaping – Amended Scheme at Sovereign House, Hale Road, Hertford, SG13 8EQ for Telereal Trillium – 'To Follow'.

Report to follow.

(B) 3/14/0639/FO – Variation to condition 2 (approved plans) of planning permission ref: 3/13/1866/FP – Erection of Respiratory Manufacturing Facility with associated works at GlaxoSmithKline Pharmaceuticals (Ware) Ltd, Priory Street, Ware, Hertfordshire, SG12 0DJ for GlaxoSmithKline Pharmaceuticals (Pages 11 – 30).

Recommended for Approval.

- (C) 3/13/2086/FP – Change of use of land to garden, erection of shed, summerhouse and hardstanding – Retrospective application at land r/o no.'s 13, 14, 15, 16, 17, 22, 42, 43, 44, 49, 50, 51 and 52, Penningtons, Bishop's Stortford, CM23 4LE for Mr G Goodyear (Pages 31 – 40).

Recommended for Approval.

- (D) 3/14/0596/FP – Erection of a farm manager's dwelling at Clements Farm, Brickendon Lane, Brickendon, Hertford, Herts, SG13 8FG for A T Bone and Sons Ltd (Pages 41 – 52).

Recommended for Approval.

- (E) 3/12/2164/FP – Enhancement works at Tudor Square, Ware for Ware Town Council – 'To Follow'.

Report to follow.

- (F) 3/14/0349/FP – Single storey rear extension and two storey front extension at 18 Woodhall Close, Bengoe, Herts, SG14 3ED for Mr S Higgs (Pages 53 – 58).

Recommended for Approval.

- (G) 3/14/0494/FP – Construction of detached annexe at The Haven, Albury Road, Little Hadham SG11 2DW for Mrs Holdgate (Pages 59 – 66).

Recommended for Approval.

- (H) E/11/0039/A – Unauthorised use of industrial unit for the delivery of hot food at Unit 4a Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY (Pages 67 – 78).

Enforcement.

- (I) E/12/0125/B – Failure to comply with condition 11 of planning permission ref: 3/01/0608/FP which requires the replacement planting of landscape trees which have died at Dolphin Yard, Maidenhead Street, Hertford, SG14 1DR (Pages 79 – 84).

Enforcement.

- (J) E/13/0221/B – Unauthorised use of property as a Children's Home at Nutwood Cottage, West End Road, Wormley West End, Herts, EN10 7QN (Pages 85 – 94).

Enforcement.

- (K) E/12/0320/B – Unauthorised residential use of The Studio, Churchfield Road, Tewin, AL60JW (Pages 95 – 102).

Enforcement.

7. Deed of Variation on a Shared Ownership Unit at 4 Lloyd Taylor Close, Much Hadham – 'To Follow'
8. Items for Reporting and Noting – 'To Follow'

(A) Appeals against refusal of Planning Permission/ non-determination.

(B) Planning Appeals Lodged.

(C) Planning Appeals: Inquiry and Informal Hearing Dates.

(D) Planning Statistics.

9. 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.

EAST HERTS COUNCIL

DEVELOPMENT MANAGEMENT COMMITTEE – 25 JUNE 2014

REPORT BY DIRECTOR OF NEIGHBOURHOOD SERVICES

PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

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

Purpose/Summary of Report:

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

<u>RECOMMENDATIONS FOR DEVELOPMENT MANGEMENT COMMITTEE</u>	
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(A)	A recommendation is set out separately for each application and unauthorised development matter.
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1.0 Display of Plans

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

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

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

2.0 Implications/Consultations

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

Background Papers

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

Contact Member: Councillor M Alexander, Deputy Leader and Executive Member for Community Safety and Environment. malcolm.alexander@eastherts.gov.uk

Contact Officers: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.
kevin.steptoe@eastherts.gov.uk

Alison Young – Development Manager, Extn: 1553.
alison.young@eastherts.gov.uk

Report Author: Kevin Steptoe – Head of Planning and Building Control, Extn: 1407.
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ESSENTIAL REFERENCE PAPER 'A'

IMPLICATIONS/CONSULTATIONS:

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

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Agenda Item 6b

3/14/0639/FO – Variation to condition 2 (approved plans) of planning permission ref: 3/13/1866/FP – Erection of Respiratory Manufacturing Facility with associated works at GlaxoSmithKline Pharmaceuticals (Ware) Ltd, Priory Street, Ware, Hertfordshire, SG12 0DJ for GlaxoSmithKline Pharmaceuticals

Date of Receipt: 22.10.2013

Type: Full – Major

Parish: WARE

Ward: WARE – ST MARY'S

RECOMMENDATION:

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

1. Time limit (1T121)
2. Approved plans (2E103) – insert 5545/A1/001, 5545/A1/002, 5545/A1/003 Rev A, 5545/A1/004 Rev A, 5545/A1/005 Rev A, 5545/A0/006, 5545/A1/007 Rev A, 5545/A0/010 Rev D, 5545/A0/011 Rev K, 5545/A0/012 Rev F, 5545/A0/013 Rev G, 5545/A0/014 Rev B, 5545/A1/015 Rev G, 5545/A0/100 Rev D, 5545/A0/101 Rev A, 5545/A0/200 Rev E, 5545/A0/201 Rev D, 5545/A0/202 Rev D and 5545/A0/203 Rev A.
3. Tree and hedge retention and protection (4P055)
4. Prior to first occupation of the approved building, full details of soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include (a) Planting plans (b) Written specifications (including cultivation and other operations associated with plant and grass establishment) (c) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate (d) Implementation timetables. Thereafter the development shall proceed in accordance with the approved details.

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

5. Landscape works implementation (4P135)
6. Prior to its first use, the temporary access arrangement, including visibility splays, onto Harris's Lane shall be completed in accordance with the approved plan no. 5545/A0/010 D.

Reason: To ensure that the access is of an appropriate standard to protect highway safety in the area.

7. Wheel washing facilities shall be established within the site in accordance with details previously agreed with the Local Planning Authority under condition 7 of planning permission ref: 3/13/1866/FP.

Reason: To prevent the tracking out of materials onto the highway in the interests of highway safety.

8. Occupation of the building hereby permitted shall not take place until the emergency access onto Harris's Lane has been closed and the kerb and footway reinstated to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

Directives:

1. Other legislation (01OL1)
2. Groundwater Protection Zone (28GP1; Musley Lane)
3. The applicant is advised that in order to comply with the conditions on this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the associated off-site highway improvements. The applicant is advised to contact Highways, County Hall, Pegs Lane, Hertford, SG13 8DN (Telephone: 0300 123 4047) to obtain the requirements on the procedure to enter into the necessary agreement with the highway authority prior to commencement of construction of the vehicle access.
4. The applicant is advised that the storage of materials associated with this development should take place within the site and not extend into the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary, further details can be obtained from the Eastern Herts Highways Area Team, County Hall, Hertford, SG13 8DN (Telephone: 0300 123 4047).
5. The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites. In connection with all site demolition, site preparation and

construction works, no noisy working shall be carried out on the premises outside the following hours: 0730 to 1830 Monday to Friday, 0730 to 1300 on Saturdays and at no time on Sundays or bank holidays.

6. Dust from operations on the site should be minimised by spraying with water or carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means should be used at all times. The applicant is advised to consider "The control of dust and emissions from construction and demolition Best Practise Guidance" produced in partnership by the Greater London Authority and London Councils.
7. Waste materials generated as a result of the proposed demolition and/or construction operations shall be disposed of with following the proper duty of care and should not be burnt on the site. Only where there are no suitable alternative methods such as the burning of infested woods should burning be permitted.
8. If the site is known to be contaminated you should be aware that the responsibility for safe development and secure occupancy of the site lies with the developer. The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority.

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 and the previously granted permission 3/13/1866/FP is that permission should be granted.

_____(063914FO.MC)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is an area of cleared land in the north-west corner of the GSK site, adjacent to the boundaries with Park Road to the north and Harris Lane to the west. Building U2 lies to the immediate south, and the proposed building

would form an extension to its north elevation. The whole GSK site is a designated Employment Area within the Local Plan and is reserved for general industrial, research and development and employment development.

- 1.2 Members may recall that a similar proposal was considered by the committee in January of this year. That sought permission for a three-storey building of approximately 15 metres in height, extending from the north elevation of Building U2. A copy of the January committee report is attached as Essential Reference Paper 'A'.
- 1.3 The current application seeks permission to vary Condition 2 of this planning permission which requires the development to be carried out in accordance with the approved plans. The proposed revisions to the plans include alterations to the north, east and west elevations of the building, a reduction in the area of hardstanding to the north of the building, and alterations to the underpass to the west of the building. There are no changes to the height and footprint of the approved building.

2.0 Site History:

2.1 The GlaxoSmithKline site has been the subject of a considerable number of applications. The following applications relate specifically to this site:

- 3/93/1131/FP – External canopy to the south elevation of building U – Approved October 1993
- 3/95/0127/FP – Two-storey and lift/staircase enclosure to building U – Approved March 1995
- 3/13/0883/PD – Demolition of building U – Prior approval not required June 2013
- 3/13/1886/FP – Erection of Respiratory Manufacturing Facility with associated works – Approved January 2014

3.0 Consultation Responses:

- 3.1 The Historic Environment Unit has no objections to the development, as excavation and archaeological recording were expected to be carried out prior to determination of the application.
- 3.2 The Council's Environmental Health section does not wish to restrict the grant of permission.

- 3.3 The County Council's Highways engineers do not wish to restrict the grant of planning permission.
- 3.4 Affinity Water have commented that the site falls within the groundwater source protection zone for Musley Lane pumping station. The proposed development should therefore be carried out in accordance with the relevant British Standards and Best Management Practices. This is to reduce the risk of groundwater pollution.

4.0 Town Council Representations:

- 4.1 Ware Town Council has no objection to the development.

5.0 Other Representations:

- 5.1 The application has been advertised by way of press notice, site notice and neighbour notification.
- 5.2 No letters of representation have been received from local residents.

6.0 Policy:

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

ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
ENV20	Groundwater Protection
ENV24	Noise Generating Development
SD1	Sustainable Development
IMP1	Planning Conditions and Obligations
EDE1	Employment Areas
WA8	Employment Areas
TR7	Car Parking – Standards

- 6.2 The National Planning Policy Framework (NPPF) and the national Planning Practice guidance (NPPG) are also material considerations in the determination of the application.

7.0 Considerations:

- 7.1 As mentioned above, planning permission was granted in January of this year for the erection of a three-storey building of approximately 15 metres height as an extension to the U2 building to the south.

considerations relating to the principle of the development, design and appearance of the building, neighbour amenity, highway safety and other matters are contained within the Officer report for the previous application which is attached as Essential Reference Paper 'A' to this report. As there have not been any significant changes in circumstances or policy since the previous application was determined, all of the considerations in respect of the proposed development remain the same and as such are adequately addressed within the attached report.

7.2 The determining issue in relation to this application is therefore the acceptability of the proposed variations to the approved plans which are as follows:

- Revisions to the hardstanding proposed at the site, reducing its area;
- Revisions to the underpass that crosses under Harris Lane to provide a stepped rather than ramped access;
- Revisions to the east elevation of the building, facing into the site, involving the moving of planned piping and its replacement with windows, and revisions to the windows at ground and first-floor level;
- Revisions to the west elevation, facing onto Harris Lane, of the building to provide a louvered screen to plant works sited in the vent well at roof level
- Revisions to the north elevation, facing onto Park Road, to include the provision of vertical ducting concealed within projecting service risers. In addition, the number of goods delivery doors has been reduced from 6 to 3, with 2 of the retained doors being increased in width, and 1 personnel door for servicing. The single canopy across the north elevation has been reduced in depth and separated into 2 smaller canopies.

7.3 For the sake of clarity, there would be no changes to the height or footprint of the approved building.

Variations

7.4 The revised underpass would simplify the construction of foundations for the approved building. There would be no material impact on the appearance of the development from outside of the site and alternative disabled access remains available elsewhere.

7.5 Similarly, the reduction in the area of hardstanding to the north of the

proposed building would have no adverse impact on the appearance of the development or the surrounding area.

- 7.6 The revisions to the west and east elevations of the building would not adversely affect the overall appearance of the building, which would remain generally industrial in nature. This accords with the overall commercial character of the site.
- 7.7 The revisions to the north elevation of the building would have no material impact on the Park Road street scene. The building would be set back from the site boundary by around 45 metres, with the changes not impacting on the general outline of the building when viewed from the north.

8.0 Conclusion:

- 8.1 The proposed amendments to the approved plans are considered to be acceptable and there are no significant changes in circumstances or policy that would justify a different decision being made in respect of the principle of the development made on the recent planning permission granted under reference 3/13/1866/FP.
- 8.2 Officers therefore recommend that planning permission be granted for the proposed development subject to the conditions recommended at the head of this report.

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Essential Reference Paper A – (Committee Report – 8 January 2014)

3/13/1866/FP – Erection of Respiratory Manufacturing Facility with associated works at GlaxoSmithKline Pharmaceuticals (Ware) Ltd, Priory Street, Ware, Hertfordshire, SG12 0DJ for GlaxoSmithKline Pharmaceuticals

Date of Receipt: 22.10.2013

Type: Full – Major

Parish: WARE

Ward: WARE – ST MARY'S

RECOMMENDATION:

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

1. Time limit (1T121)
2. Approved plans (2E103) – insert 5545/A1/001, 5545/A1/002, 5545/A1/003 Rev A, 5545/A1/004 Rev A, 5545/A1/005 Rev A, 5545/A0/006, 5545/A1/007 Rev A, 5545/A1/008 Rev A, 5545/A1/SK01 Rev F, 5545/A0/SK10 Rev I, 5545/A0/SK11 Rev I, 5545/A0/SK12 Rev H, 5545/A0/SK13 Rev A, 5545/A0/SK14 Rev A, 5545/SK/15 Rev I, 5545/A0/SK16, 5545/A1/SK17 Rev B, 5545/A1/SK19 Rev A and 5545/A1/SK21 Rev B
3. Tree and hedge retention and protection (4P055)
4. Prior to first occupation of the approved building, full details of soft landscape proposals shall be submitted to and approved in writing by the Local Planning Authority. These details shall include (a) Planting plans (b) Written specifications (including cultivation and other operations associated with plant and grass establishment) (c) Schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate (d) Implementation timetables. Thereafter the development shall proceed in accordance with the approved details.

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

5. Landscape works implementation (4P135)
6. Prior to its first use, the temporary access arrangement including visibility splays, onto Harris's Lane shall be completed in accordance

with the approved plan no. 5545/A1/SK21.

Reason: To ensure that the access is of an appropriate standard to protect highway safety in the area.

7. Wheel washing facilities (3V25)
8. Occupation of the building hereby permitted shall not take place until the temporary access onto Harris's Lane has been closed and the kerb and footway reinstated to the satisfaction of the Local Planning Authority.

Reason: In the interests of highway safety.

9. Occupation of the building hereby permitted shall not take place until details of the implementation, maintenance and management of a sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented within six months of approval and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i. a timetable for its implementation, and
 - ii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable urban drainage scheme throughout its lifetime.

Reason: The development as submitted fails to make provision for the management of surface water at the site, contrary to policy ENV21 of the East Herts Local Plan Second Review April 2007 and the requirements of the National Planning Policy Framework.

Directives:

1. Other legislation (01OL1)
2. The applicant is advised that in order to comply with the conditions on this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the associated off-site highway improvements. The applicant is advised to contact Highways, County Hall, Pegs Lane, Hertford, SG13 8DN (Telephone: 0300 123 4047) to obtain the requirements on the procedure to enter into the necessary agreement with the highway authority prior to commencement of

- construction of the vehicle access.
3. The applicant is advised that the storage of materials associated with this development should take place within the site and not extend into the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary, further details can be obtained from the Eastern Herts Highways Area Team, County Hall, Hertford, SG13 8DN (Telephone: 0300 123 4047).
 4. Asbestos (34AS1)
 5. The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites. In connection with all site demolition, site preparation and construction works, no noisy working shall be carried out on the premises outside the following hours: 0730 to 1830 Monday to Friday, 0730 to 1300 on Saturdays and at no time on Sundays or bank holidays.
 6. Dust from operations on the site should be minimised by spraying with water or carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means should be used at all times. The applicant is advised to consider "The control of dust and emissions from construction and demolition Best Practise Guidance" produced in partnership by the Greater London Authority and London Councils.
 7. Waste materials generated as a result of the proposed demolition and/or construction operations shall be disposed of with following the proper duty of care and should not be burnt on the site. Only where there are no suitable alternative methods such as the burning of infested woods should burning be permitted.
 8. If the site is known to be contaminated you should be aware that the responsibility for safe development and secure occupancy of the site lies with the developer. The presence of any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Planning Authority.

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.

_____ (186613FP.MC)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. It is an area of cleared land in the north-west corner of the GSK site, adjacent to the boundaries with Park Road to the north and Harris Lane to the west. Building U2 lies to the immediate south, and the proposed building would form an extension to its north elevation.
- 1.2 The application site was previously occupied by a building (known as Building U) that was demolished in 2009.
- 1.3 The whole GSK site is a designated Employment Area within the Local Plan and is reserved for general industrial, research and development and employment development.
- 1.4 The proposed building would be a three-storey structure with the roof having a ridge height of approximately 15 metres high, extending from the north elevation of Building U2. It would be taller, but have a smaller footprint in comparison to the now demolished U building. The walls would be externally clad to match those of Building U2 and there are no proposals to alter the boundary screening or fencing adjacent to the site. The Planning Statement indicates however that the site will receive additional native planting to promote biodiversity.
- 1.5 The proposed extension would comprise a manufacturing facility at ground floor with associated storage and provision for loading and unloading of materials via a loading bay on the north elevation. The first floor would comprise offices associated with ground floor production, and the second floor would accommodate the plant room to service the ground and first floors. The floor levels of the new building would be consistent with that of the existing U2 building.
- 1.6 The proposed external works associated with the extension comprise of a new hard standing area to the north of the proposed extension, allowing on site vehicular access to the loading/unloading bays from the north elevation of the extension through the GSK site. This will also prompt the realignment of the onsite road to the north east corner of the extension to maintain emergency vehicle access to all parts of the site,

3/13/1866/FP

in particular the existing U2 Building.

2.0 Site History:

2.1 The GlaxoSmithKline site has been the subject of a considerable number of applications. The following applications relate specifically to this site:

- 3/93/1131/FP – External canopy to the south elevation of building U – Approved October 1993
- 3/95/0127/FP – Two-storey and lift/staircase enclosure to building U – Approved March 1995
- 3/13/0883/PD – Demolition of building U – Prior approval not required June 2013

3.0 Consultation Responses:

3.1 Hertfordshire Constabulary has advised that they have no objection to the proposed development.

3.2 Hertfordshire Ecology have no objection to the proposed development.

3.3 The Historic Environment Unit has no objections to the development, as excavation and archaeological recording were expected to be carried out prior to determination of the application.

3.4 The Council's Engineering section have recommended that sustainable drainage measures be included.

3.5 The Council's Environmental Health section have recommended conditions relating to hours of construction work, soil decontamination and piling works, as well as a number of directives.

3.6 The Ware Society initially commented that the plans were unavailable for viewing on the Council's website. The plans have been replaced on the site and the Society has been advised that they are available. No further comment has been received from the Society at this time.

3.7 The County Council's Highways engineers do not wish to restrict the grant of planning permission and have recommended conditions relating to the proposed and existing site accesses.

4.0 Town Council Representations:

4.1 Ware Town Council has no objection to the application.

5.0 Other Representations:

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

5.2 4 letters of representation from local residents have been received and those can be summarised as follows:

- Previous information was that any development on the site would be limited to a single-storey in height.
- The proposed loading bay on the north of the building would face directly towards the nearest homes, and could cause noise problems if loading/unloading were to occur at unsociable hours, or in the absence of acoustic screening.
- The glazed stairwell at the north-west of the building could cause overlooking and light pollution to neighbouring properties, and it has been suggested that this be glazed on the west side only.
- There is limited landscape screening of this section of the site, and this could be improved with additional planting; Mature trees at the site have been removed prior to the submission of the application, leaving the site much more open.

6.0 Policy:

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

ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV11	Protection of Existing Hedgerows and Trees
ENV20	Groundwater Protection
ENV24	Noise Generating Development
SD1	Sustainable Development
IMP1	Planning Conditions and Obligations
EDE1	Employment Areas
WA8	Employment Areas
TR7	Car Parking – Standards

6.2 The policies set out in the National Planning Policy Framework (NPPF) are also material to the consideration of the application.

7.0 Considerations:

- 7.1 The proposed development involves the erection of a three-storey building of approximately 15 metres height as an extension to the U2 building to the south. The site is located within a designated Employment Area as defined in the Local Plan where such development is considered acceptable in principle. The NPPF of course also provides policy support for developments which encourage economic growth in sustainable locations and Officers consider that, in principle, this is a development which would accord with the policies of the Development Plan and with the key objectives of the NPPF. Significant weight should therefore be attached to these policy considerations.
- 7.2 The other main considerations in this case are the acceptability of the design approach and the impact of the building on the surrounding area and the amenities of neighbouring residents.

Design and Appearance

- 7.3 The appearance of the extension would be in keeping with the external appearance of the existing Building U2. The extension would be a prominent feature of the site, in part because of the recent clearance of landscaping from the north-west corner of the site boundary. This has left the application site more open to public view from Park Road than is otherwise the case along the north boundary.
- 7.4 The site lies within the wider GSK site, and within the Employment Area where buildings of industrial appearance are to be expected. The building would not appear out of place on the site, nor harmful to the Park Road or Harris Lane street scene.

Neighbour Amenity

- 7.5 The new building would lie around 65 metres to the south of the properties facing the site on the north side of Park Road. These properties, specifically nos. 86 – 94 (evens) and no. 56 Fanshawe Crescent, would face onto the loading area along the north elevation of the building.
- 7.6 As a result of the loss of landscaping at the site, there is currently little effective screening from the movement of vehicles at the site, or any noise generated by the loading or unloading.
- 7.7 However, Officers consider it inevitable that some disturbance is likely to result from living in such proximity to an industrial site. The distance

between the site and houses would be sufficient to ensure, with additional landscape planting to the north boundary of the site, that disturbance to neighbouring occupiers could be kept to an acceptable level. A condition requiring soft landscaping to be provided is therefore recommended.

- 7.8 Concern has been expressed about the potential for increased light pollution from the glazed stairwell on the north-west corner of the building. The glazing would project 2.5 metres from the west elevation of the building, and would be 11 metres high. The glazed face of the stairwell would be at a distance of approximately 65 metres from the nearest residents. The limited overspill of light from the stairwell is considered by Officers to be unlikely to result in a material increase in perceived light, considering this distance and the other sources of light in the area, such as streetlights and the various lights within the GSK site.

Other matters

- 7.9 The development would not result in the loss of parking at the site, nor an alteration in the number of staff employed there. A temporary vehicle access would be provided for construction and emergency vehicles from Harris Lane, and would be closed off and the pavement at the site restored prior to occupation of the building. Officers consider therefore that there are no parking or highway safety concerns in relation to this proposal.
- 7.10 At the time of compiling this report, initial archaeological investigations were ongoing at the site. Officers will report to Committee whether further investigative measures are necessary following completion of these initial works and this matter can, in any event, be satisfactorily controlled by planning condition.

8.0 Conclusion:

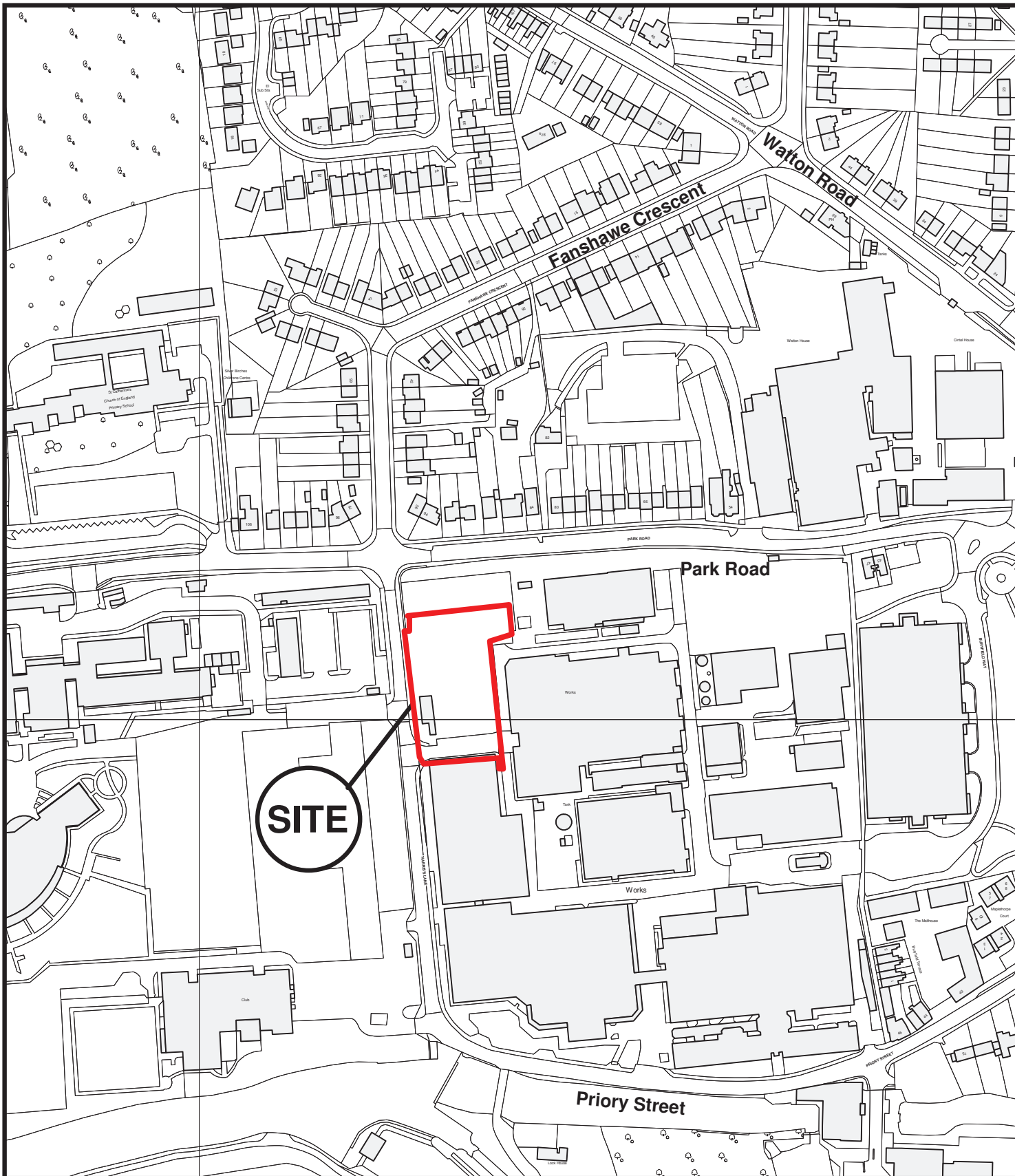
- 8.1 In conclusion, Officers are satisfied that the proposed development would comply with the requirements of the NPPF and the Local Plan. It would not be detrimental to the visual quality of the area or the amenities of neighbouring residents. It would be an appropriate development, making best use of previously developed land within this industrial site and would consolidate the economic benefits that the site brings to the town.

- 8.2 Officers therefore recommend that planning permission be granted for the proposed development subject to the conditions recommended at

3/13/1866/FP

the head of this report.

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**Address: GlaxoSmithKline Pharmaceuticals (Ware) Ltd, Priory Street,
 Ware, Herts, SG12 0DJ**

Reference: 3/14/0639/FO

Scale: 1:2500

O.S Sheet: TL3613NW

Date of Print: 3 June 2014

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Agenda Item 6c

3/13/2086/FP – Change of use of land to garden, erection of shed, summerhouse and hardstanding – Retrospective application at land r/o no.'s 13, 14, 15, 16, 17, 22, 42, 43, 44, 49, 50, 51 and 52, Penningtons, Bishop's Stortford, CM23 4LE for Mr G Goodyear

Date of Receipt: 05.12.2013

Type: Full – Minor

Parish: BISHOP'S STORTFORD

Ward: BISHOP'S STORTFORD – CENTRAL AND SOUTH

RECOMMENDATION:

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

1. Three Year Time Limit (1T12)
2. Approved plans (2E10) (Photo 1, Photo 2, Plan 1, Site Location Plan, Site Plan).

Directive:

1. Other Legislation (01OL)

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.

_____ (132086FP.NM)

1.0 Background:

1.1 The application site is shown on the attached OS Map. It is located within the built up area of Bishop's Stortford. The site comprises a strip of land in between the Thorley and St Michael's Mead residential estates and previously formed an undeveloped area which was planted with trees, following the construction of the Thorley housing development.

1.2 It appears that the strip of land was originally provided as a landscape

buffer in the mid 1980's to separate the Penningtons development from what was then open countryside to the west (now part of the St Michaels Mead development). No planning conditions were imposed on the permission to seek the retention of the landscape strip, but the site is subject to a covenant, known as the 'Thorley Covenant', to which the Urban District Council of Bishop's Stortford (which became East Herts District Council from 1974) and Rialto Properties Ltd were parties to. The covenant required, amongst other things, that the strip of land be planted with trees and that these should be maintained thereafter.

- 1.3 In October 2013 the Council's Planning Enforcement team was informed that trees had been felled within the application site; that a number of properties within Penningtons had extended their gardens into this space, and that a summer house, a shed and some hard standing had been constructed.
- 1.4 Further investigations indicated that the owners of the various properties in Penningtons had purchased the land from the successor of the original building developer in May 2013 and had then incorporated the land within the garden areas of the individual properties. The owners were advised that this change of use, and the operational development on some plots, required planning permission.
- 1.5 The current application was subsequently submitted as a result, and seeks retrospective planning permission for the change of use of the land and for the erection of the summer house, shed and the hard standing. The summer house and shed that form part of this application are situated within the land to the rear of No. 17 Penningtons. The summerhouse is located centrally within this part of the site and is approximately 4.3 metres in length by 3.7 metres in width. The summerhouse has a hipped roof that reaches a height of 3.2 metres. The shed is approximately 3.7 metres by 2.4 metres and has a low dual pitched roof. The hard standing that forms part of this application is situated within the land at the rear of No. 51 Penningtons and forms a small patio area.
- 1.6 Officers understand that in 2011, prior to purchasing the land, the owners of the properties affected sought the advice of the Council's Property and Environmental Services in respect of the covenant relating to it. They were advised by Officers that, in their view, the Council would be unlikely to enforce the covenant in this case as the tree belt had become 'trapped' at the rear of housing development following the St Michaels Mead development. However, any formal decision in respect of the covenant would ultimately need to be made by Full Council and is a separate matter from this application for planning permission.

3/13/2086/FP

- 1.7 Members will be aware that the existence of a restrictive covenant is a private land ownership matter and this should not be given weight in the determination of this planning application.
- 1.8 The application site is outside the Bishop's Stortford Conservation Area and the trees that have been removed were not subject to a Tree Preservation Order (TPO). The consent of the Council, as local planning authority, for the felling of the trees was not required and therefore there is not a breach of planning control.
- 1.9 This application therefore only seeks permission for those matters identified in paragraph 1.5 above.

2.0 Site History:

- 2.1 Outline planning permission was granted for the Thorley development under reference 3/72/2071/OP.
- 2.2 Planning permission was granted for 71 dwellings, which forms the road now known as Penningtons, in 1985 under reference 3/85/0662/FP.

3.0 Consultation Responses:

- 3.1 The Council's Landscape Officer has recommended approval of the application. They have no objection to the change of use of the land to residential garden, given the context of the site and its location. They state that, in the interests of local amenity, at least some of the tree belt should be restocked by way of mitigation / compensation for the loss of woodland recently incurred. They recommend that a 5 metre (minimum) strip along the western boundary of the site is planted with suitable trees at approximately 4 metre centres and allowing sufficient space from buildings to allow for future growth.
- 3.2 The Council's Solicitor has confirmed that the covenant on the land is a separate matter and should not form a material consideration in the determination of the current planning application.

4.0 Town Council Representations:

- 4.1 Bishop's Stortford Town Council objects to the proposal. They comment that damage has occurred to the site and consider that the site should be restored to the state that it was in previously. This means to remove all of the buildings and hardcore from the site and to replace these with soil and trees. They are displeased with the loss of screening for the surrounding neighbours, wildlife and trees.

5.0 Other Representations:

5.1 The application has been advertised by way a discretionary site notice and neighbour notification.

5.2 7 No. letters of objection from residents of The Thatchers, Brewers Close, Cutlers Close, Thresher Close and Penningtons have been received which can be summarised as follows:

- The trees have been removed without permission;
- The loss of the trees results in a loss of screening and privacy to the neighbouring dwellings within St. Michaels Mead;
- The loss of trees will have effected wildlife;
- The loss of trees has affected the character of the area;
- Children are no longer able to play safely outside of their own homes;
- The proposal will increase traffic;
- The trees used to form a sound barrier between the two housing estates and it is feared that the noise impact will be unbearable once the land is in full use.

5.3 8 No. letters of support have been received, all from residents of Penningtons (7 of these are from the occupiers of properties whose land forms part of the application site) and these can be summarised as follows:

- The Council were contacted when the land was purchased and no objections were raised;
- The trees removed were not protected by a TPO;
- A report undertaken by an Arboriculturalist found that some of the trees were not the correct type to be planted close to buildings and were growing considerably in height due to their density which posed a risk to neighbouring houses;
- The removal of the trees has allowed sunlight into the properties within Penningtons;
- A number of the Penningtons residents intend to plant gardens that will encourage wildlife;
- The land had suffered from neglect and litter and the trees were difficult and expensive to maintain;
- Some of the residents in Penningtons have already purchased and planted more suitable trees for the land than those that have been removed;
- Some of the neighbouring properties have benefited from the removal of overhanging trees which has enabled a satellite dish to

be added to No. 41 The Thatchers and has benefited a proposal for a rear extension to No. 43 The Thatchers.

- 5.4 In addition to the neighbour letters received, a representation has been submitted from Circle Housing South Anglia which raises concerns in respect of any access that may be required from the neighbouring land in St. Michaels Mead.
- 5.5 A representation has been received from Cllr Woodward which raises concerns that the proposal removes part of the fundamental design protection of a shelter belt between Thorley and St Michael's Mead.

6.0 Policy:

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

ENV1 Design and Environmental Quality
ENV2 Landscaping
ENV5 Extensions to Dwellings
ENV7 Extension of Curtilage of a Residential Property
ENV16 Protected Species

- 6.2 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG) are also material considerations in the determination of the application.

7.0 Considerations:

- 7.1 The site is located within the built up area of Bishop's Stortford. It is outside the Conservation Area and the trees that have been removed at the site were not protected by a Tree Preservation Order. Their removal did not therefore require consent under the Town and Country Planning Acts and as such their loss does not form a material planning consideration in the determination of this planning application.
- 7.2 The principle considerations for this application are therefore in respect of whether the proposed change of use of the land and the erection of a shed, summer house and hard standing would have an unacceptable impact upon the character and appearance of the surrounding area and the amenities of neighbouring residential occupiers.
- 7.3 The area that surrounds the application site comprises of residential estates where a large number of the dwellings have rear and side gardens adjoining the gardens of their neighbouring properties.

proposed extension of the residential gardens of the properties in Penningtons would result in a very similar situation, whereby the rear and side gardens of the properties would mostly back onto the rear or side gardens of the dwellings in the adjoining St Michaels Mead development. In some cases the extended gardens would back onto the access or parking area of the properties within St Michaels Mead. Officers consider that the proposal would result in a layout and form of development that would be similar to, and in keeping with, the existing pattern of development within the area.

- 7.4 It is acknowledged that the site forms a noticeable divide between the Thorley and St Michael's Mead developments. However, when the requirement was made for the land to be planted with trees as part of the Thorley development this created a boundary between the residential estate and the open undeveloped land to the west. The Thorley development was granted outline planning permission 16 years before permission was granted for the St Michaels Mead and Officers therefore consider that the requirement to plant trees within the application site was originally made to protect the openness of the rural land to the west of the site and not necessarily to create a divide between the Thorley development and any development on the land to the west.
- 7.5 Officers do not consider it to be necessary to retain the land as a buffer between the two residential developments and consider that the proposal to extend the gardens of the dwellings in Penningtons, which will result in them adjoining the gardens and parking areas of the neighbouring properties in St Michaels Mead, to be acceptable. The proposal would not have an unacceptable impact upon the character, appearance or layout of the area and as such accords with the aims of Policies ENV1 and ENV7 of the Local Plan.
- 7.6 It is noted that the proposed summer house, shed and patio would not ordinarily require planning permission within the residential curtilage of a dwelling house. However, as these developments have occurred on land that is currently outside of the residential curtilage of the dwellings, 'permitted development' rights in respect of outbuildings and hard standing do not apply.
- 7.7 The summer house, shed and hard standing form modest developments which Officers consider to be appropriate within the garden areas of the dwellings. Officers consider that these developments do not have a detrimental impact upon the character and appearance of the dwellings or that of the surrounding area as a whole, in accordance with the aims of Policies ENV1 and ENV5.

Neighbour Amenity

- 7.8 As outlined above, the proposal would result in an extension to the garden areas of the properties in Penningtons so that in most cases they would adjoin the existing side and rear gardens of the neighbouring dwellings in St Michaels Mead. This is a common relationship within the surrounding area which Officers consider would not result in unacceptable living conditions for either occupier.
- 7.9 Whilst it is acknowledged that the residential use of land adjoining the existing gardens in St Michael's Mead could lead to some increased noise disturbance, the degree of this impact would not be significant or necessarily any different to the level of noise disturbance caused between other residential properties within the surrounding area.
- 7.10 The summer house that has been constructed is set back approximately 5.5 metres from the closest boundary of the property which is the boundary with the front drive and parking area for the neighbouring dwellings in Brewers Close. The shed has been erected to the rear of the existing garage at No. 17 Penningtons and retains a space of 1 metre to the southern site boundary with No. 16 Penningtons and approximately 10 metres to the western boundary with the parking area in Brewers Close. Having regard to the siting of the buildings in relation to the site's boundaries and their modest size, scale and design, Officers consider that they would not result in a detrimental impact upon the amenities of the neighbouring occupiers.
- 7.11 The patio area that has been constructed to the rear of No. 51 Penningtons is located centrally within this part of the site and would not result in a detrimental impact upon the amenities of neighbouring occupiers.

Other Matters

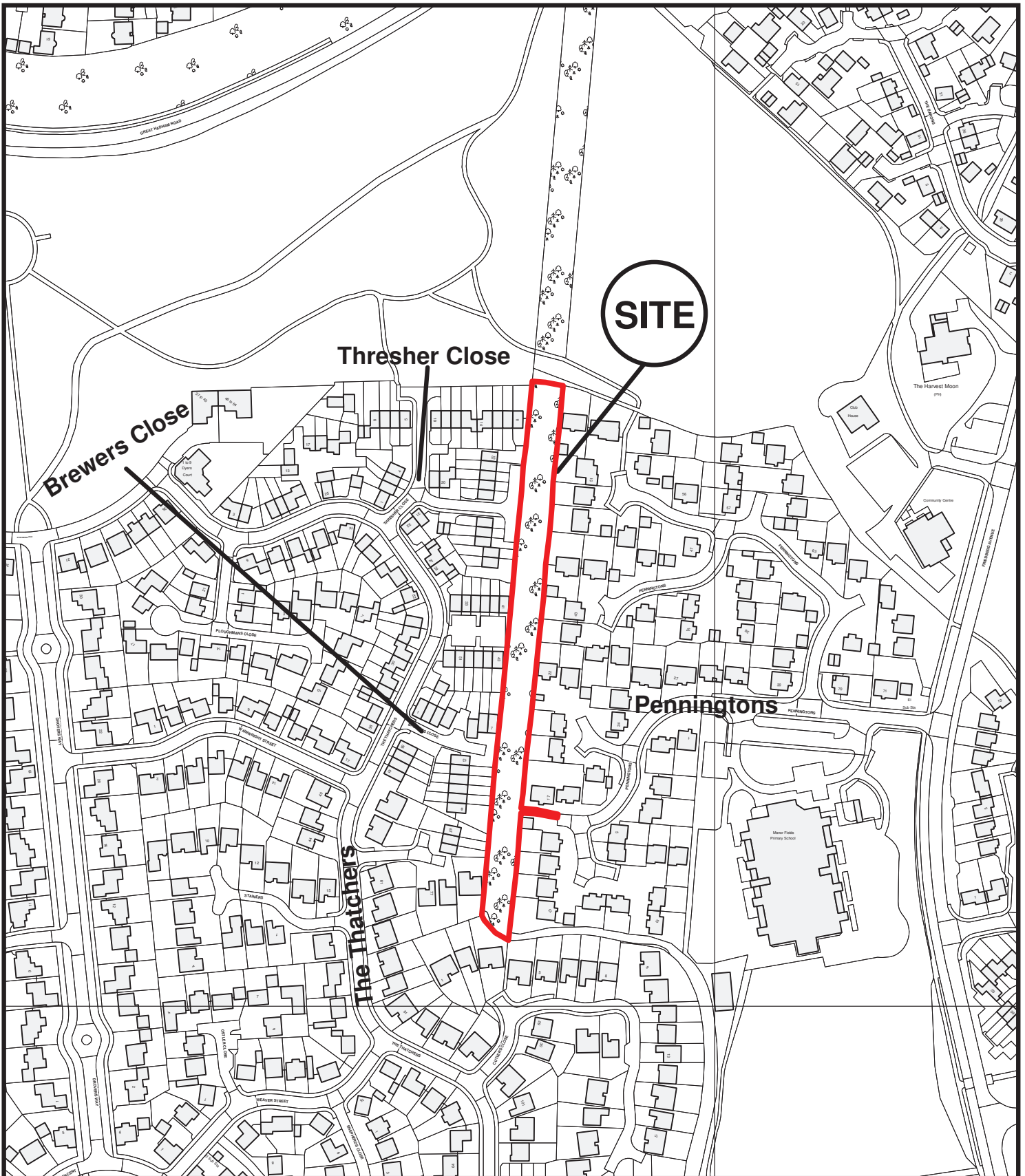
- 7.12 The concerns that have been raised by neighbouring occupiers and the Town Council in respect of the loss of trees; the impact that this has had upon wildlife; the character of the area, and the amenities of neighbouring occupiers due to the screening and noise protection that they provided, are duly noted. However, as the site is not within a Conservation Area and the trees were not protected by a TPO, the loss of the trees does not form a material planning consideration in the determination of this application and therefore no weight should be given to this.
- 7.13 The recommendation made by the Landscape Officer for replacement

tree planting to be required by condition has been considered. However, as set out above, Officers consider, that the proposed use of the land as additional garden space and the erection of the summer house, shed and hardstanding would not result in an unacceptable impact upon the character and appearance of the area or the amenities of neighbouring occupiers and as such a condition for new tree planting is not necessary to make the proposal acceptable. Furthermore, it is apparent from the Landscape Officer's comments that their recommendation for new tree planting is to mitigate against the loss of trees that has occurred. However, as outlined previously within this report the loss of the trees does not form a material consideration in the determination of this application.

- 7.14 Officers consider that the imposition of a condition to require tree planting in this case would be unreasonable and unnecessary and the reasons for such a condition would not be relevant to the considerations of the current application and therefore would fail the necessary tests for imposing conditions

8.0 Conclusion:

- 8.1 For the above reasons, the proposed change of use of the land and the summer house, shed and hard standing are considered to be acceptable in terms of Local Plan policy and their impact on the character and appearance of the surrounding area.
- 8.2 It is therefore recommended that planning permission be granted for the development subject to the conditions set out at the head of this report.



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**Address: Land r/o nos. 13, 14, 15, 16, 17, 22, 42, 43, 44, 49, 50, 51 & 52,
 Penningtons, Bishops Stortford, CM23 4LE**
Reference: 3/13/2086/FP
Scale: 1:2500
O.S Sheet: TL4720SW
Date of Print: 9 May 2014

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Agenda Item 6d

3/14/0596/FP – Erection of a farm manager's dwelling at Clements Farm, Brickendon Lane, Brickendon, Hertford, Herts, SG13 8FG for A T Bone and Sons Ltd

Date of Receipt: 07.04.2014

Type: Full – Minor

Parish: BRICKENDON LIBERTY

Ward: HERTFORD HEATH

RECOMMENDATION:

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

1. Three Year Time Limit (1T121)
2. Approved plans (2E103) insert: B01/19/07, B01/19/08, B01/19/09, B01/19/10.
3. Wheel washing facilities (3V252)
4. Prior to work commencing on site details of sustainable construction and/or renewable energy measures to be employed in the construction and occupation of the dwellinghouse hereby approved shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In accordance with the requirements for sustainable development set out in the National Planning Policy Framework.

5. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development Order), 1995 no works or development as described in Schedule 2, Part 1, Classes A or E of the Order shall 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 ENV9 of the East Herts Local Plan Second Review April 2007.

6. The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the locality in agriculture or forestry, or a widow or widower of such person, and to any resident dependents.

Reason: The proposed dwelling is situated in the Metropolitan Green Belt where the Local Planning Authority would not normally grant permission for such a development and this permission is granted solely in order to fulfill an essential agricultural need, in accordance with policy GBC6 of the East Herts Local Plan Second Review April 2007 and the requirements of the National Planning Policy Framework.

Directives:

1. Other legislation (01OL1)
2. The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites. In connection with all site demolition, site preparation and construction works, no noisy working shall be carried out on the premises outside the following hours: 0730 to 1830 Monday to Friday, 0730 to 1300 on Saturdays and at no time on Sundays or bank holidays.
3. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways> or by telephoning 0300 123 4047.
4. The applicant is advised that the storage of materials associated with this development should take place within the site and not extend into the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary, further details can be obtained from the Eastern Herts Highways Area Team, County Hall, Hertford, SG13 8DN (Telephone: 0300 123 4047).
5. If the site is known to be contaminated you should be aware that the responsibility for safe development and secure occupancy of the site lies with the developer. Any significant unsuspected contamination that becomes evident during the development of the site shall be brought to the attention of the Local Planning Authority, and all works shall cease until the Authority confirms in writing that appropriate measures have been taken to ensure that the contamination has been dealt with.

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 and the pre-application advice given is that permission should be granted.

_____ (059614FP.MC)

1.0 Background:

- 1.1 The application site is shown on the attached Ordnance Survey extract. It forms part of an existing farm holding owned by the applicants. It is primarily arable land and includes two grain stores, permitted in 2000 and 2008, as well as a cattle shed and hay store permitted in 2009. The site broadly comprises open land to the north, south and east. Dense, mature landscaping along the west boundary of the site provides screening from Brickendon Lane.
- 1.2 This application seeks permission for the erection of a permanent two storey farm manager's house at the site, in place of an existing mobile home on the same site.
- 1.3 The mobile home has been sited on the land since 2009 to provide accommodation for a stockman at the site to monitor the herd of beef cattle that was introduced onto the site at that time. At the time of the current application the herd has expanded from the initial 20 cows to 75 cows and 2 bulls.
- 1.4 The 2009 permission was for a temporary 3 year period so that the Council could ascertain whether the new agricultural enterprise (cattle rearing) would succeed and therefore whether a dwelling, sited in the Green Belt could, be justified.
- 1.5 A subsequent application in 2012 sought the permanent retention of the mobile home. At that time Officers concluded that "while the business is clearly growing and investment has been forthcoming, it (the enterprise) remains in its infancy and projected income has not quite been matched by the reality". It was therefore decided that a further temporary consent should be granted for the retention of the mobile home to allow the

3/14/0596/FP

applicant further time to establish the cattle herd as a viable business.

2.0 Site History:

2.1 The relevant planning history for the residential use of the site is as follows:

- 3/09/1066/FP – Temporary residential mobile home and agricultural buildings – Approved September 2009
- 3/12/1587/FP – Retention of timber-clad mobile home for occupation by agricultural worker – Approved November 2012

2.2 The permission granted in 2012 included a condition limiting retention of the mobile home on site for a period of 3 years, expiring on 28th November 2015.

2.3 Applications for the agricultural use of the site at Clements Farm have resulted in the construction of two other buildings, as follows:

- 3/00/1481/FP - Proposed portal framed replacement building consisting of grain store, implement shed and general store – Approved September 2000
- 3/07/2464/FP - Erection of grain store – Approved February 2008

3.0 Consultation Responses:

3.1 The County Council's Highways engineers have commented that the proposed farm managers dwelling is acceptable in a highway context... Vehicular access to the site is via an established junction onto Brickendon Lane, a C classified local access road subject to a 60 mph speed limit. Visibility is reasonable in both directions and the access is double width, allowing vehicles to enter the site at the same time as those exiting. This minimizes the risk of vehicles backing up onto the public highway.

3.2 Sufficient on-site parking is proposed from a highways aspect, and there is also sufficient turning space.

3.3 Environmental Health has requested a condition relating to discovery of the presence of any unsuspected contamination at the site. This has been added as a directive at the head of this report.

4.0 Parish Council Representations:

4.1 Brickendon Liberty Parish Council comments that it has no objection to the principle of the development. However, any new build house should be built sustainably, using natural energy provision and/or water conservation measures.

5.0 Other Representations:

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

5.2 No responses have been received as a result of these notifications.

6.0 Policy:

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

GBC1	Appropriate Development in the Green Belt
GBC6	Occupancy Conditions
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV14	Local Sites
TR7	Car Parking Standards

6.2 The National Planning Policy Framework (NPPF) and National Planning Policy Guidance are also material considerations. Section 9 of the NPPF, Protecting Green Belt land, is of particular relevance in assessing the proposed development.

7.0 Considerations:

7.1 The determining issues in this case relate to the principle of the development in the Green Belt; its impact on the openness and character of the surrounding area; and whether there is an agricultural need for the accommodation as proposed that constitutes the 'very special circumstances' required to justify the development.

Principle of development

7.2 The site lies within the Metropolitan Green Belt wherein the erection of new dwellings constitutes inappropriate development in accordance with policy GBC1 of the Local Plan and guidance in the NPPF. Accordingly it is for the applicant to show that 'very special

circumstances' exist to justify the development. These circumstances must be shown to clearly outweigh the harm caused to the Green Belt by inappropriateness, and any other harm.

- 7.3 In this case, the applicant accepts that the proposal is inappropriate and that there would be harm caused to the Green Belt by reason of inappropriateness and also by loss of openness. However, it is argued that the agricultural need for the accommodation constitutes a material consideration of such weight that it outweighs the policy presumption against the development and the harm caused to the Green Belt. It is therefore suggested that this constitutes 'very special circumstances' for permitting the proposal.

Need for the development

- 7.4 With regard to agricultural workers' dwellings, the NPPF makes no general exception in its Green Belt policies that would make rural workers' dwellings in the Green Belt appropriate development. However, it states that while local planning authorities should avoid isolated new homes in the countryside, special circumstances such as an 'essential need for a rural worker to live permanently at or near their place of work in the countryside' (paragraph 55) may allow an exception to be made. The financial, functional and other tests set out in detail in the former Planning Policy Statement 7 have not been adopted in the NPPF. It therefore falls to the Local Planning Authority to determine whether there is an 'essential need' for this accommodation, and if so whether that need 'clearly outweighs' any harm to the Green Belt such as to constitute the 'very special circumstances' required to justify inappropriate development.
- 7.5 In this case, taking the earlier reference of PPS7 (which remains relevant in Officers' view albeit that the document itself has been revoked), Officers are satisfied from the evidence submitted that there is a functional need for one full time worker to be present on the site at most times and, in particular, at times when new calves are being born, usually between November and March. The requirements of tending to the animals could not be easily met by part-time employees, or employees living off-site.
- 7.6 It is also considered necessary to establish that the business operates on a sound financial basis in order to justify the erection of a permanent new dwelling in this Green Belt location. The initial application for permanent accommodation on the site, considered in 2012, was determined not to show that the business was making a sustainable profit that could reliably ensure the business' ongoing operation.

Officers determined at that time that permanent accommodation would not have amounted to sustainable development, and a further temporary consent was granted instead.

- 7.6 In the subsequent 2 years the business has continued to generate a profit, and is now operating at a profit of around £14,000 per year, exceeding the 2009 projection for this point in the business' operation.
- 7.7 Officers consider that a sufficiently convincing case has now been put forward on the financial stability of the business to support a case that there are 'very special circumstances' to warrant the grant of a permanent permission for a dwelling on the site. The applicant has established a profitable and sustainable business on the site and it requires permanent resident staff to ensure its ongoing viability.

Impact on the Green Belt

- 7.8 The dwelling would be screened from general public view by the established mature planting along the western boundary of the site. It would lie fairly close to the existing farm buildings to the south. There are no public rights of way within 500 metres of the site from which the building would be viewed. From beyond this distance, the building would not be a prominent part of the landscape, and would not cause material harm to the openness or character of the Green Belt.
- 7.9 The openness of the Green Belt is a key consideration, and harm occurs when openness is reduced, even when that loss is not publicly obvious. In this instance Officers consider that the harm to the openness of the Green Belt is relatively modest and limited to the impact of a single medium size dwelling.

Other matters

- 7.10 The proposed dwellinghouse would be two storeys in height with a hipped, pitched roof and with a ridgeline 8.5 metres above ground level. It would also include a basement to provide a store, utility room and gymnasium/games room. It would be of brick construction with a tiled roof, and in appearance would not be out of keeping with other dwellings in the local area. The building would form part of the group of farm buildings, although the siting of existing and new bunds would provide some screening and privacy.
- 7.11 Neither national nor local policy set a maximum size that will be considered for agricultural dwellings, and it is therefore necessary to determine whether the property would be appropriate for the needs of

the business.

- 7.12 The house would provide three bedrooms on the first floor with general living accommodation, including a small study, on the ground floor. The scale of the dwelling is considered by Officers to be reasonable to accommodate a full-time employee and their family. It is to be expected that the needs of the employee will change over time, particularly if the position changes hands. Officers consider that the scale of the house proposed, and the wider residential curtilage that would be established, represents an acceptably sized dwelling that comfortably meets the needs of the family enterprise. If permission is granted it is considered reasonable and necessary to withdraw Class A and E 'permitted development' rights for extensions and outbuildings in view of this.
- 7.13 A condition is recommended to ensure that the development employs sustainable construction techniques, such as the use of renewable energy, rainwater harvesting or other such measures. This is considered necessary and reasonable to ensure that the proposal represents a sustainable form of development and that the benefits of the scheme overall would be sufficient to outweigh the harm caused to the Green Belt.

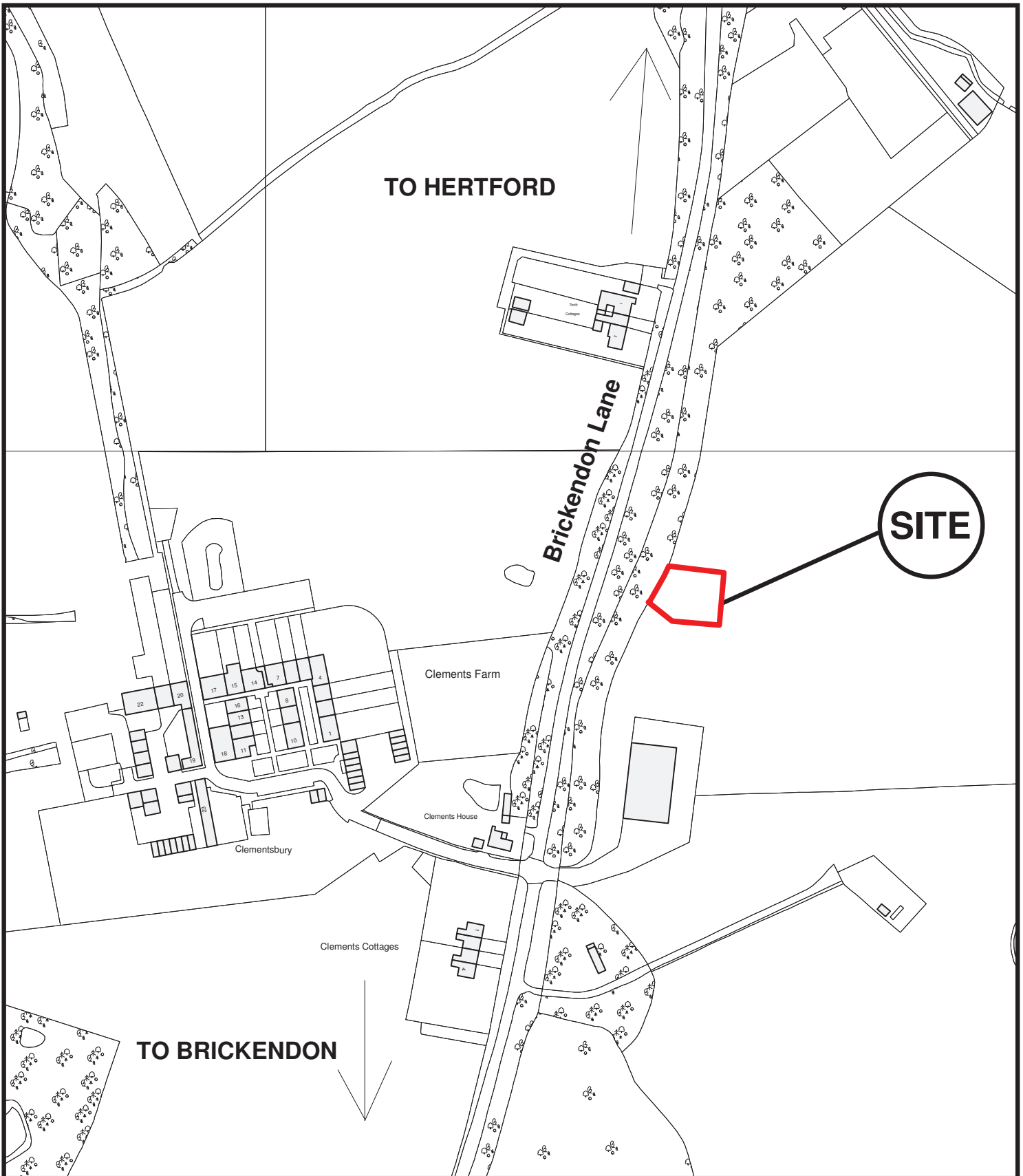
8.0 Conclusion:

- 8.1 The site is located within the Metropolitan Green Belt where new residential development constitutes inappropriate development. One of the situations that can justify inappropriate development in the Green Belt may be where there is a need for agricultural workers accommodation and that this need is of such importance that it clearly outweighs the harm caused to the Green Belt. The NPPF indicates there may be special circumstances to justify isolated homes in the countryside for an 'essential need for a rural worker to live permanently at or near their place of work in the countryside' and this provides some support to the principle of the development.
- 8.2 Officers accept that there is a functional need for a full-time worker at this site. The business appears sustainable, and is expected to continue to operate at a profit, provided that a member of staff is available on site at all times to monitor the health of the herd. The harm to the openness of the Green Belt would be quite modest and, by its siting and design, it is not considered that the house would harm the rural character of the area. The provision of sustainable and/or renewable energy measures is considered to further weigh in favour of the development.

3/14/0596/FP

- 8.3 Officers consider that, in the overall balance, the positive material considerations are of such weight that they clearly outweigh the identified harm to the Green Belt in this case and constitute the 'very special circumstances' required to justify permission being granted for a permanent residence at the site.
- 8.4 It is therefore recommended that planning permission be granted, subject to the conditions outlined above.

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O.S Sheet: TL3209
Date of Print: 3 June 2014

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Agenda Item 6f

3/14/0349/FP – Single storey rear extension and two storey front extension at 18 Woodhall Close, Bengoe, Herts, SG14 3ED for Mr S Higgs

Date of Receipt: 24.02.2014

Type: Other

Parish: HERTFORD

Ward: HERTFORD – BENGEO

RECOMMENDATION:

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

1. Three Year Time Limit (1T12)
2. Approved Plans (2E10): Site Location Plan, D140103/1 and D140103/2A.

Directives:

1. Other legislation (01OL)

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.

_____ (034914.SD)

1.0 Background:

- 1.1 The application site is shown on the attached OS map. It is located within the northern part of Hertford, within a primarily residential area. The dwelling is semi detached and the pair of dwellings is not of uniform design within the street, the front elevation of the adjoining dwelling having been altered with a two storey front extension in 1995.
- 1.2 The buildings are characterised by brick and tile hanging at ground floor with render at first floor; concrete tiles on a hipped roof, and with a central chimney.

3/14/0349/FP

- 1.3 The character and appearance of Woodhall Close is of a variety of styles of detached and semi-detached post-war dwellings of similar materials of construction, enlarged with side and rear extensions.
- 1.4 This application seeks planning permission for a two storey front extension, to match the adjoining dwelling and a single storey rear extension to the property.
- 1.5 The application has been referred to committee as the applicant's wife is a member of staff of the Council.

2.0 Site History:

2.1 The relevant planning history for the site is as follows:

- 3/07/0784/FP – Garage extension (Approved).

3.0 Consultation Responses:

3.1 At the time of writing this report, no representations have been received from The Woodland Trust or Affinity Water Ltd.

4.0 Town Council Representations:

4.1 Hertford Town Council has no objection to the application proposal.

5.0 Other Representations:

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

5.2 No letters of representation have been received as a result.

6.0 Policy:

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

- ENV1 Design and Environmental Quality
- ENV2 Landscaping
- ENV5 Extensions to Dwellings
- ENV6 Extensions to Dwellings - Criteria
- TR7 Car Parking – Standards

6.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in the determination of the application.

7.0 Considerations:

Principle of Development

- 7.1 The site is located within a primary residential area, wherein policies ENV1, ENV5 and ENV6 apply. Policies ENV5 and ENV6 state that, inter alia, extensions to existing dwellings should respect the character, appearance and amenities of the dwelling and any adjoining dwellings.
- 7.2 The proposed rear extension in this case, would extend an existing rear extension across part of the rear elevation of the property, such that it would abut the existing detached garage on the northern boundary of the site. The addition would be modest in scale and constructed in materials to match the existing dwelling and would not detract from the character and appearance of the existing dwelling. The flat roof would be removed from the existing rear extension; the upstand to the adjoining dwelling would be retained at the shared boundary and a low pitched roof would be provided over the enlarged rear extension. In terms of scale, size, siting and design it is considered that, due to the modest nature of the rear extension and the improved roof design, the extension would not detract from the character and appearance of the existing dwelling. As the extension cannot be seen from the street it would also not detract from the general street scene.
- 7.3 As regards the two storey front extension, to some degree a precedent has been set by the permission granted for a two storey front extension to the adjacent dwelling at 37 Woodhall Close in 1995 (3/95/0828/FP), which is a material consideration in the determination of this application. It is noted that there are no other two storey front extensions within the Close.
- 7.4 The pair of semi-detached dwellings is sited in a prominent location at the end of Woodhall Close. At present, the front extension at 37 Woodhall Close appears rather prominent within the street scene and somewhat unbalances the design and symmetry of the pair of dwellings. There is some merit, therefore, in introducing a similar two storey extension at 18 Woodhall Close, to balance the character and appearance of the pair of dwellings and create a more uniform elevation treatment that integrates sympathetically with the street pattern.
- 7.5 In this respect, the proposed front elevations of the pair of dwellings

would match in size, scale, design, height and fenestration pattern, with a slight difference in the location of the front door to accommodate the proposed shower room/cloakroom at ground floor.

- 7.6 In view of the variety of front elevational designs within Woodhall Close, it is considered that the resulting design of the pair of front extensions at the application site and No 37 would not appear out of keeping with the general pattern, character and appearance of the street scene.

Neighbour Amenity

- 7.7 Due to the dwelling's orientation within the street, the proposed extensions to both the front and rear elevations would have no adverse impact on the amenities of the neighbouring properties. The extension to the rear of No 18 would be obscured from No 16 Woodhall Close on the northern boundary by the existing single garage. The adjoining dwelling, No 37, would be unaffected by the rear extension in terms of outlook or privacy as the depth remains the same as the existing extension and the new pitched roof would be of modest proportions.
- 7.8 In terms of the two storey front extension, there would be no loss of neighbour amenity or privacy.
- 7.9 There are no parking implications, as the proposed two storey front extension would not alter the number of bedrooms within the dwelling. Under the Council's maximum standards a provision of 2.25 on-site parking spaces are required, and the existing on-site parking provision of 3 spaces would be considered acceptable.

8.0 Conclusion:

- 8.1 For the above reasons, Officers consider that the proposed extensions would comply with the policies of the Local Plan; would have an acceptable impact on the surrounding area and would not be detrimental to the amenities of the surrounding properties. As such it is recommended that planning permission be granted subject to conditions as detailed at the head of this report.

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3/14/0494/FP – Construction of detached annexe at The Haven, Albury Road, Little Hadham SG11 2DW for Mrs Holdgate

Date of Receipt: 26.3.2014

Type: Full - Other

Parish: LITTLE HADHAM

Ward: LITTLE HADHAM

RECOMMENDATION:

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

1. Three Year Time Limit (1T121)
2. The annexe hereby permitted shall only be occupied by persons in connection with and ancillary to the occupation of the dwelling house known as The Haven and not as a separate residential unit or for any other purpose at any time.

Reason: To ensure the Local Planning Authority retains control over any future residential development and in accordance with Policy ENV8 of the East Herts Local Plan Second Review.

3. Approved Plans (2E10) 0137-09-13/01A, 0137-09-13/02A, 0137-09-13/03A and 0137-09-13/04A
4. Materials of Construction (2E11)

Directive:

1. Other Legislation (01OL)

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 and the alterations to LPA reference 3/13/1970/FP is that permission should be granted.

_____(049414FP.FM)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract. The site lies within the Category II Village of Little Hadham and within the Rural Area beyond the Green Belt. The Haven is a detached bungalow set above street level. Vehicle access to the dwelling is via an access drive which is sited to the south west of the property and shared with the neighbouring property known as Millglen.
- 1.2 The current proposal seeks planning permission for a detached residential annexe building that would be sited within the garden of the existing dwelling in a position that would be approximately 10.5 metres from the rear elevation of the main dwelling.
- 1.3 The proposed building would measure 8 metres in length, 4.7 metres in width and would comprise a bedroom, bathroom, kitchen and living/dining room. The proposed building would retain 7 metres to the northern site boundary and 15 metres to the southern boundary. The building would have a pitched roof reaching a maximum height of 3.58 metres. The annexe would share the vehicular access, garden area and parking spaces of the main dwelling. The applicant intends for the annexe to be used by her daughter.

2.0 Site History:

- 2.1 Permission was refused recently, under LPA reference 3/13/1970/FP, for the construction of a detached annexe building, in a different position on the site, for the following reason:
- 'The Council is not satisfied that the proposed annexe building, by reason of its siting and its functional relationship with the main dwelling, would represent an ancillary form of development and would therefore constitute inappropriate development in the Rural Area Beyond the Green Belt, contrary to Policies GBC3 and ENV8 of the East Herts Local Plan Second Review April 2007'.

3.0 Consultation Responses:

- 3.1 Environmental Health recommend permission is granted subject to several conditions.
- 3.2 The Environment Agency comment that they have assessed the applicant and have no comments to make.

4.0 Parish Council Representations:

4.1 Little Hadham Parish Council object to the proposed development because of the increased risk of flooding to other homes in the community.

5.0 Other Representations:

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

5.2 No representations have been received from neighbouring properties.

6.0 Policy:

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

- ENV1 Design and Environmental Quality
- ENV5 Extensions to dwellings
- ENV6 Extensions to dwellings - Criteria
- ENV8 Residential Annexes
- GBC3 Appropriate Development in the Rural Area Beyond the Green Belt
- TR7 Car Parking- Standards
- OSVII Category 2 Villages

6.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in the determination of this application.

7.0 Considerations:

7.1 The determining issues in this case relate to:

- Local Plan policy regarding residential annexes (policy ENV8);
- the impact of the proposed development on the character of the area;
- parking and amenity issues.

7.2 The application should also sufficiently address and overcome the reason for refusal within LPA reference 3/13/1970/FP which is set out in section 2.0 above.

- 7.3 Policy ENV8 of the Local Plan states that residential annexes will be permitted where the accommodation forms an extension to the main dwelling; is capable of being used as an integral part of the dwelling; has sufficient parking; and accords with policies ENV5 and ENV6 of the Local Plan.
- 7.4 The annexe proposed within this application would not form an extension to the main house, as required by part a) of Policy ENV8. The proposal therefore represents a departure from Policy ENV8 in that respect.
- 7.5 However, despite not forming an extension to the dwelling, Officers consider that the proposed annexe would be sited in an appropriate location in relation to the main dwelling. Officers raised concerns in respect of the previous application due to the 45 metre distance between the existing dwelling and the annexe and the ability for a separate access to be created. Furthermore, due to the siting of the previously proposed annexe, it was considered that it would be located within the Rural Area and outside of the built up part of the Category II Village.
- 7.6 To overcome these previous concerns, the applicant has re-sited the proposed annexe. The building will now be sited significantly closer to the main dwelling and within 10.5 metres of the rear elevation of the property and would be located within close proximity to several existing sheds within the garden. The proposed annexe would now be sited adjacent to and in line with the properties to the north of the site – Nos1-3 Watts Close. As such the proposed annexe is now considered to be sited within the built up area of the Category II Village wherein in principle there is no objection to such development. The siting of the proposed annexe therefore overcomes part of the previous reason for refusal and the concerns in relation to its impact upon the Rural Area.
- 7.7 Officers also raised concerns with the previous proposal and the functional relationship between the annexe and the existing dwelling due to the 45 metre distance between the annexe and the rear elevation of the main dwelling which could result in the proposed annexe potentially being used as a separate residential unit. The relocation of the annexe as now proposed means that it would be sited nearer to the main dwellinghouse and would be within 10.5 metres of the rear elevation of the property (some 35 metres closer than the previously proposed annexe). This distance would ensure that there would still be a strong degree of dependency on the main dwelling. Officers have also had several telephone conversations with the daughter of the owners of The Haven who has confirmed that she will

be dependent on the main house for many things such as dinners and washing and that there would be no separate postal address or service utilities for the proposed annexe.

- 7.8 For these reasons Officers consider that the proposed annexe sufficiently addresses the previous reason for refusal within LPA reference 3/13/1970/FP and Officer's concerns that the annexe would not be used as an ancillary part of the main house on the site. Officers consider that, due to the amended siting now proposed and the proximity of the annexe to the main dwelling, it would be used as an integral part of the use of main dwelling on the site.
- 7.9 The sharing of the garden area, access and the relationship of the annexe to the main dwelling ensures that a good relationship would be maintained between the dwelling and the annexe. Officers consider that the use of the annexe would remain dependent upon the main dwelling and a condition to require the use to be ancillary to the existing residential unit would be sufficient to control its use and prevent the annexe being used as an independent unit. Furthermore, it should be noted that if it were proposed in the future for the annexe building to be used as a separate dwellinghouse, whether sold or rented, planning permission would be required for this.
- 7.10 In terms of the appearance of the development from outside the site, the annexe building would have a low pitched roof with an eaves height of 2.6 metres and a maximum height of 3.58 metres. As such, only approximately 1.8 metres of the roof would be visible above a standard 1.8 metre boundary fence. Having regard to this, the mature boundary landscaping and that the proposed annex would retain 13 metres to the nearest neighbouring property to the north and 19 metres to the flank elevation of the nearest property to the south, together with its restricted size and height, Officers consider that the proposed annexe would not appear unduly obtrusive or have any significant impact on the living conditions of the neighbouring occupiers.
- 7.11 In this instance it is considered by Officers that the annexe would not conflict with the aims of Policy ENV8 to provide accommodation for dependent relatives within the curtilage of an existing house.

Highway Safety and Parking

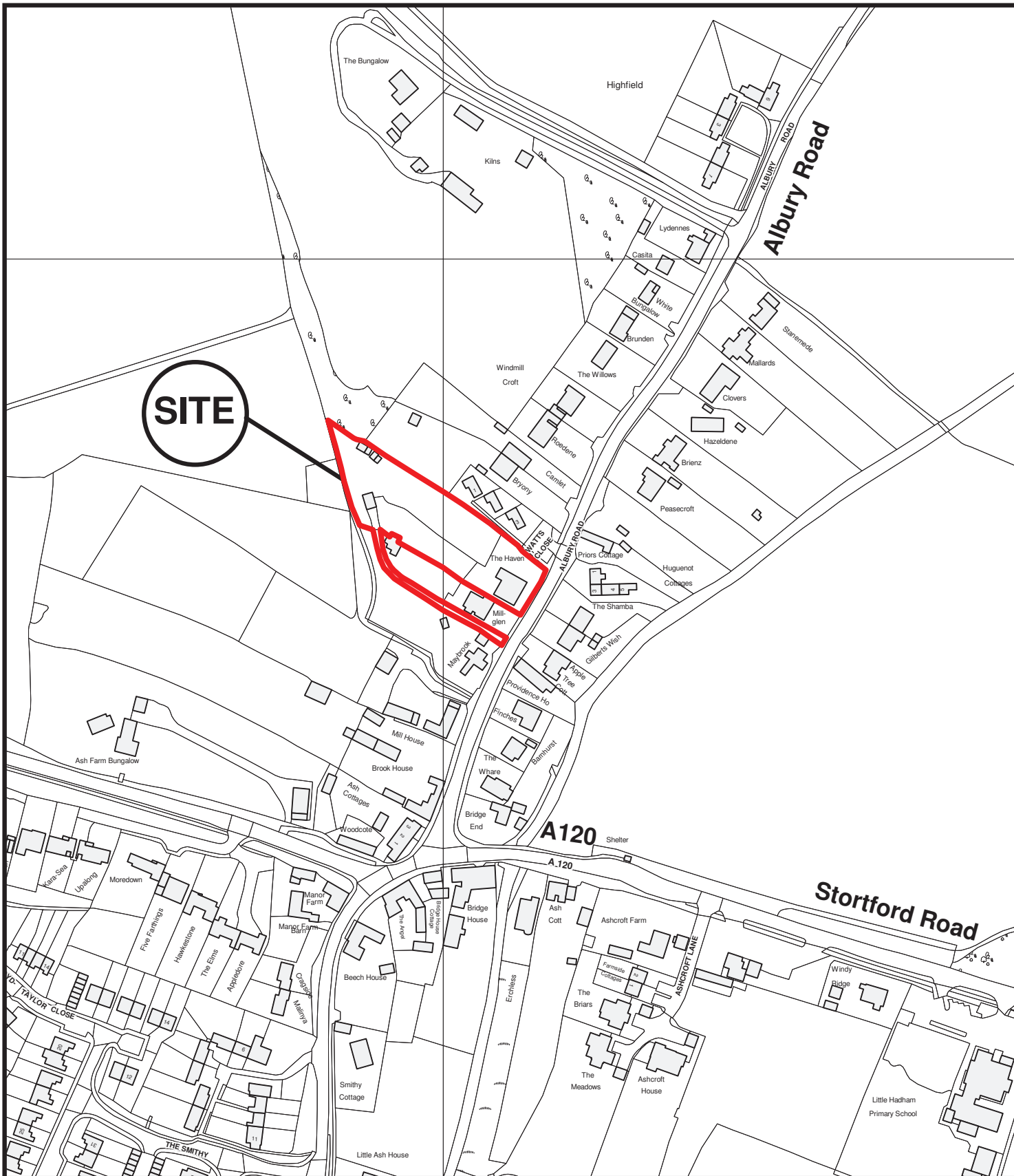
- 7.12 Policy ENV8 expects there to be sufficient parking for both parts of the dwelling at the site. The site has a paved parking area at the end of the rear garden that can accommodate at least three vehicles. In addition, there is also a carport and detached double garage at the end of the

rear garden. The existing dwelling has 3 bedrooms and the proposed annexe would create an additional bedroom. The maximum parking standards for a 4 bedroom dwelling in this location, as outlined within Appendix II of the Local Plan is 3 spaces. With consideration for the maximum standards set out within Appendix II of the Local Plan, Officers consider the parking provision made at the site to be acceptable.

- 7.13 Little Hadham Parish Council have raised concerns that the proposal would increase the risk of flooding to other homes in the community. In this case, however, although the site lies within 20 metres of the bank of the river, no concerns have been raised by the Environment Agency in respect of flooding. The site lies in Flood Zone 1 (low probability of flooding) where no harm would arise to people or property. There is therefore no evidence to suggest that the building would have any material impact on flooding in the area and the Parish Council's concerns would not therefore warrant refusal of the application on those grounds.

8.0 Conclusion:

- 8.1 The proposed annexe as a detached building from the main dwelling, although contrary to part a) of Policy ENV8 would not, in the view of Officers be inappropriately located in relation to the existing house or be detrimental to the character and appearance of the area. It is considered that it would not conflict with the aims of Policy ENV8 of the Local Plan to provide accommodation for dependent relatives. Furthermore, it would not be detrimental to the amenities of the neighbouring dwellings.
- 8.2 Having regard to the above considerations and the amendments made following the refused application LPA reference 3/13/1970/FP, and in particular the proposed location of the annexe within the built up area of the Category II Village and in relation to the existing dwellinghouse, it is considered the proposed building has sufficiently addressed and overcome the previous refusal. It is recommended therefore that planning permission is approved subject to the conditions at the head of this report.



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Address: The Haven, Albury Road, Little Hadham, SG11 2DW
Reference: 3/14/0494/FP
Scale: 1:2500
O.S Sheet: TL4322 & TL4422
Date of Print: 2 June 2014

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E/11/0039/A – Unauthorised use of industrial unit for the delivery of hot food at Unit 4a Hadham Industrial Estate, Church End, Little Hadham, SG11 2DY

Parish: LITTLE HADHAM CP

Ward: LITTLE HADHAM

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the cessation of the unauthorised use of the unit.

Period for compliance: 1 month from the notice taking effect

Reasons why it is expedient to issue an enforcement notice:

1. The use of the unit for the delivery of hot and cold food in a location which is away from the centre of population results in an unsustainable form of development which is heavily reliant on motor vehicles and results in additional traffic movements within the rural area. This is at odds with the Council's strategy for development in the District as set out in Policy SD2 of the East Herts Local Plan Second Review April 2007 and the principles of sustainable development set out in the National Planning Policy Framework.

_____ (003911A.PD)

1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. The premises are located within the Hadham Industrial Estate which previously consisted of a collection of agricultural buildings associated with Church End Farm.
- 1.2 It was brought to the attention of the Enforcement Team in February 2011 that the unit was being used by a company that operated a take away and delivery service of hot food.
- 1.3 The owner of the unit was contacted and advised that, in Officers view, this use was materially different from the lawful use of the unit (representing a *sui generis* use) and that as such, planning permission would be required for a change of use. The owner advised Officers that he considered that, like several of the buildings on the site, the unit

benefitted from permission for a Class B1, B2 and B8 use and that this new food preparation; delivery and collection business fell within Use Class B2 (General Industrial) and was therefore lawful.

- 1.4 However, following further investigation, the owner accepted that planning permission had not been granted for a commercial use of this particular building and therefore, on 5th May 2011, an application was submitted under LPA reference 3/11/0767/FP for the change of use of the unit from agricultural to Use Classes B1, B2 and B8. This application was approved by the Development Control Committee on 17th August 2011 although Officers advised Members of the Committee at the time that they were of the view that the current use did not fall within one of these Use Classes and that the matter of the unauthorised take away and food delivery business would be pursued through the normal planning enforcement route if necessary.
- 1.5 Following the granting of the above permission Officers contacted the Owner and advised him that, in the Councils view, the planning permission for Class B1, B2 and B8 uses did not cover the food delivery/take away use and it was considered that the use comprised a *sui generis* use (one that is outside any of the specified classes).
- 1.6 On the 1st November 2011, a further application was submitted under LPA reference 3/11/1881/FP, for the change of use of the unit for the production of hot/cold food and hot/cold food delivery. After due consideration, the application was refused for the following reason:
 - The use of the unit for the delivery of hot and cold food in a location, which is away from a centre population, results in an unsustainable form of development which is heavily reliant on motor vehicles and results in additional traffic movements within the rural area. The proposal is thereby at odds with the council's strategy for development in the District as set out in Policy SD2 of the East Herts District Plan Second Review April 2007 and is also contrary to Planning Policy Statement 1: Delivering Sustainable Development and Planning Policy Statement 4: Planning for Sustainable Economic Growth and Planning Policy 13: Transport.
- 1.7 The owner appealed that decision but on 16th May 2013 the appeal was dismissed. The Planning Inspector concluded that the home delivery element of the business requires an excessive amount of vehicular traffic and is not in a sustainable location, contrary to the objectives of the NPPF. A copy of the Inspectors appeal decision is attached as **Essential Reference Paper 'A'** to this report.

- 1.8 Notwithstanding the appeal decision, Officers are aware that the owners of the unit are still operating the home delivery business (although the take away element allowing members of the public to collect from the unit itself has ceased). This remains a breach of planning control and is one which is in conflict with the views of the Planning Inspector and the appeal decision.
- 1.9 Members may recall that this matter was reported to the committee in February 2014 when Members resolved to defer consideration of enforcement action in this respect to enable Officers to enter into a dialogue with the owners and operators of the site to determine if the matter could be resolved.
- 1.10 Following that resolution, the operators of the unit were contacted and a meeting with the owner's planning agent took place. They were then asked to submit further information in respect of the nature and extent of the use to give Officers the opportunity to determine if the current use has changed to such an extent that it would overcome the concerns raised both within the original refusal of planning permission and by the Planning Inspector on appeal.
- 1.11 The requested information was submitted by the owner's agent to the Council on 17th April 2014. Below is a summary of that information.
- 1.12 The use of the unit can be divided into two elements. It involves the preparation and delivery of food during the day to trade customers and other restaurants. This is considered to fall within Use Class B1 or B2 and is therefore permitted by the existing planning permission for the property. However, in addition to that lawful use, the business also involves the delivery of hot food to individual residential properties across a wide area in the evening. That remains a *sui generis* use for which planning permission has not been granted and indeed is one which, as mentioned above, was specifically referred to by the appeal Inspector. He concluded (para. 12) that:
- “the home delivery element of the business requires an excessive amount of vehicular use and is not in a sustainable location, contrary to the objectives of the NPPF.”
- 1.13 In response to the appeal decision and Officers' continuing concerns about the sustainability of this use and its impact on motor vehicle use in the surrounding rural area, the owner's agent has stated that the delivery element of the business is small, both in terms of the business itself and the wider site. In addition, it is stated that the hot food delivery service is a valued 'local service' which the Council should aim to

retain, in accordance with its Local Plan and forthcoming District Plan objectives.

- 1.14 The agent also argues that, without a delivery service, local residents would need to drive to collect their take away food from larger settlements and therefore the traffic generation and sustainability concerns would be the same in either case.
- 1.15 Whilst Officers acknowledge the point, it is not agreed that this argument is sound. The delivery service encourages and facilitates the consumption of take away food in the rural areas and it does not necessarily follow that, without this service, residents in the villages would drive to the larger settlements to collect food at the same rate. There is likely to be a reduced demand where easy delivery is not an option.
- 1.16 In further support of their arguments, the operators of the unit have also prepared a spread sheet which shows the date, time and locations of deliveries associated with the hot food delivery service from 19 January 2014 to 12 April 2014 (this information will be available at the committee meeting). From that information, it appears that most deliveries take place between 4pm and 9.30pm, 7 days a week, with the amount of deliveries per day ranging from 1 to 23.
- 1.17 The areas covered by the deliveries are Albury, Braughing, Furneux, Little Hadham, Much Hadham, Puckeridge and Standon, with the majority of clients being within the Hadhams and Standon.
- 1.18 Along with the report, the agent has submitted 54 pro-forma letters of support from the residents that have used the delivery service in the past. The letter asks residents simply to confirm the following statement: "We use Masala Express Delivery and support their continued operation".

2.0 Planning History:

2.1 The recent relevant planning history in respect of this unit is as follows:

3/11/0767/FP	Change of use of agricultural building to uses B1, B2 and B8	Approved with Conditions
3/11/1881/FP	Retrospective change of use of unit to Sui Generis use	Refused. Dismissed at appeal.

3.0 Policy:

3.1 The relevant 'saved' policy of the East Herts Local Plan Second Review April 2007 in this case is:

SD2 – Settlement Hierarchy

3.2 The National Planning Policy Framework is also a material consideration in the determination of this matter.

4.0 Considerations:

4.1 As mentioned above, the unit is currently used for food preparation and delivery to both trade customers, including other restaurants, and also as a hot food delivery service to individual households. Whilst the delivery of food to other trades/businesses would represent a B1 use, or possibly a B2 use depending on the food preparation processes involved, and is lawful at this premises, the hot food delivery service to individual households is a sui generis use that is not lawful at the site.

4.2 The unauthorised part of the business involves the delivery of hot and cold food during the evening, up to 22.00 hours, to local surrounding villages. It is this element that is considered inappropriate and an unsustainable form of development by Officers. This view has also been upheld on appeal by the Planning Inspectorate.

4.3 Deliveries continue to take place throughout the evening up to 22.00 hours and on Sundays, which is also contrary to a planning condition on the existing B1, B2, B8 planning permission on the premises. That condition restricts vehicle movements to the hours of 07.00 and 20.00 hours with no traffic on Sundays and bank holidays. Whilst officers have considered whether further conditions could be imposed to mitigate the impact of the use, it is not considered reasonable to restrict delivery hours as, of course, it is the evenings when the business is needed and operates mostly. It would not be possible to restrict the number of deliveries either, as this will depend upon customer demand and it would not be possible to monitor or enforce effectively in any event.

5.0 Conclusion and Recommendation:

5.1 Despite the earlier refusal and appeal dismissal, this business continues to provide a home delivery service from the site which extends later into the evenings and on Sundays when the general level of activity on the site is otherwise reduced.

E/11/0039/A

- 5.2 Officers have discussed the matter with the owner's agent and have considered the information and arguments put forward by them. However, given the unsustainable location of the site; the impact of the use on traffic generation across the surrounding rural part of the District, and the views of the appeal Inspector at the earlier appeal, Officers remain of the view that the use is not appropriate in this location.
- 5.3 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use.



Appeal Decision

Site visit made on 30th April 2013

by **Clive Whitehouse BA(Hons) MCD MRTPI**

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

Decision date: 16 May 2013

Appeal Ref: APP/J1915/A/12/2174868

**Unit 4A Hadham Industrial Estate, Church End, Little Hadham,
Hertfordshire SG11 2DY**

- 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 D Collins against the decision of East Hertfordshire District Council.
 - The application Ref 3/11/1881/FP, dated 26th October 2011, was refused by notice dated 26th March 2012.
 - The development proposed is the addition of a sui-generis use to an existing B1, B2 and B8 use – change of use of the unit for hot and cold food production/ hot and cold food delivery (sui-generis) plus B1, B2 and B8 (retrospective). Extract flue located on roof and extract flue from mechanically operated hood over gas cooker (including air filtration and neutralisation) (retrospective).
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the business is sustainably located, having particular regard to transport considerations and the objectives of the National Planning Policy Framework (NPPF).

Reasons

Whether in a Sustainable Location

3. The business trades as "Masala Express" from a small unit (about 70sq.m) in a converted farm building. It consists of a kitchen used for preparing Indian-style foods, and has been in operation since early 2011. According to the supplementary planning and access statement submitted with the application, the business has two main sources of income. One involves the preparation of sauces and meals which are supplied on a wholesale basis to restaurants in towns in the region. The other is a home delivery service of hot meals. There is a small counter in the building where customers calling at the premises can buy food to take away. Figures supplied by the business suggest that in 2011 "trade" custom generated about 74% of turnover; home delivery about 24%, and customer collection about 2%.
4. The unit is within a small industrial estate that has been developed within a range of former agricultural buildings at Church End Farm. The farm is located in a rural area at the end of a cul-de-sac off the A120 road. The nearest town

is Bishops Stortford, the centre of which is about 5km to the east, whilst small villages are scattered across the surrounding rural area.

5. The business occupies a sub-divided part of a building for which planning permission was granted in 2011 for a change of use to B1 (business), B2 (general industrial) and B8 (storage and distribution).
6. The Council has found it difficult to categorise the business by reference to the Use Classes Order, but has concluded that the mixed character of the business does not fit within any use class and, accordingly, regards it as a sui-generis use (singular use) for which planning permission is required.
7. In the Council's assessment, the delivery of prepared foods to other restaurants would, by itself, fall within the scope of the Class B1/B2 planning permission for the premises. The issue therefore focuses on the home delivery of hot food. The delivery area includes Bishops Stortford and villages in the rural area extending as far as the small town of Buntingford, about 15km to the north west. Orders are taken by telephone or online and the business aims to deliver within 45 minutes. Some deliveries are combined in a single round trip, but given the 45 minute delivery time and the large rural area served, the operation must inevitably generate an unusually high mileage by delivery vehicle, compared to a home delivery service based in a population centre.
8. The Council refers to a 2004 appeal decision concerning a similar hot food delivery service operating from converted rural premises in another part of the County. In that case there was no claimed trade business, and the Inspector concluded that that the operation fell within what is now the Class A5 use class for the sale of hot food for consumption off the premises, notwithstanding that few people called at the premises. He concluded that the use resulted in unnecessary traffic generation in the rural area, contrary to the sustainability objectives of the planning policy guidance then in place.
9. In the present case, I also conclude that the home delivery service, on its own, would be a Class A5 use. It is part of a singular use only because of its combination with the restaurant trade business.
10. Planning permission was refused shortly before the National Planning Policy Framework (NPPF) was issued, although sustainable development was a core principle of previous national guidance. Paragraph 14 of the NPPF states that the presumption in favour of sustainable development is at the heart of the planning system. Paragraph 28 supports sustainable growth and expansion of all types of business and enterprise in rural areas. Reducing the need to travel is an important sustainable development objective. The Council's local plan includes policy SD2, which seeks to concentrate development in the main settlements.
11. A nearby resident and the Parish Council cast doubt on the claimed balance between the trade and home delivery elements of the business, and regard it as primarily a Class A5 use. The general set up of the unit, with a customer counter, gives that impression, even though relatively few people collect their orders from the premises. Also, the hours of business are between 16:30 and 22:00 hours on Tuesdays to Sundays, which is when home deliveries are offered. The figures given by the business in support of the application relate to the initial trading period in 2011, and the Council's delegated report

expresses concerns that the business may be developing towards a greater emphasis on the home delivery market.

12. I conclude on the main issue that the home delivery element of the business requires an excessive amount of vehicular use and is not in a sustainable location, contrary to the objectives of the NPPF.

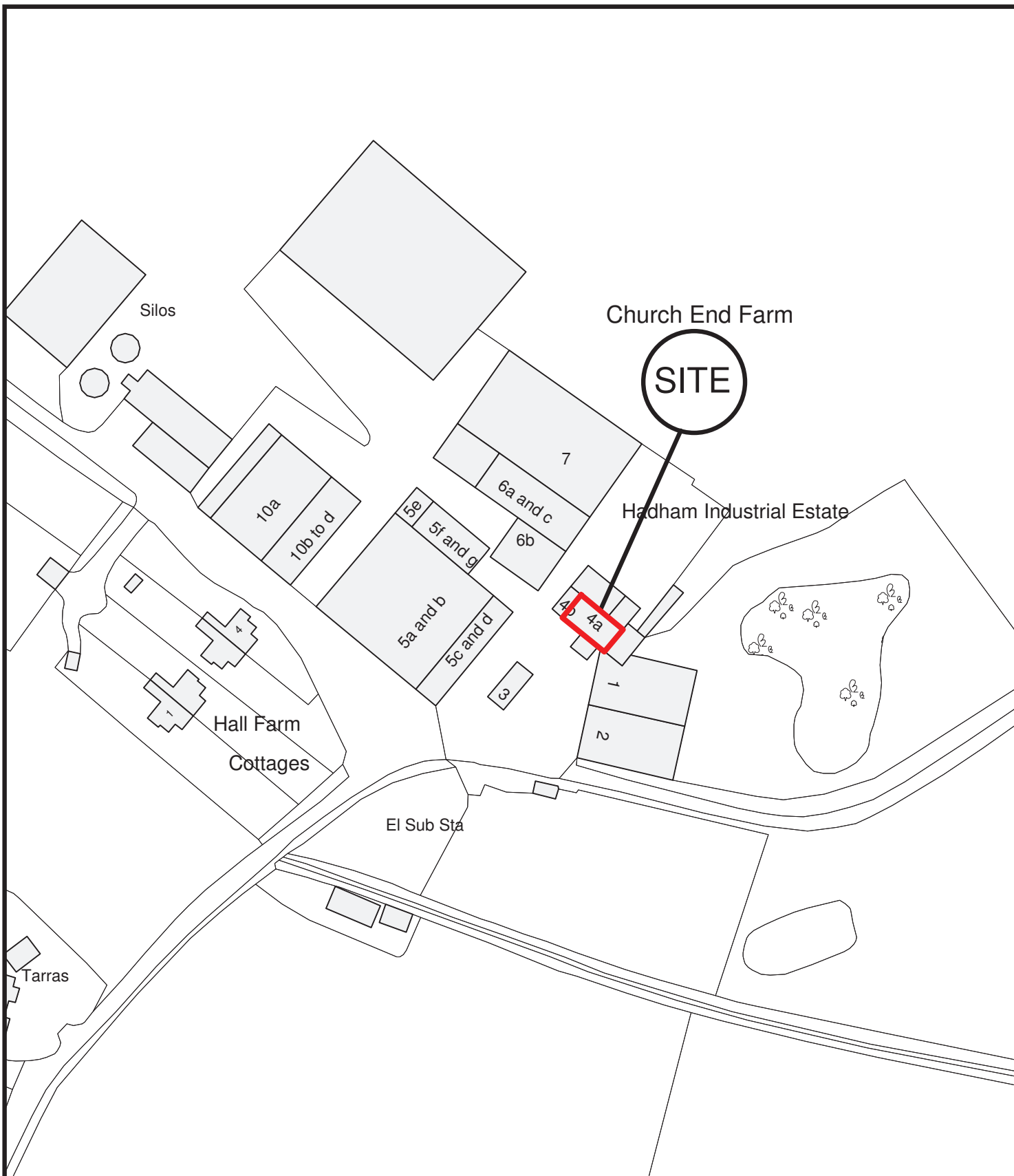
Other Matters

13. Deliveries take place throughout the evenings up to 22:00 hours and on Sundays, contrary to a planning condition on the existing B1/B2/B8 planning permission for the premises. That permission restricts vehicle movements generally to between 07:00 and 20:00 hours with no traffic on Sundays. I understand that other businesses occupying units at Church End Farm are similarly restricted. There are a small number of houses in the hamlet of Church End along the approach road to the farm. The Masala Express business extends activity later into the evenings and on Sundays, when the level of activity is otherwise reduced and this has a small adverse effect on the amenity of nearby residents. This consideration adds some weight to my conclusion on the main issue.
14. The Council considers that the fume extract flues on the building are acceptable in visual terms in the context of the industrial units. One objection refers to unpleasant cooking smells, but given the sparse distribution of houses, that is not a main issue in this case.
15. Having regard to all other matters raised, I conclude that the appeal should fail.

C Whitehouse

INSPECTOR

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Scale: 1:1250
O.S Sheet: TL4422
Date of Print: 29 March 2012

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Agenda Item 6i

E/12/0125/B – Failure to comply with condition 11 of planning permission ref: 3/01/0608/FP which requires the replacement planting of landscape trees which have died at Dolphin Yard, Maidenhead Street, Hertford, SG14 1DR

Parish: HERTFORD CP

Ward: HERTFORD CASTLE

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the replacement of trees which have died.

Period for compliance: 3 months

Reason why it is expedient to issue an enforcement notice:

- To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved plans and specifications and to secure the satisfactory appearance of the site in accordance with Policies ENV1 and ENV2 of the East Herts Local Plan Second Review April 2007.

_____ (012512B.CB)

1.0 Background:

- 1.1 The site is shown outlined in red on the Ordnance Survey extract. It is located within the town centre of Hertford and is within the Hertford Conservation Area, comprising part of one of the riverside redevelopment projects in the area, one of the aims of which is to create a walking link between Bull Plain and The Wash, with significant adopted open space and public access.
- 1.2 The planning application in question was granted permission in 2001 and comprised of flats, maisonettes, a new library and public open space. A landscaping scheme was secured through conditions 10 and 11 of the permission, with condition 11 explicitly stating that “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”.

- 1.3 In April 2012, it was brought to the attention of the Council that three of the trees at the Dolphin Yard development had died and required replacing. A site visit was subsequently carried out in May 2012 where it was confirmed that 3 of the 5 trees had died and would need to be replaced.
- 1.4 Correspondence was subsequently exchanged with the developer, who expressed a willingness to carry out the replacement planting through their original landscape contractor.
- 1.5 However, despite repeated chase-up emails and written assurances from the developer that the replacement planting would be carried out, a site visit in April of this year confirmed that the dead trees were still in situ. Accordingly, the matter is now referred to the Development Management Committee for authorisation to issue an enforcement notice for the breach of the relevant condition.

2.0 Planning History:

2.1 The relevant planning history in this case is as follows;

3/08/0608/FP	6 No. 2 bed flats, 10 No. 2 bed maisonettes Public Library and Open Space	Approved
3/08/0609/LC	Demolition of all buildings	Approved

3.0 Policy:

3.1 The relevant policies of the East Herts Local Plan Second Review April 2007 are:

ENV1 – Design and Environmental Quality.
ENV2 – Landscaping

3.2 The National Planning Policy Framework (NPPG) and the National Planning Practice Guidance (NPPG) are also material considerations in this matter.

4.0 Considerations:

4.1 Dolphin Yard is located in the Town Centre and forms part of a valuable public walk and open space project. The quality of the environment and the public realm is therefore of fundamental importance in this location,

as it will encourage use, promoting sustainable living and enhance how users experience the space.

- 4.2 The trees in question form part of the official public open space, which is agreed to be adopted by the Council as part of the s106 legal agreement. They form part of an important landscape feature within the courtyard, and enhance the appearance of the site. It is therefore important to ensure their retention.
- 4.3 Whilst it is often difficult to trace the precise timeline of a development as it progresses, in this instance email evidence of exchanges between the developer, the Planning Officer and the Landscape Officer suggest that substitution of the originally approved species of trees was agreed in September 2010 (including ref X/01/0608/21 and X/01/0608/24). It is therefore logical to deduce that the planting took place around September/October 2010, which would result in the trees still benefiting from the five-year protection afforded by condition 11.
- 4.4 In this instance, Officers consider the breach of planning control to be relatively straightforward in both its nature and the remedial solution, which is simply to replace the dead trees. It was agreed in writing that the replacement of 3 trees with 'Italian Alder' trees planting size 14-16 would be a suitable way forward. However, despite repeated assurances, the matter has still not been resolved. It is therefore considered expedient to serve an Enforcement Notice for failure to comply with condition 11 of the development. Officers feel a 'Breach of Condition' Notice under s187A would not be appropriate as the current developer was not the original applicant and may wish to appeal to the Planning Inspectorate.
- 4.5 Whilst the replanting works have already been agreed and are fairly straightforward in nature, a 3 month compliance period (coupled with the statutory 28 day period before the notice 'comes into effect') is required to allow compliance to take place at the start of the next planting season.

5.0 Recommendation:

- 5.1 For the above reasons it is recommended that authorisation be given to issue and serve an Enforcement Notice requiring the replacement planting to be carried out in accordance with condition 11.

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E/13/0221/B – Unauthorised use of property as a Children’s Home at Nutwood Cottage, West End Road, Wormley West End, Herts, EN10 7QN

Parish: BRICKENDON LIBERTY CP

Ward: HERTFORD HEATH

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under Section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to secure the cessation of the unauthorised use.

Period for compliance: 6 months.

Reasons why it is expedient to issue an enforcement notice:

1. The change of use, by reason of the degree of activity, noise and disturbance at the property and the actual and perceived potential for anti-social behaviour in close proximity to existing residential uses, is harmful to the residential amenity of neighbouring occupiers and the rural character of the area. The proposal is thereby contrary to policy ENV1 of the East Herts Local Plan Second Review April 2007.
2. The use of the premises as a children’s home, in a location away from a significant centre of population and key services, results in an unsustainable form of development which is heavily reliant on motor vehicles and which results in additional traffic movements within the surrounding rural area. This development is at odds with the Council’s strategy for development in the District as set out in Policy SD2 of the East Herts Local Plan Second Review April 2007 and the principles of sustainable development set out in the National Planning Policy Framework.

_____ (022113B.CB)

1.0 Background:

- 1.1 The site is shown on the attached OS extract. It comprises a detached property, located at the western end of West End Road in Wormley West End and which lies within the Metropolitan Green Belt. To the west is a farm, to the east is a neighbouring residential property and to the north is garden land and fields, to which access is gained from West End Road to the south.

- 1.2 In July 2013 concerns were expressed to the Council by the Parish

Council that the site was being used as a care home for “seriously disturbed young people” by an organisation called Advanced Childcare.

- 1.3 Officers noted that there had been correspondence between the operator of the home and the Development Management department in November 2012 with regard to the need for planning permission. An officer informed them that on the information provided, (i.e. that the care home would operate under Use Class C3(b) – as a dwellinghouse shared by up to 6 people), it would not require planning permission. However, the Officer further stated that a Lawful Development Certificate must be submitted for formal confirmation from the Council and that the advice given was the informal opinion of the Officer, based on the information provided, and would not prejudice the final decision of the Council.
- 1.4 Officers began investigating the use of the property but delayed further action due to an outstanding Lawful Development Certificate appeal at similar sites being operated in Bishop’s Stortford and Sawbridgeworth. The appeal in Bishop’s Stortford was withdrawn, but the appeal decision relating to a similar use in Spellbrook, Sawbridgeworth was issued in December 2013 and provided some useful clarity in respect of the consideration of such applications.
- 1.5 Following the appeal decision, Officers served a Planning Contravention Notice (PCN) on the operator of the site in December 2013 to obtain further information regarding the use of the property.
- 1.6 Following a review of the responses to the PCN, Officers considered it necessary to visit the site and inspect the inside of the home. Following unsuccessful attempts to arrange a mutually convenient visit (given the sensitive nature of the use), Officers utilised their powers of entry to visit the site in May with the required written notification sent directly to the property.
- 1.7 From the visit it was apparent that part of the property had been converted to accommodate an office for the exclusive use of Advanced Childcare employees, with locked access, desks, multiple computer stations and wallcharts/files. An employee of the company informed Officers that a further bedroom had been converted for use by staff only, with three additional bedrooms (although only 2 had ever been used at one time). The downstairs contained fairly open plan shared living accommodation with a kitchen/dining room and lounge space. This generally accorded with the information provided through the PCN.

of care and their caring staff who are resident on a shift basis. Further information on the precise nature of the use is set out in paragraph 4.4 of this report.

1.9 Following consideration of the appeal decision, case law, and the results of investigations, Officers consider that the use of the site does not fall within the C3(b) (dwellinghouse) category, but falls within Use Class C2 (Residential Institutions). For ease of reference the various C2/C3/C4 uses are explained below:

- **C2 Residential institutions** - Use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)).
- Use as a hospital or nursing home.
- Use as a residential school, college or training centre.
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- **C3 Dwellinghouses** - this class is formed of 3 parts:
- C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
- C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
- C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- **C4 Houses in multiple occupation** - small shared dwelling houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

2.0 Planning History:

2.1 There is no relevant planning history relating to this site.

3.0 Policy:

3.1 The relevant saved policies of the adopted Local Plan in this matter are:

ENV1	Design and Environmental Quality.
SD2	Settlement Hierarchy
GBC1	Appropriate Development in the Green Belt

3.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in the determination of this matter.

4.0 Considerations:

4.1 The determining issues in this case relate to whether the existing use of the property requires planning permission and if so, whether it is appropriate development in the Green Belt and acceptable in terms of policy and its impact on the amenities of nearby properties and the character and appearance of the surrounding rural area.

4.2 In relation to the first issue, Officers consider that the use does not fall within Use Class C3(b). This is because C3(b) requires residents to be living together *as a single household*. The appeal decision for The Sidings at Spellbrook Lane East, Spellbrook, was against the refusal of a Certificate of lawfulness by the Council for the use of a dwellinghouse by up to six people living together as a single household and receiving care (Use Class C3(b)). In his decision the Inspector stated that for a 'household' to be created there would need to be at least one permanent adult living on the premises with the children (who are unable to form a household themselves). The response to the PCN in this particular case confirmed that "no carers reside at the home permanently. All staff have their own residential premises".

4.3 As the use does not fall within use Class C3(b), it is necessary to determine whether, in fact, there has been a *material* change of use of the property from residential dwellinghouse. This is a fact and degree assessment based on a range of different factors. One of the recent leading authorities in determining the issues at hand is *Kartikeya solutions Limited v Secretary of State for Communities and Local Government [2013] EWHC 2019 (Admin)* which involved a children's

home in the London Borough of Waltham Forest. The issues the original appeal inspector had considered when forming a view on *materiality* included the behaviour of the children: noise, disturbance, extreme behaviour, anti-social behaviour and causing fear to the neighbours; the cumulative activity caused by shift working by the carers, visits from family, friends, social workers and the police and the traffic and parking. The internal character of the property was also considered relevant, including the presence of fire alarms, reinforced doors, fire doors and locks to the room doors. Overall, the character of the use of the site was compared to the type of use typically associated with a Class C3 dwellinghouse and the full extent of the type of use this allows (e.g. multiple car ownership) and was found to be materially different from that under Class C3. This approach was ratified by the above High Court Judgement.

- 4.4 Applying those factors to this particular case, the Council has a large amount of material to draw upon, including submissions from the Parish Council; local residents; information from the Police and information submitted by the company, including through the PCN responses. The PCN responses are considered to be a very reliable form of evidence. In those responses, the company confirmed that the home has a staff team of 10, including a manager. Three staff are on shift each day between 8am-11pm. Two staff then remain on site and commence sleep-in duties from 11am-8pm, with waking nights when needed. Additionally, it appears that staff meetings are held at least once a month, with some months featuring 2 meetings, attended by 5-7 people. The home also has a staff office, which was viewed by Officers at the site visit. The Office has multiple computers, wallcharts and files, and the PCN confirmed that residents are not allowed unsupervised access in the office.
- 4.5 In Officers' opinion these factors all indicate that a material change of use of the property has occurred, and this involves, inter alia, a significant number of vehicle movements beyond that which would be associated with a family home. This is also reinforced by anecdotal evidence from local residents which suggests that parking for the home constantly overflows into the lane. Multiple cars were witnessed parked in the lane by Officers on site.
- 4.6 Furthermore, evidence is also available on issues of noise, disturbance, anti-social behaviour (actual and perceived). From the PCN, 15 incidents involving neighbours were recorded by the company between January and November 2013 regarding a range of issues including parking on the lane, noise, language and verbal abusive. This is corroborated by correspondence between Advanced Childcare and

local residents, which included comments on incidents such as intruders in a local resident's front garden, an intruder in an elderly resident's back garden during the night, and noise and disturbance (involving pursuits) during the early hours of the morning. This anecdotal evidence from local residents also refers to the fear and anxieties regarding incidents and potential incidents, and this is acknowledged by Advanced Childcare in letters sent to local residents in 2013. The above evidence is also supported by the Police. The Council has been informed of the number of call-outs required, and without disclosing sensitive information, this involved up to 11 call-outs per month, with incidences of violence, missing persons and nuisance. It is the view of Officers that these factors indicate a degree of activity, noise and disturbance that exceeds that which would normally be associated with a dwellinghouse. It also indicates an actual and perceived potential for anti-social behaviour beyond that associated with a dwellinghouse use.

- 4.7 The physical findings from the Officers' site visit must also be considered. The downstairs of the property appears as a typical C3 (dwellinghouse) use, with a shared lounge, kitchen, dining area and garden. Signs are in place to instruct with the use of facilities, but these are not atypical of a shared occupancy premises. The upstairs of the property has a number of rooms, all of which have been fitted with locks. The staff office was of a significant size, with multiple computers and workspace, with a secure lock to the door. A staff only bedroom was located within the office, and another bedroom was also for staff only.
- 4.8 Overall, it is the considered opinion of Officers that, notwithstanding the potential for anti-social behaviour, multiple car ownership and the general activity associated with a Class C3 dwellinghouse, all of the factors mentioned above cumulatively result in a use which is materially different from a Class C3 dwellinghouse, and permission is required for this material change of use.
- 4.9 Officers have then considered whether it is likely that planning permission would be granted for the material change of use involved. Concerns can be primarily divided into two issues – the impact of the use on residential amenity and the rural character of the area, and the sustainability of the location.
- 4.10 With regards to amenity, the site is located in the Green Belt at the end of a lane which is typified by its rural qualities, with any unusual noise or disturbance likely to only be agricultural in nature. The lane is a no through route, and so the traffic is likely to be limited only to the

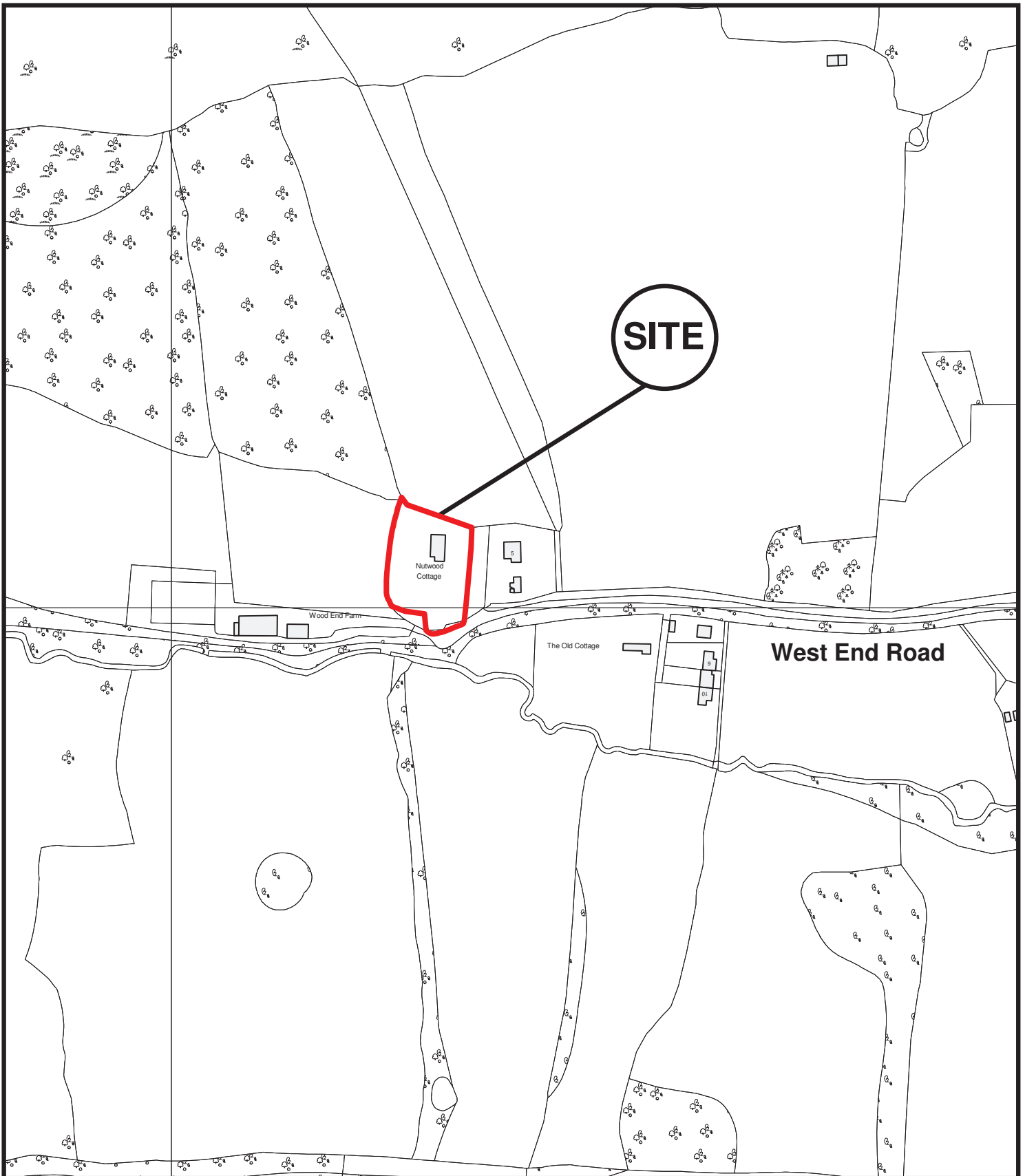
occupiers of the houses and their guests. Officers consider that the actual and perceived degree of activity, noise, disturbance and potential for anti-social behaviour in close proximity to existing residential uses is harmful to the residential amenity expected by neighbouring occupiers and the rural character of the area. Whilst the site is only immediately adjoined by one property, due to the above characteristics of the area, any noise or disturbance (e.g. requiring police presence) is likely to impact on the amenity of a wider number of properties. Cumulatively, the additional level of activity when compared to a Class C3 (residential) use is considered to represent sufficient harm to residential amenity and the character of the area so as to warrant refusal of the application under Policy ENV1.

- 4.11 Additionally, Officers have also considered the sustainability of the location. The site is located outside of any settlement boundary and is within the Green Belt and, whilst the use is unlikely to impact on the openness of the Green Belt to the extent that it represents inappropriate development, the use is likely to generate significant additional vehicle movements and activity in an unsustainable location. This is typified by the number of staff required to visit the site, staff meetings held on site and the attendance of other agencies or bodies such as the Police and Ambulance service. The young people would also be reliant on private transport for visits to and from the site. As a result, Officers consider that the use of the premises as a children's home in a results in an unsustainable form of development which is heavily reliant on motor vehicles and results in additional traffic movements within the Green Belt. This is at odds with the Council's strategy for development in the District as set out in Policy SD2 and the principles of sustainability contained within the NPPF.

5.0 Recommendation:

- 5.1 For the above reasons, it is recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised use.

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Address: Nutwood Cottage, West End Road, Wormley West End, EN10 7QN

Reference: E/13/0221/B

Scale: 1:2500

O.S Sheet: TL3306

Date of Print: 12 June 2014

Site Area: 0.0019573529 Sq KM (cartesian)

Page 93

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E/12/0320/B - Unauthorised residential use of The Studio, Churchfield Road, Tewin, AL60JW

Parish: TEWIN

Ward: HERTFORD RURAL SOUTH

RECOMMENDATION:

That the Director of Neighbourhood Services, in consultation with the Director of Finance and Support Services, be authorised to take enforcement action under section 172 of the Town and Country Planning Act 1990 and any such further steps as may be required to the cessation of the unauthorised residential use of the property.

Period for compliance: 6 months

Reasons why it is expedient to issue an enforcement notice:

1. The unauthorised use of the building as a separate residential dwelling represents inappropriate development within the Metropolitan Green Belt and results in the provision of residential accommodation in an unsustainable location contrary to the main development strategy of the Local Plan which seeks to direct new development to the main settlements of the District where there is good access to key services and infrastructure. The development is thereby contrary to policies GBC1, GBC9 and SD2 of the East Herts Local Plan Second Review April 2007 and the principles of sustainable development set out in the National Planning Policy Framework.

_____ (032012B.PD)

1.0 Background:

- 1.1 The site is shown on the attached Ordnance Survey extract. It comprises a detached building situated to the north of The Farce and accessed from Churchfield Road to the west of the village of Tewin.
- 1.2 In November 2012 concerns were expressed to this local planning authority that the building was being used as a separate residential dwelling.
- 1.3 On further investigation, it was found that the building had been on site, within the ownership and curtilage of the main dwelling of The Farce for many years. It appears that the estate was split between a daughter and son when the owner of the property, known as The Farce, died. The main dwelling is now in the ownership of the daughter and the

former outbuilding (now known as The Studio) is in the ownership of the brother. Prior to that, it appears that the outbuilding was occupied by a family member as an annexe to The Farce. However, it now appears that this building, now no longer associated or linked to the main dwelling, is let to tenants and is an independent separate dwellinghouse.

- 1.4 The owner of the Studio, who now lives in Canada, was invited to submit an application for a Certificate of Lawfulness to show that the building has been in permanent residential use for more than four years (in which case its use as a separate dwelling would be lawful in planning terms).
- 1.5 After chase up letters, an application for a Certificate of Lawfulness was submitted in November 2013. However, this application was incomplete and did not include any supporting documents to show, on the balance of probabilities, that the building has been used as a separate dwellinghouse for a period in excess of four years. As such, Officers were unable to determine the application and, despite numerous letter and emails asking for the evidence, insufficient documents have been submitted to enable the application to be validated. On the 14th April 2014, the application file was closed.
- 1.6 The use of the building as a separate residential dwelling continues however.

2.0 Planning History:

- 2.1 The only relevant planning history in this case is the submission of application ref: 3/13/2005/CL referred to above and this application is now closed as incomplete.

3.0 Policy:

- 3.1 The relevant saved policies of the adopted Local Plan include the following:
 - SD1 Settlement Hierarchy
 - GBC1 Appropriate Development in the Green Belt
 - GBC9 Adaptation and re-use of rural Buildings
- 3.2 The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations in the determination of this matter.

4.0 Considerations:

- 4.1 The site is located within the Metropolitan Green Belt and therefore policy GBC1 of the Local Plan and section 9 of the NPPF are applicable to this development.
- 4.2 The main consideration in this case is whether the development constitutes appropriate development in the Green Belt and, if not, whether there are any very special circumstances that would justify the grant of permission. Consideration also needs to be given to the impact of the unauthorised development on the character and appearance of the area, neighbouring amenity, parking and access.
- 4.3 Policy GBC1 of the Local Plan sets out the forms of development that are considered to be appropriate in the Green Belt and these include the adaptation and re-use of non-residential rural buildings where that accords with Policies GBC9 and GBC10 of the Plan. However, this building is considered to be a residential building (formerly an annexe to the main house) and as such its change of use to a separate dwelling does not, in Officers view, fall to be considered under policy GBC9. Neither does the development meet any of the other criteria within policy GBC1 and therefore officers conclude that the use of the building as a separate dwelling house represents inappropriate development in the Green Belt.
- 4.4 Even if policy GBC9 were argued to be relevant in this case, that also states that residential use will only be permitted where, inter alia, the building is worthy of retention and where the use would not detract significantly from the rural character and appearance of the area.
- 4.5 It is reasonable therefore to consider the structural integrity and overall architectural merit of the building as well as the impact of the use on the character and appearance of the area. Furthermore, policy GBC9 indicates that residential conversion will only be permitted where the retention of the building is unable to be facilitated by other more appropriate uses in the rural area.
- 4.6 Whether a building is 'worthy of retention' requires a judgment that is often exercised by the Council. The building is of no historical significance. It does not feature as a historic group of buildings or exhibit any notable architectural merit. It is neither listed nor within a Conservation Area. It is considered therefore that it is not 'worthy of retention' within the meaning of the policy and therefore its conversion to residential use (under policy GBC9) would again comprise inappropriate development in the Green Belt.

- 4.7 Officers are satisfied therefore that, whichever policy of the Local Plan is used to assess the unauthorised use against, it represents inappropriate development in the Green Belt.
- 4.8 In terms of the NPPF, national planning policy is arguably less restrictive than the Local Plan in that it indicates that the use of buildings in the Green Belt may be considered appropriate where they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. However, Officers consider that the re-use of this unremarkable building within the Green Belt has the potential to result in some, albeit limited, impact on the openness of the Green Belt (through increased parking provision, hard surfacing and domestic paraphernalia etc.) and it also conflicts with the purposes of including land in the Green Belt (in that it results in further residential encroachment of the countryside and does not assist urban regeneration by encouraging the use of urban land for development). Again, Officers consider the use in this case to be inappropriate development when considered against the policies of the NPPF.
- 4.9 Inappropriate development is, by definition, harmful to the Green Belt and Members will be aware that it should not be permitted except in very special circumstances. Furthermore, very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is 'clearly outweighed' by other considerations.
- 4.10 In addition to general Green Belt considerations and the harm caused by inappropriateness, Officers also consider that the development fails to accord with the main development strategy of both the Local Plan (policy SD2) and the NPPF. That is to direct development to the most sustainable locations where there is good access to key facilities and infrastructure. The provision of an isolated additional dwelling in the Green Belt, where the occupiers would be heavily reliant on the use of private motor vehicle transport, would represent an unsustainable form of development that would be contrary to both policy SD2 of the Local Plan and the national planning policies of the NPPF. This weighs significantly against the development.
- 4.11 Some additional harm may also result from the use if permitted to remain, as mentioned above, in terms of the potential for additional domestic paraphernalia such as washing lines, play equipment, outdoor furniture and garaging that can further domesticate an otherwise rural setting. This also weighs against the development. Officers are however satisfied that, in terms of neighbour amenity, parking and access, the use does not appear to result in any harmful impacts.

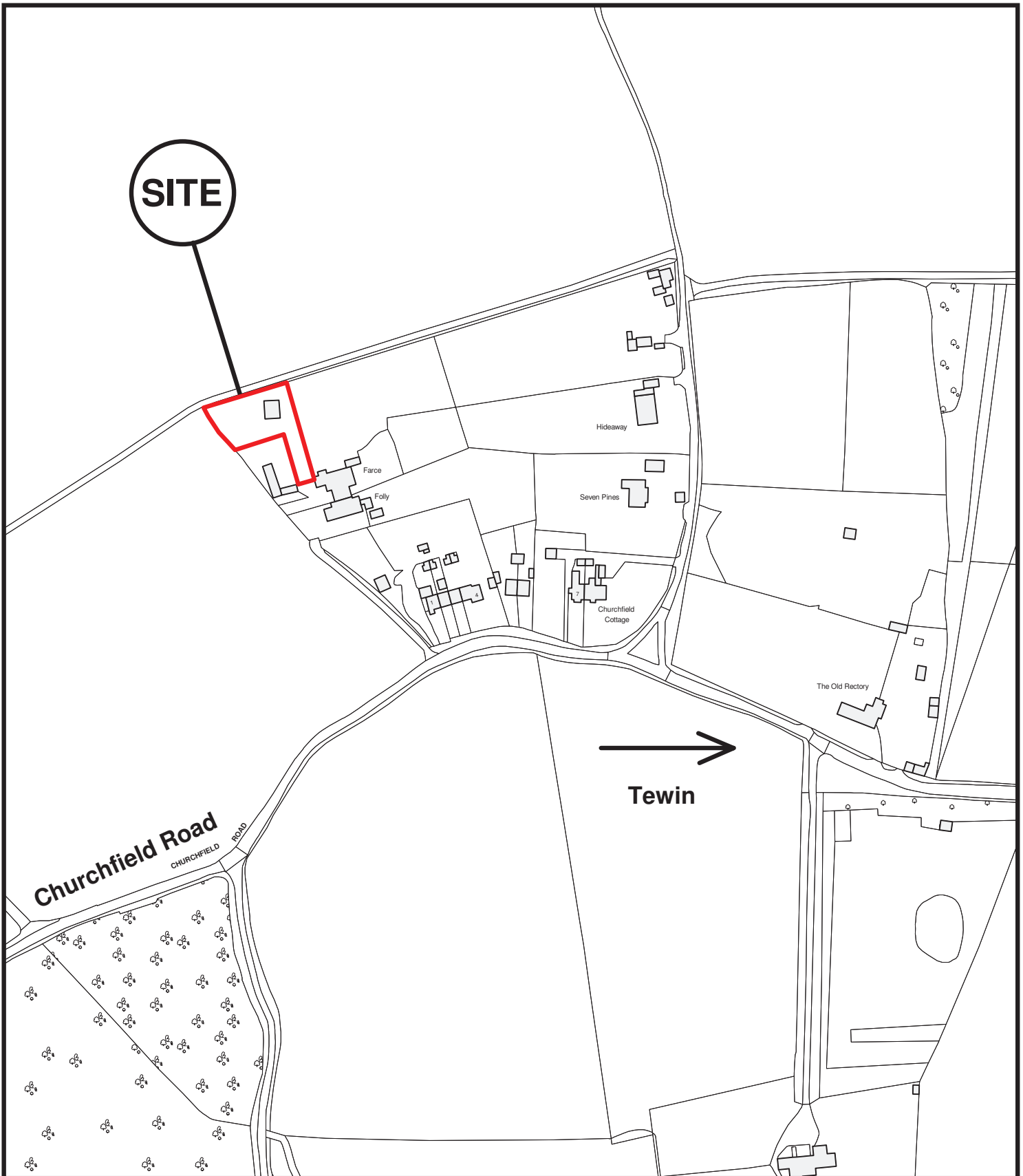
5.0 Nevertheless, Officers do not consider that there are any very special circumstances in this case that would 'clearly outweigh' the harm to the Green Belt by inappropriateness, and the other harm identified, such that the approval of the inappropriate development would be justified. Whilst a single additional dwelling makes a contribution to the Councils five year housing land supply, this is considered to be a very limited contribution and not one that would clearly outweigh the harm identified.

6.0 Summary and Conclusion:

6.1 In summary, therefore, the use is considered to be inappropriate development in the Green Belt. It is not considered to meet the criteria of policy GBC9 and is contrary to policies GBC1 and SD2 of the Local Plan. It thereby results in the provision of a new dwelling within the Green Belt that does not accord with the main development strategy of the Local Plan and represents an unsustainable form of development in terms of the aims and objectives of the NPPF.

6.2 It is therefore recommended that authorisation be given to issue and serve a Planning Enforcement Notice requiring the cessation of the unauthorised residential use of the building.

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Reference: E/12/0320/B
Scale: 1:2500
O.S Sheet: TL2614
Date of Print: 15 May 2014

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