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James Ellis
Head of Legal and Democratic Services

MEETING	**:**	DEVELOPMENT MANAGEMENT COMMITTEE
VENUE	**:**	COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE	**:**	WEDNESDAY 4 MARCH 2020
TIME	**:**	7.00 PM

PLEASE NOTE TIME AND VENUE

MEMBERS OF THE COMMITTEE

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

Substitutes

Conservative Group:	Councillors J Kaye
Liberal Democrat Group:	Councillor J Dumont
Labour:	Councillor M Brady
Green:	Councillor J Frecknall

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

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DISCLOSABLE PECUNIARY INTERESTS

1. A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

    - must not participate in any discussion of the matter at the meeting;

    - must not participate in any vote taken on the matter at the meeting;

    - must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;

    - if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;

    - must leave the room while any discussion or voting takes place.

2. A DPI is an interest of a Member or their partner (which means spouse or civil partner, a person with whom they are living as husband or wife, or a person with whom they are living as if they were civil partners) within the descriptions as defined in the Localism Act 2011.

3. The Authority may grant a Member dispensation, but only in limited circumstances, to enable him/her to participate and vote on a matter in which they have a DPI.

4. It is a criminal offence to:

- fail to disclose a disclosable pecuniary interest at a meeting if it is not on the register;
- fail to notify the Monitoring Officer, within 28 days, of a DPI that is not on the register that a Member disclosed to a meeting;
- participate in any discussion or vote on a matter in which a Member has a DPI;
- knowingly or recklessly provide information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

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

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AGENDA

1. Apologies

   To receive apologies for absence.

2. Chairman's Announcements

3. Declarations of Interest

   To receive any Members' declarations of interest.

4. Minutes - 5 February 2020 (Pages 7 - 22)

   To confirm the Minutes of the meeting of the Committee held on Wednesday 5 February 2020.

5. Planning Applications and Unauthorised Development for Consideration by the Committee (Pages 23 - 26)

   (A) 3/19/2227/VAR - Variation of Condition 10 (scheme for affordable house) of planning permission ref: 3/14/2200/OP (Residential development for up to 85 houses including site access, public open space and landscaping. Amended proposal). To alter ratio of tenure for affordable and private housing on Land South of Froghall Lane, Walkern, Hertfordshire (Pages 27 - 44)

   (B) 3/19/1826/FUL - Demolition of garden nursery and the erection of 52 dwellings including access, parking, amenity, public open space and tree protection measures Hert4 Former Bengeo Nursery Sacombe Road Hertforshire SG14 3 HG (Pages 45 - 80)

6. Items for Reporting and Noting (Pages 81 - 152)

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

   (B) Planning Appeals Lodged.

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

   (D) Planning Statistics.

7. Urgent Business

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

MINUTES OF A MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE HELD IN THE COUNCIL CHAMBER, WALLFIELDS, HERTFORD ON WEDNESDAY 5 FEBRUARY 2020, AT 7.00 PM

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

ALSO PRESENT:

Councillors M Brady, E Buckmaster, S Bull, K Crofton and J Goodeve

OFFICERS IN ATTENDANCE:

Elaine Bell	- Solicitor
Rachael Collard	- Principal Planning Officer
Peter Mannings	- Democratic Services Officer
Jenny Pierce	- Principal Planning Officer
Sara Saunders	- Head of Planning and Building Control
David Snell	- Service Manager (Development Management)

337 CHAIRMAN'S ANNOUNCEMENTS

The Chairman welcomed the press and public to the meeting and referred to a number of housekeeping issues. He said that the Authority had received the outcome of 2 planning appeals, in relation to the traveller site in Little Hadham and Hert2.

The Chairman stated that both applications had been refused by the Authority and allowed on appeal by the Planning Inspectorate. He said that advice was being sought in respect of challenging these decisions and the Council would be considering its position in line with the 6 week statutory time frame.

338 DECLARATIONS OF INTEREST

Councillor T Stowe declared a Non-Pecuniary Interest in application 3/19/0118/OUT - Land East of Stevenage. He said that as well as being a ward Member, he needed to confirm that he would take no part in the debate or vote, because he had made comments at Full Council on the 23 October 2018 and at other times, which could reasonably be perceived as having judged the matter elsewhere, accordingly he removed himself from the Council Chamber for this item.

339 MINUTES - 8 JANUARY 2020

Councillor P Ruffles proposed and Councillor T Beckett seconded, a motion that the Minutes of the meeting held on 8 January 2020 be confirmed as a correct record and signed by the Chairman.

After being put to the meeting and a vote taken, this motion was declared CARRIED. Councillor A Huggins abstained from voting.

RESOLVED – that the Minutes of the meeting held on 8 January 2020, be confirmed as a correct record and signed by the Chairman.

340 3/19/0118/OUT - HYBRID PLANNING APPLICATION: (I) PLANNING PERMISSION FOR CONSTRUCTION OF THE SPINE ROAD, SITE ACCESSES, DRAINAGE INFRASTRUCTURE AND ANCILLARY WORKS AND (II) OUTLINE PLANNING FOR THE ERECTION OF UP TO 618 HOMES, PRIMARY AND PRE-SCHOOL, UP TO 1 NO. 80 BED CARE HOME AND UP TO 50 ASSISTED LIVING HOMES (C2 USE), NEIGHBOURHOOD HUB COMPRISING SHOPS (UP TO 658 SQ. M OF A1-A5 USES), COMMUNITY FACILITIES (UP TO 400 SQ. M OF D1 USE), TRAVELLING SHOWPEOPLE SITE, PUBLIC OPEN SPACE, LANDSCAPING, DRAINAGE INFRASTRUCTURE, ALL ASSOCIATED AND ANCILLARY DEVELOPMENT AT LAND AT EAST OF STEVENAGE, OFF GRESLEY WAY, STEVENAGE

The Head of Planning and Building Control recommended that in respect of application 3/19/0118/OUT, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted. The report was also seeking delegated Authority for the Head and Planning and Building Control to finalise the detail of the Legal Agreement and conditions.

The Senior Planning Project Officer (Quality Places), on behalf of the Head of Planning and Building Control, summarised the application and detailed the site area

and the location of the spine road. She drew Members' attention to the illustrative layout and the design strategy.

The Senior Planning Project Officer said the central egress would be for buses only and the signal controlled junction involving Gresley Way would ensure that the lights would stay green if there was no demand on any other arm of the junction. Buses would automatically trigger the lights to show a green aspect as part of a scoot system. She drew Members' attention to the late representations summary and amendments from Officers.

Mr Sypula addressed the Committee in objection to the application. Mr Snowling spoke for the application. Councillor S Brown addressed the Committee on behalf of Aston Parish Council.

Councillor Ruffles referred to the planning history and the relationship between this site and the Aston 004 bridleway or green corridor. He commented on the character of the bridleway and the wider pattern of cycle ways in Stevenage.

Councillor Huggins questioned whether enough consultation had been conducted. He referred to consultation carried out by Officers with Stevenage Borough Council in respect of master planning meetings. Councillor D Andrews expressed concern regarding Lanterns Lane and remarked on the fact that bus passes were only being offered for three months. He said that there ought to have been a longer period.

Councillor R Buckmaster said that she was concerned as to whether there would enough secondary school places for residents. Councillor Jones sought clarification in respect of NHS requested Section 106 contributions and in particular the contribution towards acute care costs.

The Senior Planning Project Officer detailed the relevant planning history and set out the planning context of the proposed development. She said that a condition in the report covered the protection of routes to the site during construction. The consultation regarding options and impacts with Stevenage Borough Council was summarised for the Committee. A noise impact assessment had also been undertaken. She said that over 500 Stevenage residents were consulted by East Herts Council planning.

Mr Sowerby, on behalf of Hertfordshire Highways, commented on the levels of engagement with Aston Parish Council and Protect Astons Community Existence (PACE). He said that Lanterns Lane, a single track road used as a rat run if the A602 was congested, was not one a motorist would wish to use on a regular basis.

The Senior Planning Project Officer said that the master planning process had been a forum for frank and open discussion. She emphasised that the master planning sessions were not the end of the engagement process as this would continue through the construction phases.

The Service Manager (Development Management) said that the local NHS Clinical Commissioning Group (CCG) had been approached by Officers on many occasions regarding specific projects for Section 106 monies. He advised that the large sum for acute care costs could not be included in the Section 106 legal agreement as this sum did not meet the Community Infrastructure Levy (CIL) regulations. Several Councillors expressed concern regarding the use of Lanterns Lane by motorists as a result of the proposed development.

The Senior Planning Project Officer said that Officers were seeking delegated authority to amend the Section 106 heads of terms and the wording of the conditions. Councillor Huggins expressed concern regarding a traffic light controlled crossing and said the spine road should be opened to traffic as soon as possible as part of this development. Councillor Crystall said that monitoring should be carried out on other potential rat run routes in addition to that carried out for Whiteways.

The Senior Planning Project Officer said that the biodiversity impact assessment calculator did not cover all of the aspects of the proposed development. Members were advised that any works to crossing points over Gresley Way could only be an improvement. She commented on pedestrian and cycle routes and sustainable transport, the spine road and the location of bus stops, which would be known when the spine road was completed.

Mr Sowerby said that signage improvements could be covered by Hertfordshire County Council locality

budgets. Members were advised that the signalled junction onto the A602 Gresley Way would be a major and positive improvement in terms of highways capacity.

Mr Sowerby and the Senior Planning Project Officer made a number of further comments in respect of traffic and highways matters. Mr Sowerby said that the developer could not reasonably be asked to mitigate existing congestion in locations such as Walkern High Street. Members were reminded by the Senior Planning Project Officer about the aspiration of achieving modal shift.

Councillor Andrews said the broadband provision should be on the basis of fibre to the premises. The Senior Planning Project Officer made a number of summary comments regarding broadband, water attenuation and drainage, access for pedestrians and cycling safety and broadband provision.

Councillor Jones proposed and Councillor Kemp seconded, a motion that in respect of application 3/19/0118/OUT, the Committee support the recommendation for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted and authority be delegated to the Head and Planning and Building Control to finalise the heads of terms of the legal agreement and the wording of the conditions.

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

Planning and Building Control as now submitted.

RESOLVED – that (A) in respect of application 3/19/0118/OUT, the Committee support the recommendation for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted; and

(B) authority be delegated to the Head and Planning and Building Control to finalise the heads of terms of the legal agreement and the wording of the conditions.

341 3/19/1024/FUL - DETAILED PLANNING APPLICATION FOR THE ERECTION OF 254 DWELLINGS, ASSOCIATED PARKING, LANDSCAPING AND AMENITY SPACE ALONG WITH VEHICULAR AND PEDESTRIAN ACCESS FROM THIEVES LANE AND WELWYN ROAD

The Head of Planning and Building Control recommended that in respect of application 3/19/1024/FUL, planning permission be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted.

The Principal Planning Officer, on behalf of the Head of Planning and Building Control, said that the recommendation had been amended to give delegated authority to Officers in respect of the Section 106 legal agreement and conditions. She said that there had been alterations to the technical drawings and two neighbour representations were summarised in the late representations summary.

The Principal Planning Officer detailed the location of this District Plan allocated site, known as Hert3 and located on 9.3 hectares of land to the south of Welwyn Road. She summarised the application for 181 houses and 73 flats on what used to be arable land and said that the principle of development had been established as part of the master planning framework.

The Principal Planning Officer detailed the style of houses and said that a fabric first approach was being proposed. She said that the areas of open space would act as a buffer to woodland. There would be visitor parking and all of the proposed dwellings would have an electric vehicle charging point.

The Principal Planning Officer said that there would be off-site improvements and the application complied with national and local policies and had been recommended for approval. Mr Brown addressed the Committee in support of the application.

Councillor Redfern praised the good design of the proposed development and expressed concerns regarding the lack of Section 106 monies towards health infrastructure. She referred in particular to Wallace House surgery on the Sele Farm Estate and questioned how cyclists and pedestrians could negotiate Welwyn Hill. She asked about the planned cycle route to Hertford North train station and queried whether there would be provision for youth

Councillor Redfern said that the 20 percent tenure of the affordable housing (71 units) was a good improvement. Councillor R Buckmaster referred to the

sustainable design toolkit and said that it was not clear how many houses would have solar panels. She asked how many of the proposed dwellings would have electric car charging points and what type of charging points were proposed.

Councillor Beckett praised the fabric first approach and said that he was pleased regarding the inclusion of the photovoltaic cells. He believed that the water usage target should be 90 litres per person per day rather than the proposed 110 litres per person per day.

Councillor Ruffles referred to an acceptance that this land would be developed. He said that more detail was needed in respect of bus service provision and the location of shared cycle and footways and in particular the location of pedestrian access to this site.
Councillor Page expressed concerns over the lack of incentive for residents to use buses and the mixed messages this sent in respect of modal shift.

The Service Manager (Development Management) said that Officers approached the local Clinical Commissioning Group (CCG) on every major application to see if there were any projects that Section 106 monies could be legitimately allocated to. He confirmed that the sustainable fabric first approach meant that houses had a high degree of insulation as well as some houses having photovoltaic cells. The 40% provision of affordable housing was compliant with policy and this development could not be expected to address the shortfalls in delivery on other sites.

Mr Armstrong from Hertfordshire Highways addressed the Committee in respect of the integration of cycle routes to Hertford North Station and Welwyn Road and how these routes would integrate together. He referred to an integrated transport programme that would continue to Hertford North and Bramfield Road.

Mr Armstrong said that informal crossing points and raised tables at junctions would make for a safer and more pleasant environment. Members were advised that as regards parking, a balance had to be struck between too little parking causing overspill parking and too much parking sending the wrong message and undermining sustainable design principles. He referred to the severe test of traffic impact as detailed in the National Planning Policy Framework (NPPF).

The Principal Planning Officer said that a contribution was proposed towards youth services but this had not been directed towards an existing scheme as no specific projects had been identified at the Sele Community Centre. She said that all of the houses would have an electric car charging point and all of the units would have a garage or car port. She did not believe that the electric car charging points would be of the fast charging type.

The Service Manager (Development Management) said that the proposed car parking complied with current adopted parking policy. The Head of Planning and Building Control said that these standards did need to be reviewed as part of policy LTP4.

Councillor Huggins proposed and Councillor R

Buckmaster seconded, a motion that in respect of application 3/19/1024/FUL, the Committee support the recommendation for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted with delegated authority being given to Officers in respect of the Section 106 legal agreement and conditions.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendation of the Head of Planning and Building Control as now submitted.

RESOLVED – that in respect of application 3/19/1024/FUL, the Committee support the recommendation for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted, with delegated authority being given to Officers in respect of the Section 106 legal agreement and conditions.

At this point (9:35 pm), it was proposed by Councillor B Deering and seconded by Councillor T Beckett that the Committee pass a resolution that the meeting should continue until 10:30 pm. This was supported.

342 3/18/2781/FUL - DEMOLITION OF OUTBUILDINGS CHANGE OF USE OF FARM BUILDINGS TO B1(A) OFFICES AND B1(C) LIGHT INDUSTRIAL UNITS. REPAIR TO FIRE DAMAGED STABLES AND CONSTRUCTION OF NEW OFFICE BUILDINGS. PROVISION OF 88 PARKING SPACES. CONSTRUCTION OF A BALANCING POND. 3/18/2782/LBC - DEMOLITION AND CLEARANCE OF CURTILAGE LISTED FIRE DAMAGED FARM

BUILDINGS, THE RECONSTRUCTION OF CURTILAGE LISTED FIRE DAMAGED FARM BUILDINGS FOR OFFICE PURPOSES AND THE ALTERATION OF EXISTING CURTILAGE LISTED FARM BUILDINGS TO ENABLE CHANGE OF USE FROM LIGHT INDUSTRIAL TO OFFICE USE AND FOR THE RECONSTRUCTION OF CURTILAGE LISTED FIRE DAMAGED STABLE BUILDINGS AT NEW HOUSE FARM, WARESIDE, WARE, HERTFORDSHIRE, SG12 7QT

The Head of Planning and Building Control recommended that in respect of applications 3/18/2781/FUL and 3/18/2782/LBC, planning permission and listed building consent be granted subject to a legal agreement and subject to the conditions detailed in the report now submitted.

The Service Manager (Development Management), on behalf of the Head of Planning and Building Control, said that this was a rural employment site of heritage significance off the B1004. He said that the Farmhouse was not affected by either of these applications.

The Service Manager explained that a condition would be applied to restrict the employment to use classes B1a and B1c. He said that this was an established employment site and this designation would not change following these applications.

The Service Manager said that the General Permitted Development Order (GDPO) rules only applied to existing buildings and uses. He referred to Section 106 highways obligations and advised Members on the necessary trigger points for the costings of highways obligations.

Mrs Hill addressed the Committee in support of the application. Councillor Jones expressed concerns regarding the new access onto the B1004 being unsafe due to poor visibility. He said that visibility splays could be provided with the cost covered by the applicant. Councillor Stowe commented on the bright lighting and the room available for large vehicles.

The Service Manager said the access points had been reduced from four to one and he referred to a developer paid contribution towards a highways Section 278 agreement.

Councillor Andrews proposed and Councillor Beckett seconded, a motion that in respect of applications 3/18/2781/FUL and 3/18/2782/LBC, the Committee support the recommendations for approval, subject to a legal agreement and subject to the conditions detailed in the report now submitted and authority delegated to the Head of Planning and Building Control regarding the highways matters in the Section 106 legal agreement.

After being put to the meeting and a vote taken, this motion was declared CARRIED. The Committee supported the recommendation of the Head of Planning and Building Control as now submitted.

> RESOLVED – that in respect of applications 3/18/2781/FUL and 3/18/2782/LBC, the Committee support the recommendations for approval, subject to a legal agreement and subject to the conditions detailed in the report

now submitted and authority delegated to the Head of Planning and Building Control regarding the highways matters in the Section 106 legal agreement.

Councillor D Andrews referred to the issue of NHS project planning and funding. The Committee highlighted their concern regarding the lack of project planning by the NHS which would enable funding to be secured via Section 106 funding. Members requested that the Head of Planning and Building Control raise this concern as an issue at the appropriate strategic level forums.

343 ITEMS FOR REPORTING AND NOTING

RESOLVED – that the following reports be noted:

(A) Appeals against refusal of planning permission / non-determination;

(B) Planning Appeals lodged;

(C) Planning Statistics.

The meeting closed at 9.51 pm

Chairman .....

Date .....

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East Herts Council Report

Council/Executive/Committee

Development Management Committee

Date of Meeting:

4 March 2020

Report by: Sara Saunders, Head of Planning and Building Control

Report title: PLANNING APPLICATIONS AND UNAUTHORISED DEVELOPMENT FOR CONSIDERATION BY THE COMMITTEE

Ward(s) affected: All

Summary

- This report is 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.

RECOMMENDATIONS FOR DEVELOPMENT MANAGEMENT COMMITTEE:

A recommendation is detailed separately for each application and determined by the Committee, as appropriate, or as set out for each agenda item.

1.0 Proposal(s)

1.1 The proposals are set out in detail in the individual reports.

2.0 Background

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

3.0 Reason(s)

3.1 No.

4.0 Options

4.1 As detailed separately in relation to each matter if any are appropriate.

5.0 Risks

5.1 As detailed separately in relation to each matter if any are appropriate.

6.0 Implications/Consultations

6.1 As detailed separately in relation to each matter if any are appropriate.

Community Safety

As detailed separately in relation to each matter if any are appropriate.

Data Protection

As detailed separately in relation to each matter if any are appropriate.

Equalities

As detailed separately in relation to each matter if any are appropriate.

Environmental Sustainability

As detailed separately in relation to each matter if any are appropriate.

Financial

As detailed separately in relation to each matter if any are appropriate.

Health and Safety

As detailed separately in relation to each matter if any are appropriate.

Human Resources

As detailed separately in relation to each matter if any are appropriate.

Human Rights

As detailed separately in relation to each matter if any are appropriate.

Legal

As detailed separately in relation to each matter if any are appropriate.

Specific Wards

As detailed separately in relation to each matter if any are appropriate.

7.0 Background papers, appendices and other relevant material

7.1 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.

7.2 Display of Plans

7.3 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.

7.4 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

7.5 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.

Contact Member	Councillor Jan Goodeve, Executive Member for Planning and Growth jan.goodeve@eastherts.gov.uk
Contact Officer	Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656 sara.saunders@eastherts.gov.uk
Report Author	Peter Mannings, Democratic Services Officer, Tel: 01279 502174 peter.mannings@eastherts.gov.uk

DEVELOPMENT MANAGEMENT COMMITTEE – 4 MARCH 2020

Application Number	3/19/2227/VAR
Proposal	Variation of Condition 10 (scheme for affordable house) of planning permission ref: 3/14/2200/OP (Residential development for up to 85 houses including site access, public open space and landscaping. Amended proposal). To alter ratio of tenure for affordable and private housing.
Location	Land South of Froghall Lane, Walkern, Hertfordshire
Parish	Walkern Parish Council
Ward	Walkern

Date of Registration of Application	31 October 2019
Target Determination Date	4 February 2020
Reason for Committee Report	Variation of a Major Scheme
Case officer	Rachael Collard

RECOMMENDATION

That planning permission be **GRANTED** subject to a legal agreement/the conditions/the reasons set out at the end of this report.

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

1.0 Summary of Proposal and Main Issues

1.1 The site comprises 4.17 hectares of land located to the south west of Walkern. The site is bordered to the south by the rear gardens of properties on Moors Ley and to the east by the rear gardens of Aubries. To the west of the site is further agricultural land and woodland which comprises countryside between Walkern and Stevenage.

1.2 Permission was granted for the construction of 85 dwellings at appeal. Whilst the site at Froghall Lane does not form a strategic allocation within the District Plan, it is the subject of Policy 8 of the adopted Walkern Neighbourhood Plan.

1.3 The main issue for consideration is:

Whether the variation of condition 10 is acceptable having regard to Policy HOU3 of the District Plan and Policy 8 of the Walkern Neighbourhood Plan.

2 Site Description

2.1 The site is located adjacent to the village boundary of Walkern and is identified in the District Plan as being land beyond the Green Belt and an area of Archaeological Significance. The site is bordered to the south by the rear gardens of properties on Moors Ley and to the east by the rear gardens of Aubries. To the west of the site is further agricultural land and woodland which comprises countryside between Walkern and Stevenage.

2.2 The site has planning permission for the construction of 85 houses following the allowed appeal under reference 3/14/2200/OP and its subsequent reserved matters application 3/17/1558/REM, it should be noted that a subsequent application was submitted seeking to vary conditions seen under the original reserved matters application. A site visit has confirmed that the site is currently under construction.

3 Planning History

3.1 The planning history of the site comprises:

3/19/1955/VAR - Variation of condition 1 (Approved plans) of the LPA's approval 3/17/1558/REM (Approval of reserved matters for 3/14/2200/OP in respect of appearance, layout, scale and landscaping for the erection of 85 no. dwellings). External levels

staggered to plots 50, 51, 25, 26, 35, 36, 17 and 32, 19, 23, flats 1 to 8. Garage roof ridge and eaves levels changed to plots 60, 62, 73, 76, 77, 85, 81, 58, 59, 72. External chimney removed to plots 64, 83 and 84. – Granted 23rd January 2020

3/19/1962/NMA - Window header changed to soldier course to all plots. Window cills changed to brick cills to all plots. Front door profile changed to all plots. Rear door profile changed to all plots. Type A (Brick - plots 67 to 70 only) rear doors changed to French doors. Type A (Render plot 33 only) windows added to side elevation. Plot nos. 33 and 34 are shown in this house type as per approved dwg 16125(D)082 rev C. Type B (Plots 45 and 46 only) rear doors changed to French doors. Type C (Plots 50 and 51) garage changed to exposed roof truss eaves and front projected bay width is 400mm narrower than the approved elevations on all. Type C plots, Type D (Plots 17 and 32) canopy profile changed. Type F (Plot 58, 59 and 72) rear garage door removed and window above garage at side elevation removed. Type F (Plot 58, 59, 72 and 74) canopy profile changed, Type G (Plots 56, 57, 66 and 70) garage personnel door added, front elevation rooflight between dormers removed and rear elevation rooflight to the garage removed. Type J (Plots 64, 83 and 84) rear garage personnel door profile change and side window profile changed. Type K (Plots 54, 55, 61, 63, 78, 79 and 82) rear garage personnel door profile change. – Granted 24th December 2019

3/19/1377/NMA - A non-material amendment to 3/17/1558/REM - (Approval of reserved matters for 3/14/2200/OP in respect of appearance, layout, scale and landscaping for the erection of 85 no. dwellings). Splayed brick arches changes to straight brick soldier courses - Withdrawn

3/17/1749/REM - Application for Approval of Reserved Matters for 3/14/2200/OP in respect of Appearance, Landscaping, Layout and Scale for the erection of 85 dwellings – Granted 1st February 2018

3/17/1558/REM - Approval of reserved matters for 3/14/2200/OP in respect of appearance, layout, scale and landscaping for the erection of 85 no. dwellings – Granted 1st February 2018

3/14/2200/OP - Residential development for up to 85 houses including site access, public open space and landscaping. Amended proposal. – Refused, Appeal allowed.

4 Main Policy Issues

4.1 These relate to the relevant policies in the East Herts District Plan and the National Planning Policy Framework 2018 (NPPF) and the Walkern Neighbourhood Area Plan 2017-2033. The neighbourhood plan policies are material to the consideration of the planning application.

Key Issue	**District Plan**	**Neighbourhood Plan**	**NPPF**
Principle of development	GBR2, VILL1, INT1, DPS1, DPS2, DPS3, DPS4, DEL1, DEL2, CC1, CC2	Policy 1, Policy 8	Chapter 2 Chapter 6 Chapter 4
Delivery of Housing	HOU1, HOU2, HOU3, HOU7, HOU8	Policy 8, Policy 11	Chapter 5
Design Quality	DES2, DES3, DES4, DES5, CC1, CC2, WAT4, CFLR1, CFLR9	Policy 2, Policy 6, Policy 8, Policy 12	Chapter 12 Chapter 16
Impacts on neighbour amenity and occupiers	DES3, DES4, CFLR1, CFLR3		Chapter 16
Highway, parking and transport impacts	TRA1, TRA2, TRA3	Policy 17	Chapter 9
Flood risk and	WAT1, WAT2	Policy 16	Chapter 14

drainage	WAT3, WAT4, WAT5, WAT6		
Other Planning Considerations	NE3, NE4, CC1, CC2 EQ1, EQ2, EQ3, EQ4		Chapter 14
Viability and delivery of Infrastructure	DEL1, DEL2, CFLR1 CFLR3, CFLR7, CFLR9, CFLR10	Policy 19, Policy 20	Chapter 5

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

5 Summary of Consultee Responses

5.1 HCC Archaeology– No comments to make

5.2 CPRE– Concerns regarding this proposed variation to the tenure on this site. The proposed modifications will result in all of the affordable housing being located in the north east corner of the site, separating the affordable housing from the private market housing.

5.3 EHDC Housing – We support the proposal to vary the ratio of tenure for affordable and private housing.

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

6 Town Council Representations

6.1 Walkern Parish Council –No comments received

7 Summary of Other Representations

7.1 The application has been advertised by neighbour consultation to local residents, by press and site notices. 5 responses have been received objecting to the proposal on grounds summarised as:

- Changing plans whilst the development is under way, why bother?
- Unclear as to what the applicant is proposing.
- It does nothing for integration and social cohesion by placing all the social housing at one end of the site.
- The development should be in accordance with the Walkern Neighbourhood Plan.

8 Consideration of Relevant Issues

Principle of Development

8.1 The application seeks a variation of condition 10 (affordable housing) of planning permission 3/14/2200/OP.

8.2 The original condition imposed by the inspector in the determination of the appeal states:

8.3 No development shall take place until a scheme for the provision of affordable housing as part of the development has been submitted to and been approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the National Planning Policy Framework or any future guidance that replaces it.

The scheme shall include:

a) The numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 40% of housing units.
b) A tenure split of 75% affordable rent and 25% shared equity
c) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
d) The arrangements for the transfer of the affordable housing to an affordable housing provider or such other arrangements for the

management of the affordable housing if no Registered Social landlord is involved

e) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing

f) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced. ‘

Whether the variation of condition 10 is acceptable?

8.4 This application seeks an amendment to condition 10 of planning application reference 3/14/2200/OP, which was granted for ‘Residential development for up to 85 houses including site access, public open space and landscaping. Amended proposal’.

8.5 Condition 10 refers to the affordable housing provision for the development and seeks to ensure that at least 40% affordable housing is provided on site and further details.

8.6 A Section 73 application allows applicants to apply to vary one or more conditions attached to a planning permission, this results in a new permission with one or more conditions from an extant permission varied or removed. In determining an application under this section, the Council must have regard to the development plan and all other material considerations but the principle of development should not be re-assessed since that is not an issue in relation to the variation of the condition. There is no statutory definition of a minor material change but guidance given states that:

8.7 “A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved”.

8.8 Since the granting of the outline permission and the subsequent reserved matters application, the District Plan, adopted and the Walkern Neighbourhood Plan have been adopted. As such the policies relevant to the application are different. As the site has an

extant permission which is under construction, the principle of development has been established and therefore there is no requirement to re-visit this under this application. Furthermore the proposal does not seek to alter the layout or appearance of the dwellings and therefore there is no requirement to re-assess this element of the scheme.

8.9 Policy HOU3 of the District Plan sets out the Council's affordable housing policy. Some of the objections received from members of the public suggest that the applicant is seeking to reduce the quantum of affordable housing below 40%. The applicant has confirmed in the supporting information that a reduction in the quantum of affordable housing is not being sought and in this instance the developer seeks to provide 4 additional units over the 34 units originally approved. Therefore a total of 38 units are to be provided equating to a proportion of 44%, the applicant has stated that these additional units have been facilitated by grant funding from Homes England. Therefore the proposed level of affordable housing is in excess of the HOU3 policy requirement and is considered to provide a mix of properties that complies with policy 11 of the Walkern Neighbourhood Plan.

8.10 The original condition at part b) sets out the tenure split, as a result of the additional units proposed, this element of the condition requires amending as the resulting tenure split would equate to 21% shared ownership and 79% affordable rent. These figures are closer to the tenure split the Council seeks in relation to affordable housing than those originally set out in condition 10. Under Policy HOU3 II, the tenure split is 16% and 84% by relevance to the SHMA and Table 14.2 of the District Plan.

8.11 The Council's Housing Officer has been notified of the application and supports the proposal to vary the ratio of tenure for affordable housing.

8.12 Additional objections received in relation to the application are in relation to the location of the affordable units on the site. With contributors concerned that the clustering of units in one location has an impact on integration and social cohesion. The proposal seeks to slightly re-arrange the on-site distribution and provides an extra 4 units. The original agreed location for the affordable housing was located in the eastern part of the site. The proposed affordable housing units are considered to be in broadly the same locations, with the exception that additional units are proposed. Therefore it is considered that the proposed changes would not justify a reason for refusal.

8.13 The affordable housing provision is considered to be acceptable and provides more affordable dwellings than previously agreed.

Other Matters

8.14 Should this variation application be approved, a new decision notice would be issued and it is that permission the applicant would accord with. As the previous outline application was accompanied by a Unilateral Undertaking setting out financial contributions, any new permission granted would require a separate legal agreement to ensure that these contributions are delivered. The applicant has agreed and is drafting a new document to accompany any permission granted. It is expected that this document delivers the contributions previously agreed and those that were considered to be justified and reasonable by the planning inspector.

8.15 In relation to conditions, it is not reasonable to impose a time limit as development has commenced. However it is considered necessary and reasonable to impose a condition linking the new permission to the variation application of the reserved matters application (3/19/1955/VAR), this ensures that development on site is carried out in accordance with the details already agreed and does not require a subsequent reserved matters application to be submitted. The condition relating to the affordable housing will be

altered in line with the details submitted as part of this application. All other conditions originally imposed will be re-instated but will reflect the details that have been agreed through the 'approval of details reserved by condition'.

RECOMMENDATION

That planning permission in relation to the detailed planning application is to be granted, subject to the following conditions and that delegated authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement, the contributions to be contained therein and the conditions.

1. The development hereby approved shall be carried out in accordance with the Reserved Matters application 3/19/1955/VAR dated 23rd January 2020.

   Reason: To ensure the development is carried out in accordance with the reserved matters application approved at the site.

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

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

3. No more than 85 dwellings shall be developed within the site.

   Reason: To ensure that no more than 85 dwellings are constructed on site.

4. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0324/CND in relation to condition 6 to the original planning application reference 3/14/2200/OP.

Reason: To ensure that suitable access is provided in accordance with policy TRA2 of the East Herts District Plan 2018.

5. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0135/CND in relation to condition 7 to the original planning application reference 3/14/2200/OP.

   Reason: To protect the living conditions of future occupants of the proposed development and the existing residents in accordance with policy WAT5 of the East Herts District Plan 2018.

6. The layout shall not include any built development within the south-west portion of the site affected by a 1 in 100 year surface water flood as shown on Enzygo plan reference SHF.1132.045.HY.D.004.2 dated November 2015.

   Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site in accordance with policy WAT1 of the East Herts District Plan 2018.

7. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0226/CND in relation to condition 9 to the original planning application reference 3/14/2200/OP.

   Reason: To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site in accordance with policy WAT1 of the East Herts District Plan 2018.

8. The scheme for affordable housing shall be carried out in accordance with plan 419/18/2000 and shall consist of not less than 40% of housing units and shall achieve a tenure split of 79% affordable rent and 21% shared equity.

   In addition a scheme for the provision of affordable housing as part of the development shall be submitted to and been approved in

writing by the Local Planning Authority prior to the occupation of dwelling. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of the National Planning Policy Framework or any future guidance that replaces it.

The scheme shall include:

a) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
b) The arrangements for the transfer of the affordable housing to an affordable housing provider or such other arrangements for the management of the affordable housing if no Registered Social landlord is involved
c) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing
d) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced. ‘

Reason: To ensure that affordable housing is provided on site in accordance with policy HOU3 of the East Herts District Plan 2018

9. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0091/CND in relation to condition 11 to the original planning application reference 3/14/2200/OP

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with national planning policy guidance set out in section 11 of National Planning Policy Framework and in order to protect human health and the water environment in accordance with policies EQ1 and WAT2 of the East Herts District Plan 2018.

10. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0091/CND in relation to condition 12 to the original planning application reference 3/14/2200/OP.

    Reason: To ensure that any archaeological remains are appropriately considered in accordance with Policy HA3 of the East Herts District Plan 2018.

11. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0268/CND in relation to condition 13 to the original planning application reference 3/14/2200/OP.

    Reason: To contribute to sustainable development in accordance with policy TRA1 of the East Herts District Plan 2018.

12. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0135/CND in relation to condition 14 to the original planning application reference 3/14/2200/OP.

    Reason: In accordance with policy NE3 of the East Herts District Plan 2018

13. No site works, including the operation of all plant or machinery in connection with all demolition, preparation and all other works, shall be undertaken outside the hours of 07:30 and 18:30 Mondays to Fridays and 07:30 to 13:00 on Saturdays, and not at all on Sundays or Bank Holidays.

    Reason: To minimise the impact of the construction process on residential amenity in accordance with policy DES4 of the East Herts District Plan 2018.

14. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0135/CND in relation to condition 16 to the original planning application reference 3/14/2200/OP.

    Reason: To minimise the impact of the construction process on the on local environment and local highway network in accordance with policies TRA2 and DES4 of the East Herts District Plan 2018.

15. All existing trees and hedges shall be retained unless otherwise approved in writing by the local planning authority.

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

16. The development shall be implemented in accordance with the details approved as part of the application reference X/18/0387/CND in relation to condition 18 to the original planning application reference 3/14/2200/OP.

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

17. The development shall be implemented in accordance with the details approved as part of the application reference X/19/0163/CND in relation to condition 19 to the original planning application reference 3/14/2200/OP.

    Reason: To ensure the provision of a safe pedestrian environment, in accordance with policies DES4 of the East Herts District Plan 2018.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan and any relevant material considerations. The balance of the considerations is that permission should be granted.

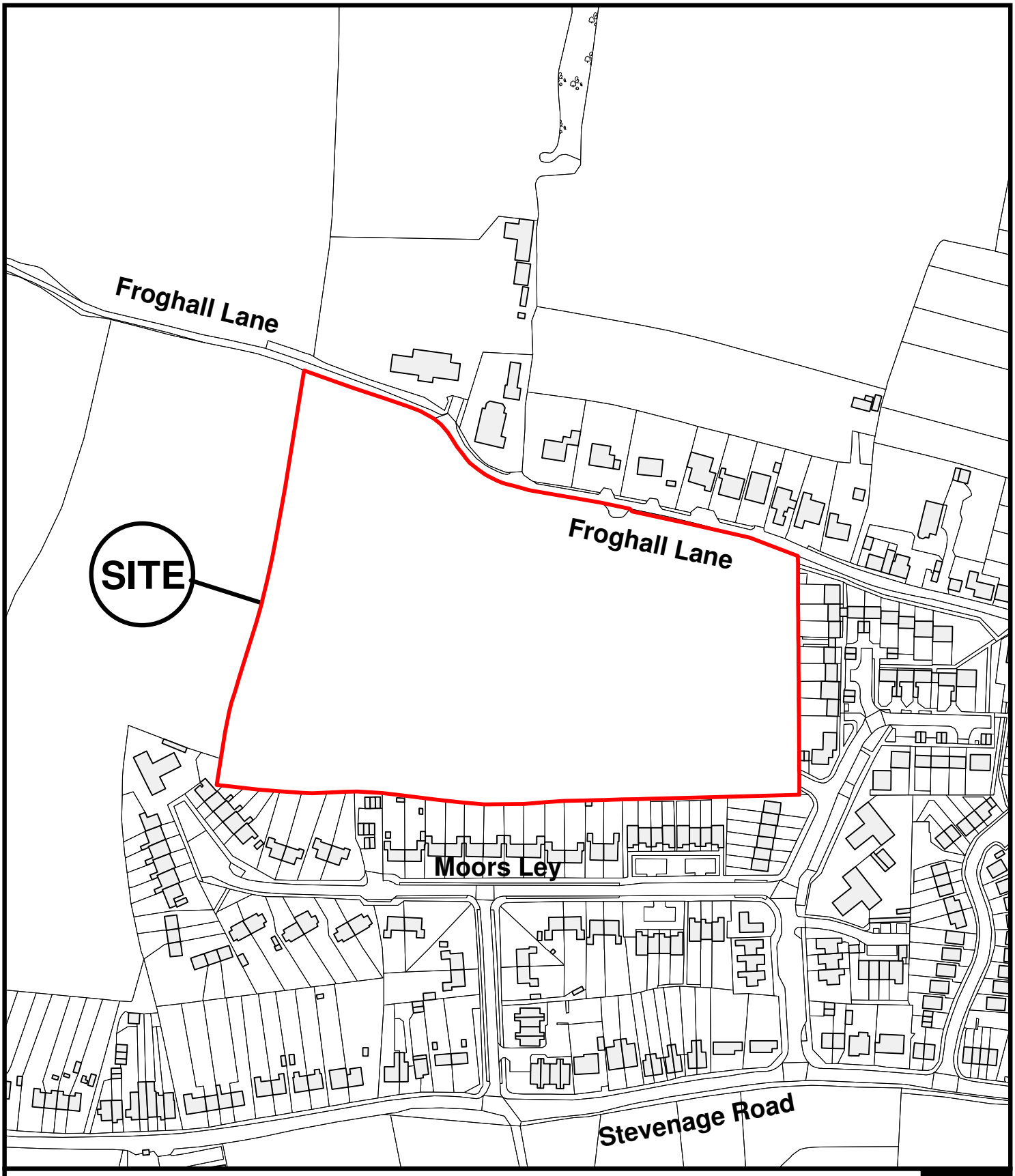
KEY DATA

Residential Development

Residential density	**20 units/Ha**	
	Bed spaces	Number of units
Number of existing units demolished		
Number of new flat units	1	7
	2	4
	3	
Number of new house units	1	
	2	16
	3	30
	4+	28
Total		85

Affordable Housing

Number of units	**Percentage**
38	44%



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Tel: 01279 655261

Address: Walkern S73 (Tenure), Land South Of Froghall Lane, Walkern Hertfordshire

Reference: 3/19/2227/VAR

Scale: 1:2500

O.S Sheet: TL2826

Date of Print: 17 February 2020

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DEVELOPMENT MANAGEMENT COMMITTEE – 04 MARCH 2020

Application Number	3/19/1826/FUL
Proposal	Demolition of garden nursery and the erection of 52 dwellings including access, parking, amenity, public open space and tree protection measures.
Location	(HERT4) Former Bengeo Nursery Sacombe Road Hertford Hertfordshire SG14 3HG
Parish	Hertford Town Council
Ward	Hertford - Bengeo

Date of Registration of Application	06/09/2019
Target Determination Date	06/12/2019
Reason for Committee Report	Major Application
Case Officer	Jill Shingler

RECOMMENDATION

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

1.0 Summary of Proposal and Main Issues

1.1 The site forms part of the development Strategy in the District Plan 2018 as detailed in policies DPS1, DPS2 and DPS3 and the Hertford Policies HERT1 and HERT4. The site forms part of the HERT4 site. The overall HERT4 site is allocated for a minimum of 150 homes, and the area of the application site itself is allocated for around 50 dwellings, to be provided by 2022.

1.2 The application proposes the demolition of the existing garden nursery buildings and construction of 52 dwellings with associated access, open space, parking and private amenity space.

1.3 The application follows from the decision of the Council on 22 October 2019 to agree a Master Plan Framework for the site as a material consideration for development management purposes.

1.4 The main issues for consideration are:

- Principle of Development
- Compatibility with the Masterplan Framework
- Design and layout
- Climate change
- Housing mix, density and affordable housing provision
- Highway impact, mitigation and parking provision
- Flood risk and sustainable drainage
- Impact on the natural environment
- Infrastructure Delivery

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

2.0 Site Description

2.1 The red lined application site encompasses 1.68 hectares of land located in the Bengeo area of Hertford on the northern edge of the town. The site contains a large glass house building associated with its previous use as a garden nursery and is served by an existing vehicular access from Sacombe Road.

2.2 The site is adjacent to allotment land to the south and agricultural land to the east and north east there is agricultural land. To the west, on the opposite site of Sacombe road there is a recent residential development and playing fields with a children's playground. Bengeo Primary School lies about 100 metres to the south of the site on the western side of Sacombe Road.

2.3 The roughly square site is partially screened from the road by a hedgerow and trees and has some vegetation along each of its boundaries. Much of the site is an area of gravel car park associated with the previous garden nursery use.

2.4 The site lies immediately adjacent to the Hertford Conservation Area boundary to the south.

3.0 Planning History

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

Application Number	Proposal	Decision
3/12/2138/FP	Erection of 58no. dwellings with associated access, open space and landscaping	Refused

4.0 Main Policy Issues

4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts District Plan 2018 (DP) and the Consultation Draft (Reg14) Bengeo Neighbourhood Area Plan 2019-2033 (BNAP). Please note that the emerging BNAP policies are at a relatively early stage and whilst they are material to the consideration of the planning application they can only be afforded limited weight.

4.2

Main Issue	**NPPF**	**DP policy**	**Emerging BNAP Policy**
Principle of Development.	Section 5	INT1, DPS1, DPS2, DPS3, HERT1, HERT4	

Design and external appearance	Section 12	DES1, DES2, DES3, DES4, DES5, HERT4	
Housing and Affordable Housing	Section 5	HOU1, HOU2, HOU3, HOU7	HBH1, HBH2, HBH3, HBH4
Highways and parking	Section 9	TRA1, TRA2, TRA3	HBT1, HBT2, HBT3, HBT4, HBT5
Flood risk and sustainable drainage	Section 14	WAT1, WAT2, WAT3, WAT5, WAT6	
Climate change and water resources.	Section 14	CC1, CC2, WAT4	HBH2
Heritage Assets	Section 16	HA1, HA3	
Natural Environment	Section 15	NE1, NE2, NE3	HBH3, HBN3
Infrastructure and Planning Obligations	Sections 2 and 4	DEL1, DEL2	
Overall sustainability	Section 2	Chapter 1, INT1	

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

5.0 Summary of Consultee Responses

5.1 HCC Highway Authority advises that it is satisfied that the proposed development would have negligible impact on the highway and that the proposed improvements would mitigate the impacts on the local Highway networks, subject to 106 contributions and conditions.

5.2 Lead Local Flood Authority advises that following the submission of additional information relating to groundwater and infiltration they have no objection to the proposal subject to conditions.

5.3 EHDC Landscape Officer raises concerns relating to the level of detail of the proposed landscaping scheme.

5.4 EHDC Conservation and Urban Design initially raised a number of detailed issues with regard to the layout and design, these have been addressed by amended plans such that the objections have been overcome.

5.5 Hertfordshire Ecology advises that the surveys do not demonstrate any fundamental ecological constraints to the application and that a fully detailed landscaping and ecology management plan should be submitted as a condition of the approval to demonstrate biodiversity gain.

5.6 Herts and Middlesex Wildlife Trust object as no measurable net gain has been identified and definitive ecological measure not proposed, although no in principle objection. 10 m buffer zone is not provided for each of the hedges, contrary to policy.

5.7 HCC Historic Environment Advisor advises that the archaeological trial trenching that has been carried out demonstrates that there will be no adverse impact on any archaeological remains and therefore raises no objection.

5.8 Crime Prevention Design Advisor raises concerns about limited number of active rooms overlooking the communal parking area for the apartment block and suggests provision of a gate to control access to this parking court.

5.9 EHDC Environmental Health advises that any permission should include conditions to address contamination, in order to prevent or minimise pollution to the land and water environment.

5.10 EHDC Waste Services raise no objection to the proposal and provides advice with regard to the location and accessibility of bin stores.

5.11 EHDC Housing Strategy Officer advised that the provision of 21 affordable units (40%) is policy compliant, but initially raised concern regarding the mix of units and in particular the provision of affordable flatted units, as other Hertford sites were already providing a significant proportion of affordable flats, such that there is a greater need for 2 bed affordable family houses with gardens.

5.12 Thames Water advise that they are responsible for Waste water in this area and that they raise no objection to the proposal but suggest informatives.

5.13 Affinity Water advise that the site is located within an Environment Agency Defined Groundwater Source Protection Zone corresponding to Musley Lane Pumping Station, which is a public water supply comprising a number of chalk extraction boreholes operated by Affinity Water Ltd. They advise that the works should be done in accordance with the relevant British Standards and best practices, thereby significantly reducing groundwater pollution risks.

5.14 The Environment Agency advise that they raise no objection to the application subject to a condition requiring adequate sewerage infrastructure to be provided prior to occupation. In addition they advise that the site is within a Source protection Zone 2 and 3 but that they are unable, due to reduced resources, to provide specific advice on this, they are instead concentrating resources on the highest risk proposals. They recommend In order to protect groundwater quality from further deterioration:

- No infiltration-based sustainable drainage systems should be constructed on land affected by contamination, as contaminants can remobilise and cause groundwater pollution.
- Piling, or any other foundation designs using penetrative methods, should not cause preferential pathways for contaminants to migrate to groundwater and cause pollution.

- Decommission of investigative boreholes to ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies, in line with paragraph 170 of the National Planning Policy Framework

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

6.0 Town/Parish Council Representations

6.1 Hertford Town Council raises serious concerns that the current infrastructure is not sufficient for developments of this scale. Members felt the need for a comprehensive plan, to include schools, health centres, facilities and transport, to be submitted prior to the inception of such large scale development.

7.0 Summary of Other Representations

7.1 26 responses, raising the following objections and concerns and suggestions have been received:

- Inadequate infrastructure for the number of proposed dwellings (drainage, sewerage, schools, doctors, roads, pedestrian and cycle links, buses all unable to cope or inadequate)
- Congestion issues, roads in area already excessively congested.
- Concern over loss drop off and pick up facility for the school.
- Highway safety concerns (particularly at school drop off and pick up times.)
- The access is on a bend and could be better located.
- Previous scheme was refused, what has changed?
- Loss of an employment site.
- Concern over increased air pollution and impact on health of children walking to school.
- Potential risk of pollution of public water supply.
- Inadequate transport links
- Inadequate parking provision within the development
- 106 Education money should go to local school

- Impact on Archaeology. Trial trenching is needed before determination.
- Development will increase flood risk
- Flats should be provided as well as houses.
- Provision for on-site communal food growing is needed.
- There should be a biodiversity net gain
- 106 money should go to GP and youth facilities (scout hut)
- Shared workspaces for community use should be provided.
- Suggested 20 MPH speed limit is not in gift of the developer.
- Query regarding the affordability of the units.
- Inadequate publicity has taken place.
- Fully support the proposals, impact on infrastructure will be mitigated through 106 requirements
- Will provide housing for local people.

8.0 Consideration of Issues

Principle of Development

8.1 Objectors have pointed out that the previous application for residential development on this site, back in 2012 (ref: 3/12/2138/FP) was refused. It should be noted that at that time the site was Green Belt land and was not allocated for development in the Local Plan, therefore there was an in principle objection to the development of the site for housing.

8.2 Since then, this site (and further land to the north and east of the site) has been considered through the District Plan process and removed from the Green Belt. Policy HERT4 of the District Plan 2018 allocates the wider site for the provision of around 150 dwellings in total, with at least 50 to be provided on this smaller element of the site by 2022. As such the development of the site for 52 dwellings is acceptable in principle, and is part of the Councils strategy for meeting identified housing need.

The Masterplan Framework

8.3 Policy DES1 of the District Plan requires all significant proposals to prepare a Masterplan prior to the submission of any planning application.

8.4 The Masterplan Framework for this site was developed in consultation with officers. A Steering Group was set up and comprised officers, local ward members and representatives from the Town Council, and other relevant stakeholders.

8.5 The Masterplan Framework sets out key masterplanning principles that the site as a whole will meet and was endorsed by full Council on 23 October 2019 as a material consideration for development management purposes. The application proposal is considered to be in accordance with the approved Masterplan Framework and this carries positive weight in favour of the proposal.

Quality of Design and Layout

8.6 Policies DES2, DES3 and DES4 of the District Plan require all development proposals to be of a high standard of design and layout in order to reflect and promote local distinctiveness and to integrate landscaping into the design to minimise impacts on landscape character.

8.7 The proposed layout follows the principles that were agreed through the masterplanning process. A single vehicular access is to be maintained from Sacombe Road, leading to a central square which is the focal point of the development. The existing boundary hedgerows are to be maintained and reinforced and a mix of traditionally designed, mainly 2 storey houses, including detached, semi-detached and terraced are proposed. A 3 storey apartment block is proposed in a central location overlooking the square, in order to reinforce a sense of place.

8.8 An area of open space is proposed along the north eastern boundary of the site, which would incorporate a trim trail. Landscaping, including tree planting is incorporated within the development.

8.9 The layout has been designed to ensure that properties face out towards public areas and present an attractive street frontage. The layout is legible and provides good pedestrian accessibility. The individual building designs are attractive and appropriate to the location and they relate well to each other, retaining suitable distances between properties and making best use of the available land, ensuring adequate privacy and private amenity space.

8.10 There are two areas of off plot parking proposed within the scheme, and these have been designed to ensure that there is a level of natural surveillance to discourage crime.

8.11 Similarly the overlooking of the allotments will have no adverse impact on the users of the allotment land. The council's Conservation and Urban Design Team has raised no objection to this proposed configuration.

8.12 Subject to the use of appropriate high quality materials and suitable landscaping, planting and maintenance, it is considered that the development will provide a quality living environment for new residents without harm to the character and visual amenity of the surrounding area. Recommended conditions 3 and 3 require the approval of external materials and a detailed landscaping scheme.

8.13 Given the distance of the development from the nearest residential properties around the site, (approx. 34m to the nearest) the proposed development will not result in any significant loss of light or privacy to neighbouring residents, nor will it have an unacceptable overbearing impact.

8.14 It is not considered that the 3 storey apartment building located in the centre of the site will be excessively prominent from longer views; the site is on lower ground than the Buckwells Field development to the south west within which there are some examples of 3 storey properties. Whilst the development will be clearly visible when viewed from the south, over the allotments, the design is considered appropriate and there is no requirement for the development to be apologetic.

Housing Mix

8.15 The proposal will provide 40% affordable housing in accordance with Policy HO3 of the District Plan. The policy requires a 84%:16% mix of Social rental properties to intermediate properties, and the preferred intermediate type is shared ownership. Since the adoption of the District Plan the NPPF has been amended to require that at least 10% of the total units proposed in any development to be in the form of affordable home ownership. This means that the closest mix to that required by Policy HO3, that can now be required on this site is 15 units for affordable rent and 6 shared ownership (intermediate) (roughly a 72%: 28% mix).

8.16 Following amendments, the 21 affordable units now comprise:
4 x 1 bed flats 19%
4 x 2 bed flats 19%
6 x 2 bed houses 28.5%
5 x 3 bed houses 24%
2 x 4 bed houses 9.5%

8.17 The 31 private dwellings comprise:
5 x 2 bed houses
17 x 3 bed houses
7 x 4 bed houses and
2 x 5 bed houses.

8.18 It is considered that this provides an appropriate mix of dwellings. Initial comments from the housing officer raised concerns about the provision of affordable flatted units on site when none of the market housing is flatted and pointed out that a relatively large number of flats are already being delivered on other sites in Hertford, meaning that there is now a greater need for houses rather than flats. However the mix was designed to reflect the overall need for affordable property types stated in the District Plan, and it is not considered at this late stage in the development of the scheme that we can reasonably require this developer to essentially be penalised for what could be seen as the over-provision of flats on other development sites.

8.19 The proposed affordable units are considered to be appropriately pepper-potted around the development in clusters, and to be tenure blind in accordance with policy.

8.20 Two of the proposed affordable rented units are designed to meet the Building Regulation Requirement, M4(3) category 3 Wheelchair User Dwellings, in accordance with policy HOU7.

8.21 The proposals will deliver suitable housing to help meet the Districts identified housing need in accordance with Policies HERT4, HOU3 and HOU7 and this weighs in favour of the development.

Climate Change

8.22 The District Plan seeks to ensure that new development is adaptable to climate change and can demonstrate how carbon dioxide emissions will be minimised across the development site. Achieving standards beyond the requirements of Building Regulations is encouraged.

8.23 An Energy Strategy Statement was submitted with the application and this states that low energy design principles will be utilised and the buildings will incorporate high levels of insulation, low energy lighting, low u value double glazing, high efficiency gas boilers and accredited and bespoke thermal bridging details. Using the above

the development is capable of achieving an area weighted CO2 saving of 7.1% over Building Regulations.

8.24 It is also proposed to provide electric vehicle charging points to encourage the use of electric vehicles, and a condition is proposed to secure this.

8.25 In addition the applicant is seeking to dismantle and sell the existing glasshouse building to enable its re use elsewhere, rather than to simply demolish, and where appropriate, any suitable excavated materials will re used within the site to minimise the use of new materials.

8.26 High speed broadband internet connection will be provided to all units, which will help enable home working.

Highways and Parking

8.27 The proposal is to utilise the existing access position, with improvements to the width, bellmouth and sight splays, to serve the residential development. The road widths within the site and their layout have been amended in the course of the application to meet highway requirements and ensure larger vehicles, including refuse vehicles can suitably access and manoeuvre within the site. Internal roads have been designed as shared surfaces to encourage low vehicular speeds.

8.28 The proposals include the provision of a zebra crossing over Sacombe Road, on a raised table, to the immediate south of the access, which will enable safe crossing to the western side of Sacombe Road. This is particularly important as it will provide a safe route from the site to the adjacent Bengeo Primary School and to the village facilities to the south.

8.29 3 informal crossing points (with dropped kerbs and tactile paving) are also proposed to increase the connectivity of the site. The positions of the crossings have been agreed with the Highway authority. One crosses Sacombe Road towards the northern end of

the site to link to the access to Sacombe Road Park, one crosses Wadesmill Lane close to its junction with Wadesmill Road and the third Crosses Wadesmill Road. The latter two are positioned to improve pedestrian access from the south to restricted byway Hertford001.

8.30 Considerable concern has been raised by neighbours with regard to the lack of any drop off/pick up point for Bengeo Primary School, as the car park of the garden centre was historically informally used for that purpose. It should be noted however that this use was at the discretion of the land owner and the school has operated without the benefit of this facility for over a year since the closure of the nursery. The planning policy does not require such provision and it would be unreasonable to require this.

8.31 Whilst it is accepted that there will likely be congestion in Sacombe Road (which is narrow) and considerable on street parking during school pick up and drop off times this is an existing situation and unfortunately occurs around most school, no matter what their level of parking provision. The introduction of the zebra crossing with its zig zag lines will result in a reduction of on street parking space on Sacombe road and whilst this may inconvenience some parents, it may help encourage more sustainable means of transport to the school in accordance with local and national policy.

8.32 The issue of inappropriate parking is a matter for the school rather than the applicant and the school is actively seeking to encourage more sustainable transport modes. Indeed it has recently been awarded a bronze “Modeshift Stars” award for encouraging more healthy lifestyles including encouraging parents and children to walk to school and parents to park sensibly when this is not possible.

8.33 To mitigate potential disruption and traffic/parking issues during construction, a condition is proposed that will require the submission of a Construction Traffic Management Plan to demonstrate how such problems are to be minimised. This will include the need to liaise with the school with regard to delivery times etc. to avoid school start and end times.

8.34 With regard to parking provision within the development, most units have on plot parking; those that do not have on plot parking have allocated spaces within shared parking courts. The proposals meet the current maximum adopted car parking standards and in addition some visitor spaces are proposed. It was not considered appropriate to apply the potential 25% reduction in parking requirement here, due to the need to minimise the competition for on-street parking during school pick up times.

8.35 Provision will be made for electric vehicle charging points and each property will have suitable cycle storage in accordance with policy and to encourage more sustainable travel modes.

8.36 A Travel Plan Statement was submitted with the application which sets out broad proposals to encourage new residents to utilise sustainable transport; these include appointment of a Travel Plan Coordinator, provision of 3 months Public Transport vouchers/bus pass, promotion of car sharing and provision of a New Household Local Sustainable Travel Pack to all new residents. A condition is proposed to ensure that the Travel Plan Statement is implemented.

8.37 The Highway Authority is satisfied that the impact on the highway network is acceptable and has raised no objection to the proposals subject to conditions. Contributions have been requested towards an identified project to improve walking and cycling connectivity to Hertford North Station, and to the upgrading of the restricted byway (Hertford001) along the outside of the north eastern boundary of the site.

8.38 The public rights of way team has also requested that the proposed shared surface private road that links from Sacombe Road through the site along its northern boundary should be redesigned to include a dedicated public bridleway linking to Restrictive Byway 001. This is a new request and would require a 3 metre wide pathway segregated from the road by a kerb, this would eat into the hedgerow area along the northern boundary or result in a requirement to redesign the layout of the development. It is

considered that such a link, which would potentially encourage horse riders onto Sacombe Road (as there is no further bridleway connection here) would provide only limited benefit and would further reduce the green space within the site. It is not therefore considered that the suggested bridleway is necessary to make the development acceptable.

8.39 It is considered that the creation of a bridleway link could be better brought forward should the larger element of the HERT4 allocation come forward. This would enable a link from the restricted byway 009 (to the north west of the site), to 001 to the north, which would be a more logical route.

8.40 Bearing in mind the existing authorised use of the site as a garden nursery, and the extensive car park that exists, the potential traffic increase as a result of the redevelopment is not excessive. As such it is considered that the proposed highway improvements, pedestrian crossings and improvements to the pedestrian and cycle linkages add weight in favour of the development.

Flood risk and Sustainable Drainage

8.41 The application includes some details of drainage including the provision of SuDS. The LLFA requested some further information from the applicant to ensure that the proposals will not result in any contamination of groundwater. That additional information has been provided and the LLFA have removed their objection to the proposal and are content that suitable drainage, without potential harm to groundwater can be achieved, subject to conditions.

8.42 The lack of harm to groundwater and the incorporation of suitable sustainable drainage has neutral weight in the planning balance.

Archaeology and the Historic Environment

8.43 The proposed development is located within an Area of Archaeological Significance. The Historic Environment Adviser requested that a full archaeological trial trenching evaluation should

be carried out prior to the determination of the application as there was considered to be a high chance of remains of Bronze Age, Roman or Anglo Saxon date at the site. The evaluation was carried out and the trial trenches demonstrated that extensive made ground deposits 0.35 m to 0.75 m thick are present on the site, largely overlying truncated natural geology. Only the rear third of the site contained undisturbed subsoils, and this contained no residual finds.

8.44 The Historic Environment Advisor therefore now considers that the development is unlikely to have a significant impact on heritage assets of archaeological interest.

8.45 The lack of harm to any heritage asset carries neutral weight in the determination of the application.

Natural Environment

8.46 District Plan policies require that developments result in a net increase in the ecological value of a site. An ecological appraisal has been submitted with the application. The report concludes that the habitats on site are of "minor to negligible" ecological importance and Hertfordshire Ecology have agreed that the surveys carried out are sufficient to reach that conclusion.

8.47 The proposals include the planting of a significant number of trees through the site and reinforcement of the existing hedgerows with native mixed hedge species. However the proposals as submitted do not clearly show that there will be a long term improvement in biodiversity. It is considered that there is adequate space available within the scheme to achieve suitable ecological improvements. A condition requiring the submission of a fully detailed Landscape Ecology Management Plan, to include integrated bat and bird boxes and other improvements is therefore proposed, to secure further ecological enhancements.

Infrastructure Delivery and Planning Obligations

8.48 This section of the report will consider the planning obligations heads of terms for the Section 106 Agreement and other planning gain from the development. Policies DEL1 and DEL2 of the East Herts District Plan are relevant and require developers to demonstrate adequate infrastructure capacity can be provided both on and off site to enable the delivery of sustainable development.

8.49 The NPPF sets out that Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended):

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development

8.50 The applicant will provide 40% affordable housing in accordance with Policy HO3 as explained above a total of 21 units (15 social rented properties and 6 shared ownership)

8.51 HCC request financial contributions towards primary education, secondary education, youth provision, waste provision and library provision and also request that the developer be required to provide fire hydrants. The figures requested are as follows

8.52 Secondary School; £613,746 (index linked based on 1Q2019, BCIS All in TPI) to go towards the new secondary school within the allocated WARE2 development site at land north and east of Ware.

8.53 Primary School; £120,206 (index linked to 2008 PUBSEC 175) to go towards the expansion of the Simon Balle Primary School. It should be noted that the adjacent primary school has been assessed as not

having scope to expand, which is why the money is requested to enable expansion of the Simon Balle School. This does not of course mean that children from the site will have to go to that school, it simply ensures that adequate spaces will be available within the District to meet the growing need.

8.54 Library Service; £8,872 (Index linked to Pubsec 175).

8.55 Youth Facilities; £2,212 (index Linked to Pubsec 175).

8.56 Waste Service; £11,098.46 (Index linked Based on costs as of 1Q2019 BCIS All in TPI).

8.57 HCC Sustainable Transport; £55,000 (Index linked to SPONS 2008)

8.58 A full breakdown of how the costs have been arrived at and the projects that the money are to go towards has been provided and are considered to be fully justified and required in order to make the development acceptable.

8.59 HCC Highways have also fully identified the off- site highway works required which will be the subject of a 278 agreement.

8.60 The Local Plan, Planning Obligations SPD dates from 2008. A replacement Open Space, Sport and Recreation SPD is being prepared now that the District Plan has been adopted and has recently been out to consultation. In respect of this application, in recommending financial planning obligations, officers have had regard to the categories of provision that are likely to form the basis of the new SPD, subject to the identification of projects and compliance with the CIL Regulations, these amounts, are based on the number of units and are index linked to Q/2 2018;

- Sports halls- £21,079
- Swimming Pools £21,549
- Fitness Gyms £9,620
- Studio Space, £3,374
- Village/Community Facilities £26,203

- Allotments £7,605
- Children's play £31,600

The applicant has agreed to enter into a legal agreement under section 106 to secure these required contributions.

9.0 Planning Balance and Conclusion

9.1 The proposal will deliver 52 dwellings as part of the District Plan development strategy and in accordance with Policy HERT4 including 21 (40%) affordable units: this carries significant weight.

9.2 The design and layout is considered to be of good quality and complies with the policy aspirations. The fabric of the buildings achieves a reduction in CO2 emissions above the building regulation requirements and this carries positive weight.

9.3 The proposal would achieve satisfactory safe access, appropriate parking levels and necessary highway mitigation measures, in accordance with policy.

9.4 Subject to conditions, the ecological, contamination, flood risk and landscape impacts of the development can be fully mitigated in accordance with policy.

9.5 The housing mix is considered acceptable and will help meet identified housing need.

9.6 The proposal delivers appropriate levels of financial contribution towards infrastructure, in accordance with policy.

9.7 The application is therefore considered to accord with adopted policies of the District Plan and the planning balance falls in favour of the development. The application is therefore recommended for approval subject to the prior completion of the required legal agreement under section 106.

RECOMMENDATION

That planning permission be **GRANTED** subject the conditions set out below and to the prior satisfactory conclusion of a legal agreement to secure the following:

- The provision of affordable housing: 6 intermediate and 15 social rent as set out in the application.
- HCC Secondary School £613,746 (index linked based on 1Q2019, BCIS All in TPI)
- HCC Primary School Primary School £120,206 (index linked to 2008 PUBSEC 175
- HCC Library Service £8,872 (Index linked to Pubsec 175)
- HCC Youth Facilities £2,212 (index Linked to Pubsec 175)
- HCC Waste Service £11,098.46 (Index linked Based on costs as of 1Q2019 BCIS All in TPI)
- HCC Sustainable Transport Projects £55,000 (index linked to SPONS in accordance with Planning Obligations Guidance Toolkit for Hertfordshire January 2008)
- The provision of fire Hydrants

- EHDC Sports halls £21,079
- EHDC Swimming Pools £21,549
- EHDC Fitness Gyms £9,620
- EHDC Studio Space £3,374
- EHDC Village/Community Facilities £26,203
- EHDC Allotments £7,605
- EHDC Children's play £31,600

(All index linked to Q2/2018 in accordance with the details within the EH Open Space, Sports and recreation SPD consultation Draft November 2019)

The agreement shall also provide for the ongoing maintenance of the public areas of hard and soft landscaping, public open space and Sustainable drainage systems within the site.

Conditions

1. Three year time limit (LT12)

2. Approved Plans (2E10)

3. Prior to any above ground works, samples of all the external materials of construction for the buildings (including balconies and solar panel details an locations) hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.

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

4. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted to and approved in writing by the Local Planning Authority and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

   Reason: To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies DES3 and DES4 of the East Herts District Plan 2018.

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

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

6. Prior to the first occupation of the development hereby approved details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.

   Reason: In the interests of protecting against light pollution in accordance with Policy EQ3 of the East Herts District Plan 2018.

7. Prior to any above ground works a landscape and ecological management plan (LEMP) shall be submitted to, and be approved in writing by, the local planning authority. The content of the LEMP must detail how it will achieve and maintain a net increase in the biodiversity of the site. The agreed plan shall then implement in full in accordance with the agreed timetable.

   Reason: To ensure that the development results in a net gain in biodiversity in accordance with policy NE3 of the District plan 2018.

8. Prior to the occupation of the development hereby permitted, details of the arrangements for the management and maintenance of all external communal areas shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include a plan identifying all external communal areas which are to be managed and maintained. Thereafter all such areas shall be managed and maintained in accordance with the approved details.

   Reason: To ensure that all external communal areas within the development are managed and maintained to a suitable and safe standard in accordance with Policy DES4 of the East Herts District Plan 2018.

9. Within 3 months of commencement of development details of the measures required to facilitate the provision of high speed broadband internet connections shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable and method of delivery for high speed broadband for each residential unit. Once approved, high speed broadband infrastructure shall be implemented thereafter in accordance with the approved details including the timetable and method of delivery.

   Reason: In order to ensure the provision of appropriate infrastructure to support the future sustainability of the development in accordance with policy HERT3 and DES4 of the East Herts District Plan 2018.

10. Prior to the first occupation of the development, measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.

    Reason: The Environment Agency has identified this area to be particularly water stressed and a reduction in water usage and increased water efficiency are necessary in accordance with Policy WAT4 of the District Plan 2018.

11. The garages and car ports hereby approved shall be used for the housing of vehicles solely for the benefit of the occupants of the dwellings of which it forms part and shall not be used as additional living accommodation or for any commercial activity.

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

12. Prior to the commencement of the development, a detailed 'Construction Traffic Management Plan' (CMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in

accordance with the approved CMP thereafter. The 'Construction Traffic Management Plan' must set out:

- The phasing of construction and proposed construction programme.
- The methods for accessing the site, including wider construction vehicle routing.
- The numbers of daily construction vehicles including details of their sizes, at each phase of the development.
- The hours of operation and construction vehicle movements, delivery and storage of materials.
- Details of any highway works necessary to enable construction to take place.
- Details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- Details of any hoardings.
- Details of how the safety of existing public highway users and existing public right of way users will be maintained.
- Management of traffic to reduce congestion.
- Control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
- The provision for addressing any abnormal wear and tear to the highway.
- The details of consultation with local businesses, schools or neighbours.
- The details of any other Construction Sites in the local area.
- Waste management proposals.
- Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
- Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

Reason: To minimise the impact of the construction process on the on local environment and local highway network in accordance with policies TRA2 and DES4 of the East Herts District Plan 2018.

13. Prior to the first occupation of the development hereby permitted the vehicular access shall be upgraded and dedicated to highway in accordance with the Hertfordshire County Council residential construction specification for the first 10 metres as measured back from the near channel edge of the adjacent carriageway. Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

    Reason: To ensure construction of a satisfactory access and in the interests of highway safety, traffic movement and amenity in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

14. Prior to first occupation the covered cycle storage facilities shown on the approved plans shall be provided in accordance with the approved details and thereafter retained for that purpose.

    Reason: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

15. Prior to the first occupation of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved plan number WIE10916 Site Access Drawing. The splays shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway of Sacombe Road.

    Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

16. A: Notwithstanding the details indicated on the submitted drawings a detailed scheme for the offsite highway improvement works of which some are shown in principle on drawing number 18/017/011C Layout

Plan been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, the Off-site highway works shall include:

- Provision of pedestrian crossings in Sacombe Road and Wadesmill Road (to connect to Byway Hertford 0001)
- Provision of a new zebra crossing facility in Sacombe Road inclusive of extension of the zig zag markings to remove kerbside parking on the opposite side of the junction;
- Site access upgrade works and land dedication to public highway around the site access;
- Installation of kessel kerbing at two bus stops in Bengeo Street.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of *Hertfordshire's Local Transport Plan* (adopted 2018).

B: Prior to the first occupation of any of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.

Reason: To ensure construction of a satisfactory development and that the highway improvement works are designed to an appropriate standard in the interest of highway safety and amenity and in accordance with Policy 5, 13 and 21 of *Hertfordshire's Local Transport Plan* (adopted 2018).

17. No part of the development shall be occupied until full details have been submitted to and approved in writing by the Local Planning Authority in relation to the proposed arrangements for future management and maintenance of the proposed streets within the development. The streets shall thereafter be maintained and managed in accordance with the approved details.

Reason: To ensure satisfactory development and to ensure estate roads are managed and maintained thereafter to a suitable and safe

standard in accordance with Policies 5 and 22 of *Hertfordshire's Local Transport Plan* (adopted 2018).

18. Prior to the occupation of the development hereby permitted, the details of the siting, type and specification of Electric Vehicle Charging Points (EVCPs), the energy sources and the strategy/management plan for supply and maintenance of the EVCPs shall be submitted to and approved in writing by the Local Planning Authority. All EVCPs shall be installed in accordance with the approved details prior to occupation of each of the units and permanently maintained and retained.

    Reason: To ensure construction of a satisfactory development and to promote sustainable development in accordance with Policies 5, 19 and 20 of Hertfordshire's Local Transport Plan (adopted 2018).

19. The development hereby permitted shall be carried out in accordance with the approved Preliminary Drainage Strategy prepared by Waterman Infrastructure and Environment Ltd, reference WIE-SA-92-100 revision A12, dated August 2019, the Response to HCC drainage comments prepared by Waterman Infrastructure and Environment Ltd, reference WIE 12528-100-BN-8-5-1-Drainage, Dated January 2020 and the following mitigation measures.
    1. limiting the surface water run off generated by the critical storm events so that it will not exceed the surface water run off during the 1 in 100 year event plus 40% of climate change event.
    2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change event providing a minimum of 745m3 (or such storage volume as agreed with the Local Planning Authority in consultation with the LLFA) of storage volume in permeable pacing and geocellular soakaway.
    3. Discharge of surface water from the private network into the ground via soakaway or to Thames Water surface water, pending BRE Digest 365 compliant infiltration results.
    The mitigation measures shall be fully implemented prior to first occupation and subsequently in accordance with the timing/phasing

arrangements embodied within the scheme or within any other period as may subsequently be agreed in writing by the Local planning Authority.

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants in accordance with policies WAT1 and WAT5 of the East Herts District Plan.

20. No development shall take place other than demolition, until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles has been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details prior to first occupation. The detailed surface water drainage scheme shall include:
1. Detailed infiltration tests conducted to BRE Digest 365 standards at the exact locations and depths where the soakaway is proposed.
2. Detailed, updated post development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40 allowance for climate change. These should consider the infiltration rates provided by BRE Digest 365 compliant testing and include half drain down times for the soakaway. If discharge via infiltration is proven not to be viable and the site will drain to Thames Water sewer, supporting post development calculations should be provided.
3. Detailed engineering drawings of the proposed SuDS features including cross section drawings, their size volume, depth and any inlet and outlet features including any connecting pipe runs.
4. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding both on and off site, in accordance with Policies WAT1 and WAT5 of the East Herts District Plan.

21. Prior to first occupation full details and specifications of the proposed play equipment/trim trail indicated on drawing number 6915.ASP.TT2.0 RevB shall be submitted to and agreed in writing by the Local Planning Authority. The approved equipment shall be installed in accordance with the agreed details prior to first occupation of any of the dwelling units and shall thereafter be maintained and capable of use.

    Reason: To ensure that suitable play and activity provision is made on site in accordance with Policy CFLR1 if the East Herts Local Plan.

22. The development hereby permitted shall not begin until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
    1. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined. The strategy shall have regard to the "Phase II Geoenvironmental Assessment, Bengeo garden Centre, Hertford", Report reference 777293-MLM-ZZ-XX-RP-J-002, dated 1st February 2019, by MLM Group
    2. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the local planning authority.
    3. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to first occupation of the development. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included,

together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To minimise and prevent pollution of the land and the water environment and in accordance with National Planning Policy Guidance set out in section 11 of the National Planning Policy Framework, and in order to protect human health and the environment in accordance with policy EQ1 of the adopted East Herts District Plan 2018.

23. In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 07.30hrs Monday to Saturday, nor after 18.30hrs on weekdays and 13.00hrs on Saturdays, not at any time on Sundays or Bank Holidays.

Reason: To safeguard the amenity of residents of nearby properties, in accordance with policy EQ2 of the adopted East Herts District Plan 2018.

24. The measures set out in the submitted Travel Plan Statement WIE 15509-100-R-3-2-3 Para 5.3 Table 3 shall be fully complied with. Details of the Travel Plan Coordinator for the site shall be submitted to the Local Planning Authority prior to first occupation of any of the dwellings hereby approved and a copy of the promotional material to be provided to new residents, including the New Household Local Sustainable Travel Pack and community travel noticeboard shall be submitted to and agreed in writing by the Local Planning Authority prior to first occupation. The ongoing monitoring and review strategy set out in the approved travel plan shall be followed in full.

Reason: To encourage sustainable transport modes in accordance with Policy TRA1 of the East Herts District Plan.

Informatives

1. Justification Grant (JG4)

2. Other Legislation (1OL1)

3. Construction standards for works within the highway: The applicant is advised that in order to comply with 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 278/38 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The requirement as part of the offsite s278 works is to:
Provision of pedestrian crossings in Sacombe Road and in Wademill Road (to connect to Hertford 001 Byway);
Provision of a new zebra crossing facility in Sacombe Road inclusive of extension of the zig zag markings to remove parking on the opposite side of the junction;
Site access upgrade works including kerbline realignment and provision of footways to each side and land dedication to public highway around the site access;
Installation of kessel kerbing at two bus stops in Bengeo Street.

   The details should be included as part of the s278 drawing as part of the required highway work in conjunction with the development. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website http://www.hertsdirect.org/services/transtreets/highways/ or by telephoning 0300 1234047.

4. AN2: Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to

emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx or by telephoning 0300 1234047.

5. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website: https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspxor by telephoning 0300 1234047

Summary of Reasons for Decision

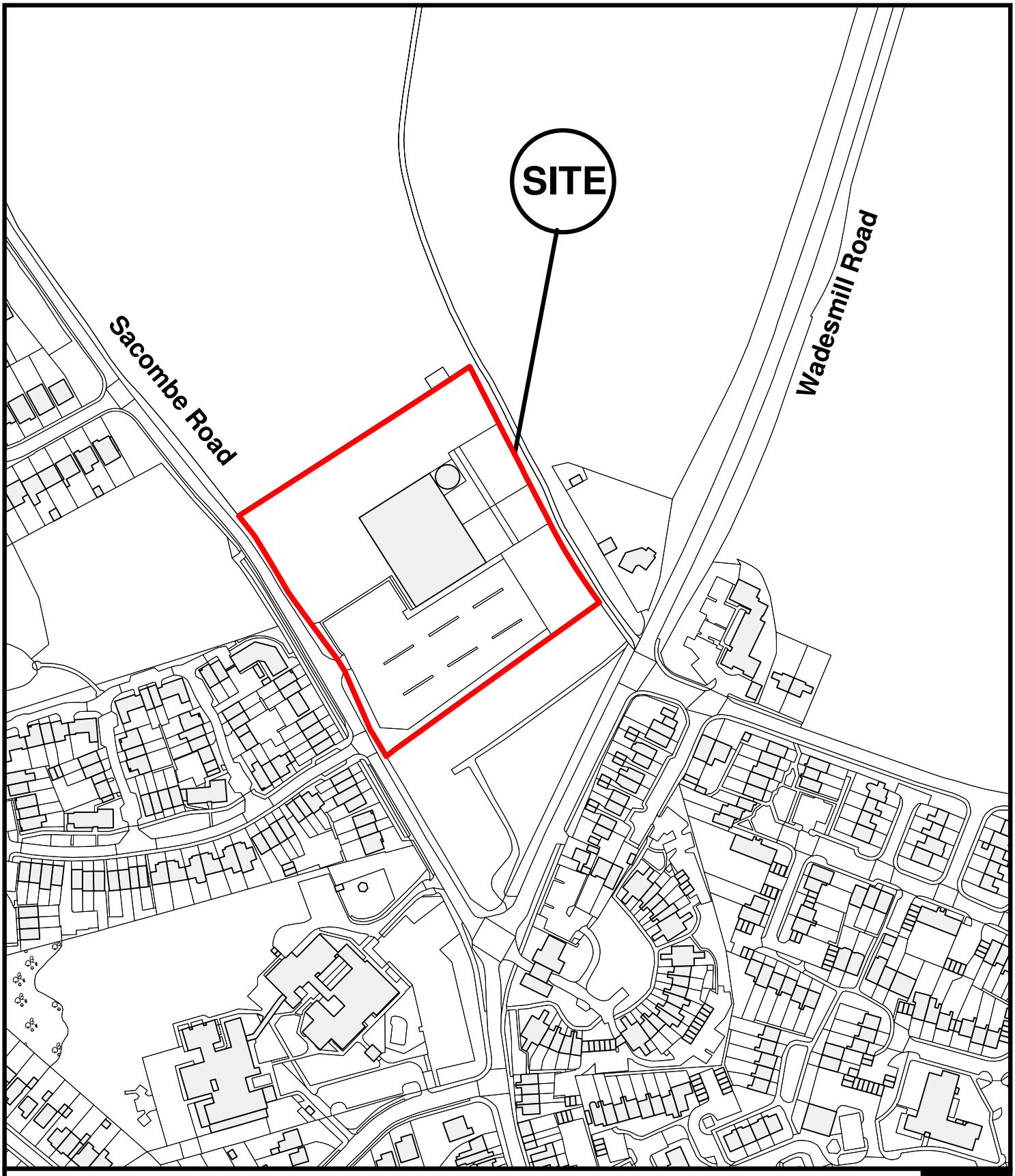
East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the East Herts District Plan, the National Planning Policy Framework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

KEY DATA

Residential Development

Residential Density – 31dph	**Bed Rooms**	**No of Units**
No of existing units demolished	0	
No of Flat units	1	4
	2	4
No of Houses	2	11
	3	22
	4	9
	5	2
Total		52
Total Affordable	40%	

Parking Zone	4	
Residential unit size (bedrooms)	Spaces Required per unit	Spaces required
1	1.5	6
2	2	30
3	2.5	55
4+	3	33
Total Required		124
Accessibility Reduction	25%	
Resulting Requirement		93
Proposed total Provision		127 (includes visitor spaces)



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W E
S

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

Address: (HERT4) Former Bengeo Nursery, Sacombe Road, Hertford, Hertfordshire, SG14 3HG

Reference: 3/19/1826/FUL

Scale: 1:2500

O.S Sheet: TL3214

Date of Print: 17 February 2020

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EAST HERTS DISTRICT COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE
ITEMS FOR REPORT AND NOTING
January 2020

Application Number	3/18/1228/FUL
Decsn	Refused
Level of Decision	Committee
Address	Land West Of Hoddesdon RoadSt MargaretsburyStanstead AbbottsHertfordshire
Appellant	Mr Gopal Gupta
Proposal	Erection of 8no. dwellings, new access and landscaping (use class C3).
Appeal Decision	Withdrawn

Application Number	3/18/1928/HH
Decsn	Refused
Level of Decision	Delegated
Address	55 Thorley Park RoadBishops StortfordHertfordshireCM23 3NG
Appellant	Mr Daniel Shrimpton
Proposal	Erection of two storey side extension, erection of single storey front extension, alterations to flank elevation fenstration and loft conversion to include rear dormer window and 2no. front roof lights
Appeal Decision	Dismissed

Application Number	3/18/2251/CLP
Decsn	Refused
Level of Decision	Delegated
Address	EllenglazeBramfield HouseWell GreenBramfieldHertfordHertfordshireSG14 2QT
Appellant	Mr & Mrs C Armstead
Proposal	Construction of garage and home office.
Appeal Decision	Dismissed

Application Number	3/18/2465/OUT
Decsn	Refused
Level of Decision	Committee
Address	(HERT2) Land East Of Marshgate Drive HertfordHertfordshireSG13 7AQ
Appellant	Ms Jessica Lindfield
Proposal	Hybrid planning application comprising: Full planning permission for 375 residential dwellings (comprising 29 houses and 5 apartment buildings for 346 apartments), 420 sqm for a gymnasium (Class D2 floorspace), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of 2,220 square metres of employment floorspace (Use Class B1c), car parking, landscaping and associated works (all matters reserved except access).
Appeal Decision	Allowed

Application Number	3/19/0713/FUL
Decsn	Refused
Level of Decision	Delegated
Address	Bakers End NurseryWaresideWareHertfordshireSG12 7SH
Appellant	Mr R Woodcock
Proposal	Demolition of all existing structures; de-contamination of the site and erection of three dwellings with garaging
Appeal Decision	Dismissed

Application Number	3/19/1145/HH
Decsn	Refused
Level of Decision	Delegated
Address	2 Portland RoadBishops StortfordHertfordshireCM23 3SJ
Appellant	Mr And Mrs Marcus Bennett
Proposal	Proposed demolition of rear extensions and erection of part two storey and part single storey extensions.
Appeal Decision	Allowed

Application Number	3/19/1228/HH
Decsn	Refused
Level of Decision	Delegated
Address	2 Dolphin WayBishops StortfordHertfordshireCM23 2AH
Appellant	Mr Hamish Carruth
Proposal	Construction of two storey side and rear extensions with a single storey front extension.
Appeal Decision	Allowed

Application Number	3/19/1749/HH
Decsn	Refused
Level of Decision	Delegated
Address	236 Stansted RoadBishops StortfordHertfordshireCM23 2DA
Appellant	Mr Ola Oduyemi
Proposal	Demolition of garage, erection of double storey side extension and part double storey and first floor rear extension, rendering of front and rear elevation.
Appeal Decision	Withdrawn

Background Papers
Correspondence at Essential Reference Paper ‘A’

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

The Planning Inspectorate

Appeal Decision

Site visit made on 3 December 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd January 2020

Appeal Ref: APP/J1915/D/19/3236993
55 Thorley Park Road, Bishops Stortford CM23 3NG

- 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 Daniel Shrimpton against the decision of East Hertfordshire District Council.
- The application Ref 3/18/1928/HH, dated 27 August 2018, was refused by notice dated 25 June 2019.
- The development proposed is the erection of a two storey side extension, a single storey front extension and a loft conversion with a rear dormer window and two front rooflights.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the site and surrounding area.

Reasons

3. The host property is a 2-storey semi-detached dwelling located on Thorley Park Road, which is a predominately residential street. The property is set back from the road and has a wide and open driveway to the front. Thorley Park Road contains a mixture of detached and semi-detached properties of varying styles and design, although the immediate area consists mainly of semi-detached properties. The attached dwelling at No 53 has a front and side extension and there is currently a large and spacious gap between the host property and No 57. On my site visit I noted that a number of dwellings along the street had been altered and extended in some way.

4. Policy DES4 of the East Herts District Plan (EHDP) (2018) requires development proposals to demonstrate compatibility with the structure and layout of the surrounding area. As well as to complement the existing grain of development and relate well to the massing, and height, of adjacent buildings and the surrounding townscape.

5. The development proposes a L-shaped extension, which would extend to the side and rear of the host dwelling. At the rear there would also be a roof box dormer window added to the rear roof slope of the host dwelling. The proposed front extension would be single storey.

6. Although the front extension to No 55 would alter the existing frontage of the host property, it would be of a similar design to the adjacent property No 53. There are a number of other similar front extensions within the street scene. Due to its size, the extension to the front of the host property would not appear dominant or intrusive. As such, it would not have a detrimental effect on the character and appearance of the site and surrounding area.

7. The proposed side extension would increase the frontage of the existing development by more than half and would significantly reduce the gap between No 57. I noted on my site visit that due to the extensions on the surrounding properties, a number of the gaps between the nearby dwellings had already been reduced in size. However, the reduction of the gap between No 55 and No 57 and the scale of the proposal when combined with the existing extensions to No 53, would appear as a bulky and overly dominant addition to the street scene.

8. The appellant has suggested that the flank wall of the extension is far less evident than a number of the flank elevations on the surrounding dwellings. However, the cumulative size, scale and massing would lack subservience to the host dwelling. Furthermore, given the openness to the front of the property and its positioning on the road, when approaching the property, it would appear as a prominent feature within the street scene.

9. I note that there was a previous application on the site for a similar development for a House of Multiple Occupation (HMO), which was dismissed on appeal[1]. The proposed development would be similar to the extensions proposed under the previous application. The main difference being the change to the roof on the rear elevation. The appellant has suggested that the scale of the extension has been considerably reduced through the lowering of the eaves height of the rear projecting element. The appellant has also suggested that there are a number of three storey dwellings in the street scene, created through the conversion of their lofts and that the ridge height would not be raised by the proposed development.

10. Despite the reduction in scale, the proposal remains largely similar to the proposal which was dismissed. I agree with the findings of the Inspector on the character and appearance of the area, and given that the proposal is so similar, I consider the previous Inspector's findings are still applicable to this scheme. Aside from the reduction in the eaves height to the rear, I have not been presented with evidence to suggest the surrounding context has materially altered enough to be considered any differently than it was in the previous appeal. Even when taking into account the reduced height to the rear, the proposal would appear as a bulky and a dominating structure, which would be at odds with the prevailing character of the area.

11. I acknowledge the examples highlighted by the appellant, many of which were considered in the previous appeal. In this case the appellant has also highlighted that Nos 49, 51, 63 and 67 have also been extended in a similar way to the proposal. Whilst I note these extensions, these extensions do not appear as large and as prominent as the proposal before me, therefore, whilst similar in nature, they are not directly comparable. In any case the proposal before me must be assessed on its own planning merits and context.

[1] APP/J1915/D/18/3208058

12. The appellant has stated that the proposal would enhance the level of accommodation available for the appellant and would use similar materials to the host dwelling and would fit in with the existing street scene. However, this does not outweigh the harm that I have identified above. Even with matching materials, this would not overcome the harm to the character and appearance of the area, as the proposal would still appear as a prominent and bulky development within the street scene.

13. Although I note that the Council does not provide any specific guidelines relating to the size of roof dormers, Policy HOU11 of the EHDP requires that dormers should generally be of limited extent and modest proportions, so as not to dominate the existing roof form. In the previous appeal the inspector noted that the dormer would dominate the roof form. The proposed dormer occupies a significant area of the rear roof slope of the host property and would be visible from adjacent rear gardens. Whilst dormer windows have been added to other properties in the area, they are not a common feature on the immediately adjacent roofs. I therefore consider that such an addition would be a dominant addition to the roof structure. Thus, it would appear as an incongruous feature in the context of the adjacent roofs.

14. The appellant has suggested that the dormer would be appropriate in design as it would align with the windows below and be finished in complementary materials. Whilst I acknowledge these would go some way in blending in the proposal, it would not completely outweigh the harm that I have already identified.

15. The appellant has advised that the proposed dormer could be constructed under Permitted Development Rights, and as such considers that this is fall-back position which should add weight in favour of the appeal proposal. However, I have not been presented with substantive evidence to suggest that this would be carried out by the appellant, as such it does not outweigh the harm that I have identified above.

16. For the reasons above, the proposed development would harm the character and appearance of the site and surrounding area. This would be contrary to policies DES4 and HOU11 of the EHDP. These policies, amongst other things, seek development to be high quality and appropriate to the character, appearance and setting of the area.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 21 January 2020

by John Whalley

an Inspector appointed by the Secretary of State

Decision date: 30 January 2020

Appeal ref: APP/J1915/X/19/3225452
Ellenglaze, Bramfield House, Well Green, Bramfield, Hertford, Hertfordshire SG14 2QT

- The appeal is made under section 195 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 against a refusal by the East Hertfordshire District Council to grant a certificate of lawful use or development.
- The appeal was made by Mr Chris Armstead.
- The application, ref. 3/18/2251/CLP, dated 11 October 2018 was refused by a notice dated 29 January 2019.
- The application was made under s.192(1)(b) of the Town and Country Planning Act 1990 as amended in respect of a proposed operational development.
- The development for which a certificate of lawful use or development was sought was described in the application as: "Construction of garage and home office", at Ellenglaze, Bramfield House, Well Green, Bramfield, Hertfordshire.

Summary of decision: A certificate of lawfulness is not issued.

Appeal land and proposal

1. The Appellant's house, Ellenglaze, stands within a group of buildings that formed Greenhall Farm, Well Green, Bramfield. Planning permission 3/62/1353 was granted in 1962 for the conversion of the former agricultural building to residential use now known as Ellenglaze. The house lies between the outbuildings to the farm and the dwelling to the south-west, Stable Cottage. Ellenglaze fronts immediately on to the roadway, Well Green. Ellenglaze land to the rear of the house extends to just over 1ha.

2. The Appellant, Mr Chris Armstead, wishes to build a garage and home office measuring 12.6m wide, 6.2m deep in plan on his land to immediately to the rear of the high rear garden wall to Stable Cottage. This part of the land has, according to the Council, been recently surfaced with stone to provide a parking area for Mr Armstead's vans. Part of the land to the rear of the farm outbuildings was being used to house domestic poultry and to grow vegetables. Most of the rest of the Ellenglaze land was open grassland.

East Hertfordshire District Council

3. The Council's reason for refusing to issue a Certificate of Lawfulness said the proposed outbuilding did not comply with Schedule 2, Part 1, Class E of the The Town and Country Planning (General Permitted Development) (England) Order 2015, (the Order). Planning permission to erect the building was required.

4. The Council said the curtilage to the dwelling was confined to the land to the rear of the dwelling Ellenglaze bounded by the rear wall of the house, the high wall to the adjoining side and rear of Stable Cottage on one side and the farm outbuildings' wall on the other side.

Inspector's considerations

5. Part 1 to Schedule 2 to the Order deals with concessions giving permitted development rights within the curtilage of a dwellinghouse. Class E to Part 1, Schedule 2 deals with buildings etc. incidental to the enjoyment of a dwellinghouse. The only issue here between the parties is whether the land on which the proposed garage/office would be built lies within the curtilage to the dwelling, Ellenglaze, the conditions and limitations of Class E being, in all other matters, met.

6. The Appellant, Mr Armstead, submitted plan EGB/52-B that showed the location of the proposed garage/office, just to the rear of the Stable Cottage garden wall. It also showed the tightly drawn Council suggested Ellenglaze curtilage line, from the corner of the end wall surrounding the Stable Cottage garden, running north-eastwards to the wall surrounding the farm outbuildings. The plan also showed the Appellant's alternative boundary to the curtilage. Mr Armstead's line would move the curtilage boundary out into the 1.2ha Ellenglaze land by about 40m, (as approximately scaled on plan EGB/52B), the boundary running approximately parallel with the Council's curtilage line.

7. Permitted development rights for householders, Technical Guidance, published by the Ministry of Housing, Communities and Local Government in September 2019 defines "Curtilage" - as *land which forms part and parcel with the house. Usually it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area*.

8. A number of appeals to the Courts have dealt with the subject of the curtilage to a building and its extent. In the case of *Sinclair-Lockhart's Trustees v Central Land Board [1951] 1 P&CR 320*, the Court said: "*The ground used for the comfortable enjoyment of a house or other building may be regarded as being within the curtilage of the house or building and thereby an integral part of the same even though it has not been marked off in any way. It is enough that it serves the purpose of the house or building in some necessary or reasonably useful way.*" In *Dyer v Dorset CC [1988] 3 WLR 213*, the curtilage was constrained to a small area about a building – "*The area attached to and containing a dwellinghouse and its outbuildings*". The size of that area being a question of fact and degree. In the case of *Mc Alpine v Secretary of State for the Environment and Wycombe District Council [1994] E.G.C. 189*, Deputy Judge Nigel Macleod QC identified 3 characteristics of a curtilage:

   (i) curtilage is constrained to a small area about a building;

   (ii) an intimate association with land which is undoubtedly within the curtilage is required in order to make the land under consideration part and parcel of that undoubted curtilage land; and,

   (iii) it is not necessary for there to be physical enclosure of that land which is within the curtilage, but the land in question at least needs to be regarded in law as part of one enclosure with the house.

9. In the present situation, I consider the Council's view boundary of the residential curtilage of Ellenglaze to be more realistic that that suggested by Mr Armstead. That line, put forward as a suggested compromise curtilage, with its boundary as shown on plan EGB/52B, appears more based upon the intended use of the land than a consideration of the normal characteristics of a curtilage. Mr Armstead's line would include the proposed garage/office building site, the poultry housing and land used for vegetable growing. Whilst Mr Armstead accepted that not all of his land was within the curtilage, his suggested curtilage would extend for some 40m beyond the Council's line. In my view, it would enclose much more land than could reasonably be said to be constrained about the house, or be said to serve the purpose of the house or building in some necessary or reasonably useful way. I would not regard the extended curtilage as part of one enclosure with the house, especially as there is nothing on the ground to suggest an enclosure boundary. Indeed, Mr Armstead acknowledged that it was difficult to determine the extent of the curtilage to Ellenglaze. Whilst it is understandable that a larger area than the Council's suggested curtilage land is currently used by Mr Armstead in association with the use of the dwelling, Ellenglaze, it does not follow that this use extends its curtilage.

10. The curtilage and the unit of occupation are not synonymous. In most situations, where the gardens, yards and open areas attached to a house may have formal boundaries of walls, fences or hedges, the whole of that unit of occupation is likely to be the residential curtilage to the house. Where a house has a large area of attached land, the curtilage may extend just to a cultivated garden. Other land, perhaps used as a paddock for livestock, would not be considered to lie with in the residential curtilage to the house, even though it might lie within the unit of occupation. That is the situation here. I consider all that land to the south-east of a notional line drawn north-eastwards from the easternmost corner of the rear garden to Stable Cottage across to the south-western corner to the outbuilding to the house attached to Ellenglaze, (the Council's curtilage line on plan EGB/52-B), lies outside the residential curtilage to Ellenglaze. That would roughly align with the south-eastern boundaries of the properties on each side. The proposed garage/home office would be on Ellenglaze land, but outside its residential curtilage. It would therefore not benefit from the permitted development concessions in Class E to the Order.

11. I conclude that the Council's refusal to grant a certificate of lawful development in respect of the construction of a garage and home office at Ellenglaze, Bramfield House, Well Green, Bramfield, Hertfordshire SG14 2QT was correct and that the appeal should fail. I exercise the powers transferred to me in section 195(3) of the 1990 Act as amended.

FORMAL DECISION

12. The appeal is dismissed.

John Whalley

INSPECTOR

The Planning Inspectorate

Appeal Decision

Inquiry Held on 20 – 22 November, 27 - 29 November, 3 – 4 December, 10 – 13 December 2019

Site visits made on 12 December 2019 and 14 January 2020

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2020

Appeal Ref: APP/J1915/W/19/3234842
Land east of Marshgate Drive, Marshgate Drive, Hertford SG13 7AQ

- 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 St William Homes LLP against the decision of East Hertfordshire District Council.
- The application Ref 3/18/2465/OUT, dated 2 November 2018, was refused by notice dated 18 July 2019.
- The development proposed is:
  1. 375 residential dwellings (comprising 29 houses and 8 apartment buildings for 346 apartments), 420 m^2 gymnasium (Class D2), 70 m^2 of residents' co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and the creation of a spine road in the Northern Sector (full proposal)
  2. The construction of 2,200 m^2 of employment floorspace (Class B1c), car parking, landscaping and associated works (outline proposal)

Procedural matters

1. The first part (housing and related matters) of the proposal is for full planning permission. The second part (employment) of this hybrid proposal is for outline permission, with only access to be approved along with the principle of the development.

2. A draft Unilateral Planning Obligation was discussed at the Inquiry. The final version was received (as agreed) after the Inquiry closed[1]. This was essentially the same document as had been discussed at the Inquiry and there was no need for the parties to make further comments.

Decision

3. The appeal is allowed and planning permission is granted for 375 residential dwellings (comprising 29 houses and 8 apartment buildings for 346 apartments), 420 m^2 gymnasium (Class D2), 70 m^2 of residents' co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and the creation of a spine road in the Northern Sector (full permission); and the construction of 2,200 m^2 of employment floorspace (Class B1c), car parking, landscaping and associated

[1] Doc 20

works (outline permission); all on land east of Marshgate Drive, Marshgate Drive, Hertford SG13 7AQ in accordance with the terms of the application, Ref 3/18/2465/OUT, dated 2 November 2018, subject to the conditions set out in the Schedule to this decision.

Main issues

4. Various matters which were the subject of reasons for refusal were resolved before the Inquiry. These were the extent of affordable housing provision (no longer contested for viability reasons) and contamination (which could be addressed by conditions). Other matters not in dispute are set out in the Statement of Common Ground (SOCG)[2].

5. Based on the remaining reasons for refusal and the evidence, as discussed at the pre-Inquiry conference, there are six main issues in this case:

- Whether the appeal scheme provides sufficient employment floorspace and whether this floorspace can reasonably be delivered
- Whether the appeal scheme represents good design
- The effect on the living conditions of residents including those living in canal boats
- The impact of the proposal on the highway capacity, the effect on bus services, and the level of on-site car parking
- Whether the appeal scheme is excessive in size
- Whether the appeal scheme would prejudice the regeneration of the allocated site

Reasons

The site and the proposal

6. The appeal site comprises two separate parcels of vacant land, excluding an intervening woodyard, which together comprise around 3.5 hectares. It was formerly a gas works, and the gasholders were dismantled about 10 years ago.

7. The site is accessed from Marshgate Drive to the west and from Mead Lane to the south. These roads link to Mill Road which connects to Ware Road and provides access to the town centre and beyond.

8. The northern boundary of the site abuts the River Lea (along which there is a public footpath/towpath), whilst there is a residential development (Smeaton Court) to the west.

[2] Most conveniently at Section 1

9. Hertford East railway station is around 500 metres from the site[3]. The bus station is around 780 metres from the northern access to the site, with a supermarket at a slightly lesser distance.

10. The wider area contains a mix of uses, including residential (Victorian terraces and newer flatted buildings) and employment development.

11. The northern part of the proposed development would comprise five apartment blocks, a gym and residents co-working space. The southern part would be 29 townhouses along with the employment floorspace. Improvements to Marshgate Drive are also proposed, and the riverside footpath/towpath would be improved. Amenity space would be in the form of podium gardens, new amenity areas along the riverside path, 'parklets' along the spine road, a pocket park fronting onto Marshgate Drive, and an area of publicly accessible wetland.

Policy context

12. The development plan comprises the East Herts District Plan (DP) (2018). The parties agree that this plan is up to date and ought to be given full weight. There was considerable discussion at the Inquiry as to how the policies came to be adopted in their current form. I agree with the appellant that "..whilst this forms interesting and informative background, what is ultimately of significance is the outcome of this process."

13. In a similar vein, the emphasis placed by both parties as to the extent to which the arguments related to the appeal site were considered at the DP examination are of somewhat limited relevance. What matters is the current position as set out in evidence.

14. DP policy HERT1 provides that "around"[4] 200 homes will be delivered as part of a mixed use development in the Mead Lane area[5], in addition there would be 3,000m^2 of Class b1 employment floorspace or other employment generating uses. The inclusion of the word "around" was changed at the Main Modifications stage of the DP Examination from "at least". For clarity, it is not contested that the current proposal, at 375 dwellings, cannot be considered to be "around 200 dwellings" as set out in DP policy, and that the employment floorspace proposed is below the policy figure. In respect of the residential floorspace, the proposal therefore conflicts with development plan policy.

15. The appeal site (along with the woodyard) is the subject of a specific allocation in DP policy HERT2. This provides, amongst other matters, that around 200 homes are to be delivered by 2027[6]. HERT2 requires that a Master Plan Framework (MPF) be produced – this has been done and was approved by the Council in 2018. Given that the production of the MPF is a policy requirement and has been approved by the Council I consider that it is a document to which considerable weight should be attached, although the Council's written evidence mentions it only briefly.

[3] Distances set out at SOCG Paragraph 3.4
[4] This word is highlighted as it is the subject of disagreement between the parties, as discussed below
[5] Effectively the appeal site and the woodyard
[6] SOCG Paragraph 3.8

16. Overall, based on these policies, the Council does not object to the principle of a mixed residential and employment development on the appeal site.

17. The planning Statement of Common Ground (SOCG) sets out the policies which the parties consider are relevant, including those referred to in the reasons for refusal[7], further material considerations and other relevant documents.

18. Prior to the adoption of the DP, the Council produced the Mead Lane Urban Design Framework SPD (2014) (used as part of the evidence base for the DP). Some of the Council's reasons for refusal allege a breach of the SPD but, from everything I heard and read, although it remains outstanding it has been largely subsumed into the DP.

The provision and deliverability of employment floorspace

19. This issue relates to two reasons for refusal. The first is concerned with the quantum of employment floorspace in the appeal scheme in comparison with policy, and the second with the potential deliverability of the floorspace. I will deal with each aspect in turn.

20. DP policy (HERT1) provides that 3,000m^2 of employment floorspace is to be provided on the overall allocation (including the appeal site and the woodyard). The Council accepts that the gym and co-working space comprise employment floorspace, and the proposed 2,710m^2 of employment floorspace is therefore below the 3,000m^2 figure by around 290m^2.

21. There was some debate at the Inquiry and in written evidence as to whether the DP anticipated some flexibility in the quantum of the employment floorspace, or whether it is to be interpreted as a fixed figure. The appellant's position is that the DP Examination[8] considered the need for flexibility in relation to the quantum of floorspace to be provided on the HERT2 site, and this led to the insertion of flexibility in the supporting text.

22. However the insertion of the word "normally" was in a section dealing with economic growth, although clearly referencing HERT2, rather than in the policy itself. This leads to a confusing position, with one part of the adopted plan giving a precise figure and another part allowing for flexibility. Whether this was deliberate I cannot say but, if faced with a choice between these conflicting policy positions, I would have to prefer the site specific policy HERT2 as my start point.

23. There is clear evidence from the Council that there is a healthy demand for employment floorspace along with a serious shortfall in supply in Hertford and the wider area[9]. In addition, it was not disputed that HERT2 is the only opportunity to deliver employment floorspace in Hertford. The Council's evidence was based on a number of studies and the professional opinion of its witness, and is persuasive. The only significant counter argument was put forward in a written statement by the appellant's employment consultants[10]. However they were not called at the Inquiry and it was therefore not possible

[7] SOCG Paragraph 6.2
[8] In which they were actively involved
[9] CD 3.13
[10] CD 1.16

to fully understand how their conclusion had been reached – apparently contrary to their previous position and contrary to reports from other experts (including the appellant's previous consultants). Under these circumstances I give this evidence less weight and I agree with the Council's position.

24. However that does not mean that a proposal for a slightly different figure from that in HERT2 should automatically be rejected. With that background I turn to the consequences of the shortfall below the 3,000m^2 figure. Various material considerations come into play:

- The policy, however it is interpreted, requires 3,000 m^2 of employment floorspace on the overall HERT2 site. However HERT2 does not identify where on the overall allocation site the floorspace should be located. The appeal site does not cover the entire HERT2 site, as it omits the woodyard. It was quite clear in evidence and cross-examination that the Council's witness dealing with this topic had not appreciated this point, and this reduces the weight I give to their expert evidence.

- The future of the woodyard site is uncertain. The evidence is that the occupiers are 'stuck' and are currently unable to move. But the woodyard site is currently in employment use and, even if the existing occupier were to remain there would be well over the HERT2 policy floorspace on the overall allocation site.

- If this situation changes in the future, as the occupiers of the woodyard clearly hope it will, there is no reason why the redevelopment of that site could not provide an element of employment floorspace – as required by policy. The Council make the point that the woodyard site is identified as being in the residential area, and the Council allege that the most this site could deliver would be an employment use which would be ancillary to the dwellings. However, even if this were the case, it would still generate employment - bearing mind that the Council accepts the co-working space and gym in the current scheme as being employment floorspace. There would be no reason to treat such provision as other than employment floorspace.

- In any event, if a scheme comes forward on the woodyard site, it would be considered in the light of then-extant policy. Given that the appeal scheme falls slightly below the quantum set out in HERT2, the Council would be in a position to seek employment space as part of the potential development.

- Finally, even though I prefer the approach to the 'fixed' quantum in HERT2 as opposed to the flexibility found elsewhere in the plan, the fact that some element of flexibility is envisaged elsewhere in the DP remains a material consideration.

25. Even reading the HERT2 requirement at face value and discounting the contribution made by the woodyard site (now and in the future), the shortfall below policy is very small. The statement by the Council's employment witness that this shortfall would undermine the Council's development strategy and ability to meet its employment needs is a considerable overstatement in view of the limited scale of the shortfall. In the light of the above matters, there are

compelling material considerations to accept a floorspace below that set out in the HERT1 and HERT2 which, in any event cover the whole allocation site. There is no conflict with these policies.

26. I now turn to the deliverability of the employment floorspace. The Council considered the compatibility of the employment scheme with the character of the area only briefly in evidence and the Council's design witness did not deal with it at all. There is nothing before me to suggest that the illustrative scheme would harm the character of the area and, even if it did so, this could be addressed at the detailed stage. With that in mind I move on to the feasibility of the employment scheme and whether it is likely to be delivered.

27. This matter can be dealt with briefly, as this part of the proposal is in outline, and the illustrative material put forward by the appellant (in considerably more detail than might have been expected) is not part of the proposal before me. It simply serves to show how the site could be approached.

28. The Council's position is that there is significant doubt as to whether the quantum of employment floorspace could realistically be delivered, in relation to functional and operational requirements. The authority considers that a significantly larger area of land would be required and that the illustrative material submitted by the appellant, showing excavation and basement servicing, would raise concerns about viability. Overall the Council considers that the limited servicing and loading/unloading space would threaten the delivery of the floorspace.

29. A careful reading of the illustrative plans, assisted by the scheme architect at the Inquiry and by my visit to the site, does not show a basement. Rather it is a response to a fall in the land, and in any case it was explained that it was not proposed that this area would be used by trade vehicles. There is sufficient servicing space shown for this type of scheme on the illustrative plans.

30. Much of the Council's concern was based on the position that a 40% plot ratio was required. But this appears to be based on a very conventional approach to the provision of employment floorspace – whereas such development can come in many forms. Although comparison with other schemes in different locations is not especially helpful, the Council's 40% assumption tends to imply a very traditional form of development. The 40% figure seems to have originated in a document[11] which itself recognises the possibility of more dense developments and which cautions against blanket assumptions.

31. In such a sustainable location, I see no reason why a denser development on multi-levels should not be provided in a perfectly satisfactory manner. The illustrative details clearly show perfectly satisfactory approaches to the delivery of the employment floorspace, as was explained in some detail by the architect and the appellant's highway witness. Sufficient information has been submitted to demonstrate that the employment floorspace can be delivered in an appropriate manner in line with policies DES4 and HERT2.

[11] Document 6

Good design

32. In this section I am purely dealing with design considerations, rather than any restraint on development arising from highway matters. I will return to that issue below.

33. As a backdrop to the design considerations it is noted that this is a brownfield and sustainable site, and there is a clear policy requirement to optimise density. This is set out in the DP[12], the National Planning Policy Framework (the Framework) and the National Design Guide. It is also important to note that the site is not in a Conservation Area, and that there is no suggestion of harm to heritage assets or landscape.

34. The area around the site is very mixed and includes modern blocks of flats, traditional terraced housing, open space and commercial development. Some of the residential development in the area was stated by the appellant to be at a density above that proposed by the appeal scheme – this was not contested by the Council.

35. The Council criticised the overall approach of the scheme architect, which was to consider the site as a blank canvas in design terms, taking no account of the quantum of development set out in the DP. It was stated by the Council that he should have specifically drawn this approach to my attention. However, on reading the various documents explaining the genesis and refinement of the proposal, this approach was entirely apparent and did not need to be re-emphasised. This is especially the case as the limitation on the quantum of development appears to be transport related and not a design constraint, so it is reasonable for the architect to take the approach that he did. In any event others in the appellant's team would have been able to identify any design policy constraints which the architect should have fed into the process.

36. There was also some limited concern by the Council relating, in design terms, to the lack of a comprehensive approach to the entire allocation site. However the authority accepted that there is no requirement for a single application on the HERT2 site. There was no clear explanation as to how the current proposal would have implications, in design terms, for the remainder of the site. I will return to this matter below.

37. The relevant reason for refusal refers to the size, scale, form, siting, orientation and design of the flatted blocks, which are said to fail to respond appropriately to the riverside location resulting in an overbearing and dominant form. However there is also a considerable range of agreement on elements of the design concept – perhaps most significantly the quantum of outdoor space, legibility and the living environment.

38. The massing of the apartment blocks along the river, sitting on a podium, would be a clear and dominant feature in the local scene. However there is no measured height restriction in any policy document, and the MPF refers to the need for development to respond to its context, which ranges up to four and five storeys. From a careful study of the plans and supporting material, especially on my site visit, I have reached the conclusion that the perception of

[12] Especially DP policy HOU2

the mass of the blocks, especially when viewed from the towpath, would not be as dominant as the Council suggested.

39. In coming to that view, I have taken account of the fact that the Council's evidence erroneously referred to five storeys across the whole site. Even assuming that this refers to only the northern part of the site, this statement ignores the connecting blocks which are lower.

40. The roof design and elevations were amended on a number of occasions and would be, in my view, well articulated when viewed from the towpath. I appreciate the approach which to the architect has taken in reflecting mill architecture, which I consider appropriate in this riverside location, and I do not find the ridgelines and roofscape to be monotonous.

41. There was some criticism by the Council that the scale of the development would be seen when viewed from Hartham Common. However it was not explained how such a view would equate to harm, especially bearing in mind that the MPF encourages views from the proposed apartments to Hartham Common. Logically the reverse view must be available and there is no suggestion in the MPF or elsewhere that this equates to harm.

42. Overall, I consider that the proposed apartment blocks respond positively to their riverside location and would not represent an overbearing or dominant form.

43. Turning to the proposal as it relates to the footpath/towpath, the scheme has a significant benefit in terms of widening the public realm and providing a landscaped setting for both the buildings and the towpath. In addition there would be three locations along the towpath where there would be a wider area which could accommodate seating. The setback of the blocks from the towpath would be quite significant - in excess of 8 metres from that part of the path closest to the buildings, and obviously wider if one measures the distance from the edge of the path closest to the river. This is quite a significant distance set in the context of the absence of any specific guidance as to the relevant distance.

44. The slope up to the podium was itself the subject of criticism by the Council, on the basis that it would be too steep to be usable, although the authority was not able to identify how steep the slopes would be. The appellant provided the gradients (8 – 25 degrees) for the slopes, and these were not contested. From these figures and my site visit I see no reason why the slopes should not be an attractive and usable element of the scheme.

45. There would also be landscaped areas between the apartment blocks along the river frontage. These were criticised by the Council on the basis of extensive use of grasscrete and the intrusion of significant amounts of parking into the areas. However I suspect this has arisen as a misunderstanding in that grasscrete between the blocks was abandoned at a much earlier stage, and the amount of parking was reduced substantially. On that basis I see no reason why the areas between the blocks should not be usable and attractive landscaped areas.

46. Although not supported by evidence, there was a point raised by the Council in cross-examination as to whether higher density development should be more appropriately located at the eastern or western end of the appeal site. However what matters is the overall design consequences of the appeal scheme, not any guidance as to the best location of more dense elements.

47. The iterations of the appeal scheme have been presented twice to the Hertfordshire Design Review Panel (DRP). The Council has stated that the DRP "..raised serious concerns about the scheme…overbearing, with a relentless or monotonous quality..[13]"

48. I have read the comments of the two DRPs carefully, and have reluctantly come to the conclusion that the Council's extracts and summary are somewhat selective. It is certainly true that, when first presented to the DRP, various critical comments were made with a view to improving the design. The scheme was significantly amended following these comments, and it is clear to me that, when presented a second time, the DRP considered that the scheme had considerably improved and had a clearer design philosophy and better legibility. Overall the DRP comments, taken in the round, clearly indicate that the second submission represented good design, said by the appellant to be on the verge of being exemplary. It should also be noted that, after the second DRP, the scheme was further amended. There appeared to be some criticism that the proposal was not put back to the DRP again, but I see no reason why this should have been done.

49. Overall and on the basis of the above matters I consider that the appeal scheme represents good design, and that the Council's concerns are not justified. It complies with DP policies HERT2, DES1 and DES4, Framework guidance and the provisions of the Mead Lane Urban Design Framework (2014).

Living conditions of nearby residents

50. In the committee report Council officers reflected the objections from some boat residents, but did not give their considered view on the matter. However planning permission was refused, amongst other matters, on the grounds of impact on the boat residents. The reason for refusal can be divided into 2 parts, which I will deal with in turn. Firstly an objection on the basis of the effect on the living conditions of the permanent canal boat residents in relation to natural light and overlooking. Secondly the reason for refusal alleges that insufficient information has been provided to demonstrate that the proposed dwellings would not be adversely impacted by the employment element of the scheme.

51. Dealing first with the living conditions of the residents of the canal boats located on the opposite side of the river, both parties agreed that the issue related to those permanently occupied. There was a debate at the Inquiry as to which fell into that category and Council tax records were submitted in order to attempt to clarify matters[14]. There was also reference to those boats which had formed small onshore garden areas, and whether these were indicative of

[13] Council's opening submissions
[14] Document 1

permanent occupation. Overall, the position remained somewhat unclear, but it is safe to assume that some of the boats, probably four in number, are occupied as permeant dwellings.

52. The start point is DP policy DES4 which seeks to avoid significant detrimental impact. However this is an unusual case in that neither party was able to point to policy, guidance, or case law related to the impact of a proposal on residential canal boats. Both parties used the BRE[15] guidance in considering this issue, but this is only advisory, and the guidance also provides that the matter should be approached in a flexible manner.

53. An important consideration is that the Council did not adopt a two-stage test in assessing the daylight and sunlight implications of the scheme, although the Council's witness accepted that this was the appropriate approach as set out in case law and appeal decisions. The correct approach is firstly to calculate whether there would be a material deterioration in conditions, using the BRE guidance. But after that there has to be consideration of policy and wider amenity issues (including policy to make effective use of land). It is this second stage which the Council initially failed to address, and the fact that the Council initially did not adopt this approach casts some doubt on their evidence.

54. Along with the fact that there is no policy or guidance dealing with residential boats there are a number of other background issues affecting the expectations of the boat residents and the measurement of the effects. I have considered these before moving to the details of the calculations:

- It is clear from the Canal and River Trust's standard terms[16] that the residents of boats have a licence to occupy, but no particular right to a specific mooring. It appears that they can easily be required to move. The evidence relating to the potentially residential boats is that they have moved on occasion. In this respect there is a significant difference between residents of a boat and those living in bricks and mortar.

- The configuration of the boats is such that the windows are at a low level close to the water. The appellant suggested that this meant that they were analogous to basement rooms. I do not entirely agree with this approach, but nevertheless it makes assessment difficult and arguably sets a lower expectation than if they were conventional windows.

- Some boats have portholes to some areas within the boat as I saw on my visit. Doubtless this gives a degree of natural light, but this would be far less than a conventional window.

- The BRE approach to VSC[17] should be assessed 1.6 metres from ground level – but this is not possible in the case of canal boats.

- Some residents have chosen to curtain or otherwise block windows facing across the river to the appeal site, presumably for privacy

[15] CD 5.6
[16] Document 2
[17] Vertical Sky Component

reasons. They probably rely on windows facing the other way, which would be unaffected by the proposed development.

55. A number of matters were agreed between the parties. In particular that there is no issue related to daylight distribution and sunlight hours. The main issue relates to Vertical Sky Component (VSC) which measures a single point of light on a window. Useful though this measure is, it does not allow for the size or shape of the room in question or the presence or absence of other windows. This makes calculation of the VSC particularly problematic when dealing with boats.

56. As a general position I prefer the appellants calculations of the VSC to that of the Council for three reasons:

- Firstly and most importantly the Council's evidence plotted the position of the boats incorrectly. This allegation was not contested at the Inquiry and I confirmed the error for myself on my visit.

- The Council's calculation did not initially include an existing wall, around 4 metres in height, which currently runs along the northern boundary of the appeal site and obviously affects the current situation. Although this was accepted and corrected during the course of the Inquiry, it casts some doubt as to the weight to which the evidence can be afforded.

- The Council's witness did not show how the results had been calculated, unlike the appellant's witness. Although I have no reason to doubt the calculations, leaving aside the two points above, it would have been easier to verify the results if the workings had been revealed.

57. The BRE Guidance provides that a retained VSC of greater that 25% represents adequate skylight potential, and that a reduction of 20% would not be noticeable. The appellant took this further and adopted (with explanation) an approach with a retained VSC of 21.6% as the minimum level. This was specifically accepted by the Council's witness in cross-examination. On that basis, there would be only a very small number of windows falling below that level, and those which did fail would only do so by a narrow margin.

58. Overall, because of the peculiarities of this particular case as summarised above, I find that the very limited numerical infringement of the VSC in some cases to be such that it would be difficult to allege harm to living conditions on that basis. I now pass briefly to deal with the second stage of the accepted approach.

59. In particular I am conscious that the policy requirement is that "significant detrimental impact" will occur. I do not consider that the numerical infringements in this case even come close to that level of harm. In reaching that conclusion I am also conscious that there was no assessment by the Council of typical VSCs in the area, whereas the appellant's assessment - showing some recent developments with lower VSCs - was not challenged.

60. In addition the appeal site has been cleared of buildings and other structures for some years and is allocated for development in the DP. It is therefore to be reasonably expected that some change will occur on this site, and that the

amenity of canal boat residents would be affected to a degree. This is particularly clear as the MPF and the SPD suggest the potential for river frontage development.

61. Overall the appeal scheme would not reduce the daylight received by the residents of the boats to a significant degree.

62. Turning to the consequences for sunlight, the Council suggests that there would be significant changes to sunlight on the river throughout the year, adjacent to several areas of the residential boats. The authority considers that this part of the river provides critical amenity space for houseboat dwellers and it is therefore reasonable to assess the situation in that light.

63. The Council therefore adopted the BRE guidance on open spaces and gardens to include the river itself. The authority considered that the water represented an external visual amenity and created a set of theoretical areas for each boat within which to assess sunlight. However the Council accepted that there was no policy or guidance in support of such an approach, nor any relevant appeal decisions which endorse it.

64. The approach seems to me to be unsupported and unrealistic, as the areas in question can be passed along by boats and are not exclusive to particular residents. I agree with the appellant's suggestion that it would be similar to assessing the effect of development on a road. In any event, having put forward this approach, the Council's evidence shows that at least two hours of sunlight is available on 21 March. There is no need to go beyond this, as the Council sought to do, to consider tests relevant to critical areas.

65. The reason for refusal also alleged harm due to overlooking to the boat residents. However the Council offered very little evidence on this matter, other than a reference to a perception of overlooking. The design of the proposed apartments is such that the extent of potential overlooking would be very limited and the intervening distance between the boats and the apartments would be significant. In addition, the low-level nature of the boats would further serve to reduce any such perception.

66. The reason for refusal alleged that there was insufficient evidence to judge the impact of the employment element of the scheme on the proposed houses. However the Council's daylight/sunlight witness was not instructed to consider this aspect and no evidence was offered by the authority. The appellant assessed the potential impact, based on known parameters, with the result that there was a marginal deficiency in winter sunlight to one window in one room at a lower level of a proposed house, and to one room in an existing dwelling in Marshgate Drive. There is nothing to suggest that these marginal infringements, considering the local context, should lead to a dismissal of the appeal.

67. Overall, the proposal would not harm the living conditions of residents including those living in canal boats. It complies with DP policy DES4.

Highway matters

68. The highway reasons for refusal raise three interconnected issues. Firstly it is alleged that the amount of development would have a severe capacity impact which would adversely affect the approach routes to and at the junction of Mill Road/Ware Road and the Bluecoats roundabout. Related to that the second issue is the alleged adverse effect on the reliability of bus and rail replacement services in the area. Finally the level of on-site parking proposed is alleged to put pressure off-site and contribute to the capacity issue. The second of these issues is almost entirely parasitic on the first, but I will deal with each in turn.

69. The background to these issues is that the appeal site is a large part of the area allocated for significant residential and employment development, and that the accessibility of the site is not in doubt. It is also common ground that the proposed highway sustainability measures have the potential to make a positive contribution to accessibility.

70. A range of matters are agreed in the Highways SOCG[18] and were confirmed at the Inquiry. These do not need to be repeated in full here, but include site layout and design, trip generation and assignment, travel plans and highway safety. In terms of trip generation it is agreed that a reduction to predicted traffic generation should be applied to the completed (2024) figure to reflect the Travel Plan and other sustainable transport initiatives. The mitigation measures and their funding are clearly explained in evidence and largely agreed in the SOCG. I will return to them later.

71. In terms of highway capacity, the area of disagreement is very limited. In essence it is the effect of the traffic associated with the proposal at the Bluecoats roundabout and at the Ware Road/Mill Road junction, and at the approaches to these locations.

The existing situation

72. Dealing first with the current highway position, this is most succinctly set out in the A414 Corridor Strategy, which was adopted during the course of the Inquiry[19] (as discovered by the appellant). It states that the fact that many different routes coincide at the Bluecoats roundabout causes congestion. This is uncontested.

73. It was explained in evidence that the Council has undertaken considerable work on signal timings at the roundabout and at the junction to avoid blocking. Both parties showed drone footage (obtained by the appellant) and I was also able to observe the position throughout the morning and evening peaks on my second site visit. The appellant also presented a full turning count of traffic and queues[20], which was not contested. The Council did not produce any such data.

74. My very clear conclusion is that the roundabout and the junction, whilst exhibiting some queueing on the approaches, display little stacked traffic on

[18] Document 21
[19] Document 17
[20] CD 4.6

the roundabout itself. What blocking back did occur during my visit was brief in duration and appeared to be well managed by the signals.

75. Historically the evidence suggests that flows on the A414 have been generally decreasing in recent years. This is suggested by a significant reduction between 2006 to 2015 (as referenced in the County Council's 2015 letter[21]). The Council sought to cast doubt on the reliability of the DfT figures but, whilst I appreciate that some of these are estimates or spot counts, they contribute to the overall picture - even though they may not be as useful as other evidence in relation to small links.

Modelling

76. Turning to the way in which the effects of the proposal have been modelled, the Council has stated that it is not clear how the appellant has arrived at a reduced trip generation of 25% to reflect the decreased on-site parking. In fact the appellant was clear as to the calculation – the trip generation has simply been reduced pro rata. I do not find this to be an unreasonable approach, which was not contested by the Council.

77. The appellant has submitted two models to the Inquiry – a LINSIG model and a microsimulation (VISSIM) model. Before considering these models, it should be noted that the Council emphasised that one of their highway witnesses had direct experience of highway modelling, whereas the appellant's witness relied on others. However the appellant's evidence was clear and cogent and, although the witness was not a modeller himself, he detailed his lengthy experience as part of a team dealing with modelling. The Council's criticism adds no weight to my considerations.

78. LINSIG modelling is well-established and widely used software for modelling networks and large compound junctions such as signalised roundabouts. Its use is supported by the guidance produced by DfT. With that background it is perhaps surprising that the Council say that it suffers from flaws which make it unsuitable. In particular it is said that it fails to address queue lengths where these exceed the road space available to accommodate it. In effect queues are stacked vertically in the model.

79. It is clear that the LINSIG model operates in this way regardless of the actual available road capacity. However these queues are transient, and this is a standard feature of the model, which has been used and endorsed in many areas. I am not persuaded that the model should be cast into doubt because of this generally accepted feature.

80. LINSIG modelling shows that the mitigation proposed at the Ware Road/Mill Road junction does not add to queueing on the roundabout and has only a limited effect on Ware Road. The Council produced some hand drawn diagrams of the queues said to be produced by LINSIG modelling. But these did not appear to be entirely accurate and in any event did not show any real difference to the extent of queueing.

[21] Document 5

81. There was much discussion over the fact that the Council, at the application stage and in the SOCG, describe LINSIG as being "broadly robust", yet at a subsequent stage raised criticisms of it. It was explained by the Council that it is regarded as a broadly robust model only once errors are removed, which has not been the case in the view of the authority. This is, at best, a confusing position and it is hard to see how the model could have been described as robust. In any event, the current position of the authority is that LINSIG is not an appropriate modelling tool and that a microsimulation model was additionally needed.

82. In response to the Council's concerns the appellant explained that they had considered the use of PARAMICS modelling, but this had proved unsatisfactory. No party suggested that this model would be of any particular use in this context. The approach then switched to VISSIM modelling.

83. There was a disagreement at the Inquiry as to the timeline of the production of the VISSIM model, which was published (along with a validation report) by the appellant around a month before the Inquiry. Regardless of how this came to be produced, which is not germane to my decision, the Council were able to respond in full to this new modelling, and had ample time to explain their position.

84. The Council's position is that this model includes significant errors, the most important of which are considered below:

- There was concern that the study area of the model was too small. Certainly it does not extend particularly widely beyond the roundabout and the junction, but I see no reason why it should do so as the study area is more than sufficient for its intended purpose. That is to say the consideration of the potential blocking of traffic on the Bluecoats roundabout.

- In this respect there was a suggestion that there could be blocking back to the A10 junction - some 2.2kms away. But this was suggested on an anecdotal basis and supported, to a very limited extent only, by Google Heat Maps, which include very wide definitions and are unsuited for this purpose.

- The Council was concerned that actual flows rather than demand flows have been input into the model. It certainly appears that actual flows, adjusted where necessary, were the primary data source. However from the evidence before me this appears to be standard practice and is supported by TfL modelling guidelines.

- The use of a dummy signal in the model serves the reasonable purpose of simulating delays from the upstream junction. This accords with what can be appreciated from the drone footage and from my site visit, and seems an entirely unobjectionable input into the model.

- The Council was concerned that the journey time on the approaches to the junction and roundabout are too short. However the professional witnesses on both sides accepted that this is a matter of judgement, and

I have not been provided with evidence to suggest that those building the model were in error.

85. In response to the Council's concerns regarding the appellant's VISSIM modelling the authority reran the model with revisions. However this revised model has not been validated to demonstrate that it represents existing conditions before it was used for forecasting. This substantially reduces the weight which can be placed on the revision.

86. In addition I am concerned that the Council's unverified model extends the approaches to the Bluecoats roundabout well back beyond a number of other junctions. These other junctions would clearly affect traffic and were not, in themselves, modelled. This further limits the weight which I can place on this exercise.

87. The Council, as a result of the revised model, now state that the model has demonstrated that the proposal would increase queuing along Fore Street as it enters the roundabout. However it is agreed that there would be no direct traffic from the development along Fore Street, so any effect would relate to the increased traffic on the Bluecoats roundabout itself. This increased traffic on the roundabout would be very limited indeed and it seems highly unlikely that there would be any significant effect on Fore Street.

Mitigation

88. There are a number of matters put forward by the appellant in mitigation. These would enhance the accessibility and sustainability of the site and are agreed. They include:

- Contributions to improvements at the Mead Lane crossing, Hertford East station and the towpath.
- The improvement of the Marshgate Drive/Mead Lane junction.
- Other works to Marshgate Drive.
- The production of Travel Plans and a car club.
- A future bus route through the site, along with a turning area and subsidy.

89. The only proposed improvement which is not agreed between the parties is the work at the Mill Road/Ware Road junction. The consequence of the proposed rearrangement is that it would allow more traffic to enter the main road heading towards the roundabout.

90. The written evidence of the Council's two highway witnesses is that this would have a positive impact on Mill Road, but that the effect would be problematic at the Bluecoats roundabout. However the Council's evidence was somewhat confusing, as it was contended that there would be no benefit in terms of releasing traffic onto Ware Road, but at the same time that there would be an adverse impact on the same road. This seems a contradictory approach and on

balance it is clear that this element of the mitigation package will be beneficial in overall terms.

The role of the UTP

91. A significant amount of Inquiry time was taken up considering the evidence presented to the DP Examining Inspector. This is partly of relevance because the position of the authority is that the appellant's arguments put to me were essentially the same as those put to my colleague dealing with the DP.

92. The UTP was said by the appellants to be a critical part of the evidence base for the examination and that it was this document which effectively fixed the quantum of development on the HERT2 site. Both the Council's planning evidence and Statement of Case for this appeal emphasises the importance of the UTP, and the appellant's position also seems to be supported by the SOCG for the DP Examination. However the Council took a different position, whilst accepting that there was no other trip generation evidence related to the HERT2 site other than the UTP. The position of the authority was that it did not rely on the trip generation data from the UTP, nor LINSIG or Paramics modelling to underpin their position at the DP examination. Rather the evidence base was the trigger point analysis, and it was this which led to the optimisation of the housing trajectory. There was reference made to a spreadsheet prepared for the DP examination, but this was not produced.

93. To the extent that the role of the UTP at the DP examination is relevant at this time, this is a very unsatisfactory position. The written and verbal evidence of the two parties, both of whom were actively engaged in the DP examination, is in conflict as to the documentary source of the limitation affecting the current appeal site. What is clear is that there is no other reason beyond highway capacity for limiting the development of the HERT2 site. On balance, in trying to reconcile the conflicting information, it seems to me that at least the UTP had an important role at the DP examination. There are a number of consequences flowing from that conclusion:

- The modelling which underpinned the UTP was a combination of LINSIG and microsimulation modelling – essentially the same approach as the current position.

- The option of a Ware Road/Mill Road mitigation scheme was tested and found to be useful.

- The quantum of development on HERT2 was set in the context of a higher volume of traffic using the Bluecoats roundabout than that which currently exists.

- The Council's witness agreed in cross-examination that it is relevant to compare the traffic to be generated by the appeal scheme and that assumed by the UTP that the HERT2 site would generate. The evidence suggests that there was spare capacity in the peak periods.

The A414 Corridor Strategy and the WARE2 site

94. There is little doubt that the A414 will act in the medium term as a constraint on delivering development in the wider area, including housing growth. The Council's position was that the 'excess' of development currently proposed in the appeal would trigger the point at which the A414 Corridor Strategy requires a strategic intervention (agreed to be some considerable time away). However it is apparent that this would occur only following a review (if necessary) to facilitate a transport system in the town.

95. I am not persuaded by the evidence that the quantum of residential development currently proposed would trigger the need for strategic intervention along the A414 corridor at a significantly earlier point than envisaged, thereby delaying delivery of other sites[22]. In particular the authority referred to the strategic allocation at WARE2, to which I return later.

Conclusion on capacity

96. To conclude on capacity, neither party disputes that the Bluecoats roundabout and Ware Road/Mill Road are busy junctions at peak times and that there is some congestion. However there is no persuasive evidence that locking of the roundabout currently occurs.

97. Overall, the LINSIG modelling is robust, although I can understand the Council's concern that it might not reflect potential blocking of the roundabout. The VISSIM model was produced to address this concern and has demonstrated to my satisfaction that this would not occur.

98. The traffic associated with the proposed development would be 62 movements in the morning peak and 70 in the evening peak. The consequences of this would be to slightly increase queuing at the Ware Road/Mill Road junction, but this small effect can be mitigated. The residual impact is very small at around 1.3% in the peak hours. This is not a cumulative severe impact which the Framework requires to resist a development.

99. For these reasons I do not consider that there would be a severe capacity impact adversely affecting the free flow of traffic on the approach routes to, and at, the key junctions. The proposal does not conflict with DP policy TRA2, national policy, or the Hertfordshire County Council Local Transport Plan (2018) in this respect.

The effect on bus services

100. I now turn very briefly to the effect on bus services approaching or leaving Hartford. This is an entirely parasitic issue based on the reliability of the appellant's transport modelling.

101. The Council maintains that the appellant's modelling, once corrected, shows significant delays at the junction or at Bluecoats roundabout. However as set out above I do not accept that this is the case and there would therefore be no significant effect on buses.

[22] Document 14

102. In addition, there is the new problem related to delays to buses alleged by the Council arising from the analysis of the VISSIM modelling. This relates to queueing on the Fore Street approach to the Bluecoats roundabout. As I concluded above, the increased traffic on the roundabout would be very limited and it seems highly unlikely that there would be any significant effect on Fore Street. In any event, this effect has been produced using an unvalidated model.

103. Overall, I see no reason why the proposal would adversely affect the reliability of existing bus and rail replacement services. The proposal would not conflict with DP policy TRA1 or the Local Transport Plan in this respect.

The consequences of reduced parking provision

104. The final issue is the effect of the reduced level of parking provision on the appeal site, in that it might lead to pressure for on-street parking and fail to depress car ownership.

105. For this reduction in on-site parking to have a beneficial effect in supressing demand, three matters need to be in place:

- There needs to be a limit on the quantum of on-site parking. This has been provided as part of the scheme.

- There needs to be a package of sustainable transport measures. This is in place.

- Finally there needs to be restrictions on off-site parking, without which the development could add to pressure for on street parking and increase traffic flows. It is this last element which is in dispute.

106. The Council maintains that there is no guarantee that the proposed parking controls will be in place. This would need a Traffic Regulation Order (TRO), which is not supported by the District Council.

107. However the appellant is making a financial contribution towards the making of and implementation of the off-site parking restrictions. There is nothing to suggest that a TRO could not be made affecting the appellant's suggested locations.

108. No proper reason has been given for the Council's position and it is not unreasonable to assume that the sole purpose in opposing the idea of a TRO stems from its opposition to the appeal. That cannot be a reason for failing to seek a TRO in the future and this will doubtless be reviewed at a later date.

109. For these reasons I consider it highly likely that the package of sustainable transport measures can be provided and there would not be displaced parking onto the road network. The proposal in this respect is therefore in accordance with DP policy TRA2 and the Local Transport Plan.

The size of the residential scheme

110. The reason for refusal in relation to the size of the residential development effectively splits into three parts. Firstly there is the allegation that the development would be excessive in scale in relation to the number of dwellings, density and massing. (To some extent density and massing are design issues which I have already discussed.) The second element is that the alleged harm should be considered taking into account the Council's ability to demonstrate a five year housing land supply (this is a matter to which I return below). Finally there is the concern that the development is unnecessary and undesirable and would prejudice a more balanced distribution of housing growth on the HART2 site and other allocated sites.

111. There is no dispute between the parties that the residential element of the appeal scheme represents a material increase above that allocated for the HART2 site as a whole in the DP. The allocation is for "around 200" dwellings across the area as a whole, whereas the current scheme exceeds that number on only a part, albeit a large part, of the allocated site. Although the proposal is therefore not in accordance with the development plan in this respect, this matter is covered elsewhere and is not duplicated here.

112. The reason that the DP seeks to limit the residential content of the HERT2 allocation to around 200 homes is, in my view, clearly related to highways matters. No other reason for this limitation was put forward and the officer's report dealing with the application makes it clear that it is the highway capacity issue which has limited the number of dwellings[23]. The authority emphasised the fact that the appellant's highway witness stated in cross-examination that there were other reasons for the limitation on the scale of development aside from highway matters. However this is not a good point as the appellant's entire case indicated otherwise, and this was clearly an error from a witness not giving evidence on overall planning matters.

113. There was a discussion at the Inquiry around the fact that neither the MPF nor the report related to it sets a quantum of development for the site. This is factually correct, and it might arguably have been more clear had it done so. However the MPF is set in the context of the DP, which does set the 'normal' quantum. The point does not really go anywhere as the parent policies to the MPF specify the amount of development expected.

114. There was considerable debate about the extent to which arguments concerning the scale of the scheme were put to the DP Inspector. Leaving aside the detail of the evidence which was submitted to her, it is clear to me that the nature of the Examination and its purpose, together with the considerable difference in duration between the relevant part of the Examination and this Inquiry, leads to the conclusion that the examination would not have been as detailed as that at the current Inquiry. Nor will the evidence have been the subject of cross-examination.

115. Turning to the potential consequences of the size of the residential development, I consider it of note that none of the commonly found issues related to overdevelopment are alleged here. In many instances

[23] CD 1.12 Paragraph 8.18

overdevelopment expresses itself in a range of ways, for example cramped living conditions and inadequate amenity space. With the exception of the natural light issue related to residents off the site, which I have dealt with above, none of these issues are alleged here.

116. I fully accept the Council's assertion that, if highways concerns had not been acting to constrain development, it would be wrong to allege that the only concern would have been to maximise the potential of the site. There could well have been other policy and detailed issues to be considered. However, although this is undoubtedly a reasonable position in theory, no other relevant issues have been raised stemming from the alleged overdevelopment.

117. The Council states that this matter should be considered in the light of their claimed five year housing land supply. I will deal with this matter below. However national policy is to significantly boost the supply of housing and, even if a housing land supply exists, it does not act as a cap on development.

118. The Council alleges that because of the size of the proposed residential element, there would be prejudice to the distribution of development in the area. This is largely based on the constraint said to be imposed on development by the A414 corridor strategy and the timing of major interventions in the corridor, focussed around an east-west Mass Rapid Transit system.

119. Rather late in the day the Council raised the question of potential prejudice to a specific site, WARE2, caused by what the authority regards as the overdevelopment of the appeal site. Up to that point the Council's position had been much more generalised. The extent of evidence in relation to this allocation was limited, but I am mindful that the DP process examined both the WARE2 and HERT2 allocations and found the plan sound.

120. Leaving aside my conclusions above related to the traffic generation and highways capacity in the area, the Council's position at the Inquiry was that approval of the appeal scheme would prejudice the delivery of 1000 homes at WARE2. This figure is particularly important as it was stated to be the figure necessary to ensure the delivery of infrastructure - the overall development being larger than that. However the situation is very far from clear in that the officer's report dealing with the current proposal refers to prejudice arising above that figure - which would presumably not impact on infrastructure delivery and would be at a time further into the future.

121. In conclusion on the WARE2 site and prejudice to other developments, even leaving aside the highways conclusion above, the limited evidence before me falls short of demonstrating that the size of the current proposal would have prejudicial effects.

122. Overall the proposed residential development would not be excessive in size and scale. It would not be contrary to the various policies in the DP set out in the reason for refusal.

Prejudice to the regeneration of the allocated site

123. The relevant reason for refusal notes that the appeal site comprises two disconnected parcels of land on the overall HERT2 site, and asserts that the scheme would prejudice the ability for the overall site to be delivered holistically. The proposal is alleged to be not in accordance with the MPF for that reason. Beyond that the Council's position is that by omitting the woodyard site there is a real risk that this would not be developed.

124. It is common ground that there is no policy requirement for the whole of the HERT2 allocation to be the subject of a single planning application. That is an entirely reasonable position. The woodyard site is held up for reasons unrelated to this proposal and if the requirement were for a combined application, this could stall the development of the entire site.

125. The DP requirement is that there should be an agreed MPF, which has been prepared (in conjunction with the owners of the woodyard) and approved.

126. There was some suggestion at the Inquiry that the Council considered the appeal scheme to be unsatisfactory in terms of interconnectivity or permeability of the woodyard site. However there is no explanation as to how the proposed layout would harm the future preparation of a satisfactory development on the woodyard site – indeed the appellant suggested a way in which this could be achieved.

127. That only leaves the Council's position related to the alleged lack of available highway capacity if the appeal scheme were to be developed. I have already dealt with the highways capacity matter above and cannot conclude that the transport situation justifies the allegation that the current scheme would prejudice overall regeneration.

128. It is also noteworthy that the occupiers of the woodyard site have not objected to the proposal, but have in fact expressed their support for it.

129. Overall I do not consider that the appeal scheme would prejudice the regeneration of the overall allocated site. It would be in accordance with DP policies HERT2 and DES1.

Other matter – housing land supply

130. The Council's position is that it can deliver a 5.6 year supply of deliverable housing sites – not including the 200 allocated dwellings on the appeal site and the woodyard[24].

131. There are a number of agreed matters in this respect. Most particularly that a 20% buffer is appropriate in the light of the record of delivery.

132. There is a difference between the parties as to the quantum of the shortfall, but not the time period over which it is distributed. The Council considers that the shortfall can still be made up by the end of the period to 2027, due to a number of sites due for delivery in the middle of the period. From the

[24] Positions set out in Document21

evidence before me I do not consider that this is unrealistic. The Council's windfall allowance is supported by historic evidence of a high level of windfall completions.

133. However the main difference between the parties relates to the deliverability of some sites within the Council's claimed supply. In particular whether sites without a submitted application can be considered to be deliverable and whether sites with undetermined outline applications can be delivered at the Council's assumed rate. In both cases the central issue is the amount of clear evidence needed to justify their inclusion.

134. In order to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. The Council's approach in relation to some sites could in some cases be described as optimistic, but in all cases save one I consider that clear evidence has been provided.

135. The exception to that conclusion is Bishops Stortford High School where, based on evidence at the Inquiry, there remain too many obstacles (not the least being the relocation of the existing school for which government approval has to be obtained) for this to be considered in the supply figure. However removing that site from the calculation still leaves about a 5.5 year supply. On that basis the so-called tilted balance is not engaged.

136. It is important to note that although the appeal scheme would take the position still further above that required for a five year supply, this cannot be a basis for dismissing the appeal. If the supply had fallen below five years, that would have had consequences for the overall planning balance. But the achievement of a five years supply is not a ceiling on further housing development. In line with national policy, weight should still be given to the provision of housing and affordable housing.

Conditions

137. A set of agreed conditions were prepared between the parties and discussed at the Inquiry. I have only slightly modified them in the interest of precision. They relate separately to the full and outline parts of the scheme.

138. Given the scale of the development, a condition is necessary clarifying the sequence of events (Condition 2).

139. A wide range of details need to be submitted for both the full and outline parts of the development largely in the interests of the appearance of the scheme (3 – 7, 24 - 26).

140. The management of the external communal areas needs to be the subject of detailed approval to ensure its continuing maintenance (8).

141. Drainage details need to be approved to ensure proper provision (9 – 10, 27 - 28).

142. In the interests of protecting residents from noise from traffic and the proposed gym, noise details need to be submitted and approved (11, 12). For the same reason, the hours of operation of the gym need to be controlled (13). An air quality protection scheme needs to be submitted for approval (39). A Construction Management Plan is necessary for amenity and highway reasons (43), and noise controls imposed on plant and machinery (44).

143. Given the nature of the development, it is necessary to remove permitted development rights from the approved dwelling houses (14).

144. Various measures are necessary to encourage sustainable transport, including electric vehicle charging points and a Travel Plan (15, 23, 31, 32, 33).

145. In the interests of highway safety, a range of conditions are necessary to ensure satisfactory details (15 – 20, 29 – 30, 40 – 42).

146. The details of the dwellings in relation to the Building Regulations need to be controlled in the interests of the living conditions of the future occupiers (21 – 22). Measures to encourage water efficiency are necessary (52).

147. Mitigation measures to protect against flooding and protect groundwater need to be provided (34, 36 - 37).

148. In the interests of ecology, a landscape and ecological management plan need to be approved (35).

149. For heritage reasons, a programme of archaeological work needs to be approved (38).

150. The provision of high-speed broadband connections needs to be facilitated (45).

151. Given the previous use of the site, a range of controls are necessary to protect the health of future occupiers (46 – 50).

152. In the interests of clarity, the approved plans need to be specified (53)

153. One matter which was not agreed was the mechanism for the provision of fire hydrants. All parties naturally agreed that these would be necessary. The Council and the appellant agreed a condition (51) which provides that a scheme relating to hydrants should be approved and implemented. However the County Council, in a document dating from 2011[25], have expressed the view that adoptable hydrants are not covered by the Building Regulations and that their provision should be ensured by way of a planning obligation.

154. The County Council's main concerns[26] relate to enforceability and funding. If the provision of hydrants was dealt with by a condition rather than an obligation, the enforcement of the condition would fall to the District Council, rather than the County (who are not the Fire and Rescue Service). However this seems to anticipate a poor relationship between the two authorities, and

[25] Document 12
[26] Document 10

I have no evidence that this is, or is likely to be, the case. In addition, the County Council may provide the infrastructure in preparation for the development, funded from its own reserves. The County Council states that this has been challenged by developers who have sought to avoid paying contributions. However there is no indication that this is likely, and no specific examples have been given.

155. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition. In this case, based on what has been put before me, I am confident that a planning condition is acceptable and enforceable.

Planning obligation

156. A s106 Unilateral Planning Obligation[27] has been made in favour of the District and County Councils. The final draft of this was discussed at the Inquiry and the various provisions were explained in evidence and by various submitted documents[28].

157. The provisions are supported by DP policy DEL2, which provides for planning obligations in general terms, and by other policies as set out in the Council's CIL Compliance Statement[29].

158. In particular the provision of affordable housing is required to comply with various DP policies and the Planning Obligations SPD. The Council has agreed that the 15% affordable element is the most which can be provided on viability grounds. On that basis, the scheme complies with DP policy HOU3 and full weight must be given to this compliance – not 'some weight' as suggested by the Council. It would be wrong to seek to reduce the weight given to this matter in circumstances where the quantum of the provision is agreed and in line with policy.

159. Because the occupiers of the development would be likely to use Hartham Common and would have an additional impact on it, it is necessary to provide funds towards the replacement of the bridge. This would be in line with DP policies. The new residents would also be likely to increase pressure on other infrastructure facilities (Hartham Leisure Centre; Pinehurst Community Centre; GP provision, primary, secondary and early years provision; youth services; mental health and community healthcare; Hertford Library) and it is reasonable that contributions are made toward specified local projects.

160. A transport improvement contribution, including works to Mead Lane, at the station and on the towpath are included in compliance with policy. The extent of these improvements is clearly related in scale and kind to the development and are necessary.

161. In order to support sustainable transport initiatives, and in line with policy, various measures are included in the Obligation. These include a Car Club, a bus service contribution, travel vouchers and a Travel Plan. Land for a bus

[27] Documents 20
[28] Documents 10, 15, 22
[29] Document 22

link is required to benefit the occupiers of the development and the wider area.

162. Although not accepted as a principle by the Council (as discussed above) a vehicle parking contribution to assist with off-site parking controls is necessary to reduce the likelihood of overspill parking on the public highway.

163. All the contributions are directly related to the proposed development, are supported by the development plan and other documents, and are necessary to make the development acceptable in planning terms. Therefore, I consider that the Obligation meets the policy in the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Some of its provisions are designed to mitigate the impact of the proposal and these elements therefore do not provide weight in favour of the scheme. However other matters, most notably the provision of affordable housing, weigh significantly in favour of the appeal.

Planning balance and conclusion

164. I have considered whether the policies which are most important for determining the application are out of date, so as to potentially trigger the so called "tilted balance ". I have addressed a range of policies based on the Council's reasons for refusal, which are central to this decision, and have considered each of these in relation to the Framework. Taken as a whole these policies cannot be regarded as being out of date for the purposes of my decision. For this reason and given my conclusion on the five year housing land supply matter, the so called tilted balance does not apply in this case.

165. The scheme includes a wide range of benefits, of which the most important are:

- It would secure a development in what is agreed to be a highly sustainable location, a few minutes' walk from the railway station and only about 10 minutes' walk from the town centre.

- It provides the opportunity to remediate a contaminated brownfield site, which the Council has long wished to see developed, and make the best use of the land – for a mix of uses which in themselves are not objectionable to the Council and which are in line with the allocation in the development plan.

- The provision of market and 15% affordable housing[30], incorporating a dwelling mix which is acceptable to the Council. The authority urged that a 'policy compliant scheme', which the authority does not consider the appeal scheme represents, could deliver more affordable housing. However this is only speculation and in any event I have to deal with the proposal before me.

- The provision of employment use on part of the site in line with the allocation, with only a very limited shortfall from that sought by the development plan.

[30] Agreed on the basis of an independent viability assessment

- The generation of employment during the construction period and additional local expenditure after occupation.

- A package of highway measures which, although largely benefitting the appeal scheme, would also be of some wider benefit.

- The provision of public and private open space, with the former being available to those beyond the development itself.

- Enhancement of the riverside by widening and improving the existing towpath.

I give these benefits very substantial weight.

166. Overall the appeal provides a very wide range of benefits and is in accordance with the majority of development plan policies. The only issue in terms of the compliance with the plan relates to the quantum of housing development on the site. For the reasons set out above, in particular my conclusion that this quantum was fixed in relation to highways considerations which cannot currently be justified, I consider that there are substantial material considerations to justify a departure from the development plan in this limited respect.

167. The Council suggested that the appellant was seeking to downplay the conflict with this part of the development plan and therefore accord it reduced weight. Even if this had been the appellant's approach, I have not sought to downplay the weight to be accorded to the development plan, but rather have considered material considerations which justify allowing the appeal. On a development of this complexity it is highly unlikely that any scheme would comply with all aspects of the development plan, although in this particular case the scheme is in compliance with the overwhelming majority of the policies raised by the Council.

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

P. J. G. Ware

Inspector

Schedule of conditions
Land east of Marshgate Drive, Marshgate Drive, Hertford

Conditions relating only to that part of the site for which Detailed Planning Permission is granted (land shown as white on drawing number. 6925_PL_102 B)

1. The development hereby approved on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B shall be begun within a period of three years commencing from the date of this notice.

2. Prior to the commencement of any works on that part of the site for which detailed Planning Permission is granted and shown on drawing number 6925_PL_102B, a site wide Construction Programme shall be submitted to and approved in writing by the Local Planning Authority. The Construction Programme shall set out the details of the proposed sequence of development. Once approved, the development shall be implemented in accordance with the approved Construction Programme.

3. Prior to any above ground construction works being commenced on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B details of all external finishing materials shall submitted to and approved in writing by the Local Planning Authority. Thereafter the development on this part of the site shall be implemented in accordance with the approved details.

4. Prior to the first occupation of the development on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development on this part of the site shall be implemented in accordance with the approved details.

5. Prior to the first occupation of the development on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B details of any communal television reception facilities proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development on this part of the site shall be implemented in accordance with the approved details.

6. Prior to the first occupation of the development on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B details of landscaping shall be submitted to and approved in writing by the Local Planning Authority and shall include full details of both hard and soft landscape proposals (including any play equipment), finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and an implementation timetable. Thereafter the development on this part of the site shall be implemented in accordance with the approved details.

7. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become 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.

8. Prior to the occupation of any part of the development hereby permitted on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B details of the arrangements for the management and maintenance of all external communal areas shall be submitted to an approved in writing by the Local Planning Authority. Such details shall include a plan identifying all external communal areas which are to be managed and maintained. Thereafter all such areas shall be managed and maintained in accordance with the approved details.

9. No development shall take place on that part of the site for which Detailed Planning Permission is granted until the final design of the drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority. The surface water drainage system shall be based on the submitted Flood Risk Assessment reference C85529-R001E dated October 2018 and the Drainage Assessment reference C85529- R002A dated October 2018 carried out by JNP Consulting Engineers and supporting information. The scheme shall include:

    - Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
    - All calculations/modelling and drain down times for all storage features.
    - Demonstration of an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage, incorporation of the use of catch pits, interceptors and additional swale features etc. for highway drainage.
    - Silt traps for the protection for any residual tanked elements.
    - Details of final exceedance routes, including those for an event which exceeds to 1:100 + CC rainfall event.

    The drainage scheme shall be fully implemented and thereafter maintained, in accordance with the approved programme for implementation or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

10. Upon completion of the surface water drainage scheme in accordance with the approved programme for implementation, a management and maintenance plan for the surface water drainage scheme, inclusive of any SuDS features, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

    - Provision of a complete set of as built drawings for site drainage.

- Details of all maintenance and operational activities.
- Any arrangements for adoption and/or other measures to secure the operation of the surface water drainage scheme throughout its lifetime.

Thereafter the surface water drainage scheme shall be managed and maintained in accordance with the approved details.

11. Prior to the commencement of any above ground development a scheme for protecting the proposed dwellings from noise arising from road traffic and commercial/industrial noise sources in accordance with the recommendations identified in the Cole Jarman Planning Noise Assessment Report (Ref: 17/0333/R2) dated 2nd April 2019, shall be submitted to and approved in writing by the Local Planning Authority. The measures included within the approved scheme shall be implemented prior to the first occupation of the dwellings to which they relate and thereafter, maintained for the lifetime of the development.

12. Prior to the first use of any part of the buildings hereby approved as a D2 (Gymnasium), a scheme of sound attenuation works shall be submitted to the Local Planning Authority for their written approval, installed and thereafter retained. The scheme of works shall be capable of restricting noise breakout from the D2 use to the flats above to levels complying with the following:

- Bedrooms – Noise Rating Curve NR20 (23:00 TO 07:00hrs)
- Living Rooms – Noise Rating Curve NR25 (07:00 to 23:00hrs)

The Noise Rating Curve shall be measured as a 15 minute linear Leq at the octave band centre frequencies 31.5Hz to 8kHz.

13. Prior to the first use of any part of the buildings hereby approved as a D2 (Gymnasium) details of the hours of operation shall be submitted to and approved in writing by the Local Planning Authority. The gym shall thereafter only operate in accordance with the approved details thereafter.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement or other alteration of any dwelling house as described in Schedule 2, Part 1, Class A of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

15. Prior to the first occupation of any part of the development hereby approved on that part of the site for which Detailed Planning Permission is granted, a scheme for the installation of and measures to facilitate the provision of electric vehicle charging points in accordance with the recommendations of the Vectos Transportation Assessment dated November 2018 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme, which shall include a timetable and method of delivery, shall be implemented prior to the first occupation of that part of the development to which it relates and shall be retained thereafter.

16. Prior to the commencement of any part of the development hereby approved on that part of the site for which Detailed Planning Permission is granted, full engineering and construction details for the construction of:

- The Northern Marshgate Drive access, shown on drawing number 162527/A/26 Revision C in "Vectos response to HCC Comments – April 2019" and
- The Southern Marshgate Drive access, shown on drawing number 162527/A/31 in the "Vectos response to HCC Comments – April 2019"

shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to that part of the development to which they relate being first occupied.

Thereafter the Northern and Southern vehicular accesses to Marshgate Drive shall be retained as approved with the permanent provision of the visibility splays as shown on these plans, within which there shall be no obstruction to visibility between 600mm and 2 metres above the finished carriageway level.

17. Prior to the vehicular accesses to the individual dwellings along Marshgate Drive first being brought into use, triangular vision splays shall be installed to both sides of each access, measuring 0.65 metres along the fence, wall, hedge or other means of definition of the front boundary of the site, and 0.65 metres measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained in perpetuity free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

18. Before the Northern Marshgate Drive access as shown on drawing number 162527/A/26 Revision C in the "Vectos response to HCC Comments – April 2019" is first used, any existing access not incorporated in the approved plans shall be permanently closed. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details thereafter.

19. Before the Southern Marshgate Drive access as shown on drawing number 162527/A/31 in the "Vectos response to HCC Comments – April 2019" is first used, any existing access not incorporated in the approved plans shall be permanently closed. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details thereafter.

20. Before any part of the development on that part of the site for which Detailed Planning Permission is granted is commenced details of all hard-surfaced areas within the site, including but not limited to, all roads, footways, forecourts, driveways, parking and turning areas, and associated drainage shall be submitted to and approved in writing by the Local Planning Authority. All such approved hard surfaced areas shall be provided and made available for use before that part of the development to which such hard surfaced areas relate is first occupied and shall thereafter be retained in the approved form

21. All dwellings hereby permitted shall be constructed to meet Category M4 (2) (Part M) of the Building Regulations. Thereafter the dwellings shall be retained in the approved form.

22. Before any of the dwellings hereby permitted to be provided as Shared Ownership affordable dwellings in Blocks N7 and N8 shown on drawing numbers 2017.00485_PL_150.0; 2017.00485_PL_150.1; 2017.00485_PL_150.2; 2017.00485_PL_150.3 are first occupied, eight of these dwellings (equating to 15% of the Shared Ownership affordable dwellings to be provided) shall be constructed to meet Category M4 (3) (Part M) of the Building Regulations. Thereafter these dwellings shall be retained in the approved form.

23. No occupation of the development on that part of the site for which detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B shall take place until a detailed Travel Plan for residential and employment use based c the Hertfordshire County Council document 'Hertfordshire's Travel Plan Guidance for Business and Residential Development' has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be occupied in accordance with the approved Travel Plan.

Conditions relating only to that part of the site for which Outline Planning Permission is granted (land shown as pink & blue on drawing number. 6925_PL_102 B)

24. No development, in relation to that part of the site for which Outline Planning Permission is granted and shown on drawing number 6925_PL_102 B apart from site clearance and access works, shall commence before detailed plans showing the layout, scale and external appearance (including details of all external finishing materials, external lighting and any communal television reception facilities) of the building(s) to be constructed and landscaping (including details of all hard and soft landscaping proposals and finished levels or contours) to be implemented (hereinafter referred to as "the Reserved Matters") have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved.

25. Application(s) for approval in respect of all matters reserved in this permission in relation to that part of the site for which Outline Planning Permission is granted and shown on drawing number 6925_PL_102 B shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this notice. The development to which such approval of reserved matters relates shall be begun not later than the expiration of a period of 2 years commencing on the date upon which final approval of reserved matters is given by the Local Planning Authority or by the Secretary of State, or in the case of approval given on different dates, the final approval of the last such matter to be approved by the Local Planning Authority or by the Secretary of State.

26. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become 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.

27. No development shall take place on that part of the site for which Outline Planning Permission is granted until the final design of the drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority. The surface water drainage system shall be based on the submitted Flood Risk Assessment reference C85529-R001E dated October 2018 and the Drainage Assessment reference C85529- R002A dated October 2018 carried out by JNP Consulting Engineers and supporting information. The scheme shall include:

- Full detailed engineering drawings including cross and long sections, location, size, volume, depth and any inlet and outlet features. This should be supported by a clearly labelled drainage layout plan showing pipe networks. The plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes.
- All calculations/modelling and drain down times for all storage features.
- Demonstration of an appropriate SuDS management and treatment train and inclusion of above ground features reducing the requirement for any underground storage, incorporation of the use of catch pits, interceptors and additional swale features etc. for highway drainage.
- Silt traps for the protection for any residual tanked elements.
- Details of final exceedance routes, including those for an event which exceeds to 1:100 + CC rainfall event.

The drainage scheme shall be fully implemented and thereafter maintained, in accordance with the approved programme for implementation or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

28. Upon completion of the surface water drainage scheme in accordance with the approved programme for implementation, a management and maintenance plan for the surface water drainage scheme, inclusive of any SuDS features, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Provision of a complete set of as built drawings for site drainage.
- Details of all maintenance and operational activities.
- Any arrangements for adoption and/or other measures to secure the operation of the surface water drainage scheme throughout its lifetime.

Thereafter the surface water drainage scheme shall be managed and maintained in accordance with the approved details.

29. No development on that part of the site for which Outline Planning Permission is granted and shown on drawing number 6925_PL_102 B shall commence before detailed construction and engineering designs including specification and inclusive of details of the permanent provision of the visibility splays illustrating no obstruction to visibility between 600mm and 2 metres above the finished carriageway level, for the vehicular access shown on drawing number 162527/A/29 Revision B contained in the "Vectos response to HCC

Comments dated April 19 have been submitted to and approved in writing by the Local Planning Authority. The vehicular access shown on drawing 162527/A/29 Revision B shall be constructed in accordance with the approved details before this part of the site is first occupied and shall thereafter be retained in the approved form.

30. The detailed plans submitted in connection with approval of Reserved Matters shall show the details of all hard-surfaced areas within the site, including but not limited to, all roads, footways, forecourts, driveways, parking and turning areas, and associated drainage. All such approved hard surfaced areas shall be provided and made available for use before the development of that part of the site is first occupied and shall thereafter be retained in the approved form.

31. The detailed plans submitted in connection with approval of Reserved Matters shall include a scheme for the installation of measures to facilitate the provision of electric vehicle charging points. The submitted details shall include a timetable and method of delivery. Any such approved facilities shall be provided and made available for use before the development of that part of the site is first occupied and shall thereafter be retained in the approved form.

32. The detailed plans submitted in connection with approval of Reserved Matters shall identify the provision of sufficient facilities for cycle storage. Any such approved facilities for cycle storage shall be provided and made available for use before the development of that part of the site is first occupied and shall thereafter be retained in the approved form.

33. No occupation of the development on that part of the site for which Outline Planning Permission is granted and shown on drawing number 6925_PL_102 B shall take place until a detailed Travel Plan for the Class B1c employment use based upon the Hertfordshire County Council document 'Hertfordshire's Travel Plan Guidance for Business and Residential Development' has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be occupied in accordance with the approved Travel Plan.

Conditions relating to the whole site for which Planning Permission is granted:

34. The development shall be carried out in accordance with the submitted flood risk assessment: 'Flood Risk Assessment; Former Gasworks, Marshgate Drive, Hertford' prepared by JNP Group (reference: C85529-R001E October 18) and the following mitigation measures it details:

- Finished flood levels shall be set no lower than 35.92m above Ordnance Datum (AOD) plus 300mm freeboard for the Northern parcel, and 36.82m above Ordnance Datum (AOD) plus 300mm freeboard for the Southern parcel.
- Compensatory storage shall be provided to the full volume of 1 in 100 year plus 35% climate change allowance; 3965m^3 for the Northern parcel and 46m3 for the Southern parcel.

These mitigation measures shall be fully implemented prior to the first occupation of the dwellings and/or employment generating use(s) to which they respectively relate in the northern and southern parcels and subsequently in accordance with the Construction Programme approved by the Local Planning Authority. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

35. Prior to the first occupation of any part of the development hereby permitted a landscape and ecological management plan, including long term design objectives and mitigation actions shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority.

The landscape and ecological management plan shall include the following elements:

- Details of any new habitats created on site
- Details for the treatment of buffers around water bodies
- Details of the Biodiversity value of the site
- Details of an invasive species management plan.
- Details showing how the landscape and ecological management plan relates to the parts of the site for which Detailed Planning Permission and Outline Planning Permission is granted respectively.

36. No piling or any other foundation designs using penetrative methods and/or any excavation below the chalk ground water table shall take place other than with the express written approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling or other risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

37. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment reference C85529-R001E dated October 2018, the Drainage Assessment reference C85529-R002A dated October 2018 carried out by JNP Consulting Engineers and supporting information. The surface water drainage scheme shall include:

- Implementation of the appropriate drainage strategy for the northern site based on attenuation and discharge into the River Lee Navigation Channel (restricted to
- 5l/s).
- Implementation of the appropriate drainage strategy for the southern site based on attenuation and discharge into the Thames Water surface water sewer
- (restricted to 5l/s).
- Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event for both the northern and southern sites.

- Undertake the drainage to include blue/greens roofs, tanked permeable paving and attenuation tanks as indicated in drawings C85529-SK-201 Rev G and C85529SK-200 Rev E.

38. No development shall take place until a programme of archaeological work has been carried out in accordance with a written scheme of investigation, (including details of programme and timing of works, recording, reporting and any publication as may be required) which shall previously have been submitted to and approved in writing by the Local Planning Authority.

39. Prior to occupation of the development hereby permitted a scheme for protecting and enhancing the air quality of future occupiers of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall follow the mitigation measures recommended in the Air Quality Impact Assessment (reference 01.0097.001/AQ) produced by Isopleth Limited 2018. The scheme shall be fully implemented in accordance with the approved details and shall be retained in accordance with those details thereafter.

40. Before occupation of any part of the development, the improvement works to Marshgate Drive and Mead Lane as shown on drawing numbers 162527/A/26 Revision C, 162527/A/31, and 162527/A/29 Revision B shall be carried out and completed in accordance with engineering and construction details including details of specification which shall previously have been submitted to and approved in writing by the Local Planning Authority.

41. Before occupation of any part of the development, the improvement works to the Mead Lane / Marshgate Drive junction as shown on drawing number 162527/A/34 shall be carried out and completed in accordance with engineering and construction details including details of specification which shall previously have been submitted to and approved in writing by the Local Planning Authority.

42. Before occupation of any part of the development, upgraded pedestrian crossover points at the Railway Street/Mitre Court junction, to include pedestrian dropped kerbs and tactile paving shall be carried out and completed in accordance with engineering and construction details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

43. Prior to commencement of the development, a 'Construction Management Plan' shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Construction Management Plan.

The 'Construction Management Plan' shall include:

- The means of access to the site for construction vehicles, together with details of construction vehicle routing.
- The number of construction vehicles attending the site each day including details of their type and size.

- The hours of construction operation and construction vehicle movements (including hours of delivery).
- Details of any highway works necessary to enable construction to take place.
- Details of construction vehicle parking, turning and loading/unloading arrangements .
- Details of any hoardings.
- Details of how the safety of existing public highway users and existing public right of way users will be maintained.
- Details of construction traffic management.
- Methods for the control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels.
- The provision for addressing any abnormal wear and tear to the highway.
- The details of engagement with local businesses or neighbours.
- Waste management proposals.
- Mitigation measures to deal with environmental impacts such as noise and vibration, air quality, dust, light and odour.
- Details of any piling works to be undertaken, including a vibration impact assessment and justification for the chosen piling method.
- Details of surface water drainage measures to be implemented during the construction of the development.

44. Prior to first use, any externally mounted plant, machinery or other equipment associated with the development hereby permitted, shall be installed and made available for use in accordance with details of any resulting noise emissions and associated mitigation measures which shall previously have been submitted to and approved in writing by the Local Planning Authority. Thereafter, such externally mounted plant, machinery or other equipment shall only be used in accordance with the approved details.

45. Prior to the commencement of any part of the development hereby permitted apart from site clearance, details of the measures required to facilitate the provision of high speed broadband internet connections shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include a timetable and method of delivery for high speed broadband for each residential and commercial unit. Once approved, high speed broadband infrastructure shall be implemented thereafter in accordance with the approved details including the timetable and method of delivery.

46. Prior to the commencement of any part of the development hereby permitted, a site investigation scheme shall be submitted to and agreed in writing with the Local Planning Authority. This scheme shall take into account the principles of the risks identified within the JNP Ground Investigation Report M41973 R001 Rev H (October 2018), JNP Options Appraisal and Remediation Strategy- North Site M41973 / R002 Rev A (March 2019), JNP Options Appraisal and Remediation Strategy- South Site M41973/R003 Rev A (March 2019) and any associated uncertainties and shall provide for, where relevant, the sampling of soil, soil vapour, ground gas, surface and ground waters. In implementing the approved scheme, all works must be carried out by competent persons in compliance with the Environment Agency Model

Procedures (CLR11) and other relevant Standards and good practice guidance.

47. Prior to the commencement of any part of the development hereby permitted, a quantitative risk assessment report must be submitted to and approved by the Local Planning Authority. The report shall describe and assess the degree and nature of contamination identified by site investigations (recent and historic as appropriate). It will include a description of a conceptual site model identifying contaminant linkages and present an assessment of the risks to people and the environment associated with the development. All works must be carried out by competent persons in compliance with the Environment Agency Model Procedures (CLR11) and other relevant Standards and good practice guidance.

48. Prior to the commencement of any part of the development hereby permitted, a scheme of remediation works and measures (a Remediation Strategy) to deal with the identified risks to human health, controlled ground waters, property, environment or ecological systems, associated with any land and/or groundwater contamination present on the site shall be submitted to and agreed in in writing by the Local Planning Authority. The scheme shall include:

- A timetable for implementation
- Details of any management and/or maintenance of the works and measures
- A plan for the reuse of site-won soils (if applicable)
- Details of the process by which the scheme will be validated (a Verification Plan).

49. If following the commencement of development unexpected contamination is encountered which is potentially significant and has not previously been identified, the Local Planning Authority shall be notified immediately. No further development shall be carried out (unless otherwise agreed in writing by the Council) until the unexpected contamination has been assessed and a scheme of remediation works and measures has been submitted to and approved in writing by the Local Planning Authority. Thereafter any such revised scheme of remediation works and measures shall be carried out in accordance with the approved details.

50. Prior to the occupation of any individual dwelling and/or use of the gymnasium (Class D2) and/or employment floor space (Class B1C) a Verification Report (or reports) confirming that the approved scheme of remediation works and measures as may relate to such dwelling and/or use has been carried out and demonstrated to be effective and appropriate to the use(s) hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The verification report(s) shall include all responses to any unexpected contamination discovered during the course of the development.

51. No development works shall commence on any part of the site until a detailed scheme for the provision of mains water services providing fire hydrants has been submitted to and approved in writing by the Local Planning Authority.

No occupation of the development shall take place until the approved scheme for the provision of mains water services providing fire hydrants has been provided in full. Thereafter the development shall be retained and maintained in the approved form.

52. Prior to the first occupation of the development, measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.

53. The development hereby approved on that part of the site for which Detailed Planning Permission is granted and shown on drawing number 6925_PL_102 B shall be carried out in accordance with the following approved plans, drawings and specifications:

Illustrative Masterplan 6925_PL101 Rev J June 19
Parameters Plan 6925_PL_102B June 19
Block N1-N2 Ground Floor Plan 2017.00485_PL_100.0 Rev A April 19
Block N1-N2 First Floor Plan 2017.00485_PL_100.1 Rev A April 19
Block N1-N2 Second Floor Plan 2017.00485_PL_100.2 Rev A April 19
Block N1-N2 Third Floor Plan 2017.00485_PL_100.3 Rev A April 19
Block N1-N2 Fourth Floor Plan 2017.00485_PL_100.4 Rev A April 19
Block N1-N2 Roof Plan 2017.00485_PL_100.R Rev A April 19
Block N3-N4 Ground Floor Plan 2017.00485_PL_101.0 Rev A April 19
Block N3-N4 First Floor Plan 2017.00485_PL_101.1 Rev A April 19
Block N3-N4 Second Floor Plan 2017.00485_PL_101.2 Rev A April 19
Block N3-N4 Third Floor Plan 2017.00485_PL_101.3 Rev A April 19
Block N3-N4 Fourth Floor Plan 2017.00485_PL_101.4 Rev A April 19
Block N3-N4 Roof Plan 2017.00485_PL_101.R Rev A April 19
Block N5-N6 Ground Floor Plan 2017.00485_PL_102.0 Rev A April 19
Block N5-N6 First Floor Plan 2017.00485_PL_102.1 Rev A April 19
Block N5-N6 Second Floor Plan 2017.00485_PL_102.2 Rev A April 19
Block N5-N6 Third Floor Plan 2017.00485_PL_102.3 Rev A April 19
Block N5-N6 Fourth Floor Plan 2017.00485_PL_102.4 Rev A April 19
Block N5-N6 Roof Plan 2017.00485_PL_102.R Rev A April 19
Blocks N7-N8 Ground Floor Plan 2017.00485_PL_103.0 Rev A April 19
Blocks N7-N8 First Floor Plan 2017.00485_PL_103.1 Rev A April 19
Blocks N7-N8 Second Floor Plan 2017.00485_PL_103.2 Rev A April 19
Blocks N7-N8 Third Floor Plan 2017.00485_PL_103.3 Rev A April 19
Blocks N7-N8 Roof Plan 2017.00485_PL_103.R Rev A April 19
Block N1-N2 Street Elevation Canal Elevation 2017.00485_PL_210 Rev A April 19
Block N1-N2 East Elevation West Elevation 2017.00485_PL_211 Rev A April 19
Block N1-N2 Internal Elevations 2017.00485_PL_212 Rev A April 19
Block N3-N4 Street Elevation Canal Elevation 2017.00485_PL_213 Rev A April 19
Block N3-N4 East Elevation West Elevation 2017.00485_PL_214 Rev A April 19
Block N3-N4 Internal Elevations 2017.00485_PL_215 Rev A April 19
Block N5-N6 Street Elevation Canal Elevation
2017.00485_PL_216 Rev A April 19
Block N5-N6 East Elevation West Elevation
2017.00485_PL_217 Rev A April 19

Block N5-N6 Internal Elevations 2017.00485_PL_218 Rev A April 19
Block N7 Front and Rear Elevations 2017.00485_PL_219 Rev A April 19
Block N7 Side Elevations 2017.00485_PL_220 Rev A April 19
Block N8 Front and Rear Elevations 2017.00485_PL_221 Rev A April 19
Block N8 Side Elevations 2017.00485_PL_222 Rev A April 19
4 Bedroom Houses Elevations 2017.00485_PL_230 Rev A April 19
3 Bedroom Houses Elevations 2017.00485_PL_231 Rev A April 19
Site Sections Blocks N1-N6 2017.00485_PL_250 Rev A April 19
Site Sections Blocks N7-N8 Cross Sections 2017.00485_PL_251 Rev A April 19
3 Bedroom House 4 Bedroom House 2017.00485_PL_510 Rev A April 19
Southern Parcel Houses Entrance Floor Plan 2017.00485_PL_104.0 April 19
Existing 1 in 100 year +35% Fluvial Flood Depth Map C85229 SK003 Rev A April 19
C85529-SK-205 C - Drainage Proposed Drainage Layout (North) C85529-SK-200 Rev E April 19
Proposed Drainage Layout (South) C85529-SK-201 Rev G April 19
Proposed Levels (North) C85529-SK-202 Rev G April 19
Proposed Levels (South) C85529-SK-203 Rev G April 19
Proposed Commercial Block Indicative Elevations 2017.00485_PL_240 April 19
Mooring Distances 2017.00485_PL_016 April 19
Balcony Strategy 2017.00485_PL_506 April 19

<<<<<<<<<End of conditions>>>>>>>>>

APPEARANCES

FOR THE COUNCIL:	
Ms Saira Kabir Sheikh, instructed by the Head of Legal Services	
He called	
Mr C MacCullagh BA(Hons) MSC MA IHBC	Conservation and Design Officer
Mr R Flowerday BA(Hons)	Group Manager and Head of Profession, Hertfordshire County Council
Mr M Chilvers MSc BSc MCIHT	Technical Director WSP
Ms K Mead BA(Hons) PGDipTP MRTPI	Principal Planning Officer, strategic policy
Ms N Blaken PGURP MRTPI	Director, Nupremis Cambridge
Ms R Collard BA(Hons) MSC LMRTPI	Principal Planning Officer, Development Management
Mr G Francis BA(Hons) PGDip	Associate, Avison Young
Round table sessions:	
Ms C Sime MRTPI	
Mr M Armstrong	Hertfordshire Country Council, Highways
Ms Saila Haq Moran	Housing officer
Mr G Pavey	Five year housing land supply witness

FOR THE APPELLANT:	
Mr James Maurici QC, instructed by Lichfields	
He called	
Mr D de Sousa RIBA ARB	Director, PCKO Architects
Mr S Slatford BA(Hons) MRTPI BPI	Senior Director, Lichfields
Mr G Ingram	Partner, GIA
Mr I Dix BSc(Hons) MSc MCIT MCIHT	Director, Vectos
Mr C Pullan (BA(Hons) DipUD	Urban Design Director, Lambert Smith Hampton
Round table sessions:	
Mr D Wood	Solicitor to the appellant
Mr S Gouge	Development Director St William
Ms R Clements BA(Hons) MPlan MRTPI	Associate Director Lichfields

INQUIRY DOCUMENTS

1	Council tax records for moored boats
2	Canal and River Trust standard mooring terms and conditions
3	Hartford and Ware Urban Transport Plan (2010) - extract
4	Hartford and Ware Urban Transport Plan (2010) – fuller extract
5	Letters (27 July 2015 and 26 January 2016 from Mr Flowerday to Mrs Mead
6	Technical Note 3. Transport Assessment Modelling Note – Modelling Review (Marshgate Drive)
7	Revised sunlight and daylight tables (25 November 2019) from Mr Francis
8	Mr Francis's supplementary material and photographs
9	Yorkshire Forward – Planning for Employment Land
10	Information in support of planning obligation for non-highways services – County Council
11	Information in support of County Council position on planning obligation – Travel Plan
12	Bundle of correspondence on fire hydrants
13	National Planning Policy Framework
14	Five year HLS position tables
15	Planning Obligation summary note
16	Agreed conditions
17	Bundle of papers relating to A414 Corridor Strategy (extract)
18	Council's closing statement
19	Appellant's closing statement and authorities
20	Planning Obligation dated 19 December 2019
21	Statements of Common Ground – planning, highways (including Council's addendum) and HLS
22	CIL Compliance Statement

CORE DOCUMENTS

	Application documents
1.1	Submitted plans Parameters Plan ref. 6925_PL_102 Rev B Illustrative Masterplan ref. 6925_PL101 Rev J Outline Application Illustrative Layout ref. 6925_103 Rev A Block N1-N2 Ground Floor Plan ref. 2017.00485_PL_100.0 Rev A Block N1-N2 First Floor Plan ref. 2017.00485_PL_100.1 Rev A Block N1-N2 Second Floor Plan ref. 2017.00485_PL_100.2 Rev A Block N1-N2 Third Floor Plan ref. 2017.00485_PL_100.3 Rev A Block N1-N2 Fourth Floor Plan ref. 2017.00485_PL_100.4 Rev A Block N1-N2 Roof Plan ref. 2017.00485_PL_100.R Rev A Block N3-N4 Ground Floor Plan ref. 2017.00485_PL_101.0 Rev A Block N3-N4 First Floor Plan ref. 2017.00485_PL_101.1 Rev A Block N3-N4 Second Floor Plan ref. 2017.00485_PL_101.2 Rev A Block N3-N4 Third Floor Plan ref. 2017.00485_PL_101.3 Rev A Block N3-N4 Fourth Floor Plan ref. 2017.00485_PL_101.4 Rev A Block N3-N4 Roof Plan ref. 2017.00485_PL_101.R Rev A Block N5-N6 Ground Floor Plan ref. 2017.00485_PL_102.0 Rev A Block N5-N6 First Floor Plan ref. 2017.00485_PL_102.1 Rev A Block N5-N6 Second Floor Plan ref. 2017.00485_PL_102.2 Rev A Block N5-N6 Third Floor Plan ref. 2017.0048_PL_102.3 Rev A Block N5-N6 Fourth Floor Plan ref. 2017.00485_PL_102.4 Rev A Block N5-N6 Roof Plan ref. 2017.00485_PL_102.R Rev A

	Blocks N7-N8 Ground Floor Plan ref. 2017.00485_PL_103.0 Rev A Blocks N7-N8 First Floor Plan ref. 2017.00485_PL_103.1 Rev A Blocks N7-N8 Second Floor Plan ref. 2017.00485_PL_103.2 Rev A Blocks N7-N8 Third Floor Plan ref. 2017.00485_P_103.3 Rev A Blocks N7-N8 Roof Plan ref. 2017.00485_PL_103.R Rev A Block N1-N2 Street Elevation Canal Elevation ref.2017.00485_PL_210 Rev A Block N1-N2 East Elevation West Elevation ref. 2017.00485_PL_211 Rev A Block N1-N2 Internal Elevations ref. 2017.00485_PL_212 Rev A Block N3-N4 Street Elevation Canal Elevation ref. 2017.00485_PL_213 Rev A Block N3-N4 East Elevation West Elevation ref. 2017.00485_PL_214 Rev A Block N3-N4 Internal Elevations ref. 2017.00485_PL_215 Rev A Block N5-N6 Street Elevation Canal Elevation ref. 2017.00485_PL_216 Rev A Block N5-N6 East Elevation West Elevation ref. 2017.00485_PL_217 Rev A Block N5-N6 Internal Elevations ref. 2017.00485_PL_218 Rev A Block N7 Front and Rear Elevations ref. 2017.00485_PL_219 Rev A Block N7 Side Elevations ref. 2017.00485_PL_220 Rev A Block N8 Front and Rear Elevations ref. 2017.00485_PL_221 Rev A Block N8 Side Elevations ref. 2017.00485_PL_222 Rev A Four Bedroom Houses Elevations ref. 2017.00485_PL_230 Rev A Three Bedroom Houses Elevations ref. 2017.00485_PL_231 Rev A Site Sections Blocks N1-N6 ref. 2017.00485_PL_250 Rev A Site Sections Blocks N7-N8 Cross Sections ref. 2017.00485_PL_251 Rev A Three Bedroom House 4 Bedroom House ref. 2017.00485_PL_510 Rev A Southern Parcel Houses Entrance Floor Plan ref. 2017.00485_PL_104.0 Balcony Strategy ref. 2017.00485_PL_506 Rev A Proposed Site Plan Mooring Distances ref. 2017.00485_PL_016 Existing 1 in 100 year+35% Fluvial Flood Depth Map ref. C85229 SK003 Rev A Proposed Drainage Layout North Sheet 1 of 2 ref. C85529-SK-200 Rev E Proposed Drainage Layout (South) Sheet 2 of 2 ref. C85529-SK-201 Rev G Proposed Levels (North) Sheet 1 of 2 ref. C85529-SK-202 Rev G Proposed Levels Sheet 2 of 2 ref. C85529-SK-203 Rev G
1.2	Design and Access Statement (Nov 2018)
1.3	Design and Access Statement Addendum (2019)
1.4	Planning Statement (Nov. 2018)
1.5	Transport Assessment (Nov. 2018)
1.6	Letter from EHDC case officer with feedback on the application (25 January 2019)
1.7	Letter from EHDC case officer with feedback on the application (1 February 2019)
1.8	Daylight and Sunlight Assessment (dated 31st October 2018)
1.9	Transient Overshadowing Assessment (dated 1st April 2019)
1.10	Updated Daylight and Sunlight Assessment (dated 2nd April 2019)
1.11	Updated Daylight and Sunlight Assessment (dated 28th June 2019)
1.12	Committee Report, Addendum and accompanying Briefing Note forMembers
1.13	Decision Notice
1.14	List of Conditions
1.15	Letter from Lichfield accompanying amended application (3 April 2019)
1.16	Report on Employment Prospects Site at Hertford Former Gasworks for St William Homes LLP (dated 31st October 2018)
1.17	Report on site at Former Hertford Gasworks, Hertford (dated 1st April 2019)

	Appeal documents
2.1	Appellant Statement of Case
2.2	East Herts Council Statement of Case
2.3	Inspector's Case Management notes
2.4	EHDC Note October 2019
2.5	Email exchange between EHDC and the appellant on the 'new issues'
2.6	Representation of HCC Statement in support of planning obligations sought towards Hertfordshire County Council (non-highways) services 24 September 2019
2.7	Letter from Peter Norbury to St William Homes (October 2019)
	Development Management Documents
3.1	Report on the Examination of the East Herts District Plan 2011-2033 (July 2018)
3.2	Hert 2 Masterplan Framework (October 2018)
3.3	East Herts District Plan (adopted 23 October 2018)
3.4	Report by Leader of the Council on Mead Lane Area Masterplan Framework (October 2018)
3.5	Mead Lane Urban Design Framework (2014)
3.6	Planning Obligations SPD (October 2008)
3.7	Hertford and Ware Urban Transport Plan, (November 2010)
3.8	East Herts District Plan Topic Papers – Employment, TPA/005 (March 2017)
3.9	Hertford and Ware Employment Study, Wessex Economics (June 2016)
3.10	Hertfordshire's Local Transport Plan (LTP4) (May 2018)
3.11	Review of employment prospects assessment, Land east of Marshgate Drive, Hertford, Nupremis (March 2019)
3.12	Hertfordshire LEP Report 'Loss of Employment Space in Hertfordshire' (February 2019 prepared by Lambert Smith Hampton
3.13	West Essex and East Hertfordshire Assessment of Employment Needs, Hardisty Jones Associates (October 2017)
3.14	Statement of Common Ground, between EHDC and St William, for Local Plan
3.15	Lichfields' representations and Hearing Statements on behalf of St William for Local Plan EiP
3.16	Extracts of Transcripts of Local Plan EiP (7th November 2017)
3.17	Extracts from PPG: Ref ID: 66-006-20190722 on "How are daylight & sunlight regulated?" Reference ID: 68-004-20190722 Paragraph: 007 Reference ID: 68-007-20190722 Paragraphs: 001 - 0023 Reference ID: 26-001-20191001 to 26-023-20191001
3.18	Extracts of District Plan Main Modifications - MM/3/04, MM/7/03 and 05
3.19	NPPF (2019)
3.20	East Herts District Plan Topic Papers – Development Strategy, TPA/001 (March 2017)
3.21	East Herts District Plan Topic Papers – Transport, TPA/006 (March 2017)
3.22	National Design Guide (2019)
3.23	Letter from Minister of State for Housing to Broxtowe BC 2 October 2019

	Extracts of District Plan Main Modifications
4.1	Hertford and Ware Urban Transport Plan (November 2010)
4.2	Hertfordshire County Council Local Transport Plan 4 (2018)
4.3	July 2017 – Vectos – R02-MDC-TA Scoping Report Final 170801
4.4	14th August 2017 – Vectos – N07-MDC-TA Scoping Report Addendum
4.5	7th September 2017 – HCC – Scoping Response (by email)
4.6	8th November 2018 – Vectos – R01-BB-Vectos Transport Assessment
4.7	18th December 2018 – Vectos – N22-ID-Transport Assessment Supplementary Note Erratum
4.8	1st March 2019 – HCC – First Formal Response to Planning Application from Hertfordshire County Council (Dated 28th February 2019)
4.9	12th April 2019 – Vectos – R03-ID- Detailed Response (19.04.12)
4.10	16th May 2019 – HCC Highways Review of Vectos 'Response to HCC Comments' Document (April 2019)
4.11	21st May 2019 – Vectos – R04-BB-Response to HCC Highways Review April 2019_Final_Optimized
4.12	23rd May 2019 – HCC – TN4 375 Unit Model Audit
4.13	23rd May 2019 – HCC- Modelling
4.14	23rd May 2019 – Other Matters
4.15	30th May 2019 – Vectos – R05-BB- Response to HCC Highway Review May 2019_For Issue_Optimized- (including Stage 1 RSA)
4.16	5th June 2019 – HCC – Second Formal Response to the planning application based on amended scheme
4.17	1st June 2019 – Vectos – N28-BB- Transport Response to HCC Recommended Reasons for Refusal (190621)
4.18	27th June 2019 – Vectos – Email response to HCC regarding Bus Service Contribution concluding discussions
4.19	1st July 2019 HCC Final Formal Response dated 28th June 2019
	Design documents
5.1	Hertfordshire Design Review Panel HERT02 (6 August 2018)
5.2	Hertfordshire Design Review Panel HERT02 (21 September 2018)
5.3	Landscape officer's comments (2 sets)
5.4	Conservation and Urban Design Officers Comments (1 set)
5.5	Letter from Canal and River Trust (2nd May 2019)
5.6	Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice 2nd Edition, prepared by the Building Research Establishment (2011)
	Appeal decisions
6.1	Appeal Decision: APP/J1915/A/07/2052693 – Marshgate Drive
	Additional highway documents
7.1	PTV VISSIM 11- User Manual (September 2018)
7.2	TFL Traffic Modelling Guidelines- TFL Traffic Manager and Network Performance Best Practice, Version 3 (September 2010)
7.3	Department for Transport, Transport Analysis Guidelines (TAG 3.1) Highway Assignment Modelling (January 2014)
7.4	HCC A414 Corridor Strategy, Draft for Public Consultation Strategy Summary (December 2018)
7.5	LINSIG 3.2 User Guide (June 2018)

The Planning Inspectorate

Appeal Decision

Site visit made on 7 January 2020

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/J1915/W/19/3236744
Bakers End Nursery, Bakers End, Wareside, Nr Ware SG12 7SH

- 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 R Woodcock (Ferndale Builders) against the decision of East Hertfordshire District Council.
- The application Ref 3/19/0713/FUL, dated 29 March 2019, was refused by notice dated 21 May 2019.
- The development proposed is the demolition of all existing structures; de-contamination of the site and the erection of three dwellings with garaging.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Revised plans were submitted with the appeal that indicate the extent of previously developed land (PDL) at the site and make minor alterations to the access. The Council, and indeed third parties, have had the opportunity to comment on these amendments during the appeal process. I therefore do not consider that any party would be prejudiced by my acceptance of the revised plans and I have determined the appeal accordingly.

Main Issues

3. The main issues are:

   - the effect of the proposal on the character and appearance of the area;
   - whether or not the appeal site is a suitable location for residential development, having regard to local and national planning policy for the delivery of housing; and
   - the effect of the proposal on the living conditions of the occupants of The Brae Cottage and Bourne Villa, with particular regard to noise and disturbance.

Reasons

Character and Appearance

4. The appeal site is within the Rural Area Beyond the Green Belt (RABGB) as designated in the East Herts District Plan (DP). It is positioned within a small collection of development known as Bakers End, which is surrounded by large

open fields. Such fields abut the site's north eastern and south eastern boundaries. Consequently, I found that the immediate area has a distinctly rural character.

5. The site itself is set to the rear of residential properties known as Bourne Villa and The Brae Cottage, between which access is taken. It has a complex history and accommodates a range of buildings associated with a former horticultural business and other commercial/industrial activity. These include a large number of glasshouses and a workshop and forge. In addition, I observed that a caravan is stationed on the land, which the appellant states has been used for residential purposes for a considerable period of time. The site does not appear to be well-used and many of the buildings are overgrown and in a state of disrepair. Agricultural machinery and other items are also stored throughout.

6. This proposal seeks permission to construct three detached dwellings at the site following the demolition of the majority of the existing buildings. These would be set-back from the carriageway, well separated and built within the footprint of existing structures. Nevertheless, the proposal would introduce a significant number of urbanising features. This would include residential buildings, hard surfaces and large, rectangular, gardens with their associated domestic paraphernalia. In my view, this would be more akin to suburban development which would be out of character within this rural setting. This is so even though local lanes and hedges would not be harmed.

7. I appreciate that the condition of the existing buildings does not make a positive contribution to the appearance of the site which has a somewhat derelict feel. However, the agricultural style of many of them does not appear out of character in this largely undeveloped rural landscape. In contrast, the proposed dwellings would be considerable in size and taller than the existing glasshouses. Their residential appearance would be apparent from the site entrance as well as from surrounding properties. I consider that this would notably and detrimentally change the character of the site from one of a rural business to a pocket of domestic properties.

8. Taking all of the above into account, in my view the proposal would represent a conspicuous encroachment of built residential form into the countryside that would fail to integrate effectively with its rural surroundings. The harmful suburbanisation of the site would be more apparent than any existing residential use, if indeed this is lawful. Furthermore, it would not be sufficiently diminished by the retention of the water tank or the removal of the lawful industrial use.

9. The adverse effects of three dwellings on the rural setting could not be overcome by the adoption of appropriate designs and materials. Planting could help screen the proposal. However, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable. Consequently, a condition requiring such planting would not mitigate the harm I have identified. Neither am I persuaded that this scheme is the only means of improving security at the site or alleviating pest problems.

10. The appeal site is also close to a Grade II listed building known as Wren Cottage. I have a duty to have special regard to preserving the setting of this listed building. The significance of Wren Cottage appears to be derived from the appreciation of its historic architectural and structural features which date as

far back as the 17th Century. Its setting arises from the surroundings in which it is experienced, which in this case is rural.

11. The proposed dwellings would be some distance from Wren Cottage. They would also be visually separated from this property by a retained area of grass within the site as well as trees along its south western boundary. Nonetheless, in my view the proposed urbanisation of the appeal site would intrude on the rural setting of this property, eroding it in a harmful way. This harm would be limited and would therefore be less than substantial within the meaning of the Framework. However, it still adds to the harm identified above.

12. For the reasons given, I conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with Policies GBR2 and DES4 of the DP. Amongst other things, these seek to ensure that developments reflect local distinctiveness and are compatible with the appearance of the rural area.

Suitable Location

13. On the ground, the small amount of development at Bakers End appeared as a collection of loose knit buildings set in an agrarian landscape. It is a significant distance from larger settlements and does not have a village hall or any other services that one would associate with an established community. From my observations, I am therefore not persuaded that Bakers End constitutes a settlement, an outpost of a larger settlement or a village of any kind. For the purposes of planning policy, the appeal site is therefore in the countryside. Consequently, Policy VILL3 of the DP, which deals with Group 3 Villages/settlements, is not engaged.

14. Policy INT1 of the DP seeks to secure developments which improve the social and environmental conditions of the area. The supporting text to this policy clarifies that this is partly to ensure that communities have accessible local services to support their health, social and cultural well-being and that developments contribute towards the movement to a low carbon economy. This is reinforced by Policy GBR2 of the DP which concerns developments within the RABGB. This policy seeks to protect this area as a valued countryside resource and concentrate development to within existing settlements. It does, however, offer a number of exceptions for developments in the RABGB, provided that they are compatible with the character of the rural area.

15. It is agreed that elements of the appeal site represent PDL, as defined within Annex 2 of the National Planning Policy Framework (the Framework). I also find that, by virtue of the presence of nearby built form, it is not isolated in terms of the Framework. Nevertheless, there are no services in Bakers End to meet the day-to-day needs of future residents. Neither are there any nearby public transport facilities. Accessing such services and facilities in surrounding settlements by foot would involve walking along narrow, unlit, lanes which do not have pedestrian footways. This is potentially dangerous, especially so during inclement weather and hours of darkness. For the same reasons, cycling would not be a particularly attractive alternative.

16. I note that the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, taking all the above factors into consideration, I have no doubt that future residents would not only be some distance from the day-to-day services they need but

they would also rely heavily on a private vehicle to get around. The proposal would therefore not improve the social conditions of the area or contribute to the transition to a low carbon economy, as advocated by Policy INT1 of the DP. In addition, I have already found that the scheme would not be compatible with the character and appearance of the rural area, which is a requirement for all exceptions for developments in the RABGB stated in Policy GBR2 of the DP. There would therefore be conflict with this policy even if I considered that Bakers End represented a 'settlement'.

17. For the reasons given, I conclude that the appeal site is an unsuitable location for a residential development as it would not afford access to local facilities and services and would place a reliance on the use of private motor vehicles. The proposal would therefore be contrary to the strategy outlined by Policies INT1 and GBR2 of the DP.

18. Turning to the Framework, this seeks to make efficient use of land and encourages the redevelopment of PDL. However, this should not be at the expense of the Council's strategy to secure sustainable social and environmental development, which is the determining factor in this main issue. I have found that the proposal would undermine this strategy. In addition, whilst it would remove vehicular trips associated with the current uses at the site, it would not contribute to giving people a real choice about how they travel, as advocated by the Framework. Neither am I persuaded that it would align with its objective of ensuring that housing in rural areas enhances or maintains the vitality of rural communities.

Living Conditions

19. The proposal would utilise the existing access between Bourne Villa and The Brae Cottage. I accept that the proposal would increase the frequency of vehicular and pedestrian movements along this access. However, given the scale of the proposal, this is unlikely to be to a significant degree. Moreover, the full operation of the lawful uses at the site could result in a number of vehicular trips to and from it, including movements from large HGVs. The proposal would alleviate such movements.

20. For the reasons given, I conclude that the proposal would not result in significant levels of noise and disturbance to the occupants of The Brae Cottage and Bourne Villa, particularly when compared to the existing lawful use at the site. It would therefore accord with Policy DES4 of the DP insofar as it seeks to avoid significant detrimental impacts to the living conditions of occupiers of neighbouring properties in terms of noise and disturbance.

Planning Balance

21. The Government is seeking to significantly boost the supply of housing. The proposal would utilise some PDL to provide three, family sized, dwellings which it appears could be brought forward quickly. This would make a modest contribution to the Council's housing stock. There would also be modest economic benefits associated with the scheme, primarily related to the construction of the proposed units. In this context, I give moderate weight to these social and economic public benefits.

22. I have found that the proposal would not harm the living conditions at nearby properties in terms of noise and disturbance. The scheme would also be

acceptable in other respects. For example, it would remediate contaminated land at the site, provide some ecological improvements through additional landscaping and would not prejudice highway safety. However, these are requirements of the development plan and are neutral factors in the planning balance.

23. In my view, the above mentioned public benefits would outweigh the limited harm to the setting of Wren Cottage. However, I have also found that the appeal site would not be a suitable location for residential development as it would not provide future occupants with access to services and facilities or reduce the reliance on private transport. Moreover, it would harm the character and appearance of this rural area. This cumulative harm weighs heavily against the proposal and it would fulfil the social and environmental objectives of sustainability within the Framework.

24. The above factors lead me to conclude that the identified harm would outweigh the benefits associated with the provision of three dwellings at the site. This would be the case regardless of local support for the scheme. The proposal conflicts with the development plan when read as a whole and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

25. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

M Heron

INSPECTOR

The Planning Inspectorate

Appeal Decision

Site visit made on 3 December 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2020

Appeal Ref: APP/J1915/D/19/3236892
2 Portland Road, Bishops Stortford CM23 3SJ

- 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 and Mrs Marcus Bennett against the decision of East Hertfordshire District Council.
- The application Ref 3/19/1145/HH, dated 28 May 2019, was refused by notice dated 23 August 2019.
- The development proposed is demolition of existing rear extensions and erection of part two storey and part single storey extensions.

Decision

1. The appeal is allowed, and planning permission granted for the demolition of existing rear extensions and erection of part two storey and part single storey extensions at 2 Portland Road, Bishops Stortford CM23 3SJ in accordance with the terms of application, Ref 3/19/1145/HH, dated 28 May 2019, subject to the following conditions:

    1) The development hereby permitted shall begin no later than 3 years from the date of this decision.

    2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

    3) The development hereby permitted shall be carried out in accordance with the following approved plans: 09 Version 1 (Existing Block Plan), Site Location Plan (Location Plan), 08B Version 1 (Plans – Proposed), 01A Version 1 (Floor plans - Existing and Proposed), 11A Version 1 (Block Plan) and 02A Version 1 (Elevations - Existing).

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the host dwelling and surrounding area, with due regard to the location of the site in the Bishops Stortford Conservation Area.

Reasons

3. The appeal property is a 2-storey semi-detached dwelling located on Portland Road within the Bishops Stortford Conservation Area (CA). The roads surrounding the site are predominately residential in nature. The design and orientation of the property means that it has a relationship with Portland Road

and Apton Road. The front door, driveway and garden are situated on the side elevation which front on to Apton Road. The side elevation is painted white and contains an existing 2-storey and single storey extensions, which extends to the rear boundary with the adjoining property on Apton Road.

4. Due to its dual frontage and overall design, the host property appears distinct from the dwellings on Portland Road. The property when viewed from Portland Road is a red brick house with sash windows to the front, and white painted quoining to the sides. The appeal property, when viewed from Apton Road, is set behind a large wall and fence, which front on to the footpath and highway. The property is set significantly higher than Apton Road, as the road follows a gentle slope down towards the town centre.

5. There is a large deciduous magnolia tree within the garden, which is protected as it is within the CA. The tree provides some screening towards the property, however, this screening is achieved in a limited number of public views and is seasonal.

6. The area appraisal[1] for the CA states that the CA has a diverse and high-quality built environment with a substantial number of noteworthy buildings, although not all of these are listed. The significance of the CA is derived in part from historical and aesthetic values. The area appraisal divides the CA into 5 separate geographical identity areas. The host property falls within Area 4, which is bounded by Apton Road in the north and west, South Street in the east and the south western boundary being formed by the Apton Road Cemetery.

7. The area appraisal identifies buildings of high quality that are not listed, but that should be retained. These principally date from the 19th century and are an important element in the high environmental quality of the CA and make a major contribution to its built form and historical evolution. However, I note on the Adopted Management Plan that a number of neighbouring properties on Portland Road are identified as 'unlisted buildings to be protected from demolition'. However, the host dwelling is not given such a designation, and in any case the proposal is not to demolish the whole property.

8. The proposal seeks to demolish the existing rear extension and replace it with a part single, part 2 storey side and rear extension. Due to the positioning of the host dwelling, the views of the proposal from Portland Road would be extremely limited. As such, it would have little effect on the character and appearance of this road.

9. In terms of the views from Apton Road, I saw that the rear elevations of the host property and its immediate neighbour No 4 Portland Road, are only visible from certain vantage points. No 4's rear elevation, with the proposed development in place, would sit lower than the proposed extension. As such views to this area would be very limited from public vantage points.

10. The positioning of the existing properties on Apton Road, combined with the layout of the road, means that the proposal would be largely obscured other than in longer distances along Apton Road. The built form of No 2 and No 4 Portland Road is already close to No 1 Apton Road and they are not separated

[1] Bishop's Stortford Conservation Area Appraisal and Management Plan - East Herts Council (2014)

by large garden space. As such, the proposal would not significantly alter the distance of the existing gap between them. Furthermore, due to the height difference between the footpath and the proposal, as well as the positioning of the large brick wall and fence, once directly adjacent to the site, the views towards the property are largely obscured.

11. I acknowledge that the proposed development would alter the existing symmetry to the roofs of No 2 and No 4. However, this would not necessarily be harmful, as the proposal is designed in a way that the rear projection of No 4 would align with the proposed extension's wall. Although the proposal is positioned high up from Apton Road and would be visible from certain public vantage points, it would have matching materials to the host dwelling. Therefore, it would not appear as a stark or incongruous feature within the street scene, and the limited views of the proposal would not be harmful to the character and appearance of the area. The proposal would be sympathetic to its surrounding and would not detract from the character and appearance of the CA or prevail over the features of the nearby properties.

12. The proposal includes the loss of the existing tree which would make the proposal slightly more visible. However, even if the tree was not removed, the screening provided would only be seasonal and would not completely obscure the proposal from view. The Council has stated that the tree would not meet the criteria to be designated under a Tree Preservation Order due to its proximity to the existing dwelling. Whilst I acknowledge it has some amenity value, trees are not a defining characteristic of the immediate area. In any case, I note from the plans that a replacement tree would be planted in the garden area to offset the loss of the tree.

13. I have had regard to my statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990, namely section 72(1) which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.

14. As the host property is located within the CA which is a designated heritage asset, paragraphs 193 – 194 of the Framework advise that great weight should be given to a designated heritage asset's conservation, and that any harm to the significance, should require clear and convincing justification. Whilst the proposal would result in a minor change within the street scene, it would be in materials and colours that matches the host dwelling and surrounding properties. The proposal in its design and materials would have a neutral impact on the character and appearance of the CA.

15. For the reasons set out above the proposed development would have an acceptable effect on the character and appearance of the host dwelling and surrounding area and would preserve the character and appearance of the CA. The proposal would therefore accord with policies HOU11, DES4, HA1 and HA4 of the adopted East Herts District Plan (2018) and Bishop's Stortford Central, South and All Saints Neighbourhood Plan Policy HDP2. These policies, amongst other things, seek development to be high quality design and be appropriate to the character, appearance and setting of the existing building and preserve the historic environment.

Other Matters

16. The Council has stated that there have been 2 previous planning applications[2] on the site proposing similar forms of development. However, I have assessed the proposal before me on its own planning merits.

17. The Council has suggested that the proposal would impact on the living conditions of No 4 Portland Road and No 1 Apton Road, with particular reference to loss of light and overshadowing. However, as No 4 is situated south of the proposal the impact would not be material. Although No 1 is west of the proposal, its orientation is different to the host dwelling with the garden area facing south, and the impact to the side of the property would be limited and would not be materially harmful.

18. It has also been suggested by the Council that the proposal may impact on the living conditions of Nos 20 and 22 Apton Road due to the proposed development enabling views towards these properties. However, given the distance to these properties, I do not consider that this would cause material harm or be materially different from the overlooking of the existing neighbouring properties.

Conditions

19. To meet legislative requirements, a condition shall be imposed to address the period for commencement. I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt.

20. In order to protect the character and appearance of the area, I have also imposed a condition requiring that external materials used in the construction of the development shall match those of the existing building.

Conclusion

21. For the reasons set out above, I conclude that the appeal is allowed.

D Peppitt

INSPECTOR

[2] Planning application references 3/18/0946/HH and 3/18/1711/HH

The Planning Inspectorate

Appeal Decision

Site visit made on 7 January 2020

by S Shapland BSc (Hons) MSc CMILT

an Inspector appointed by the Secretary of State for

Decision date: 22 January 2020

Appeal Ref: APP/J1915/D/19/3238324
2 Dolphin Way, Bishops Stortford CM23 2AH

- 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 Hamish Carruth against the decision of East Hertfordshire District Council.
- The application Ref 3/19/1228/HH, dated 10 June 2019, was refused by notice dated 23 August 2019.
- The development proposed is two storey side, rear extensions with a single storey front extension.

Decision

1. The appeal is allowed and planning permission is granted for two storey side, rear extensions with a single storey front extension at 2 Dolphin Way, Bishops Stortford CM23 2AH in accordance with the terms of the application, Ref 3/19/1228/HH, dated 10 June 2019, subject to the conditions set out in the appended schedule.

Main Issue

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

Reasons

3. The appeal site is a two storey detached dwelling located within a cul-de-sac of the residential area of Bishops Stortford. The proposal is for a two storey side extension which would create an L shaped wrap around extension to the west and north of the site. In addition a small single storey front extension is also proposed which would infill the area between the existing entrance and proposed side extension.

4. Policy HOU11 of the East Herts District Plan 2018 (DP) states that side extensions at first floor level or above should ensure appropriate space is left between the flank wall of the extension and the common curtilage with a neighbouring property. As a general rule a space of 1 metre will be the minimum acceptable distance. This is in order to safeguard the character and appearance of the street scene and prevent a terracing effect. The appeal proposal results in a side extension which does not have this 1 metre separation distance with the curtilage of No.3 Dolphin Way.

5. However, whilst the proposal would not maintain this 1 metre recommended separation distance between curtilages, it was apparent from my site visit that the flank wall of No.3 Dolphin Way is set back from the boundary of the two properties. As such there is currently a good level of separation between the two properties. Therefore, the appeal proposal whilst being in breach of this 1 metre recommended separation distance would not lead to a damaging terracing effect and would maintain a suitable visual separation between the two properties.

6. Furthermore, during my site visit I observed a number of properties on Dolphin Way which have undergone similar extensions as the appeal proposal. These extensions have integrated well within the street scene, and therefore the appeal proposals would complement the existing design of other properties on Dolphin Way. As such I find that the proposal would constitute a good design that does not harm the character and appearance of the host dwelling and wider street scene.

7. Accordingly, I find that the proposal would not harm the character and appearance of the area. As such there would be no conflict with policies DES4 and HOU11 of the DP. Together these policies seek, amongst other things, that development is of a high-quality design which is appropriate to the character and appearance of the surrounding area.

Conditions

8. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. A condition relating to materials is necessary to ensure that the appearance of the proposal would be satisfactory and not harm the character and appearance of the host dwelling.

Conclusions

9. For the above reasons the appeal is allowed, and planning permission is granted.

S Shapland

INSPECTOR

SCHEDULE OF CONDITIONS – APP/J1915/D/19/3238324

1) The development hereby permitted shall begin not later than 3 years from the date of this decision

2) The development hereby permitted shall be carried out in accordance with the following approved plans:1011-19.PL.007 Rev A Location and Site Plans dated May 2019, 1011-10.PL.001 Existing and Proposed Ground Floor Plans dated May 2019, 1011-10.PL.002 Existing and Proposed first floor plans dated May 2019, 1011-10.PL.003 Existing and Proposed Roof Plans dated May 2019 1011-10.PL.004 Existing and Proposed Elevations 1/3 dated May 2019, 1011-10.PL.005 Existing and Proposed Elevation 2/3 dated May 2019, 1011-10.PL.006 Existing and Proposed Elevation 3/3 dated May 2019

3) The materials to be used in the external surfaces of the development hereby permitted shall match those used in the existing building.

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PLANNING APPEALS LODGED JANUARY 2020
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/18/1566/FUL	Change of use from Sui Generis (pet hair and beauty) to A5 take away (fish and chip shop). Installation of new extractor flue pipe to rear elevation. (Hours of operation: Monday to Sunday (including bank holidays) 09:00 to 23:00.	57A High StreetBuntingford SG9 9AD	Refused Delegated	14/01/2020	Written Representation
3/19/0245/FUL	Erection of an equipment store/workshop and personal office together with change of use of land from woodland to residential curtilage all related to Molewood Hall (retrospective).	Molewood HallHigh MolewoodHertford SG14 2PL	Refused Delegated	30/01/2020	Written Representation
3/19/0680/FUL	Demolition of workshop building and erection of workshop building for Sui Generis use. Creation of 7m sloped concreted access for the new workshop, together with the provision of associated soft landscaping.	Enclosed Yard Home Farm Industrial EstateHunsdon RoadStanstead AbbottsWare SG12 8LA	Refused Delegated	13/01/2020	Written Representation
3/19/0956/FUL	Proposed crossover and the regularisation of a hardstanding and a levelled parking area. to provide 2 off-street parking spaces for nos. 11, 13 and 15 London Road properties.	11,13,15 London RoadSawbridgeworth CM21 9EH	Refused Delegated	24/01/2020	Written Representation
3/19/0970/OUT	Outline planning application for residential development of three detached dwellings, three detached garages and the creation of a new road - All matters reserved apart from Access, Appearance, Layout and Scale.	Land Adjacent To LamornaHare Street SG9 0DX	Refused Delegated	21/01/2020	Written Representation
3/19/1097/HH	Ground floor front extension, 1No roof light on side of roof plane and other external alterations .	8 Raffin CloseDatchworthKnebworth SG3 6RP	Refused Delegated	09/01/2020	Fast Track
3/19/1132/HH	First floor rear extension.	8 Cherry GardensBishops Stortford CM23 2AJ	Refused Delegated	09/01/2020	Fast Track
3/19/1238/HH	Single storey front extension.	6 Poplar CloseHigh CrossWare SG11 1AY	Refused Delegated	29/01/2020	Written Representation
3/19/1342/FUL	Erection of 1 no. 4 bedroomed dwelling and 3 bay cart shed with store.	Land Adj Hormead CottageGreat HormeadBuntingford SG9 0NR	Refused Delegated	24/01/2020	Written Representation
3/19/1437/ARPN	Change of use from an agricultural outbuilding to 1 larger dwelling house.	The Tractor StoreElbow Lane FarmElbow LaneHertford HeathHertford SG13 7QA	Refused Delegated	20/01/2020	Written Representation
3/19/1581/HH	Two storey side extension with two dormers to front elevation and one dormer to rear elevation.	Home Farm76 Bramfield RoadDatchworthKnebworth SG3 6RZ	Refused Delegated	09/01/2020	Fast Track
3/19/1658/FUL	Demolition of detached garage and erection of 1 detached four bedroom dwelling and new vehicle access/crossover.	The Old NurseriesWidford RoadMuch Hadham SG10 6AT	Refused Delegated	20/01/2020	Written Representation
3/19/1672/HH	Erection of carport.	16 Chapmore EndWare SG12 0HF	Refused Delegated	31/01/2020	Fast Track
3/19/1726/FUL	Erection of a detached garage and associated hardstanding	Folly CottageBury GreenLittle HadhamWare SG11 2ES	Refused Delegated	03/01/2020	Fast Track
3/19/1763/FUL	Change of use of existing residential annexe to an independent dwelling.	Moorwood HouseMoor GreenArdeleyStevenage SG2 7AU	Refused Delegated	30/01/2020	Written Representation

Background Papers
None

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

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Public Inquiry and Hearing Dates
All Hertford Council Chamber unless specified

Application	Case Officer	Address	Proposal	Appeal Status	Procedure Type	Date
3/19/0049/CLXU	June Pagdin	Home Farm Munden Road Dane End Ware SG12 0LL	To confirm the lawful use of buildings for employment purposes, comprised of: Building A2 for commercial storage (Use Class B8); Building A3 for furniture restoration (Use Class B1(c); Building A4 for commercial storage (Use Class B8); Building B1 for auto repairs business (sui generis); Building B2 for commercial storage (Use Class B8); Building D for the use as music studio (Use Class B1); Building F for the storage of vehicles in connection with auto repairs (sui generis); Building G for commercial storage (Use Class B8); Building H for commercial storage (Use Class B8) and Building I for commercial storage (Use Class B8).	VALID	Hearing	TBA
3/19/0475/CLXU	Bruce O'Brien	Caretakers FlatS t Augustine Court Wharf Road Bishops Stortford CM23 3GE	Use of the caretaker's flat as a single dwelling.	VALID	Hearing	TBA
3/19/1148/FUL	Eilis Edmonds	The White Horse Inn High Road High Cross Ware SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings, together with the construction of 4no. three bedroom dwellings with associated parking.	VALID	Hearing	TBA
3/19/1149/LBC	Eilis Edmonds	The White Horse Inn High Road High Cross Ware SG11 1AA	Refurbishment and change of use of The White Horse public house (listed building), to create 3no. two bedroom dwellings.	LODGED	Hearing	TBA

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DEVELOPMENT CONTROL

Major, Minor and Other Planning Applications

Cumulative Performance

	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
Total Applications Received	202	438	641	857	1030	1203	1431	1624	1808	1996		

Percentage achieved against Local and National Targets	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20		Targets for Local Performance *(set by East Herts)*	National Targets *(set by Government)*
Major %	0%	0%	75%	70%	70%	67%	73%	66%	70%	69%			***Major %***	**60%**	**60%**
Minor %	92%	95%	92%	90%	90%	89%	88%	89%	88%	88%			***Minor %***	**80%**	**65%**
Other %	96%	95%	94%	94%	94%	95%	93%	93%	93%	93%			***Other %***	**90%**	**80%**

Appeals	Apr-19	May-19	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20
Total number of appeal decisions (Monthy)	16	17	8	16	22	13	18	10	5	6		
Number Allowed against our refusal (Monthly)	4	9	2	8	5	4	5	2	1	3		

Total number of appeal decisions (Cumulative)	16	33	41	57	79	92	110	120	125	131		
Number Allowed against our refusal (Cumulative)	4	13	15	23	28	32	37	39	40	43		

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