



**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 7 DECEMBER 2022  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

This meeting will be live streamed on the Council's You Tube page:  
<https://www.youtube.com/user/EastHertsDistrict>

**MEMBERS OF THE COMMITTEE**

Councillor B Deering (Chairman)

Councillors D Andrews, T Beckett, R Buckmaster, B Crystall, R Fernando, I Kemp, S Newton, T Page, C Redfern, P Ruffles and T Stowe (Vice-Chairman)

**Substitutes**

Conservative Group:	Councillors S Bull, A Huggins and S Rutland-Barsby
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.)*

**CONTACT OFFICER: PETER MANNINGS**

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## **Disclosable Pecuniary Interests**

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.

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Visit <https://www.eastherts.gov.uk/article/35542/Political-Structure> for details.

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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 - 2 November 2022 (Pages 6 - 15)

To confirm the Minutes of the meeting of the Committee held on Wednesday 2 November 2022.

### 5. Planning Applications for Consideration by the Committee (Pages 16 - 19)

- (A) 3/21/1756/FUL - Demolition of all existing buildings. Erection of a Class E retail food store, with associated car parking, reconfigured site access, servicing, landscaping, swale, and installation of plant equipment at Gates Of Stortford, 295-297 Stansted Road, Bishop's Stortford, Hertfordshire, CM23 2BT\_(Pages 20 - 92)

Recommended for Approval

- (B) 3/22/1142/HH - Conversion of garage to artists studio. Removal of roof and construction of roof lantern structure. Construction of side extension at Sequoia, Elton Road, Hertford, Hertfordshire, SG14 3DW\_(Pages 93 - 105)

Recommended for Approval

6. Items for Reporting and Noting (Pages 106 - 129)

(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.

# Agenda Item 4

DM

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MINUTES OF A MEETING OF THE  
DEVELOPMENT MANAGEMENT  
COMMITTEE HELD IN THE COUNCIL  
CHAMBER, WALLFIELDS, HERTFORD ON  
WEDNESDAY 2 NOVEMBER 2022, AT 7.00  
PM

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PRESENT: Councillor B Deering (Chairman)  
Councillors D Andrews, T Beckett,  
R Buckmaster, B Crystall, I Kemp,  
S Newton, T Page, P Ruffles, S Rutland-  
Barsby (substitute for R Fernando) and  
T Stowe

ALSO PRESENT:

Councillors E Buckmaster, J Goodeve and  
C Rowley

OFFICERS IN ATTENDANCE:

Richard Freeman	- Interim Development Management Team Leader
Steven King	- Finance Management Trainee
Peter Mannings	- Democratic Services Officer
Karen Page	- The Service Manager (Development Management and Enforcement)
Victoria Wilders	- Legal Services Manager

191 APOLOGIES

An apology for absence was submitted on behalf of Councillors Fernando and Redfern. It was noted that Councillor Rutland-Barsby was substituting for Councillor Fernando.

192 CHAIRMAN'S ANNOUNCEMENTS

There were no Chairman's Announcements. The Chairman mentioned that there would be a training item which would immediately follow the meeting.

193 DECLARATIONS OF INTEREST

There were no declarations of interest.

194 MINUTES - 10 AUGUST 2022

Councillor Crystall proposed and Councillor Andrews seconded, a motion that the Minutes of the meeting held on 10 August 2022 be confirmed as a correct record and signed by the Chairman.

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

**RESOLVED** – that the Minutes of the meeting held on 10 August 2022, be confirmed as a correct record and signed by the Chairman.

- 195 A) 3/21/2615/FUL AND B) 3/21/2616/LBC - PART DEMOLITION OF BUILDING AND PART DEMOLITION TO THE REAR; CONVERSION OF THE BASEMENT AND GROUND FLOOR TO PROVIDE CLASS E (C & (G)(I)) USE: CHANGE OF USE TO CLASS C3 USE (RESIDENTIAL) AT FIRST AND SECOND FLOORS WITH ACCESS FROM THE GROUND FLOOR; CREATION OF FIVE 1 BEDROOM APARTMENTS AND TWO 2 BEDROOM APARTMENTS; CONVERSION OF THE BARN TO THE REAR TO TWO 2 BEDROOM DWELLINGS; CONSTRUCTION OF 8 NEW DWELLINGS TO REAR (6 X THREE BEDROOM AND 1 X 4 BEDROOM TERRACED HOUSES WITH ROOF TERRACES AND CAR PORTS, AND ONE TWO-STOREY 3 BEDROOM HOUSE WITH ROOF TERRACE AND GARAGE). ASSOCIATED DRAINAGE, CYCLE STORES, BIN STORES, CAR PARKING AND LANDSCAPING AT 27 - 29 HIGH STREET, WARE, HERTFORDSHIRE, SG12 9BQ \_\_\_\_\_

The Head of Planning and Building Control recommended that in respect of application 3/21/2615/FUL, planning permission be granted subject to the conditions detailed in the report and subject to a Section 106 legal agreement.

The Head of Planning and Building Control recommended that in respect of application 3/21/2616/LBC, listed building consent be granted subject to the conditions detailed in the report and subject to a Section 106 legal agreement.

The Development Management Team Leader presented the reports in respect of the full permission and listed building applications.



The Development Management Team Leader detailed the planning history of the site and updated Members in respect of the late representations. He said that condition 26 would be expanded to include a biodiversity improvement measure for nesting swifts.

The Development Management Team Leader corrected an error in the report in respect of the number of trees on the site.

Mr Goodey addressed the Committee in support of the application. Councillor Ruffles mentioned that he was a member of the Ware Society. He spoke about the historic built environment with particular reference to the special historic buildings that ran the full length of Ware High Street.

Councillor Beckett asked for some clarity as to the impact of the overshadowing from the proposed development on the solar panels on a neighbouring property in terms of whether there had been a loss of efficiency impact assessment.

The Development Management Team Leader said that the impact on the solar panels was a material consideration and there had not been a detailed technical assessment of the impact on energy efficiency of the solar panels. He advised that Officers were satisfied with the proposed development due to the location and orientation of the solar panels.

Councillor Kemp said that there were many good features of the proposed development but he had a number of concerns including overshadowing of solar

panels and the impact on the properties in George Walk. He referred in particular to loss of light and damage to those houses due to foundation works on this site. He expressed a number of concerns in respect of car parking provision and referred to the required provisions set out in the East Herts Vehicle Parking Supplementary Planning Document (SPD).

Councillor Kemp asked how the proposed housing density compared with the adjacent residential areas in this part of Ware. He said that he had some considerable concerns about the new build element of the application.

The Development Management Team Leader mentioned the party wall act and spoke at length about the impacts of the proposed development on the surrounding residential areas. He said the vehicle parking standards were maximum standards and the general thrust of planning and national policy was to limit parking especially in sustainable locations.

Councillor Crystall commented on the possibility of Section 106 monies towards a car club in terms of alleviating parking problems for other residents of Ware. He asked if a condition could be applied requiring a shade analysis to be carried out in respect of the impact on the solar panels.

The Development Management Team Leader said that there would be a reduction in commercial floor space. He confirmed that Officers were satisfied that the commercial offer was viable. He said that sustainability was fully incorporated in the planning system in

ensuring that developments were directed to more sustainable locations.

The Development Management Team Leader said that a Section 106 requirement for the establishment of a management company would not be required for a scheme of this size. He advised that there were requirements for the provision of landscaping details and this would include maintenance. He said that condition four covered the provision of a disabled parking space.

Councillor Andrews questioned the sustainability of the proposed development and he expressed concerns in respect of the ability of existing residents along the eastern side of George Walk to access the eastern walls and roofs of their properties for maintenance. He talked about the importance of drainage with particular reference to the potential for sycamore trees to impact on the drainage.

The Development Management Team Leader pointed out the disabled parking space and said that Part H of the building regulations covered maintenance requirements. Members were advised that a condition covering guttering would not meet the tests for planning conditions and the application did demonstrate how roofs would be drained.

Councillor Beckett asked if a condition for obscured glazing could be added to address the concerns from residents regarding overlooking of roof lights of cottages. He also asked if there had been a demolition audit in respect of the material due to be removed

from the site and whether this could be used to repair existing buildings in Ware.

The Development Management Team Leader referred to conditions in the report regarding opaque windows and the demolition plans and construction materials. The Service Manager (Development Management) said that condition 12 could be amended in respect of construction materials.

The Development Management Team Leader and the Service Manager (Development Management) set out the additional conditions and amendments to the wording of existing proposed conditions that could be applied to meet the tests for reasonableness.

Councillor Andrews proposed and Councillor Rutland-Barsby seconded, a motion that application 3/21/2615/FUL be granted planning permission, subject to the conditions detailed in the report and subject to a Section 106 Legal Agreement with delegated authority being granted to the Head of Planning and Building Control to finalise the detail of the conditions, in consultation with the Chairman and Vice-Chairman of the Development Management Committee in respect of the following matters:

- tactile paving
- guttering
- opaque windows
- demolition plans (with particular reference to heritage items)
- swift boxes
- protection of artwork

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

**RESOLVED** – that (A) in respect of application 3/21/2615/FUL, planning permission be granted subject to the conditions detailed in the report and subject to a Section 106 Legal Agreement with delegated authority being granted to the Head of Planning and Building Control to finalise the detail of the conditions, in consultation with the Chairman and Vice-Chairman of the Development Management Committee in respect of the following matters:

- tactile paving
- guttering
- opaque windows
- demolition plans (with particular reference to heritage items)
- swift boxes
- protection of artwork

Councillor Ruffles proposed and Councillor Newton seconded, a motion that application 3/21/2616/LBC be granted listed building consent, subject to the conditions detailed in the report and subject to a Section 106 Legal Agreement and that delegated Authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions and to refuse the application in the event that a legal agreement (to the satisfaction of the LPA) is not completed within 3 months of the committee's decision.

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

**RESOLVED** – that (B) in respect of application 3/21/2615/FUL, listed building consent be granted, subject to the conditions detailed in the report and subject to a Section 106 Legal Agreement and that delegated Authority be granted to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions and to refuse the application in the event that a legal agreement (to the satisfaction of the LPA) is not completed within 3 months of the committee's decision.

196 ITEMS FOR REPORTING AND NOTING

**RESOLVED** – that the following reports be noted:

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

197 URGENT BUSINESS

There was no urgent business.

The meeting closed at 8.58 pm

Chairman .....
Date .....

# Agenda Item 5

## East Herts Council Report

### Development Management Committee

**Date of Meeting:** 7 December 2022

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

**Report title:** Planning Applications for Consideration by the Committee

**Ward(s) affected:** All

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### 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 are available online. Planning Officers will be present from 6.30 pm to advise on any

plans relating to schemes on strategic sites. 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 view the full range of plans online 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:  
<https://publicaccess.eastherts.gov.uk/online-applications/>

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

# Agenda Item 5a

## DEVELOPMENT MANAGEMENT COMMITTEE – 7 DECEMBER 2022

<b>Application Number</b>	3/21/1756/FUL
<b>Proposal</b>	Demolition of all existing buildings. Erection of a Class E retail food store, with associated car parking, reconfigured site access, servicing, landscaping, swale, and installation of plant equipment.
<b>Location</b>	Gates of Stortford, 295-297 Stansted Road, Bishop's Stortford, Hertfordshire, CM23 2BT
<b>Parish</b>	Bishop's Stortford Town Council
<b>Ward</b>	Bishop's Stortford Meads

<b>Date of Registration of Application</b>	20 July 2021
<b>Target Determination Date</b>	19 October 2021
<b>Reason for Committee Report</b>	Major application
<b>Case Officer</b>	Femi Nwanze

### **RECOMMENDATION**

That planning permission is **GRANTED**, subject the conditions set out at the end of this report and subject to a Section 106 legal agreement.

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

In the event that a legal agreement (to the satisfaction of the LPA) is not completed within 3 months of the committee's decision, to refuse the scheme due to an unacceptable impact from unsustainable modes of travel and a detrimental impact on local employment.

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

- 1.1 This is a full planning application; seeking planning permission for the demolition of all buildings and comprehensive redevelopment of the site to provide a retail food store (Class E) providing 2368 sq. metres of retail floorspace (gross), the provision of car parking for 137 No vehicles; together with a reconfigured site access,

landscaping works including the provision of a swale and the installation of plant equipment.

- 1.2 The proposed store is intended to be occupied by Lidl Stores. It would have a gross internal area of 2,275 sq. metres which would incorporate freezer, shop warehouse and ancillary staff facilities. The proposed store would have a net sales area of 1411 sq. metres with approximately 80% (1,128 sq. metres) devoted to the sale of convenience goods.
- 1.3 The retail food store would be positioned in the north-western section of the site. It would be a single storey building with a height of 7.1 metres and be of a modern design that features a combination of aluminium cladding panels, grey render and aluminium framed glazing (windows). Photovoltaic panels are proposed at roof level.
- 1.4 Lidl is not considered to be a traditional supermarket, but instead a limited assortment discount retailer due to the limited range of goods that it sells, which does not include specialist butchers, delicatessen, fishmongers, or a chemist. However, it does sell a limited range of homeware. Limited assortment discount retailers are considered to be weekly destination supermarkets.
- 1.5 The main considerations in the determination of the application are:
  - Whether the principle of the proposed development is acceptable within a designated employment area.
  - Whether the development has an acceptable impact on the continued vitality of Bishop's Stortford town centre and other local retail centres.
  - Whether the proposed development will provide satisfactory arrangements for pedestrian and bus access, a satisfactory level of car and cycle parking and has an acceptable impact on the local highway network.

- Whether the proposed development will provide an appropriate layout (which adequately addresses climate change), scale and appearance (including landscaping) and satisfactorily addresses flood risk and biodiversity net gain requirements.
- Whether the proposed development would have an acceptable impact on neighbouring amenity.
- Whether overall, this is a sustainable form of development that is appropriate at this site; having regard to policies in the East Herts District Plan 2018, the adopted Neighbourhood Plan for Bishop's Stortford, Silverleys and Meads and the National Planning Policy Framework 2021.

## **2.0 Site Description**

- 2.1 The application site comprises brownfield land of approximately 1.15 hectares in area. The site is located within the Stanstead Road Designated Employment Area which is situated on the western side of the road with the same name. The application site comprises the southern – most section of the employment area; featuring the two medium height buildings associated with the Gates of Stortford car dealership; together with its associated forecourt car park.
- 2.2 The site is bordered to the south by residential properties on Stanstead Road and Denny Court. To the east of the site is Stanstead Road. To the west of the site is the Cambridge – London railway line; beyond which is the River Stort and open land.
- 2.3 Birchanger Brook is situated to the north of the site; after which lies commercial properties that form the remaining part of the Stanstead Road Designated Employment Area.
- 2.4 The site is not located in a Conservation Area or an Area of Archaeological Significance. There are no statutory listed buildings on, or near to the site. There are no trees on the site that are protected by a Tree Preservation Order.

### 3.0 **Planning History (Recent)**

Application Number	Proposal	Decision	Date
3/11/0987/FP	Demolition of existing main car dealership and construction of new main car dealership and adjacent car park with raised storage area.	Granted with conditions	12.10.2011
3/11/0988/FP	Demolition of body shop and outbuilding and construction of 6 no. offices and 5 no. light industrial units with trade counters.	Granted with conditions	09.05.2012
3/18/0290/FUL	Construction of two storey vehicle storage building in association with the existing car sales business.	Granted with conditions	27.04.2018
3/21/1826/SCREEN	Screening opinion for the demolition of all existing buildings on the site and the erection of a Class E retail	Not EIA Development	

	foodstore, with associated car parking, reconfigured site access, landscaping, swale, servicing and other associated works.		
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#### 4.0 **Main Policy Issues**

- 4.1 The Development Plan consists of the East Herts District Plan 2018, the Hertfordshire Minerals Local Plan 2007, the Hertfordshire Waste Development Framework and the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the Development Plan unless there are material considerations which indicate otherwise.
- 4.2 A number of other policy documents and guidance are relevant material considerations including the National Planning Policy Framework, the Planning Practice Guidance and Supplementary Planning Documents including the adopted Sustainability SPD 2021 and the adopted Vehicle Parking Provision at New Development SPD 2008.
- 4.3 The main policy issues relate to the relevant planning policies in the East Herts District Plan 2018, the Neighbourhood Plan and the National Planning Policy Framework 2021 (NPPF) as set out below:

<b>Key Issue</b>	<b>District Plan</b>	<b>Neighbourhood Plan</b>	<b>NPPF</b>	
Whether the principle of the	INT1, DPS1 DPS2, ED1, RTC1,	BP4	Chapter 6 Chapter11	



proposed development is acceptable within a designated employment area.	BISH11, BISH12			
Whether the proposed development will have an acceptable impact on the continued vitality of Bishop's Stortford town centre and other local retail centres.	RTC1, BISH1, BIS12	BP2	Chapter6 Chapter 7	
Whether the proposed development will provide satisfactory arrangements for pedestrian and bus access, a satisfactory level of car and cycle parking and has an acceptable	TRA1 TRA2 TRA3 CFLR9	TP1, TP3, TP4, TP5, TP7, TP9, TP12	Chapter 8 Chapter 9 Chapter 12	

impact on the local highway network.				
Whether the proposed development will provide an appropriate layout (which addresses climate change), scale and appearance (including landscaping and appropriate biodiversity net gain).	DES3, DES4, DES5, EQ2, EQ3, EQ4, NE3 NE4,, WAT3, WAT5, CC1, CC2	HDP2, CC1, CC4, GIP5, GIP6	Chapter 12 Chapter14	
Whether the development would have an acceptable impact on neighbouring amenity.	DES4, EQ2, EQ3, EQ4	HDP1	Chapter 8 Chapter 12	
Overall sustainability	INT1 DPS2, DEL1	CC1, CC4	Chapter 2	

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

## **5.0 Summary of Consultee Responses**

### **5.1 EHDC Conservation and Urban Design: No objection, subject to conditions.**

- 5.3 EHDC Environmental Health (Air and Land): No objection, subject to conditions and informatives.
- 5.4 EHDC Environmental Health (Noise): No objection, subject to conditions and informatives.
- 5.5 EHDC Landscape: No objection but requires amended (simplified) planting proposals.
- 5.6 Environment Agency: No objection, subject to pre – commencement condition and Informatives to address flood risk.
- 5.7 HCC Fire and Rescue Service: No objection subject to a condition that requires the developer to install a fire hydrant.
- 5.8 HCC Growth and Infrastructure: has advised that they will not be seeking non – transport financial contributions.
- 5.9 HCC Highway Authority: No objection, subject to conditions and Section 106 Agreement for a Travel Plan.
- 5.10 HCC Lead Local Flood Authority: No objection, subject to conditions and informatives.
- 5.11 Network Rail: No objection, subject to informatives.
- 5.12 North East Herts Swift Group: No objection but suggests that the scheme should incorporate additional measures such as a green wall, integrated bat and bird bricks/boxes to give additional benefit and potential for wildlife.
- 5.13 (Note: EHDC, East Herts District Council; HCC, Hertfordshire County Council)
- 6.0 Town/Parish Council Representations.**

- 6.1 Bishop's Stortford Town Council do not object to this application, however they ask for a traffic impact assessment and pedestrian crossing survey.

## **7.0 Member Representations**

- 7.1 Councillor Beckett: requests an increase in the provision of (vehicle) charge points (to 6) and cycle spaces (to 12) in order to encourage a modal shift in transport journeys.
- 7.2 Councillor Goldspink: objects to the application on the grounds of increased traffic congestion, proximity of the entrance to the neighbouring dwelling (289 Stanstead Road), concerns regarding the boundary treatment between the southern edge of the site and 289 Stanstead Road and concerns regarding the pedestrian entrance on the southern part of the site (in that it should mirror the access on the northern part of the site).
- 7.3 Councillor Horner: objects to the application on the grounds of increased traffic movements and congestion, lack of a full Travel Impact Assessment, lack of an adequate survey that takes into account the poor walking and cycling environment around the site (and instead places reliance on the experience from other Lidl stores) and insufficient provision of electric vehicle (EV) charging points.

## **8.0 Other groups/organisations**

- 8.1 Bishop's Stortford Civic Society – Notes the updated position from HCC Highways but remains of the view that congestion effects of major car-borne shopping developments in and around the town centre and main residential areas should be subjected to capacity testing and that this should not be limited to 'accommodating the convenience of motorists'. They also highlight that the emerging Neighbourhood Plan (revision 2022 Neighbourhood Plan (Policy TP1)) specifically requires enhanced capacity assessments.

## **9.0 Summary of Other Representations**

9.1 27 neighbouring properties have been consulted by letter. The application has been publicised by site notice and press advert. 251 letters have been received in response; 91 objecting, 150 in support and 10 neutral.

9.2 The 101 letters of objections raise the following issues:

### Principle of the use / employment and retailing uses

- Assertions that development will serve Bishops Stortford North are irrelevant; it will attract customers from the south and east as well and lead to congestion;
- Most other supermarkets in the town (except Aldi) are located in areas where the road network is appropriately planned;
- Bishop's Stortford is well supplied by existing supermarkets within easy reach of the proposed site; this development is not needed;
- Proposal will take footfall away from the town centre; where shops are already closing and it will have an adverse impact on the local centre of Snowley Parade; the Goods Yard site would have been a more sensible location;
- Proposal will put more than 50 jobs at risk from businesses at Snowley Parade which re – invest in the community rather than funnel money to corporate institutions. Proposal will harm small and long standing local businesses;
- Net job impact may be negligible given that the jobs at 'Gates' will be lost and replaced with jobs that are relatively low paid, low skilled and flexible;

- No economic need for an additional supermarket in Bishops Stortford; too many chain supermarkets; space would be better used for independent shops in an indoor market;
- Proposal is contrary to Policy ED1 of the East Herts District Plan 2018 (notwithstanding the recent changes to the Use classes Order in respect of Use Class E); loss of a business site;
- Retail in this location means noisy industries go where?
- The site should be retained for industrial related uses given the proximity to the A120 and the M11 motorway which must be an attractive location for companies;
- The site is only suitable for a similar type of business to the one there now (Gates); one with limited opening hours and low customer numbers. If a change is required it should be to housing as this is urgently needed in the Bishop's Stortford area;
- Stortford is being destroyed by continual over development;
- Does not object to principle of Lidl wanting to open in Bishops Stortford but given that it is being justified on serving development at Bishop's Stortford North – it should be located on an appropriate site within that development not where it would create unnecessary vehicle movements;
- Proposal would severely impact Aldi and undermine the benefits that Aldi bring to the town centre as a result of linked trips;
- Application fails to provide a robust retail impact assessment and sequential assessment as required by Policy RTC1 and the National Planning Policy Framework (NPPF);
- The retail impact assessment is flawed as it is based on an outdated 2013 household survey; the survey was undertaken

prior to the opening of the Aldi store in Bishops Stortford and fails to establish the state of existing centre and the nature of current shopping patterns as required by the checklist for retail impact assessments within the National Planning Policy Guidance (NPPG);

- 2013 retail capacity Study which is based on the 2013 household survey is also out of date;
- The submission fails to provide an appropriate assessment of the likely impacts of the proposed Lidl store and there is no consideration of the 'no development' scenario;
- Question the trade draw assumptions provided from existing convenience stores and consider that there has been an underestimation of the diversion from Lidl's main competitor Aldi, whose store would be expected to experience the highest levels of trade diversion;
- The impact assessment fails to identify the three new neighbourhood centres which will be located to the north and south of the town (and any convenience offer that would be within them); particular reference is made to Bishops Stortford North where a food operator is being sought;
- Proposed development would deter investment within the Bishops Stortford North Urban Extension neighbourhood centre significantly affecting its ability to function; Bishops Stortford North represents a potential sequential site to be assessed – but it has not been assessed; a food store at Bishops Stortford North should take priority over this site;
- The Council should commission an independent review of the submission due to deficiencies in the assessment of retail policy;
- The requirements of the Planning Practice Guidance (which notes that, It is not necessary to demonstrate that a potential

town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal) have not been met;

- Para. 91 of the NPPF advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, It should be refused;
- Lack of regard to established case law on the sequential approach – identity of the proposed retailer is not generally relevant to sequential testing

#### Highway safety, transport and parking

- Proposed entry/egress is too close to the block of detached houses in Stanstead Road; cars reversing out of their driveways will be met with traffic leaving Lidl towards Bishops Stortford;
- Proposed development will compromise the safety and liberty of a vulnerable person and interfere with being able to provide safe transportation to and from the home (in a wheelchair adapted vehicle); reversing onto the main road will be a safety issue due to the increased traffic that will use the site; the highway codes (201) states reverse in and drive out if you can – it is not possible to do this due to the traffic volume; it would also risk the safety of the drivers involved in the daily transportation service from this site;
- The application should be considered in line with previous applications at this site 3/11/0987/FP and 3/11/0988/FP where the planning committee accepted the close proximity of the access road and asked for it to be removed; the junction is too close to the neighbouring property (289 Stanstead Road);



- Proposed 6ft fence and hedge at the front needs to be much lower to improve visibility; positioning of the fence needs to be recessed by 1.9 metres (as it currently is) to improve visibility;
- Proposed crossing and traffic measures outside 279 Stanstead Road will affect driveway to business at 277 Stanstead Road where lorries enter the site on a daily basis (reversing); placing a crossing here will increase health/safety risk by encouraging pedestrian crossing in this location and cause further congestion by delaying ability of lorries to reverse into the site in a timely manner;
- A full traffic survey needs to be undertaken taking into account the Birchanger roundabout changes which will increase traffic, together with other proposed/ existing schemes in the locality;
- Assertions made in the Travel Plan are not based on proper surveys but on the experience of other stores;
- Commissioned Transport Assessment report by SCP anticipates that traffic movements will increase as much as ten times the current number of arrivals and a similar increase for departures;
- 7-day traffic monitoring was carried out between 22.12.21 and first week in Jan '22; a period when schools were closed and when people were asked to work at home due to the pandemic;
- Concerns about statements made in SCP report that there is 'no justification whatsoever' for a right turn (on what will be a busier stretch of the road) when in a 200 metre stretch there are at least 4 ghost lanes for turning right;
- Inadequate traffic management;
- The site is on the edge of the housing area and not in a centre of population. The assertion that there are good walking and cycling routes is not correct. Pedestrian footpath opposite the

site is narrow, un-even, un-lit, overgrown and generally unusable- wheelchair and pushchair users are unable to use it and have to use the grass verge instead;

- There is no mention of parking for staff; Oaklands Park is 100m from the proposed access already suffers from airport parking and more parking will cause disturbance;
- There needs to be a larger number of EV charging points than the 2 proposed to cater for the already growing number of electric vehicles;
- Not a suitable site due to traffic; existing businesses on Stanstead Road do not have the same volume of traffic as this proposed supermarket which will include weekends and evenings;
- Traffic on Stanstead Road is often at a standstill whilst transporters load and unload, surrounding roads are affected by school traffic and builders vehicles en-route to the industrial estate next to the site; heavy supermarket traffic will increase danger for school children and pedestrians crossing Stanstead Road to gain access to schools on the Parsonage Estate; speeding vehicles makes it impossible to exit local roads in peak times – this proposal will exacerbate that issue;
- Development will cause traffic blockages in both directions; similar to Aldi with customers of the store being unable to access the parking and therefore having to queue on the road; some local roads already have parking restrictions in place – this should be considered for other roads;
- There are a number of residential properties alongside this site on Stanstead Road that have to reverse back into the road to leave their houses; this will cause congestion on Stanstead Road;

- The Michaels Road/Stanstead Road junction will not be fit for purpose without the use of a roundabout access to both the application site and the Stort Valley Industrial Estate;
- The planned access is situated on a bend in the road and in an area that is the subject to speeding vehicles;
- Pedestrian access is limited to existing pavements on Stanstead Road. Access from new estates to the north- west of the town is limited by the extremely narrow footpath along Michaels Road or un made footpaths at Canons Mill Lane. There are currently no road crossing facilities of any type within the vicinity of the site;
- Poor access - a direct entry/exit from Stansted Road to be shared by HGVs and customer vehicles - is an accident in waiting; the site frontage needs to be pulled back 5 metres and the road layout re-configured to provide an extra lane;
- Further traffic congestion in an area that is already suffering from traffic congestion including during the school run and rush hour. Traffic reaches Canons Mill daily and onto Hockerill; extra HGV's/delivery lorries will further affect traffic flow as they need to use both lanes to reverse into the various sites;
- There is a lack of warning of on-coming traffic from the north because of the bend;
- There should be 10 EV bays from the start with provision of more as uptake increases;

#### Impact on residential amenity

- The revised landscaping proposes to plant the length of our border a fast growing hedge that can reach heights in excess of 5 metres. There is no information on the height that it will be maintained at and it will block light to kitchen window and side walkway (property has acquired rights to light under The Rights

of Light Act 1959). The hedge is not evergreen and will cause issues; Proximity of hedge can cause structural damage to neighbouring property;

- Antisocial behaviour - Gates have been helpful in arranging deliveries at more sociable times of the day and ensuring that audible reversing warnings are turned off - can Lidl guarantee the same? Also Wickes installed a barrier to prevent access to the car park when the store is closed;
- Noise pollution; 2 deliveries per day delivering out of hours will cause disturbance to neighbours in the area as will engine noise, trolley noise and general noise from people; the proposed use will cause more noise than the existing use as stationary cars make no noise ; proximity of the site to the few properties near the site entrance will cause disturbance;

### Sustainability

- Improved pedestrian and cycling connections are needed to combat a climate emergency;

### Pollution

- Light pollution; the store will be open early in the morning until late at night – Gates was closed by 6pm;
- Noise levels have been measured around the proposed site during a period when there was a national lockdown;
- Air pollution from traffic and congestion; the site is neighboured by a number of car dealerships and varied commercial activities that are all associated with significant vehicle movements;

## Design

- Poor design - the completely unobstructed car park will be empty when the store is closed and very attractive as a recreation area for skateboarders/cyclist and teenage motorists after the store has closed. Head height security perimeter fencing is required including proper secure gating;
- Car park should be located at the far end of the site (and the building by the road) to allow cars to queue past the building rather than on Stanstead Road; the Aldi car park queuing halts all other traffic when customers are trying to park their vehicle;
- Positioning the store at the back of the site is useless for pedestrians and shows Lidl's outdated obsession with cars; Development is too car orientated and not justified as a local walk – to shop; it needs more cycle parking and a covered buggy park near the door;
- Proposed development should be re- positioned with parking and deliveries on the other side (right hand side) and have a joint entry from a roundabout adjacent to Mercedes – Benz;
- Demolition of two large buildings is wasteful – the front showroom should be converted and extended if required. The rear vehicle service building can be converted to covered parking;

## Other

- Proposal will de – value property; (this is not a material planning issue)
- Lessons must be learned from 'ill judged' Aldi decision; the impact of this much larger site may well be greater and therefore more significant;

- Bishops Stortford could support a new supermarket but not at the expense of residents' quality of life;
- Lidl have applied for a licence to sell alcohol from the site Mon – Sun 7am to 11pm inclusive; not even Aldi or large Tesco's have these operating hours;
- Applicant is placing reliance on a response to a survey that they sponsored. The 'nice to have responses', many of which are from a Facebook call for support have not considered impact on their residential area; whereas objectors have;
- Contrary to flood assessment - this area is well known for surface water problems;

9.3 164 letters have been received supporting the proposal on the following grounds:

- Despite potential for additional traffic, support the application because other supermarkets are too busy to shop in comfortably;
- Proposal would improve choice to suit every budget in town – it could be improved with frequent bus service from town to the Lidl site; support proposal as it will help people on the breadline with lower prices;
- Proposal would be a great asset as there is no supermarket in the area and need to spend more money for home delivery, transport or paying more money for the same products in local shops;
- Cost of living is so high – any competition between supermarkets is welcome; (competition is not a planning issue)

- Proposal would be a great addition to the town with easy access to the A120 bypass and would be beneficial for the new Bishop Stortford North estates;
- Proposal is in an area of existing large retail units and has good road links; support the fact that the site is accessible from the bypass and not the town centre;
- Some of the other supermarkets in the area are not fit for purpose - ensure that there is sufficient car parking;
- There are not enough shops in this part of Bishops Stortford – this will ease all the town centre congestion; Bishops Stortford needs another supermarket as it is expanding; this area needs shopping due to its growing population;
- Currently have to go to nearby towns like Braintree, Loughton, Harlow, Waltham Cross or even London (Cambridge Heath Road) so very happy to have the facility in Bishops Stortford;
- Good location for this development; development would be beneficial to outer lying villages; far enough away from the Hockerill lights; good use of the site as Bishops Stortford north and north east doesn't have local shops so we have to drive;
- Proposal would allow better supermarket access to residents on this side of Bishops Stortford; particularly those without a car – at present it is a good 20 minute walk to any other supermarket and with needing to carry heavy shopping back - it makes accessing a supermarket quite difficult. As a pensioner it is difficult to go to into town; we need shops this side of Stortford; provides an ability to walk to the supermarket;
- The store could generate more custom for the bus service;
- A more sensible site than Aldi; will relieve congestion especially at Hockerill – area is getting busier and so are supermarkets

(especially Aldi which is not in a good location and increases congestion);

- Will reduce town congestion as people from new development to the north and west of town will not have to go to Hockerill; draws traffic away from London Road;
- Proposal will provide local employment; Lidl provides excellent pay rates for employees;
- Excited by the prospect of a bakery as Aldi does not have one;
- Supports the proposal to increase availability of EV charging;
- With all the housing expansion in the area it would be good to have an out of town store of this quality;
- Proposal would be a welcome addition to the town and an improvement to the site generally; can't keep building houses everywhere without expanding retail services;
- At last a really good plan for Stortford; a supermarket is desperately needed this side of town;
- No need to use a car and more jobs created;
- Proposal will improve existing layout of trading estate; A modern facility might attract further investment;
- Welcome new amendments and requests adequate lighting is added for any new pedestrian crossing;
- Happy with proposal in general provided that action is taken to minimise light pollution, there is good landscaping and no noisy operations between 9pm and 9am;
- Pleased to see solar panels on the roof;



9.4 10 neutral comments raise the following issues:

- A roundabout should be put in place at the entrance to the development so that traffic is slowed down and access improved;
- Wants to see traffic calming measures to reduce speed in general;
- Site entrance should be combined with neighbouring site;
- Travel plan should make significant improvements to Michaels Road or offer an alternative walking /cycling route via Grange Paddocks;
- Proposals should make provision for a new crossing as pedestrian footfall with increase.
- Request a clear statement on actual daily/weekly lorry movements on a similar sized site over an extended period instead of reference to an average of 1 or 2 delivery lorry movements a day with a doubling of movements in the run up to Christmas/Easter;
- Would like to see more EV charging, bicycle spaces, relocated entrance (to come off Stort Valley Industrial Estate, pedestrian cycle link to the west of the site over the railway;
- Safe pedestrian cycle route should be provided to the Bishops Stortford North site;
- Supports local employment opportunities in this area but considers that the road and pavement infrastructure needs to be re-shaped in order to learn lessons from the Aldi site at London Road, Bishops Stortford;
- The noise impact assessment is based on simple sound levels – no consideration of the extended length of noise exposure. The

current occupants are open for 6 days a week for 12 hours a day at most. Lidl will be open 7 days a week and for 6 of those days there will be vehicle movements 17 hours a day (6 am to 11pm). It is disingenuous to compare the two. The same comparison also applies to any light pollution;

- Flood assessment makes no reference to frequent flooding of Stanstead Road by run off from Birchanger Brook;
- The 40 full time equivalent new jobs for Stortford is misleading – there is limited or no net gain in jobs. The Lidl offer is mainly for lower paid jobs. Car /sales repairer would be of greater value to the local economy.

## **10.0 Consideration of Issues**

### **Principle**

#### *Development Strategy*

- 10.1 The site is 1.15 ha in area and comprises of 'brownfield land' – land that has been previously developed. The applicants submitted a Screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 as amended (EIA) to determine whether an EIA was required. This was assessed against the regulations by the Local Planning Authority and it was determined an EIA was not required.
- 10.2 Policy DPS1 (Housing, Employment and Retail Growth) states that the council will maximise opportunities for jobs growth, with the aim of achieving a minimum of 10,800 new jobs in the District during the plan period and an increased retail floorspace of approximately 12,000m<sup>2</sup> across the District. The proposal accords with policy DPS1.
- 10.3 Policy DPS2 (The Development Strategy 2011-2033) of the East Herts District Plan outlines that the strategy of the Plan is to deliver sustainable development in accordance with a hierarchy of sites. In

this regard, preference is given to brownfield sites in sustainable locations. As this is brownfield land and in a sustainable location on Stansted Road, the proposal accords with policy DPS2.

Employment Area, Employment and Economic impact

- 10.4 The application site is situated within a Designated Employment Area (Stansted Road) as defined in the East Herts District Plan 2018. Policy ED1 protects land within this area for uses that fall within Use Classes B1 (Business) (now Class E), Class B2 (General Industrial) , related Sui Generis and where well related to the primary road network, Class B8. Policy BP4 supports the regeneration or redevelopment of existing industrial sites to commercial business facilities. The current use of the site falls within a category of use considered to be 'sui generis.'
- 10.5 Section III of Policy ED1 seeks to protect B1, B2, B8 and sui-generis uses and advises that planning permission will only be granted for development that would result in the loss of a site/premises which is currently, or was last, in employment use (Classes B1 (now within Class E), B2, B8 or related Sui Generis when all of the criteria set out in (a) (b) and (c) have been met. Each of these criteria is analysed below:
- (a) *The retention of the site or premises for B1, B2 and B8 has been fully explored without success, including whether alterations would make it more attractive. Evidence of a period of marketing for at least 12 months must be provided;*
- 10.6 It is important to consider that the site is currently in an active use as a car dealership (an employment generating sui generis use), and that it has not been marketed. The applicant's view is that as the site is not currently in a B1, B2 or B8 use, that this part of the policy does not apply.
- 10.7 Officers do not agree with this assessment; Part III of the policy begins "Development which would cause the loss of ... a site/premises which is currently, or was last, in employment use

(Class, B1, B2, B8 or related Sui Generis Use) will only be permitted where all the following criteria are met:" The policy is therefore engaged (the existing use being a related Sui Generis use) and to accord with the policy, the site should be explored for retention for what was a B1, B2 or B8 use. No information has been submitted in the application as to whether this has been explored, whether alterations have been considered and whether any marketing was undertaken. As such, the proposal does not accord with this part of the Policy and the proposal has therefore been advertised as a departure from the Development Plan.

- 10.8 The purpose of the marketing is to establish whether the site can be used for employment generating uses, which traditionally provide a significant element of the Borough's employment. That the site has not been marketed weighs significantly against the proposal in the planning balance, as it has not been established that the site cannot be used for the employment generating uses defined. As noted, the purpose of marketing is to establish whether the site can be used for employment generating uses and to that end, it is important to note that the site is, or was until recently, trading as Gates of Stortford, an employment generating Sui-Generis use. As such, it appears that it is capable of being used in the employment generating uses envisaged by Policy ED1. The application includes commentary as to how the current operator is consolidating their business on to fewer premises which is noted but only relates to one operator's ability to operate the premises and does not therefore hold significant weight or address the policy need for marketing or attempts to reconfigure the site to be used for employment generating uses.

*(b.) The retention of the B1 [now Class E], B2 or B8 use is unable to be facilitated by the partial conversion to a non-employment generating use;*

- 10.9 Whilst the application site is not currently in B1 (now Class E), B2 or B8 use, this part of the policy is engaged by virtue of the wording of Part III of the policy, which states that the criteria in ED1 must be met where permission is to be granted for the loss of a sui-generis

employment generating use. As with part a. of the policy, the existing use of the premises indicates that the site is capable of being used in employment generating use and no information has been submitted to meet this policy. The proposal does therefore not accord with this part of the policy and significant weight should be given to this.

*(c.) The proposal does not prejudice the continued viability of existing Employment Areas and neighbouring uses and existing operational employment sites and neighbouring uses.*

- 10.10 The proposal constitutes a retail store, which is not considered to be a noise-sensitive receptor in the way that, for example, residential uses are. The majority of the functions associated with the use occur inside, so in an area less exposed to noise, odour or dust and, as discussed later in the report, there is substantial screening incorporated into the proposal between the scheme and the rest of the Employment Area. As such, the use is not considered to prejudice the wider employment allocation.
- 10.11 Turning to policy BP4 of the Neighbourhood Plan, the proposed retail use is not one which the policy would support on an existing industrial site.
- 10.12 Taking into consideration the above assessment, the proposal does not accord with policy ED1, in that it results in the loss of a type of employment generating use specified as being protected within an Employment Area, without sufficient evidence to meet the requirements of policy ED1. The use proposed is not one supported by BP4. As applications should be determined in accordance with the Development Plan unless there are material considerations which indicate otherwise, consideration needs to be given to whether there are such material considerations, and whether they outweigh the policy position which does not support this proposal.
- 10.13 There are some material considerations which are relevant to this proposal and which need to be taken into consideration.

- 10.14 Firstly, the proposed use represents a form of employment. It is not a form which is protected in this area, but the District Plan sets out that retail facilities are valuable sources of employment and that they will make a contribution to local employment. As such, the proposed use represents a form of employment which goes some way to meet the economic development aspirations of the Council set out in the preamble to policy ED1 and some contribution to the creation of new jobs set out in Policy DPS1. The Homes and Community Agency publishes data on “job densities” (average jobs per m<sup>2</sup> of floorspace) and retailing uses can generate more jobs per floor area on average than the light industrial/industrial/storage and distribution types of uses which might otherwise occupy the site.
- 10.15 The applicant has indicated that they consider that 54 jobs would be created whilst the store is operating, of which 28 would be in the local area, with a greater number created during construction. This level of employment is positive and weighs in favour of the scheme, but needs to be set against the existing premises supporting 38 jobs, and so presents only a marginal uplift in employment. The applicant is willing to enter in to a “Local Employment and Training” obligation, to require measures to be put in place to focus on local employment and to provide training opportunities to the workforce. This adds greater weight to the benefit accruing from the employment which would occur at the store.
- 10.16 The proposal would itself represent an investment in the local area, requiring the construction of a new store and, as set out below, various highway improvements. The applicant has valued this at £12million. Whilst this figure has not been independently tested, the proposal would represent a significant investment in the area. It would additionally result in some increase in business rates payable (as the floor area would increase) and would go some way to promoting competition in the retailing sector and so promote access to competitive retailing for local residents.
- 10.17 It is noted that the applicant has suggested that weight should be put on the intention of the current operator (Gates of Stortford) to relocate the existing employees elsewhere within their business,

and that less protection should be given to this use in employment terms as it is a sui generis use as opposed to one which used to fall within Use Classes B1-B8. The Council disagrees with this approach. The continued employment of the existing employees cannot reasonably be secured in planning terms and policy ED1 is clear that it applies to employment generating sui generis uses.

### Retail use

The proposal relates to a use that would normally be appropriate in a town centre location.

The National Planning Policy Framework (NPPF) seeks to direct town centre uses into the town centre, with paragraph 87 of the NPPF advising that a sequential test should be applied to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up to date plan.

- 10.18 A retail impact assessment of the impact of the proposed development on the continued viability and vitality of the town centre is also required; the NPPF sets a threshold of 2,500 sq.m but allows local thresholds to be set; in this case a threshold of 1,500 sq. m is set in policy RTC1 of the East Herts District Plan 2018. As the development exceeds this at 2368sq metres, a retail impact assessment has been submitted with the application.

### Sequential Test

- 10.19 The applicants have undertaken a sequential test to ascertain whether there are sequentially preferable sites that the proposal can be accommodated on, i.e. those located in town centres or edges of town centres. As advised by the NPPG (National Planning Policy Guidance), the test has been proportionately applied.
- 10.20 The applicants consulted with and have agreed with the Planning Service on the sites that are to be considered; it should be noted that consideration has also been given to sites with a smaller gross internal floorspace than that which is the subject of this planning

application. The following sequentially preferable sites in Bishops Stortford have been considered and declined for the following reasons:

Site	Reason for decline
South Street/Station Road	Floorspace is too small at 665 sq. metres; site has limited car parking and does not have suitable services for a food store operator.
Old River Lane	The site is planned for mixed use development which involves community use but small scale retail uses. This is subject to the preparation of a Supplementary Document and planning permission.
Goods Yard	Proposal includes a number of small retail units which total 1,001 sq. metres. (this is significantly smaller than what has been applied for) The retail units have limited access to bespoke car parking and limited servicing.
The Mill Site	The site is currently in use and does not represent an available redevelopment opportunity.
Jackson Square	Although this unit is reasonably large at 1,599 sq. metres – it is smaller than current application for 2368sq metres. Notwithstanding terms have been agreed with TK Maxx and as such the unit is not available.



- 10.20 In addition to the above, existing local centres at Bishops Park and Stanstead Mountfitchet have been reviewed; no vacant land or units have been identified that can accommodate the proposed use.
- 10.21 Proposed local centres at Bishops Stortford North and South have also been reviewed. However neither of these sites will provide unit sizes that are comparable to the floor space size applied for. Bishops Stortford North has planning conditions that restrict individual unit size to 200 sq. metres and the total retail to floorspace in the development to 600 sq. metres (Eastern Neighbourhood Centre) and 200sq.metres (Western Neighbourhood Centre). Bishops Stortford South permits 1,000 sq metres of retail floor space; less than half that which is the subject of this application. It is considered appropriate to retain the restrictions on the amount of retail in these locations.
- 10.22 It is relevant to note that it has been established in the Supreme Court 2021 (Tesco Stores v Dundee City Council) that in assessing whether the sequential test has been met, the issue is, whether the applicant has responded to the question as to *'whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.'* Officers have reviewed the information submitted by the applicant, which was prepared following Officers' advice as to which locations should be assessed. Officers are satisfied that the correct alternative locations have been assessed and that the reasons for discounting sequential preferable locations set out above are satisfactory.
- 10.23 Accordingly, having regard to the above, it is considered that no available suitable sequentially preferable sites have been identified within the geographical area agreed with the Planning Service, and the sequential test has been met.

Retail Impact on Town Centre Vitality and Viability

- 10.24 Neither the NPPF nor the District Plan outlines that there is a policy requirement to demonstrate the 'need' for a retail development in a

development management context. Instead, paragraph 90 of the NPPF outlines that planning applications for retail and leisure development outside town centres, which are not in accordance with an up to date plan should be the subject of an impact assessment if the development exceeds a proportionate locally set floorspace. This should include an assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investments in a centre or centre in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

10.25 Policy RTC1 has outlined that in Bishops Stortford the threshold for analysis has been set at 1,500 sq. metres and information is expected to measure a period up to 5 years from the time the application was made.

10.26 Paragraph 91 of the NPPF advises that where an application is likely to have a significant adverse impact on one or more of the above factors, it should be refused.

10.27 The applicants have undertaken an assessment of the likely impact of the proposed development on both existing and proposed development in Bishops Stortford town centre (including its direct supermarket competitors within that area). An assessment has also been made on future planned development on other sites within the vicinity of the site; including the local retail centre at Snowley Parade.

10.28 The applicants retail impact assessment has considered the trading position of the stores in the relevant town and local centre locations. The information provided indicates that the Aldi store at London Road, the Sainsbury's at Jackson Square, Tesco store at Lancaster Way and Waitrose, Northgate End are the most popular

food stores with market shares of 21%, 20%, 15% and 13% respectively.

- 10.29 In terms of impact on food stores in the town centre (Marks and Spencer, South Street, Sainsburys, Jackson Square, Tesco Express, South Street, Waitrose, North Gate End) and other local shops in the town centre, the assessment shows a 4.7% diversion in total expenditure in favour of Lidl. This is considered to be a low impact at less than 5%.
- 10.30 The impact on Thorley District Centre has been assessed as 2.6%, Bishops Stortford Neighbourhood Centre 4.6%, Snowley Parade 2.2% and Havers Lane Local Parade 3.1%. This is considered to be a low impact.
- 10.31 The conclusions of the analysis indicate that the two stores more likely to be affected are the Aldi, London Road store which is currently trading significantly above expectations. This store is not within the town centre, being edge of centre. However, the analysis shows that the store is likely to encounter a trade diversion of 7.4%. Sainsburys, Jackson Square, is considered to be more affected than the other stores at 6.6%.
- 10.32 However, having regard to the retail analysis undertaken on the future impact on the town centre and local centres in their entirety, the evidence demonstrates that the impact is less than 5%. This level of impact is therefore not considered to be significantly adverse; such that it would conflict with Paragraph 91 of the NPPF, Policy RTC1 of the East Herts District Plan or Policy BP2 of the Neighbourhood Plan for Bishops Stortford, Silverleys and Meads.
- 10.33 In terms of the impact of this proposed development on future planned expenditure, it has been demonstrated through the sequential test and the analysis of other sites that the nature of this proposed development differs significantly from other planned development in the Bishops Stortford area (including the neighbourhood centres at Bishops Stortford North and South). Accordingly it is concluded that the proposed development would

not adversely affect existing committed and planned public and private investment; either in the town centre or the catchment area of the application site.

10.34 Officers have had the Retail Impact Assessment independently reviewed. As part of this, officers queried a number of inputs into the Assessment, including making use of the latest growth data and the likely estimated turnover of the proposed store. The applicant provided further justification of their inputs and also undertook a sensitivity test of the impact that revising the figures would have on the conclusions of the Retail Impact Assessment. This was considered carefully by officers and through an independent review and the conclusions, that any changes to the specified inputs would have a minimal impact on the Retail Impact Assessment, were accepted after due consideration. Therefore, having considered the matter carefully, officers are satisfied that the Assessment overall is robust and that the impact on the vitality and viability of Centres is acceptable and not significantly adverse and so accords with the NPPF, policy RTC1 of the East Herts District Plan and policy BP2 of the Neighbourhood Plan.

10.35 This conclusion has been reached, in part, based on the analysis of trade diversion which would occur from a store operated as a "Limited Assortment Discount Retailer"; that is an operator offering a limited number of products, at a discount as set out in paragraph 1.4. In order to ensure that a different retail impact does not occur, a condition is recommended to limit occupation to such a retailer, and to limit the net sales area and percentage of that which can be used for the sale of convenience goods.

### **Design layout, character and appearance**

10.36 Paragraph 130 of the NPPF seeks development that will function well and add to the quality of the area, are visually attractive and include appropriate landscaping.

- 10.37 Policy DES4 of the District Plan advises that development proposals must be of a high standard of design and layout to reflect and promote local distinctiveness.
- 10.38 Further to the demolition of the existing buildings at this site, it is proposed that a new single storey (7.1 metres high) supermarket building will be erected in the north – western part of the site.
- 10.39 Officers are satisfied with the siting of the store towards the rear of the site as this is consistent with the positioning of the previous buildings at the site and some other commercial buildings nearby. Notwithstanding, the siting of the building at the rear ensures that the residential amenity of neighbouring occupiers is considered; with deliveries/loading etc being sited close to an existing source of noise (London – Cambridge railway line). The building will incorporate PV panels at roof level. The delivery bay and plant area for the store will be located on the western part of the site. To north of the building a landscaped swale will be provided.
- 10.40 Access to the site will remain from Stansted Road via a widened entrance that will lead to a surface level car parking area that will be provided around the eastern and southern elevations of the store building. Concerns have been raised that the proposal is not easily accessible by pedestrians. Whilst it is the case that the car parking area is located to the front of the site, a separate route for pedestrians is proposed to the entrance which is considered to be acceptable.
- 10.41 The demolition of the existing buildings on site which are considered to be of little architectural merit and do not add to the character or appearance of the area is considered acceptable.
- 10.42 The new building would be of a modern design; typical of Lidl stores featuring composite panels and aluminium framed glazing systems will be orientated towards the south - east so that it can maximise solar gain. The height positioning and appearance of the building is considered to be acceptable; ensuring that the amenity of neighbouring occupiers is not adversely affected and

providing a development that meets the high standards of design set out in policy DES4 of the District Plan.

### **Transport and Highways considerations**

- 10.43 Chapter 9 of the NPPF seeks to promote sustainable transport; this includes ensuring that opportunities to promote walking, cycling and public transport use are identified and pursued.
- 10.44 Paragraph 105 of the NPPF encourages the location of significant development in locations that either are or can be made sustainable through limiting the need to travel. Paragraph 110 of the NPPF requires, amongst other things, that consideration is given to ensuring that safe and suitable access to the site can be achieved for all users and that any significant impact from the development on the transport network (capacity and congestion) or on highway safety can be cost effectively mitigated to an acceptable degree.
- 10.45 Paragraph 111 of the NPPF advises that development should only be refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development would be severe.
- 10.46 Policies TRA1-3 relate to sustainable travel, highway access, impact and safety and vehicle parking standards. Policies TP1-5 take a similar approach as well as promoting air quality, cycling and bus improvements.
- 10.47 This application has been submitted with a Transport Assessment, which is appropriate for developments of this scale. An analysis of the existing (pre Covid 19 period – June 2019) and proposed vehicular movements has been undertaken to capture the likely impact of the proposed development on the surrounding road network at both peak and off peak times. Lidl have used comparable data from other similar Lidl stores to assist in the analysis of this information. This traffic data has been reviewed by Hertfordshire County Council as the Highway Authority who raise no in principle objection.

### Location of development and sustainable travel

- 10.48 The application site is considered to be in a highly accessible location; being on a main thoroughfare to Bishops Stortford (B1383) and benefiting from an existing vehicular access from Stansted Road.
- 10.49 The local highway authority originally objected to the proposal on the basis that insufficient measures were in place to make the scheme accessible to pedestrians or those with disabilities. Since then amendments have been made to the internal site layout to provide a better pedestrian environment, with widened walkways and crossing points.
- 10.50 An initial Travel Plan has been submitted with the application which includes measures to promote sustainable travel, mainly for members of staff. This has been assessed by the County Council's Travel Plan team who are broadly satisfied with the content. They have requested the submission of Full Travel Plan in the event planning permission is granted and a £6000 Evaluation and Support fee to enable them to monitor its implementation and ensure that the measures set out within it are achieved. This will be secured through the Section 106 agreement.

### Trip generation

- 10.51 Given the need to encourage more sustainable modes of travel, significant work has been undertaken with regard to how trips to the site are to be undertaken and the Travel Plan discussed above, sets out targets for modes of travel.
- 10.52 In order to promote walking and cycling as suitable means of transport analysis has been undertaken as to the local pedestrian and walking environment. As well as the improvements to the pedestrian environment proposed within the site, improvements to pedestrian crossing points are proposed in 11 locations in the immediately surrounding area, to improve crossing points for on a

1km length of Stanstead Road. A crossing point across Stanstead Road is also proposed to the south of the site. This is considered to be a significant benefit of the scheme and would improve the pedestrian infrastructure, encouraging sustainable travel to this scheme and form a general improvement to the local area.

Adequate provision for cyclists exists within the road network and the proposal provides cycle parking. The amount of cycle parking is however below the policy required amount. A condition is recommended to secure additional cycle parking.

10.53 Stanstead Road is served by a number of bus routes and the proposal would increase use of these routes. In order to mitigate this increased demand, and encourage this as a sustainable mode of transport, a new south-bound bus stop and shelter would be provided in close proximity to the site. Improvements would also be made to the existing north-bound bus stop, including provision of real-time information.

10.54 The local highway authority have assessed the proposals car trip generation and have found it to be acceptable. They note that the submitted analysis suggests that the impact on the local network is likely to be limited due in part to the diversion of trade from another existing supermarket in the area. They consider that this reduction in impact is likely to be less in practice but are still satisfied that the proposal would have an acceptable impact on highway safety.

#### Access, visibility and parking

10.55 Entrance into the site is from a singular access point that abuts the neighbouring residential property at 289 Stanstead Road. The proposals will involve a widening of this access point from 6.5m to 9 metres; this would enable vehicles to enter and exit the site without conflict. Deliveries to the site would also be made from this access point. There is no objection to this proposed modification to the site layout as it will ensure that queuing into and out of the site is minimised. The access is adequate to allow for suitable visibility for



manoeuvring vehicles, including service vehicles, and conditions are recommended to secure details.

- 10.56 It is noted that the occupier of 289 Stansted Road has indicated that the proposed development and access arrangement will affect their ability to access their property using a car as there would be more vehicles queuing on the highway due to the adjacent access. Whilst some queuing on the highway may occur, given the local highway authority's conclusions above concerning trip generation, it is not considered that the level of impact would be unacceptable.
- 10.57 137 car parking spaces are proposed for the development. 10 of the car parking spaces are proposed as disabled parking bays. The provision of disabled parking equates to 7% and complies with the requirement for a development of this type and size as outlined in the updated SPD vehicle standards.
- 10.58 The overall quantum of car parking spaces slightly exceeds the requirement for a development of this size (as outlined in the Council's updated vehicle parking standards Supplementary Planning Document) which would require 132 spaces. Whilst no in principal objection is raised, it is considered that this presents an opportunity in the first instance for the additional car parking spaces to be re – purposed to provide the additional 7 cycle spaces that are required. It is considered that this matter can be adequately addressed by planning condition.
- 10.59 In terms of electric vehicle charging, 2 active electric vehicle charging points/bays are proposed. The applicants have indicated that they will provide the necessary cabling and ducting to facilitate future expansion of up to 10 bays in response to (future) customer demand. However, this provision falls slightly short of the 10% provision that has been suggested by the Environmental Health Service; with 5% (6 spaces) as an initial provision with a phased approach being agreed to reach 10% (13 spaces) in total. Accordingly it is proposed that this matter is addressed by condition whereby a phased approach to future delivery can be secured. This is considered to be an acceptable compromise to ensure that the

proposal complies with Policies EQ4 and TRA1 of the East Herts District Plan 2018.

### **Neighbour amenity**

#### *Potential impacts from noise*

- 10.60 The application has been submitted with a noise assessment which considers the effect that the proposed development will have on the occupants of surrounding properties. The nearest residential properties lie to the south of the site at Denny Court and Stanstead Road and are considered those most likely to be impacted by the proposed development.
- 10.61 The assessment considers the proposed noise arising from deliveries to the site (loading and unloading) including HGV movements, vehicle movement/parking and noise from plant. The information provided uses data from other existing Lidl sites in operation.
- 10.62 The delivery/loading bay for the supermarket will be located in the western side of the building (closest to the adjacent railway line). The loading bay has been designed with a ramp down to 1.5 metres below the ground level of the store. Deliveries/unloading will take place within the store building and there will be no external unloading. The nearest dwelling to the loading bay at Denny Court is considered to be at such a sufficient distance that it will not be impacted by the use of this area.
- 10.63 Store deliveries are expected to be by HGV and it is likely to be up to 2 deliveries per day; increasing to 3 deliveries per day at seasonal periods such as Christmas and Easter. Deliveries are expected to have duration of between 35 and 45 minutes based on information gathered from other Lidl stores.
- 10.64 The information provided in the noise assessment indicates that during the evening (21.00 hours – 22.00 hours), when surrounding background noise is lower, there would be a marginal difference in

noise (low impact when compared against the noise standards outlined in BS4142). Accordingly it is considered that during the day (when background noise is higher) the impact would be lower still. Hours of loading and unloading will be conditioned to marry with the store's opening hours (those being 07.00-22.00 Monday to Saturday and 10.00-18.00 hours on Sunday).

- 10.65 The proposed plant for the development will be located on the western side of the building at ground level, a distance of 60 metres to the nearest residential property. The information provided indicates that the operation of the plant in this location falls into the low impact category whereby it is considered that its operation will not adversely affect residential amenity.
- 10.66 It is acknowledged that a significant element of this site has been utilised for vehicle parking given the current use of the site as a car showroom/garage with associated parking. Whilst the physical relationship between the residential properties that abut the site at Stanstead Road and Denny Court will not alter, and the nature of the use (as a car park) will not alter, the frequency and the intensity of vehicular activity at this site use will undoubtedly change. The proposal will result in a considerable increase in car parking spaces from 82 to 137. In relation to 289 Stanstead Road, vehicles are currently parked on site forward of the front elevation of this dwelling, the proposal will result in an improved car parking layout in relation to this property; with parking spaces being positioned further eastwards into the site. Whilst at present there is no landscaping between 289 Stanstead Road and the car parking area; the proposed development will introduce a landscaped buffer (hedge) between the parking area and the dwelling house; further details of this will be considered via condition to ensure that impacts from the development on the amenity of the occupiers of 289 Stanstead Road is minimised.
- 10.67 With the addition of landscape screening and the retention of existing boundary fencing; noise experienced in the garden of the respective properties is expected to be at an acceptable level. In coming to this conclusion regard has been given to existing noise

sources in relation to the locational characteristics of each property, with general traffic on Stansted Road and the proximity of the railway and substation at Denny Court.

- 10.68 The noise impact assessment has been reviewed by the Environmental Health Service who raise no objection to the information presented. Planning conditions have been suggested to control the operational hours of the store (including hours for delivery), the noise level from any external plant; together with standards for lighting. Details will also be required to demonstrate how the site will be secured during non – operational hours to ensure that the site is not used for antisocial behaviour to the detriment of surrounding occupiers.

*Potential impacts from on site lighting*

- 10.69 In terms of lighting a preliminary lighting schedule has been provided which indicates lamps lights will be erected to varying heights of 3.25 metres to 6 metres within the car park area. No objection is raised to this aspect of the scheme which will ensure that lighting can be implemented at the site without detriment to the amenity of surrounding occupiers and that the site can be used safely during its operational hours.

*Potential impact to light/outlook and privacy of adjoining properties*

- 10.70 The proposed height (7m) of the building and its comparative distance to neighbouring residential properties is such that the amenity of residents in terms of light, outlook and privacy would not be unduly affected by the proposed development.

**Conclusion**

- 10.71 It is considered that subject to the conditions proposed, the development will not have an unacceptable impact on the amenity surrounding residents and as such the proposal complies with Policy DES4 of the East Herts District Plan 2018.

## **Contamination**

- 10.72 Chapter 17 of the NPPF seeks to ensure (amongst other things) that permitted and proposed operations do not have an unacceptable adverse impact on the natural environment or human health.
- 10.73 The site has been used as a car show room and garage; accordingly it is considered that there is a potential for land contamination arising from the previous use of the site and any disturbance of land as a result of remediation and construction works.
- 10.74 The application has been submitted with a ground investigation report which has been evaluated by the Environmental Health Service. The content of the report is considered to be acceptable. Planning conditions have been suggested by the Environmental Health Service to ensure that appropriate measures are implemented on site to prevent any contaminants affecting the site and its surrounds; this is considered particularly important given the proximity of the site to Birchanger Brook.

## **Flood risk and drainage**

- 10.75 The majority of the application site is located within Zone 1; a location that is considered to be at low risk of flooding. A small part of the western part of the site (adjacent to the railway) is located within Flood Zone 2 (an area that has a medium probability of flooding).
- 10.76 Information obtained from the Environment Agency confirms that the site is at low risk from surface water flooding (flooding arising from heavy rainfall) and that the site borders a source protection zone.
- 10.77 A Flood Risk Assessment (FRA) has been provided and considered by the Lead Local Flood Authority. The proposed use as a retail supermarket is considered to be a 'less vulnerable' form of development. Given the proposed use and that the site is mainly

located within flood zone 1; it is considered that the proposal meets the sequential test and an exception test is not required.

- 10.78 The proposal includes the provision of a 350m<sup>3</sup> cellular storage (tank) facility and a linear swale on site which is proposed to discharge into the adjacent Birchanger Brook to the north-west of the site at rates that are acceptable to both the Environment Agency and the Lead Local Flood Authority.
- 10.79 The above mentioned measures will result in an improvement in the management of surface water at the site. The proposed use will not result in an increase in the risk of flooding at the site or to any adjacent site. In this regard, subject to the conditions suggested by the Lead Local Flood Authority and the Environment Agency, the proposal would not conflict with the NPPF or Policies WAT1 and WAT5 of the East Herts District Plan 2018.

### **Trees/landscape and Ecology**

- 10.80 The application site contains limited vegetation and there are no protected trees on the site. The proposal will involve the provision of appropriate landscaping on the site to improve the appearance of the development and to ensure that appropriate screening is provided to the nearest residential properties that abut the site. The landscape officer raises no objection to the proposals but has indicated that the application could benefit from a more simplified planting plan. This is a matter that can be addressed by condition. The application complies with Policy DES2 and DES3 of the District Plan.
- 10.81 Utilising the DEFRA matrix a 1213.5% increase in biodiversity is proposed on site. This will comprise of native and ornamental hedges which will be positioned around south east, north east and southern parts of the site in addition to the provision of new grassland habitats and native scrub planting. This level of increase is welcomed and will be secured by condition. In addition, it is proposed that opportunities should be taken to secure 1 bird and 1

bat box on the development site. This aspect of the development complies with Policy NE3 of the District Plan.

### **Air Quality**

- 10.82 Policy EQ4 requires that all developments include measures to minimise air quality impact with reference to the design, construction and operation of developments.
- 10.83 The proposal will result in the demolition of existing buildings at the site. Whilst no objection is raised to this aspect of the scheme; planning conditions have been requested by the Environmental Health Service to ensure that an air quality assessment and a dust management plan is prepared, and that appropriate surveys of the buildings and baseline air quality monitoring are undertaken prior to the commencement of any demolition works.
- 10.84 As the site will be the subject of a greater intensity of vehicular movements; sustainable transport measures are required to be implemented in order to reduce impacts on local air quality, these are set out in the transport section above.
- 10.85 Subject to the recommended conditions and measures to encourage and help facilitate sustainable modes of travel to the site, the proposals are considered to be acceptable and in accordance with policy EQ4.

### **Climate Change and sustainability**

- 10.86 Paragraph 154 of the NPPF and Policy CC1 of the District Plan require that development proposals introduce measures that address climate change.
- 10.87 Proposals should be designed in an energy efficient way that results in a reduction in carbon emissions. This will ensure that highest standards of sustainable design and construction are achieved.

- 10.88 The application has been submitted with an Energy Strategy; this outline how the proposed development seeks to achieve the standards that are set in the District Plan which generally seek standards above the Building Control Regulations.
- 10.89 The report outlines that that standards will be achieved by incorporating thermal design measures that will reduce heat loss through the building fabric and include the use of low energy lighting and energy saving controls, as well as water efficient fittings. These measures will be supplemented with the installation of photo voltaic panels at roof level and the use of air source heat pumps/aero thermal heat pumps and detailed landscaping. The orientation of the building will ensure that the south eastern glazing maximizes solar gain.
- 10.90 The proposed strategy follows the energy hierarchy by including measures to reduce energy demand, improve energy efficiency and use renewable energy on site.
- 10.91 The submission indicates that the new development will achieve in excess of a 100% reduction in carbon emissions when compared to the new 2021 Part L Building Control Regulations. This is due to the amount of electricity generation on-site from the PV system and the use of low/zero carbon technology on the site. This complies with Policy CC2 and is therefore acceptable.
- 10.92 Various other sustainability measures are outlined above in sections on flood risk, air quality and trees and ecology.

#### Response to third party comments

- 10.93 Responses to the comments have been addressed within the body of the report.

### **10.0 Legal Agreement**

- 10.1 The following planning obligations are sought to support/mitigate the impacts of the development proposed:



- Approved Travel Plan with Travel Plan financial contribution - £6,000.00 evaluation and support contribution and travel plan remedial measures notice.
- Local Employment and Skills Plan to secure a package of measures for both construction phase and operation phase of the development to facilitate the employment of local labour and provision of training opportunities.

10.2 The reasons for these requirements are set out in the relevant sections of the above report and it is confirmed that they meet the statutory requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

## **11.0 Planning Balance/Conclusion**

- 11.1 A key objective of the planning system is to bring forward development that is appropriate and in the right place. This is made clear in the National Planning Policy Framework (NPPF), which states that there should be a presumption in favour of sustainable development.
- 11.2 The proposal will result in the loss of an existing employment generating sui- generis use within a designated employment area and the introduction of a retail food store Class E. The site has not been marketed for an alternative use that complies with the requirements of Policy ED1 of the District Plan, nor has it been demonstrated that a partial change of use or alterations to the site could not facilitate the retention of a use protected by Policy ED1 and as such the proposal is a departure from the local plan in this regard and significant negative weight should be attached to this.
- 11.3 Balanced against this is that the proposal would result in similar levels of employment, that local recruitment can be secured and that there are employment and economic benefits to the scheme.
- 11.4 The proposals will also provide for further retail choice and convenience for local residents. Whilst there will be some impact on

current convenience operators in the town, the impact on the wider range of retail uses in the town centre and local centres is considered to be marginal.

- 11.5 The proposed use will result in an increase in vehicle numbers and movements at the site when compared to its previous use as a car dealership as the number of vehicle parking spaces will increase and the frequency with which the site is accessed will also increase. The increase in vehicular movements at and around the site has been assessed and considered acceptable and with an acceptable impact on highway safety. The increased vehicular activity will not, subject to the imposition of conditions, adversely affect the amenity of the occupants of neighbouring buildings.
- 11.6 The location and nature of the proposal may lead to some reduction in vehicular trips to the town centre, given the locational circumstances of the site; but this is difficult to quantify without detailed analysis. Nevertheless, the additional choice and convenience and lack of impact in relation to vitality and viability of the town and local centres is given positive weight.
- 11.7 The proposal will also include measures to secure improvements to the walking and public transport infrastructure in the local area which is also given significant positive weight.
- 11.8 In relation to other matters the proposal is not considered to adversely affect residential amenity, will adequately deal with climate change in the design aspects of the scheme and will result in an uplift in ecological and landscape enhancement and will not increase the risk of flooding.
- 11.9 In conclusion it is considered that the development complies with the development plan save in respect of policy ED1. However, there are relevant material considerations which need to be taken in to consideration when assessing the proposal and these have been set out in the report above. On balance, these are considered to justify the grant of planning permission subject to conditions and the completion of a Section 106 agreement notwithstanding the conflict

with ED1.

- 11.10 On balance it is considered that the proposals represent a sustainable form of development and that planning permission should be granted.

### Conditions

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As Amended).

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

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

3. Notwithstanding the details shown on the plans hereby approved the following modifications shall be made to the development and shall be submitted and approved by the Local Planning Authority prior to the commencement of the development:

- Details confirming the location of 7 additional cycle parking spaces within the site;
- Details (including sections confirming land levels) of the landscape buffer/hedge to be implemented within the site on the northern boundary of No. 289 Stanstead Road.

The approved details shall be implemented in full prior to the first occupation of the development and maintained as such in perpetuity to the satisfaction of the Local Planning Authority.

Reason: To provide an acceptable form of development that complies with the development management policies in the East Herts District Plan 2018.

4. No demolition works shall commence until a destructive asbestos survey of the building to be demolished has been undertaken by a specialist asbestos contractor and the details submitted to and approved in writing by the Local Planning Authority.

Demolition shall not be carried out other than in accordance with the approved details.

Reason: To ensure that risks from asbestos to the environment, future users of the land and neighbouring land are minimized, and to ensure that the development can be carried out safely without unacceptable risks to human health and other off - site receptors in accordance with Policy EQ4 Air Quality of the East Herts District Plan 2018.

5. In connection with all site preparation, demolition, construction and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.

Reason: In order to ensure an adequate level of amenity for nearby residents in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.

6. No development shall commence until a 'Construction Traffic Management Plan' has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The 'Construction Traffic Management Plan' shall identify details of:
  - 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.
- 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, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
- the provision for addressing any abnormal wear and tear to the highway.
- the details of consultation with local businesses or neighbours.
- the details of any other Construction Sites in the local area.
- waste management proposals.
- signage

Thereafter the construction of the development shall only be carried out in accordance with the approved Plan.

Reason: In order to protect highway safety and the amenity of other users of the public highway in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018) and Policy TRA2 of the East Herts District Plan 2018 and to ensure an adequate level of amenity for the occupiers of surrounding properties in accordance with Policy EQ2 of the East Herts District Plan 2018.

7. No development shall commence until a detailed Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority in

consultation with the Environmental Health Service, and the plan shall include the following:

- a) The construction programme and phasing
- b) Hours of operation, delivery and storage of materials
- c) Details of any highway works necessary to enable construction to take place
- d) Parking and loading arrangements
- e) Details of hoarding
- f) Management of traffic to reduce congestion
- g) Control of dust and dirt on the public highway
- h) Details of consultation and complaint management with local businesses and neighbours
- i) Waste management proposals
- j) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
- k) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

Thereafter the construction of the development shall only be carried out in accordance with the approved Plan

Reason: In order to control the environmental impacts associated with the construction of the development in accordance with Policies DES4, EQ2 and EQ4 of East Herts District Plan 2018.

8. No development shall commence until written details of a Site Waste Management Plan (SWMP) have been submitted to, and approved in writing by, the Local Planning Authority in conjunction with the Waste Planning Authority.

As a minimum, the SWMP shall include the following:  
Project and People

- Identification of the client
- Identification of the Principal Contractor
- Identification of the person who drafted the SWMP

- Location of the site
- An estimated cost of the project
- Declaration that the client and contractor will comply with the requirements of Duty of care that materials will be handled efficiently and waste managed appropriately (Section 34 of Environmental Protection Act 1990 and Environmental Protection (Duty of Care) Regs 1991)

#### Estimating Waste

- A description of the types of waste that are expected to arise on site (recorded through the use of 6-digit European Waste Catalogue codes) and an estimated quantity for each of the types (in tonnes)
- Waste management actions for each of the types of waste (i.e. will it be re-used, recycled, recovered or disposed of)

#### Space for Later Recordings

- Space for the recording of actual figures against those that are estimated at the start
- Space that will allow for the recording and Identification of those responsible for removing the waste from site and details of the sites they will be taking it too
- Space for recording of explanations that set out the reasons for any deviations from what has been set out in the SWMP, including explanations for differences in waste arising compared to those set out in the initial estimations.

Thereafter, the details of the SWMP shall be implemented and adhered to throughout the course of the development; in accordance with the details approved.

Reason: In order to ensure the development proceeds in accordance with the requirements of Policies 1, 2 and 12 of the adopted Hertfordshire Waste Local Plan.

9. No development (including any demolition works) shall commence until an Air Quality Assessment (AQA), has been prepared in accordance with best practice guidance and submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

10. No development (including any demolition works) shall commence until a Dust Management Plan (DMP), based on an AQDRA (Air Quality and Dust Risk Assessment), has been submitted to and approved, in writing, by the local planning authority. The DMP shall be in accordance with the Institute of Air Quality Management (IAQM) guidance for Control of Dust and Emissions during Construction and Demolition. The DMP will need to detail the measures to reduce the impacts during the construction phase. The development shall be undertaken in accordance with the approved plan.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

11. No development shall commence 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.



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/the development being brought into use]. Details of any post-remedial gas protection measures 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.

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

Reason: Details are required prior to the commencement of the development to minimise and prevent pollution of the land and the water environment in accordance with Policy EQ1 of the East Herts District Plan 2018.

12. No development shall commence 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 should 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 before the development is completed.
  1. Confirmation of all relevant permissions for the discharge into a main river.
  2. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and

any inlet and outlet features including any connecting pipe runs.

3. Final discharge restricted to greenfield runoff rates.
4. Evidence to confirm that the outfall to Birchanger Brook will be available during all storm events up to and including the 1 in 100 year + 40% event.
5. Full exploration of the SuDS hierarchy including above-ground features such as permeable paving. Detailed technical justification should be provided if it is not feasible to implement further above-ground features.
6. Confirmation of groundwater levels on site including at the location of any below-ground attenuation features.
7. Provision of robust SuDS management and treatment for runoff generated on site.
8. Final detailed post-development network calculations for all storm events up to and including the 1 in 100 year + 40% climate change storm with half drain down times no greater than 24 hours.
9. Exceedance flow routes for storm events greater than the 1 in 100 year + 40% climate change storm.
10. 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 and to accord with Policy WAT1 of the East Herts District Plan 2018.

13. No development shall commence until such time as a scheme to provide access to, and management of, the main river has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme should consider the following:

- Removing the boundary fence to open full access to the watercourse and connectivity with the new landscaped areas.

- If adequate justification can be provided stating why this isn't possible, then the provision of a single pedestrian access gate should be considered, with safe access to the channel profile for emergency access and maintenance.
- Access to any gate should consider the need for vehicles/heavy duty materials and potential material storage.
- The provision of a maintenance and management plan for the river channel for the lifetime of the development, in line with your responsibilities as riparian owners.

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority. The scheme shall be subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: In order to provide emergency access, allow the connection areas of biodiversity and the future maintenance of the area in accordance with policies WAT3 and NE4 of the East Herts District Plan 2018.

14. No development shall commence until a scheme comprising of 10% of parking spaces being provided with Electric Vehicle Charging Points (a phased provision with an agreed delivery programme may also be considered) has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented either in its entirety (or in accordance with the agreed timetable) in accordance with details approved under this condition before any of the development is first occupied or the use commences and shall be retained as such thereafter.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

15. No development above slab level shall commence until the external materials of construction for the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

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

16. No development shall commence on the highway works until, additional plans have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed design and construction of the vehicle access serving the development, as shown indicatively on drawing numbers 200427 PL-03 Rev J and SCP/200702/D16.

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority.

Reason: To ensure the provision of an access appropriate for the development in the interests of highway safety and convenience and to accord with Policy TRA2 of the East Herts District Plan 2018.

17. No development shall commence on the highway works until additional plans showing the following details have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority:
  - (a) The detailed design and construction of the new puffin crossing and new southbound bus stop along Stansted Road, as shown indicatively on drawing number 200427 PL-03 Rev J. This shall include Kassel kerbing, a shelter, and a Real Time Information display at the new bus stop.
  - (b) Upgrade works to the existing northbound bus stop to the north of the site, to include Kassel kerbing, a shelter, and a Real Time Information display.

(c) Detailed design and construction of pedestrian dropped kerbs and tactile paving at the junctions off Stansted Road as shown indicatively on drawing number SCP/200702/D14 rev C of Technical Note 4. This includes:

1. Oaklands Park
2. Aynsworth Ave
3. Collins Cross
4. Cannons Mill Lane
5. Cannons Close
6. Orchard Road
7. Legions Way
8. Entrance to Stort Valley Industrial Estate
9. Barons car dealership site
10. Goodliffe Park

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority.

Reason: So that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, in compliance with paragraphs 110 to 112 of the NPPF, Policy TRA1 of the East Herts District Plan 2018 and Policy 1 of Hertfordshire County Council's Local Transport Plan 4, and generally in the interest of sustainable travel options which accommodates all users.

18. No on-site works above slab level shall commence until details of the measures required to facilitate the adequate provision of fire hydrants at the site shall be submitted to and approved in writing by the Local Planning Authority; in consultation with Hertfordshire Fire and Rescue Service. Thereafter, no part of the development shall be occupied until all of the fire hydrants have been provided, installed and permanently maintained/retained by the developer at their own expense, in accordance with the approved details.

Reason: To ensure the site provides appropriate infrastructure to support sustainable development in accordance with Policy DEL1 of the East Herts District Plan 2018.

19. No on-site works above slab level shall commence until, details of 1 wall integrated/insulated bat cavity box and 1 integrated nest box have been submitted to and approved in writing by the local planning authority. The location and model of the boxes should be supplied and marked on plans which reflect the proposed development. The approved measures shall be incorporated into the scheme, be fully constructed prior to occupation of the approved development, shall not be illuminated by external lighting and shall be retained as such thereafter.

Reason: In order to enhance biodiversity and comply with Policy NE3 of the East Herts District Plan 2018

20. The development permitted by this planning permission shall be carried out in accordance with the approved Drainage Strategy Plan prepared by Baynham Meikle project number 13091 Revision 0C dated September 2021 and the following mitigation measures detailed within the Flood Risk Assessment:
  1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the greenfield runoff rate for all events up to and including the 1 in 100 year event plus 40% 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 + climate change event providing a minimum of 350 m<sup>3</sup> (or such storage volume agreed with the LLFA) of total storage volume in cellular storage and swale.
  3. Discharge of surface water from the private drain into the Main River Birchanger Brook.

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

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and reduce the risk of flooding to the proposed development and future occupants and to accord with Policies WAT1 and WAT5 of the East Herts District Plan 2018.

21. Upon completion of the drainage works for the site in accordance with the timing, phasing arrangements; prior to the occupation of the development hereby approved, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
1. Provision of complete set of as built drawings for site drainage.
  2. Maintenance and operational activities.
  3. Arrangements for adoption and any other measures to secure the operations of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site and to accord with Policy WAT1 of the East Herts District Plan 2018.

22. The development shall not be brought into use until all on site pedestrian and vehicular areas have been made accessible, surfaced and marked in a manner to the Local Planning Authority's approval.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises, and to ensure sustainable access by pedestrians.

23. Prior to the commencement of the use, details of the design, location and layout of the proposed cycle storage shall be submitted to and agreed in writing with the Council as Local Planning Authority.

Reason: So that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, in compliance with paragraphs 110 to 112 of the NPPF, Policy 1 of HCC's Local Transport Plan 4, and to accord with Policy TRA1 of the East Herts District Plan 2018.

24. The development hereby approved shall be constructed and fitted out so that the potential consumption of wholesome water meets 'BREEAM excellent' when measured in accordance with a methodology approved by the Secretary of State. The development shall not be occupied unless the BREEAM notice has been submitted to the Local Planning Authority for their written approval.

Reason: To minimise the use of mains water in accordance with Policy WAT4 of the East Herts District Plan 2018, the Sustainability SPD and guidance in the NPPF.

25. The rating level of noise emitted from all external fixed plant and equipment shall not exceed  $LA_{eqT} = 30dB(A)$  when measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurements and assessment shall be made according to BS 4142:2014+A1:2019 'Methods for rating and assessing industrial and commercial sound' at the nearest and / or most affected noise sensitive premises, with all plant / equipment operating together at maximum capacity and inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics.

Reason: In order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.



26. No external lighting shall be installed until written details of any lighting strategy for the development site, setting out the general distribution and design guidelines for all installations in the development and its public realm areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the external appearance and the lighting associated with the development is satisfactory and does not detract from the character and visual amenity of the area or affect the residential amenity of nearby occupiers.

27. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 01/20 'Guidance notes for the reduction of obtrusive light'. Lighting should be minimized and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

Reason: In order to ensure an adequate level of amenity for the occupants of nearby properties in accordance with Policy EQ3 Light Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

28. Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re - enacting that Order with or without modification), the commercial premises hereby approved shall only be used for Class E(a) as a Limited Assortment Discounter and for no other purposes whatsoever.

Reason: In order to protect the vitality and viability of retail centres and in accordance with policy RTC1 of the East Herts District Plan 2018.

29. No more than 1,414m<sup>2</sup> of floor area shall be used as net sales area and of this, no more than 80% (1,131m<sup>2</sup>) shall be used for the display of convenience goods.

Reason: In order to protect the vitality and viability of retail centres and in accordance with policy RTC1 of the East Herts District Plan 2018.

30. The (Class E) retail unit hereby permitted shall not be open to customers outside of the hours 07:00 to 22:00 on Mondays to Saturdays and 10:00 to 18:00 on Sundays.

Reason: To protect the amenity of the occupants of residential properties within the vicinity of the site in accordance with Policies EQ2 Noise Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

31. No goods or other deliveries or refuse / recycling or other collections shall be taken at or despatched from the site outside the hours of 07:00 to 22:00 hours Mondays to Saturdays and 10:00 to 18:00 hours on Sundays or Bank / Public Holidays.

Reason: To protect the amenity of the occupants of residential properties within the vicinity of the site in accordance with Policies EQ2 Noise Pollution and DES4 Design of Development of the East Herts District Plan 2018

- .  
33. No home delivery service shall be carried out from the development hereby approved without the prior written consent of the Local Planning Authority.

Reason: In order to protect the amenity of the occupiers of surrounding properties in accordance with Policy DES4 of the East Herts District Plan 2018 and ensure a satisfactory impact on the highway network in accordance with policy TRA02 of the East Herts District Plan 2018

33. The development shall not be brought into use until any external plant / equipment associated with the development hereby approved has been mounted with proprietary anti-vibration isolators and fan motors have been vibration isolated from the casing and adequately silenced and maintained as such thereafter.

Reason: In order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.

34. The development shall not be brought into use until written details have been provided to the Local Planning Authority for their written approval which indicate how the site and the surrounding car park will be secured when not in use. Thereafter the development shall not be operated otherwise than in accordance with the details thus approved.

Reason: In order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.

35. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing 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.

## **Plans**

Plan Ref	Version	Received
SCP/200702/TP/00	JUNE 2021	02 Jul 2021
PL -02 REV A		20 Jul 2021
PL07 REV C		05 Jul 2022
13091_SK101		24 Dec 2021
200427 PL-04 REV B		24 Dec 2021
200427 PL-05 REV B		24 Dec 2021
200427 PL-06 REV B		24 Dec 2021
LAS 256 04C		24 Dec 2021
13074_120_C		14 Sep 2021
200427 PL-03J		02 Feb 2022
SCP/200702/D04		

## Informatives

1. Justification – Grant (JG4)
2. Other legislation (01OL1)
3. Environmental pollution (Dust, noise etc.) on operational railway.  
The applicant is advised that the design and siting of installations should take into account possible effects of noise, vibration and generation of airborne dust in regard to the operational railway. Contractors are expected to use the 'best practical means' for controlling pollution and environmental nuisance complying with all current standards and regulations. The design and construction methodologies should consider mitigation measures to minimise the generation of airborne dust, noise and vibration in regard to the operational railway. Demolition work shall be carried out behind hoardings and dust suppression systems are to be employed to avoid risk to the operational line.
4. Potential impact on the adjacent railway infrastructure from construction activities.  
The outside party shall provide all construction methodologies relating to the works that may import risks onto the operational

railway and potential disruption to railway services, the assets and the infrastructure for acceptance prior to commencing the works. All works must also be risk assessed to avoid disruptions to the operational railway. Existing railway infrastructures including embankment and bridges should not be loaded with additional surcharge from the proposed development unless the agreement is reached with Network Rail. Increased surcharge on railway embankment imports a risk of instability of the ground which can cause the settlement on Network Rail infrastructure (Overhead Line Equipment/ gantries, track, embankment, boundary fence, etc.). All works, both temporary and permanent, should be designed and constructed, so that they will have no influence on the stability of Network Rail's existing infrastructure.

5. Proximity of the development to the Network Rail infrastructure and boundary fence and adequate space for future maintenance of the development.

It is recommended that all works be situated at least 3 metres from Network Rail's boundary fence, to allow construction and any future maintenance work to be carried out without involving entry or encroachment onto Network Rail's land. Where trees exist on Network Rail land, design of any foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

6. Encroachment on the boundary fence, interference with sensitive equipment, space for inspection and maintenance of the railway infrastructure.

The developer / designer must ensure that the development line is set back from the Network Rail fence line to achieve a sufficient gap / space to inspect and maintain Network Rail fence line and provide an access for inspection and maintenance of the proposed development or other assets in the future without imposing any risks to the operational railway. This would normally be 2-5m from the boundary fence depending on the adjacent Network Rail assets or boundary fence.

7. Collapse of structural temporary works elements on to Network Rail assets and property.

Where, in the temporary condition, structural collapse of any temporary works which may be constructed which would include scaffolding and access towers could result in any element falling within 3m of the railway boundary or a Network Rail asset.

8. Collapse of lifting equipment adjacent to the boundary fence/line.

Operation of mobile cranes should comply with CPA Good Practice Guide 'Requirements for Mobile Cranes alongside Railways Controlled by Network Rail'. Operation of a Tower Crane should also comply with CPA Good Practice Guide 'Requirements for Tower Cranes alongside Railways Controlled by Network Rail'. Operation of Piling Rig should comply with Network Rail standard 'NR-L3-INI-CP0063 - Piling adjacent to the running line'. Collapse radius of the cranes should not fall within 4m from the railway boundary unless possession and isolation on Network Rail lines have been arranged or agreed with Network Rail.

9. Piling adjacent to the railway infrastructure. Issues with ground movement affecting the track geometry and surrounding ground and structure stability.

The developer must ensure that any piling work near or adjacent to the railway does not cause an operational hazard to Network Rail's infrastructure. Impact/Driven piling scheme for a development near or adjacent to Network Rail's operational infrastructure needs to be avoided, due to the risk of a major track fault occurring. No vibro-compaction/displacement piling plant shall be used in development.

10. Effects of development on Biodiversity

The outside party shall consider the effects of their proposed works on the environment in close proximity to Network Rail land, such as effects on protected birds, invasive plants and protected trees.

11. Structural stability and movement of Network Rail Assets which will affect the Track Support Zone.

Please also note that the 'track support zone' is defined in Network Rail standard 'NR/L2/CIV/177. Monitoring track over or adjacent to building or civil engineering works 'and any proposal which may require works to be conducted within this zone must be identified by the outside party and subsequent consultation with Network Rail must take place. Should criteria be met within this standard, a track monitoring plan will have to be agreed with Network Rail to ensure that movement, settlement, can't, twist, vibration etc. are mitigated the risk to the operational railway.

12. Contact Asset Protection

Network Rail strongly recommends the developer contacts the Asset Protection Team on [AngliaASPROLandClearances@networkrail.co.uk](mailto:AngliaASPROLandClearances@networkrail.co.uk) prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from

<https://www.networkrail.co.uk/running.the.railway/looking.after.the.railway/asset.protection.and.optimisation/>

13. Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

14. 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/development-management/highways-development-management.aspx>

15. Obstruction of public highway land:

It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>

16. 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/business-and-developer-information/development-management/highways-development-management.aspx>

17. 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 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. 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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

18. Section 106 Agreement - Travel Plan:

- i) An approved Travel Plan at least 2 months before first use of the development, consisting of a written agreement with the County Council which sets out a scheme to encourage, regulate, and promote sustainable travel measures for owners, occupiers, customers, staff and other visitors to the Development in accordance with the provisions of the County

Council's 'Travel Plan Guidance for Business and Residential Development'.

- ii) The Travel Plan is subject to an 'evaluation and support contribution' totalling £6,000 (index linked by RPI from March 2014), payable before first occupation of the development. This contribution is to cover the County Council's costs of administering and monitoring the objectives of the Travel Plan and engaging in any Travel Plan Review. The applicant's attention is drawn to Hertfordshire County Council's guidance on residential/commercial Travel Plans.
- iii) A Travel Plan Remedial Measures Notice clause with the Legal Agreement, enabling the County Council to serve notice in writing on the Owner via the Travel Plan Co-ordinator where the Owner has failed to meet one or more of the targets identified in the Travel Plan, and specifying the remedial measures and/or actions required to be taken by the Owner to remedy the failed implementation towards the agreed targets with a reasonable time provision.
- iv) Local Employment and Training Strategy

## 19. Adverts

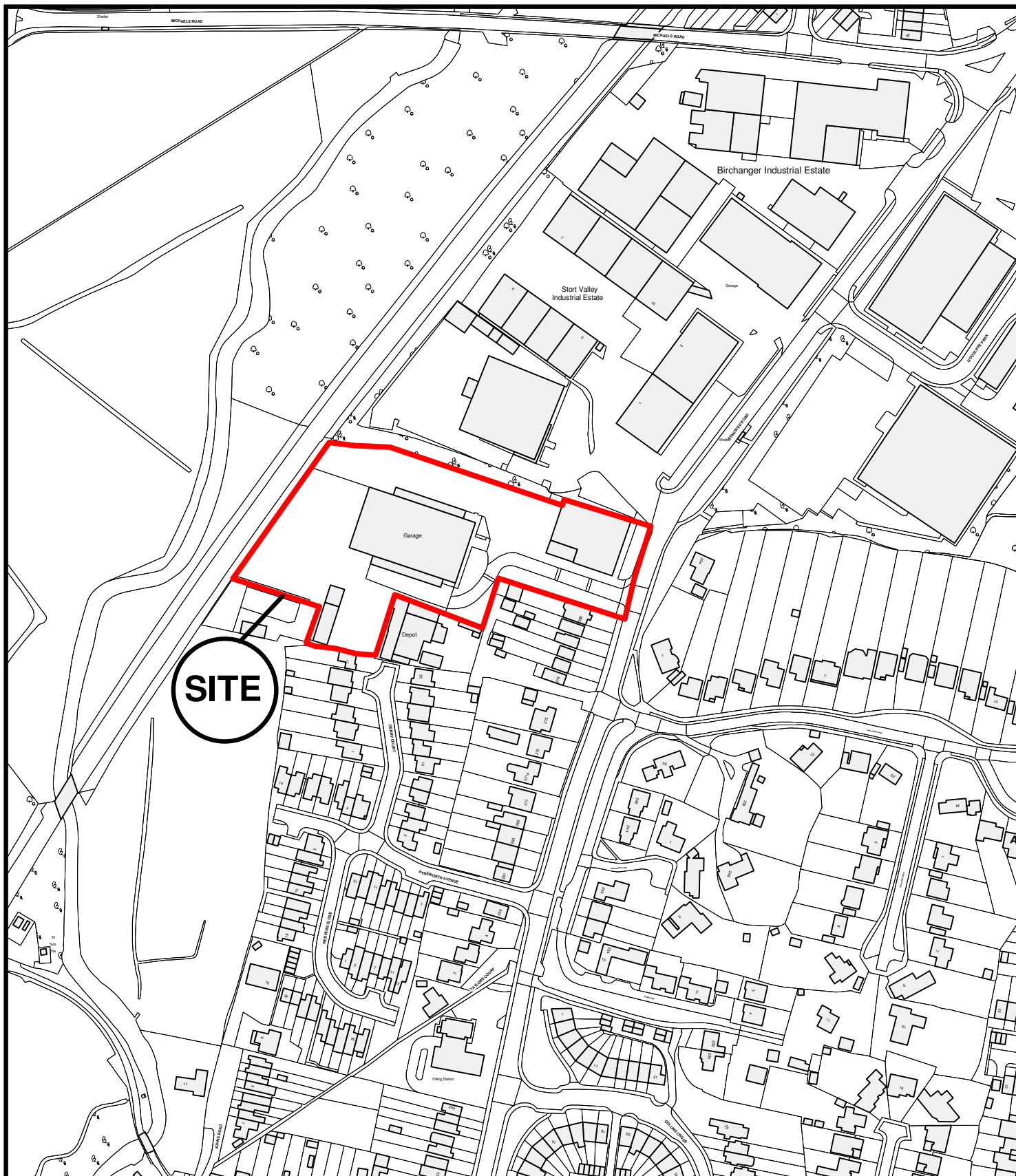
This permission and the content of the approved plans does not convey any consent which may be required under Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Any advertisement will require separate advertisement consent.

## **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.

## **Background Papers**

The application submission and all relevant papers are published on the Council's website and can be made available by arrangement at the Council's offices in Hertford.



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 Wallfields  
 Pegs Lane  
 Hertford  
 SG13 8EQ  
 Tel: 01279 655261

**Address: Gates Of Stortford, 295-297 Stansted Road,  
 Bishops Stortford, CM23 2BT**

**Reference: 3/21/1756/FUL**

**Scale: 1:2500**

**O.S Sheet: TL4922**

**Date of Print: 05 July 2022**

## DEVELOPMENT MANAGEMENT COMMITTEE – 7 DECEMBER 2022

<b>Application Number</b>	3/22/1142/HH
<b>Proposal</b>	Conversion of garage to artists studio. Removal of roof and construction of roof lantern structure. Construction of side extension.
<b>Location</b>	Sequoia, Elton Road, Hertford, Hertfordshire, SG14 3DW
<b>Applicant</b>	East Herts District Council
<b>Parish</b>	Hertford
<b>Ward</b>	Hertford Bengo Ward

<b>Date of Registration of Application</b>	31 May 2022
<b>Target Determination Date</b>	3 July 2022
<b>Reason for Committee Report</b>	Para 10.15.1c of Constitution (applicant is a Member)
<b>Case Officer</b>	Edward Evans

### **RECOMMENDATION**

That planning permission is **APPROVED subject to conditions.**

#### **1.0 Executive Summary**

1.1 This application is referred to the Development Management Committee for determination as the applicant is the partner of a Councillor.

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

1.3 Planning permission is sought to convert an existing garage (on the right hand side when entering the property) to an artists studio through the removal of the roof and the construction of roof lantern structure and the construction of a side extension.

1.4 The main issues for consideration are the design and appearance of the proposal, including its impact on the Conservation Area and

character of the wider area and the impact of the proposal on residential amenity.

## **2.0 Site Description**

- 2.1 The application site is occupied by a detached dwelling with associated outbuildings in the Hertford Conservation Area on the east side of Elton Road within Hertford. The property is within the Port Hill / Redwoods area Tree Preservation Order. The site is extremely well screened from the public realm and there are no vantage points to the main dwelling / out buildings from public areas.
- 2.2 The dwelling is a mid C20th house that was built along with a number of other developments on the land of Port Hill House, a Grade II listed building. Some evidence of the site being the grounds of this large house and garden remains including a cast iron gate near the garage and the large Sequoia trees from which the house gets its name.

## **3.0 Planning History**

- 3.1 The planning history is tabled below:

Application Number	Proposal	Decision	Date
3/88/1385/FP	TWO STOREY SIDE EXTENSION	Granted with conditions	24th August 1988
3/89/0253/OP	ERECTION OF THREE DETACHED HOUSES WITH GARAGES WITH ALTERATION TO EXISTING HOUSE TO PROVIDE SINGLE GARAGE	Refuse Planning Permission	21st June 1989

3/92/0956/FP	DOUBLE GARAGE WITH GAMES ROOM & UTILITY AREAS OVER	Refuse Planning Permission	12th October 1992
3/92/1568/FP	DETACHED DOUBLE GARAGE WITH GAMES ROOM AND SHOWER ROOM OVER	Granted with conditions	19th February 1993
3/95/0367/FP	CONSERVATORY	Granted with conditions	5th May 1995

#### 4.0 **Main Policy Issues**

- 4.1 The Development Plan consists of the East Herts District Plan 2018, the Hertfordshire Minerals Local Plan 2007, the Hertfordshire Waste Development Framework and the Bengoe Neighbourhood Area Plan. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the Development Plan unless there are material considerations which indicate otherwise.
- 4.2 A number of other policy documents and guidance are relevant material considerations including the National Planning Policy Framework, the Planning Practice Guidance and Supplementary Planning Documents including the adopted Sustainability SPD 2021 and the adopted Vehicle Parking Provision at New Development SPD 2008.
- 4.3 The main policy issues relate to the relevant planning policies in the East Herts District Plan 2018, the Neighbourhood Plan and the National Planning Policy Framework 2021 (NPPF) as set out below:

<b>Key Issue</b>	<b>District Plan</b>	<b>Neighbourhood Plan</b>	<b>NPPF</b>
Impact of proposal on heritage assets and character of the area; design and appearance of proposal	HA1 - Designated Heritage Assets HA4 - Conservation Areas HA7 - Listed Buildings DES2 - Landscape Character DES3 - Landscaping DES4 - Design of Development HOU11 - Extensions and Alterations to Dwellings, Residential Outbuildings and Works Within Residential Curtilages	HBC2: Listed Buildings and Structures  HBH2: Design and Layout  HBH3: Landscape Design	Chapter 12 Chapter 16



Impact of the proposal on residential amenity	DES4 - Design of Development	HBH2: Design and Layout	Chapter 12
Impact on protected trees and soft landscaping	DES2 – Landscape Character DES3 - Landscaping	HBN3: Nature Conservation	Chapter 15
Parking and highways issues	TRA3 - Vehicle Parking Provision	HBT5: Parking	Chapter 9 Chapter 12

## 5.0 **Summary of Consultee Responses**

5.1 EHDC Landscape Officer: No objection on arboricultural grounds.

5.2 (Note: EHDC, East Herts District Council)

## 6.0 **Parish Council Representations**

6.1 Hertford Town Council has no objection to the proposed development. However, have suggested that a condition is used ensuring that this building cannot be sold from the property separately, that additional details of material be received to ensure their quality and that no existing trees be removed.

## 7.0 **Summary of Other Representations**

7.1 28 neighbour properties have been consulted by letter. The application has been published by site notice and press advert. One letter has been received in response which states that it neither objects nor supports but which queries whether the windows would overlook that property and if so objects to a loss of privacy.

## 8.0 **Consideration of Issues**

### Principle of Development

8.1 The proposal is to convert the garage into a studio as a space for an artist. It is understood that this would be ancillary to the use of the main dwelling house (the artist is a member of the family) and so therefore the building would be used as a residential use in conjunction with the main house and no permission is required or sought for a change of use. As such, the proposal constitutes a residential outbuilding ancillary to the main house and so the use is supported in principle. Converting the building into either a separate dwelling, or a separate business and using it not in association with the main dwelling house would require a separate application. As such, no condition is required to be attached to this application preventing such a use – as a separate planning permission would be required.

## Design and Layout

- 8.2 The site is located within the Hertford Conservation Area whereby Policy HA4 of the East Herts District Plan 2018 applies, and as such there is a statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that special attention is paid to the desirability of preserving or enhancing the Conservation Area's character or appearance. The heavily wooded nature of the site is part of its character and so policies DES2 and DES3 are also of relevance, along with DES4 of the East Herts District Plan 2018. Policy HOU11 provides guidance on the form of house extensions including outbuildings. Policy HBH2 of the Neighbourhood Plan provides criteria on design and layout of proposals.
- 8.3 The proposed studio would be a modern construction retaining the core structure of the building, replacing the roof with a lantern type structure with various areas of glazing at different levels and angles to bring light into the interior for the benefit of the proposed use as an artist's studio, as well as various openings at the ground floor. The scheme also incorporates a small extension to the west elevation adding approximately 5 sqm of floor area on to the building.
- 8.4 The building would be finished in an insulated render and timber clad to the roof with a sedum roof.
- 8.5 Due to the choice of materials and form of the first floor and roof lanterns, the proposal would have a modern design and appearance, which is not typically found in the area. However, the building would not be visible to the public realm, the Conservation Area or the Grade II listed Port Hill House by virtue of the existing landscaping which would not be removed as part of this proposal. The scheme is also 44 metres from Port Hill House, separated by the main dwelling of Sequoia and dense landscaping.

- 8.6 As such, the proposal is considered to cause no harm to heritage assets and to have only a minimal impact on the character of the surrounding area. The scheme is considered to be well designed and of visual interest with a form which supports the purpose to which the building would be put. Additionally, policy HBH2 of the Neighbourhood Plan supports unnecessary uniformity of external design to increase individuality between buildings. A condition is recommended to secure the final appearance of the external materials.
- 8.7 Overall, the proposal is considered to comply with policies and guidance relating to the character of the area, design and heritage assets.

#### Neighbour Amenity

- 8.8 The proposal would be at a substantial distance from any neighbouring property. Regarding concerns relating to overlooking, the building is 15m from the nearest boundary of the site (to the south) and is well screened in that direction by trees protected by a Tree Preservation Order (TPO). The proposal is some 50m from properties on Redwoods and so would not give rise to significant overlooking. It should be noted that the proposal, whilst two storeys in height, would only have a single floor in it, the additional height being to allow light to enter. Even were a floor to be inserted without the need for planning permission, this is sufficiently far from neighbouring properties to not give rise to concerns of overlooking or loss of privacy.
- 8.9 Similarly, the scale of the building would not give rise to any significant impacts on neighbouring properties.
- 8.10 The proposal is considered to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land and would ensure that their environments are not harmed by noise and disturbance or by inadequate daylight, privacy or

overshadowing. As such the proposal is considered to comply with Policy DES4 (c) of the East Herts District Plan 2018.

#### Highways and Parking

- 8.11 The proposal would see the loss of one garage space however retains an existing double garage and a large area for vehicle parking within the site. The proposal would not result in a need for additional parking and it appears that 3 parking spaces can be easily accommodated on the site. As such there is considered to be adequate parking within the site to comply with Policy TRA3 of the East Herts District Plan 2018 and the Vehicle Parking Standards SPD.
- 8.12 No changes are proposed to the access and the scheme would not give rise to significant traffic generation.

#### Landscaping

- 8.13 The property is within the Port Hill / Red Woods area TPO. A tree survey and arboricultural impact assessment has been submitted and has been reviewed by the Council's landscaping Officer. They are satisfied that the proposal would have a minimal impact on trees as the existing concrete based would be used and the small extension to the side of the building off the concrete base would be constructed on a mini piled base and therefore is considered to alleviate harm to the adjacent trees.
- 8.14 The proposed roof form would see a significant increase in height to the building; this will result in the need for there to be a 1m crown lift to tree T9 for the tree to be able to clear the extension. This lift can be considered acceptable and would retain the main body and limbs of the tree.
- 8.15 Overall, the proposal is considered acceptable in terms of arboricultural impact and landscaping, the proposal is therefore considered to comply with Policies DES2 and DES3 of the East Herts District Plan 2018 and HBH3 of the adopted neighbourhood plan.

### Climate Change and sustainability

- 8.16 Paragraph 154 of the NPPF and Policy CC1 of the District Plan require that development proposals introduce measures that address climate change.
- 8.17 The proposal would have a sedum roof which is beneficial in terms of climate change adaptation and of some minor biodiversity benefit. The exterior is proposed to be clad in an insulated render to improve the thermal efficiency of the building, which is considered to be acceptable.

## **9.0 Planning Balance and Conclusion**

- 9.1 The proposal is considered to comply with the relevant Policies of the East Herts District Plan 2018 and the Adopted Bengoe Neighbourhood Plan and the wider aims of the NPPF. It is therefore recommended that planning permission be granted subject to conditions.

## **RECOMMENDATION**

That planning permission is **Granted** subject to the following conditions:

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

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (As Amended).

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. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

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.

4. Prior to any above ground construction works being commenced, the external materials of construction for the development hereby approved shall 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 amenity and good design in accordance with Policy DES4 of the East Herts District Plan 2018.

## **Plans**

<b>Plan Ref</b>	<b>Version</b>	<b>Received</b>
0107_L11	A	8th June 2022
0107_L12	B	17th June 2022
0107_L13	A	8th June 2022
0107_L14	A	8th June 2022
0107_L01	A	8th June 2022
0107_L02	A	8th June 2022
0107_L12	B	17th June 2022
0107_L11	rev A	15th August 2022

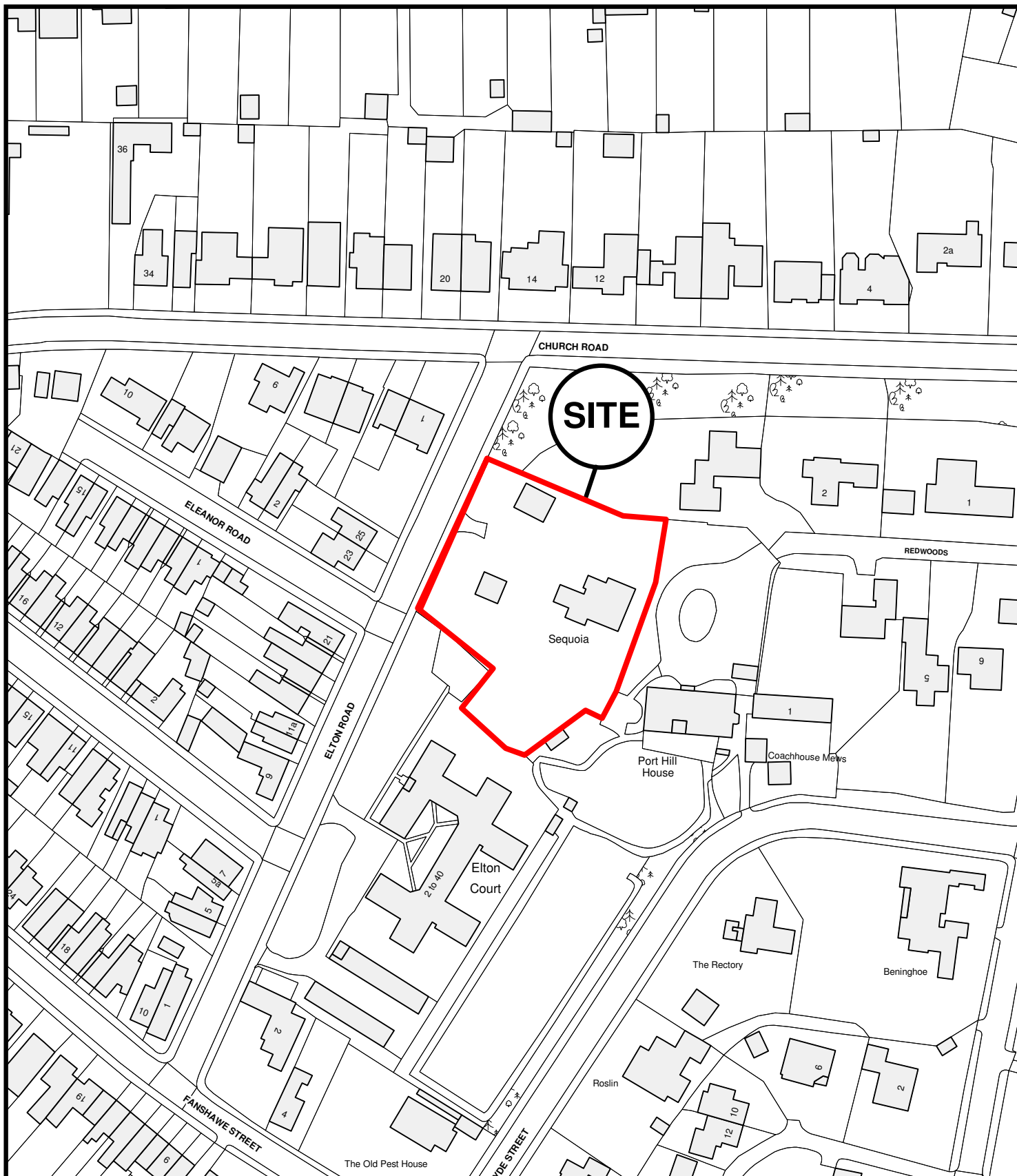
## **Summary of Reasons for Decision**

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.

## **Background Papers**

The application submission and all relevant papers are published on the Council's website and can be made available by arrangement at the Council's offices in Hertford.





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

**Address: Sequoia, Elton Road, Hertford, SG14 3DW**

**Reference: 3/22/1142/HH**

**Scale: 1:1250**

**O.S Sheet: TL3213**

**Date of Print: 24 November 2022**

# Agenda Item 6

## EAST HERTS COUNCIL DEVELOPMENT MANAGEMENT COMMITTEE ITEMS FOR REPORT AND NOTING OCTOBER 2022

<b>Application Number</b>	3/21/0689/OUT
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	The Old Orchard Old Hertingfordbury RoadHertfordHertfordshire
<b>Appellant</b>	Miss Tamar Garber
<b>Proposal</b>	Construction of 4 bedroom detached house (outline planning application )
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/21/0759/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	56 Bayford GreenBayfordHertfordHertfordshireSG13 8PU
<b>Appellant</b>	Mr & Mrs Oliver & Kristina Riley
<b>Proposal</b>	Removal of conservatory. Construction of single storey rear extension and single storey side infill extension.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/21/1412/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Tharbies FarmhouseRook EndHigh WychHertfordshireCM21 0LL
<b>Appellant</b>	Mr J Bayley
<b>Proposal</b>	Erection of a detached outbuilding, comprising ground floor gym and garage and first floor home office.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/21/1525/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	17 Brookbridge LaneDatchworthKnebworthHertfordshireSG3 6SU
<b>Appellant</b>	Mr Simon Little
<b>Proposal</b>	Single storey rear/side infill extension.
<b>Appeal Decision</b>	Dismissed

<b>Application Number</b>	3/21/1927/ASDPN
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	ChristysAlbury EndAlburyWareHertfordshireSG11 2HS
<b>Appellant</b>	Mr C Strachan
<b>Proposal</b>	Construction of one additional storey to the existing dwelling, to increase the height from 5.34 metres to 8.0 metres.
<b>Appeal Decision</b>	Allowed

<b>Application Number</b>	3/22/0391/HH
<b>Decsn</b>	Refused
<b>Level of Decision</b>	Delegated
<b>Address</b>	Cavehall Cottage WyddialHertfordshireSG9 0ER
<b>Appellant</b>	Ms Kirstie Adams
<b>Proposal</b>	First floor rear extension and the addition of a first floor side window.
<b>Appeal Decision</b>	Allowed

Background Papers

Correspondence at Essential Reference Paper 'A'

Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656

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## Appeal Decision

Site visit made on 2 September 2022

**by Gary Deane BSc (Hons) DipTP MRTPI**

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

**Decision date: 26 October 2022**

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**Appeal Ref: APP/J1915/W/22/3296846**

**The Old Orchard, Old Hertingfordbury Road, Hertingfordbury SG14 2LA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Tamar Garber against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/0689/OUT, dated 16 March 2021, was refused by notice dated 1 December 2021.
  - The development proposed is the construction of 4-bedroom detached house.
- 

### Decision

1. The appeal is dismissed.

### Procedural matters

2. The application was submitted in outline with access, appearance, and scale to be determined at this stage. I have assessed the proposal on the same basis.
3. Reference is made in the reason for refusal to Policy HSH4 of the Sele Neighbourhood Area Plan 2018-2033 (NP). I have assumed this to be an error because it is NP Policy HSHE4 that appears to be most relevant to the proposal.

### Main issue

4. The main issue is the effect of the proposed development on the character and appearance of the local area with particular regard to trees.

### Reasons

5. The site is part of an undeveloped woodland bank situated between Old Hertingfordbury Road and Ladywood Road within the main built-up area. The trees on the site are covered by Tree Preservation Order P/TPO/403 (TPO). The main purpose of the TPO is to safeguard the woodland as a whole. The site also falls within a defined green corridor, to which the NP refers.
6. From what I saw, the trees on the site form an area of natural mixed woodland that despite its overgrown appearance adds to the visual amenity and sylvan character of the local area. The site also has an important screening function because the trees within it form part of a larger green buffer between the busy A414 on one side and existing houses along Ladywood Road on the other.
7. The proposal is to erect a detached dwelling towards one side of the site with access from Old Hertingfordbury Road. A similar development on the opposite side of the site to the proposal was recently dismissed at appeal. By relocating

the new addition, as proposed, and providing specialist arboricultural evidence to support the new development, the appellant considers that the objections raised to the earlier scheme have been addressed and resolved.

8. The appellant's Tree Protection Plan indicates that tree losses would be confined to an area of Hawthorn scrub towards the northwest corner of the site (denoted G8) and a Hawthorn tree (denoted T5) near to the highway frontage of the site. Each of the trees to be removed is identified in the appellant's Tree Survey as category C, which is of low quality. On that basis, the appellant's Arboricultural and Planning Integration Report (A&PIR) concludes that no significant or important trees would be removed to facilitate the proposal.
9. Even so, these existing trees have a combined amenity value, and they make a positive and important contribution to the woodland, as a whole. It is also possible, as the Council points out, that additional tree loss may result from the need to keep the areas required on either side of the new access free from obstruction to ensure adequate visibility. Therefore, I am unable to share a central finding of the A&PIR, which is that the proposal would not have a significant impact on the local or wider landscape.
10. Although there is a pair of houses on Old Hertingfordbury Road just to the west of the site and residential properties along Ladybrook Road to the north, there is a strong visual interconnectivity between the site and the green landscape corridor of which it forms part. In that context, the proposed development would obtrude into this undeveloped woodland bank, palpably extending built form into the landscape. It would transform its character from a natural area of greenery to one occupied by a substantial built form where people would live and visit. That obtrusion would be most keenly felt in views from Old Hertingfordbury Road close to the proposed access point. From this location, the intrusion would be evident because the landscape buffer of which the site forms part would be significantly eroded by the proposal. These concerns are compounded by my general impression during the mid-afternoon site visit that Old Hertingfordbury Road and the paths that lead north from it, which provide a welcome opportunity to appreciate the woodland, appeared to be well used.
11. It is also likely that the proposal would be apparent from some properties on Ladybrook Road. In these views, the appeal scheme would introduce new built form into an undeveloped vegetated area that, at present, positively contributes to semi-rural character of land adjacent to these properties. With its collection of trees and scrub, the site blends seamlessly into the wider landscape corridor. These aspects of the site encompass the characteristics of the local area as it is experienced from nearby houses. From this direction, the proposal would appear as a visually disruptive addition to the local area.
12. For these reasons, the character of the landscape corridor and its role as a buffer would be unduly eroded through the introduction of new built form. The layout and landscaping of the proposal could, to some extent, mitigate the visual impact of the development. These are matters reserved for subsequent approval. Additional planting in the form of 6 semi-mature trees, as illustrated in the draft planting plan, would have a greening effect, and go some way to mitigate the loss of trees, as proposed. Over time, the new trees would grow with the finished building appearing as a residential property set in landscaped grounds, with some consequent benefits for biodiversity. However, the new trees would be younger than those to be replaced and would not offer the same collective visual amenity value. It is also likely that the new built form and the

access to it would be visible from Old Hertingfordbury Road notwithstanding detailed design considerations. Consequently, the proposal does not overcome the concerns raised in relation to the previous appeal.

13. In reaching this conclusion, I have had regard to the Council's recent decision to grant planning permission for a development of 4 dwellings on land adjacent to 202 Hertingfordbury Road. On the face of it, there are obvious parallels to be drawn between this development and the proposal before me given their location within the same green corridor and the effects on trees and the local topography. However, the decision notice and Officer's report provided relate to a proposal to amend the details of the previously approved scheme. From the submitted information, it is unclear on what grounds the Council found the principle of development to be acceptable on this site. From what I saw, this example also clearly demonstrates the significant impact that new development can have on the street scene and the local area to which it belongs, as the appellant's photographs show. Even if the Council has been inconsistent in subsequently deciding to withhold planning permission in this case, this is insufficient reason to permit otherwise unacceptable development. In any event, each proposal should be assessed on its own merits, which I have done.
14. On the main issue, I conclude that the proposed change from an undeveloped woodland bank to residential development would have an adverse impact on the woodland character of the site and would erode the landscape buffer. It would therefore materially harm the character and appearance of the local area. As such, the appeal scheme conflicts with Policies DES2, DES3 and DES4 of the East Herts District Plan and NP Policy HSHE4. These policies aim to ensure that new development respects the character of the site and its surroundings; safeguards green corridors; and demonstrates how existing landscape features of amenity value will be retained, protected, and enhanced.
15. No objection is raised to the design of the new dwelling or to the materials proposed. Once complete, the dwelling would add to the supply of housing, which national policy encourages. The site is also reasonably well connected to public transport and local services and facilities, which lends support to the sustainability credentials of the appeal scheme. However, sustainability has an environmental objective, which includes a need to conserve and enhance the natural environment. Since the proposal would not do so, the balance of planning policy does not support the appellant's case.
16. The site was identified as suitable to accommodate one dwelling in 6-10 years following the Council's call for sites as part of its Strategic Land Availability Assessment. However, this process was some time ago. It predates current development plan and national policies against which the proposal is to be assessed. As such, this matter carries minimal weight in support of the appeal.
17. The appellant considers that the proposed development would assist in removing criminal activity and anti-social behaviour on the land. However, there is nothing before me to indicate that the only way to resolve these issues is to develop the site in the manner proposed.

## Conclusion

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

*Gary Deane*

INSPECTOR



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## Appeal Decision

Site visit made on 6 September 2022 by Thomas Courtney BA(Hons) MA

**Decision by Chris Preston BA(Hons) BPI MRTPI**

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

**Decision date: 11 October 2022**

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**Appeal Ref: APP/J1915/D/21/3284358**

**56 Bayford Green, Bayford SG13 8PU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Oliver & Kristina Riley against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/0759/HH, dated 17 March 2021, was refused by notice dated 14 July 2021.
  - The development proposed is the removal of conservatory and replacement with single storey extension, single storey side infill extension.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are:
  - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
  - The effect of the proposal on the openness of the Green Belt;
  - if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### Reasons for the Recommendation

*Whether the development would be inappropriate development*

4. The appeal property comprises a semi-detached two-storey dwelling situated on the eastern side of Bayford Green which is a cul-de-sac located within the Green Belt. The property features a single storey rear extension, a conservatory and a large rear garden.



5. Paragraph 149 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Under exception (c), the extension or alteration of a building will not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the *East Herts District Plan 2018* (the 'Local Plan') is consistent with this in that it states that proposals will be considered in line with the provisions of the Framework.
6. The Council states that the original dwelling had a floor area of approximately 88.98 sqm and that when taking into account subsequent extensions and the proposed development, the resultant dwelling would have a floor area totalling 185.56 sqm. This would represent an increase in floor area above the original dwelling of approximately 108.5%. These figures differ significantly from the figures put forward by the appellant. Indeed, the Appeal Statement states that the original dwelling had a floor area of 101.73 sqm and that the existing dwelling has a floor area of 165 sqm. They also contend that the resultant dwelling would have a floor area of 172 sqm and that therefore the proposed extensions would represent an increase in floor area above the original dwelling of 62.2%.
7. It is considered that even when taking the lowest figure put forward by the appellant, an increase of 62.2% in floorspace above the original dwelling would be significant. However, I acknowledge that a considerable amount of the development would replace the existing conservatory and a portion would consist of an infill to an area of hardstanding between the main rear wall and the conservatory. Whilst the development plan does not refer to a defined way of assessing and measuring proportionality, the NPPF refers to 'size' in the context of this, which can reasonably be interpreted as a reference to volume, height, external dimensions, footprint, floorspace or visual perception. In this case, the overall increase in floor area when seen in conjunction with previous extensions, together with the proposed increase in depth and height of the rear extension and volume of roofscape would quite clearly result in substantially greater visual bulk to the resultant dwelling. I find that the scale of the extensions would subsume the size and form of the original dwelling and would therefore represent a disproportionate form of development.
8. On this basis, the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 149(c) of the Framework, as detailed above, and Policy GBR1 of the Local Plan which together seek to resist inappropriate development in the Green Belt.

### Openness

9. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has a spatial aspect as well as a visual aspect. The additional bulk and volume as a result of the increase in depth and height of the dwelling would materially impact on openness in a spatial aspect resulting in some limited harm to the Green Belt.
10. Furthermore, the increase in bulk and volume due to the proposed pitched roof and enlarged depth when compared with the existing conservatory means the proposal would also have a greater visual impact on the openness of the Green Belt. Additionally, the proposed development would appear as an excessively bulky addition when compared to the lightweight appearance of the existing conservatory given it would feature timber cladding and a tiled roof.

11. Whilst the appellant opines that there would be limited views of the development, it would feature prominently in the streetscene given the orientation of the dwelling and the neighbouring property to the south being set back from the road. The proposed extension would therefore be easily visible to pedestrians and motorists travelling northwards on Bayford Green as well as to adjacent occupiers.
12. For these reasons, the proposed development would result in an adverse impact on both the spatial and visual openness of the Green Belt resulting in limited harm to the Green Belt.

#### *Other considerations*

13. The Framework highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, with substantial weight given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
14. In this regard, the appellant states that the adjacent property at No.58 features rear extensions of a similar scale to the proposal. I appreciate that the development would have a comparable footprint to the neighbouring rear extensions. However, given the extension at No.58 has a flat roof, it is not entirely comparable to the proposed development which would feature a pitched roof. The development would appear significantly bulkier than the neighbouring extension in light of the proposed volume of roofscape. It would thus be read as an incongruous and discordant addition to the appeal property. I therefore attach only very limited weight to this consideration.
15. Furthermore, the appellant states that the proposal would allow for improved energy efficiency. Whilst I appreciate this may be the case, such improvements can be achieved without the erection of an addition of this scale. This consideration therefore only attracts very limited weight.

#### **Planning Balance and Overall Conclusion**

16. I consider that the development causes harm to the Green Belt by way of its inappropriateness and limited harm to its openness, and substantial weight must be given cumulatively to this harm. On balance, the very limited weight attributed to the other considerations in this case does not clearly outweigh the harm I have identified. I conclude therefore there are no very special circumstances to justify the development.

#### **Recommendation**

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

*Thomas Courtney*

APPEAL PLANNING OFFICER

#### **Inspector's Decision**



18. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

*Chris Preston*

INSPECTOR

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## Appeal Decision

Site visit made on 6 September 2022 by Ifeanyi Chukwujekwu BSc MSc MRTPI  
MIEMA CEnv

**Decision by R Sabu BA(Hons) MA BArch PgDip ARB RIBA**

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

**Decision date: 4<sup>th</sup> October 2022**

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**Appeal Ref: APP/J1915/D/21/3289274**

**Tharbies Farmhouse, Rook End, High Wych CM21 0LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr J Bayley against the decision of East Herts Council.
  - The application Ref 3/21/1412/HH, dated 26 May 2021, was refused by notice dated 21 October 2021.
  - The development proposed is erection of a detached outbuilding comprising home office, secure garage and gym.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matters

3. The appeal site is located within a Green Belt. The Council in assessing the proposed development have concluded that the outbuilding would not result in a disproportionate addition over and above the size of the original building and therefore falls within the exception stated in Paragraph 149 (c) of the National Planning Policy Framework (Framework) of development which are not inappropriate in the Green Belt. I find no reason to disagree given the scale of the proposal.
4. As the proposal relates to the setting of listed buildings, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

### Main Issue

5. The main issue is whether the proposed development would preserve the setting of Tharbies Farmhouse (a Grade II listed building).

### Reasons for the Recommendation

6. Tharbies Farmhouse is located at Rook End to the north of the village of High Wych, in an area of open fields and farmland with mature hedges. Its significance, insofar as it relates to this appeal, lies in the evidence of a

prominent historic farmhouse. I note that historic farm dwellings have a variety of settings, and that the enclosure of courtyards may be common. However, the area to the south of the farmhouse is largely devoid of built development. As such, the site and surrounding area has a spacious, verdant and rural character which contributes positively to the rural setting and significance of the listed building.

7. I note that the proposed outbuilding would be subordinate in scale to Tharbies Farmhouse and acknowledge the difference in ground levels. However, given the steep pitch of the main part of the proposed building, together with the dormer windows, the building would have a two-storey appearance that would detract from the prominence of the farmhouse.
8. Furthermore, the proposal would be sited forward of the principal elevation of Tharbies Farmhouse. While I note the evidence regarding enclosure, there is little evidence that a building in this location formed part of the historic layout of the former farmstead. Therefore, the scale, form and siting of the structure would erode the spacious rural setting of the listed building and harmfully diminish its prominence.
9. I also acknowledge the Paul Kick drawing and historic Ordnance Survey map which shows a building to the south of Tharbies Farmhouse. However, that building appears to have been sited some distance from the appeal proposal such that the two are not directly comparable.
10. Consequently, the proposal would fail to preserve the setting of Tharbies Farmhouse and would cause harm to its significance as a result.
11. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Given the limited scale of the development, the harm would be less than substantial in the terms of paragraph 202 of the Framework. Where less than substantial harm is identified, the Framework requires that harm to be balanced against any public benefits of the proposal.
12. The appellant has not put forward any public benefits that would outweigh the substantial weight attached to the harm to the setting and significance of the Grade II listed Tharbies Farmhouse.
13. Therefore, the proposal would conflict with the objectives of Policies DES4, HA1 and HA7 of the East Herts District Plan October 2018 which seek, among other things, development proposals that preserve and where appropriate enhance the historic environment of East Herts and proposals that preserve the setting of listed buildings.

### **Other Matter**

14. I note concerns regarding the service provided by the Council. However, I have necessarily assessed the appeal based on its planning merits.

### **Conclusion and Recommendation**

15. For the reasons given above, the proposal would fail to preserve the setting of the listed building and would cause harm to the significance of the designated asset as a result. It would therefore be contrary to the development plan as a

whole. That harm is a matter that attracts considerable weight and no public benefits have been identified that would outweigh the harm. Consequently, having had regard to evidence before me, I recommend that the appeal should be dismissed.

*Ifeanyi Chukwujekwu*

APPEALS PLANNING OFFICER

**Inspector's Decision**

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

*R Sabu*

INSPECTOR



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## Appeal Decision

Site visit made on 13 September 2022 by Thomas Courtney BA(Hons) MA

**Decision by Chris Preston BA(Hons) BPI MRTPI**

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

**Decision date: 12 October 2022**

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**Appeal Ref: APP/J1915/D/21/3285683**

**17 Brookbridge Lane, Datchworth SG3 6SU**

- 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 Simon Little against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/1525/HH, dated 8 June 2021, was refused by notice dated 12 August 2021.
  - The development is a proposed single storey rear/side extension.
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Main Issues

3. The main issues are:
  - Whether the proposed development would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
  - The effect of the proposal on the openness of the Green Belt;
  - if the development would be inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

### Reasons for the Recommendation

*Whether the development would be inappropriate development*

4. The appeal property comprises a detached dwelling situated on the eastern side of Brookbridge Lane in an established residential area within the Green Belt. The property features a two-storey rear extension and a large outbuilding in the rear garden.
5. Paragraph 149 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Under

- exception (c) the extension or alteration of a building would not be inappropriate provided that it does not result in disproportionate additions over and above the size of the original building. Policy GBR1 of the *East Herts District Plan 2018* (the 'Local Plan') is consistent with this in that it states that proposals will be considered in line with the provisions of the Framework.
6. The officer report states that the original building was a bungalow with a floor area of 53 square metres (sqm). Taking the current proposal together with previous additions, the Council states there would be a cumulative increase of approximately 266% over the floor area of the original building. Whilst the appellant questions whether the size of the original dwelling stated by the Council was the size of the original dwelling as of 1<sup>st</sup> July 1948, they have not provided me with corresponding figures or calculations. Given the definition of 'original building' outlined in the Glossary to the Framework states that it is the building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally, it is assumed that the Council are indeed referring to the size of the original building as it existed on 1 July 1948.
  7. Whilst the appellant states that the size of the original bungalow does not provide adequate living space for the 21st Century and would need to be extended, the property has clearly been extended and appears as a two-storey dwelling. The appellants also consider the extensions would be proportionate and that an assessment of the development based only on quantitative methods is insufficient. Turning to national guidance on measuring 'proportionality', the NPPF refers to 'size'. This can, in my view, refer to volume, height, external dimensions, footprint, floorspace or visual perception. In this case, a cumulative increase in floorspace of 266% would be significant. Whilst the appellant contends the extension would be small and would be a logical rounding-off of the footprint of the property, the increase in footprint, built form and volume of the dwelling would result in greater visual bulk. I therefore find that the scale of the extension, viewed together with previous additions, would subsume the original dwelling and would be disproportionate.
  8. On this basis, the proposal would be inappropriate development in the Green Belt and would conflict with Paragraph 149(c) of the Framework, as detailed above, and Policy GBR1 of the Local Plan which together seek to resist inappropriate development in the Green Belt.

### *Openness*

9. Openness is identified in the Framework as one of the Green Belt's essential characteristics. It has a spatial aspect as well as a visual aspect. The additional bulk and volume as a result of the increase in width of the rear projection would materially impact on openness in a spatial aspect resulting in some limited harm to the Green Belt. Furthermore, the increase in footprint, bulk and volume means the proposal would also have a greater visual impact on the openness of the Green Belt. However, it would not feature prominently in the streetscene, nor would it be visible to adjacent occupiers to the north and east.
10. For these reasons, the proposed development would result in an adverse impact on both the spatial and visual openness of the Green Belt resulting in limited harm to the Green Belt.

### *Other considerations*

11. The Framework highlights that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances, with substantial weight given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
12. In this regard, the appellant opines that the proposal would not harm the character of the dwelling or area and would adhere to Policies VILL2, HOU11 and DES4 of the Local Plan. The proposal's compliance with standard housing and design policies is not the issue at hand as the refusal relates to the development's conflict with local and national Green Belt policy. An absence of harm in this regard does not lend positive or negative weight to the proposal.
13. I have had regard to the photographs provided by the appellant within Appendix A to the Appeal Statement. I recognise that a number of properties in the surrounding area also feature alterations and extensions, such as at Nos 5 and 67 Brookbridge Lane. However, I have not been provided with the full details and background to these cases and whilst I cannot therefore conclude that the circumstances are directly comparable and relevant to the proposal, I am mindful of the need to consider each case on its own merits. The new dwellings referred to, such as at 92 Harmer Green Lane, differ significantly in nature and scale to what is proposed and it is not clear what development was on the respective sites prior to permission being granted for those properties. Therefore, it is not clear that those schemes are comparable to the scheme before me. These considerations therefore do not lend any significant weight in support of the proposal.

### **Planning Balance and Overall Conclusion**

14. I consider that the development causes harm to the Green Belt by way of its inappropriateness and limited harm to its openness, and substantial weight must be given cumulatively to this harm. On balance, the very limited weight attributed to the other considerations in this case does not clearly outweigh the harm I have identified. I conclude therefore there are no very special circumstances to justify the development.

### **Recommendation**

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

*Thomas Courtney*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

16. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

*Chris Preston*

INSPECTOR





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## Appeal Decision

Site visit made on 6 September 2022 by Ifeanyi Chukwujekwu BSc MSc MRTPI  
MIEMA CEnv

### Decision by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 3<sup>rd</sup> October 2022**

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### Appeal Ref: APP/J1915/D/21/3289597

#### Christys, Albury End, Herts SG11 2HS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr C Strachan against the decision of East Herts Council.
  - The application Ref 3/21/1927/ASDPN, dated 20 July 2021, was refused by notice dated 9 November 2021.
  - The development proposed is construction of one additional storey to the existing dwelling, to increase the height from 5.34 metres to 8.0 metres<sup>1</sup>.
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### Decision

1. The appeal is allowed, and prior approval is given under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the construction of one additional storey to the existing dwelling, to increase the height from 5.34 metres to 8.0 metres at Christys, Albury End, Herts SG11 2HS in accordance with the terms of the application, Ref 3/21/1927/ASDPN, dated 20 July 2021, and the plans submitted with it.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary Matters

3. Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) sets out permitted development rights for development consisting of works for the construction of up to one additional storey on an existing single storey dwellinghouse, together with any reasonably necessary engineering operations.
4. As detailed within the GPDO<sup>2</sup>, development under Class AA is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for prior approval. The Local Planning Authority may refuse the application where it considers that the

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<sup>1</sup> Taken from Councils decision notice and utilised on the appeal form

<sup>2</sup> Part 1, Class AA, paragraph AA.2(3)

proposal does not comply with the limitations or restrictions that are applicable to such permitted development.

5. The provisions of the GPDO require the Local Planning Authority to assess the development proposed solely on the basis of a limited number of considerations.
6. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

### **Main Issue**

7. The main issue is whether the proposal would accord with the provisions of Part 1, Class AA, with particular regard to the external appearance of the dwellinghouse.

### **Reasons for the Recommendation**

8. Paragraph AA.2(3)(a)(ii) of Class AA refers to the external appearance of the dwellinghouse. However, the CAB Housing Ltd judgment<sup>3</sup> confirmed that the control of the external appearance of the dwelling house is not limited to impact on the subject property itself, but also includes impact on neighbouring premises and the locality.
9. The proposal would create an additional floor of accommodation which would be constructed in similar materials, it would not have a window in any wall or roof slope forming a side elevation and the roof pitch of the principal part would be the same as the existing.
10. In my view, the overall height and bulk of the resultant dwelling would not be excessive and as such it would not appear as an incongruous feature upon the property or within the surrounding area. This is particularly the case given that the nearby development largely consists of two-storey detached properties set within generous curtilage.
11. In coming to the above view, I acknowledge that the existing dwelling is very wide and sits at a slightly higher land level to surrounding properties and the addition of a further storey would increase the prominence of the dwelling.
12. Furthermore, as observed on my visit to the site, the appeal property is set back from the road frontage and there is . mature hedging and trees around large parts of the appeal site. Thus, the appeal property is not seen in the immediate context of any other dwellings.
13. I have also had regard to the setting of the nearby listed building of Kennel Farm. However, in my view the proposal would not have any discernible impact on the setting of this heritage asset and would therefore accord with the heritage aims of the Framework.
14. In addition to the above, in considering the design and architectural features of the proposal it is noted that these replicate the features of the existing building. In summary, I consider that the proposal would be acceptable in terms of its external appearance.

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<sup>3</sup> CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC [2022] EWHC 208 (Admin)

15. In addition to the above, I have had regard to the comments raised in the representations made on the application, and in particular overlooking and privacy matters. However, the appeal property sits in a large plot and is sited a considerable distance to neighbouring properties. Given the distance between properties and the relationship between the proposed windows and the windows on these neighbouring properties, it is not considered there would be direct overlooking at a proximity which would result in detrimental loss of privacy to habitable rooms.
16. It is therefore considered that the proposal meets with all the requirements as set out and does not conflict with the requirements of Part 3(a)(ii) in Schedule 2, Part 1, Class AA.2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). The proposal would not therefore be in conflict with the aims and objectives of the Framework.

### **Other matters**

17. I have also had regard to concerns raised regarding the procedure for neighbour consultation undertaken for the appeal proposal by the Council. However, from the evidence before me, notifications were sent to all of the relevant properties in the vicinity of the site.

### **Conditions**

18. The Council has provided as list of suggested conditions in the event that the appeal is allowed. However, these conditions duplicate the standard conditions as a set out in the GPDO and as such it is not necessary for me to impose in my decision. That said, in order for the proposal to benefit from the permitted development rights set out in the GPDO, all of the standard conditions set out at paragraphs AA.2 (2) and AA.3 3(b)-(e) must be complied with.

### **Conclusion and Recommendation**

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed and prior approval should be granted.

*Ifeanyi Chukwujekwu*

APPEALS PLANNING OFFICER

### **Inspector's Decision**

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

*Chris Forrett*

INSPECTOR

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## Appeal Decision

Site visit made on 7 September 2022

**by Richard Aston BSc (Hons) DipTP MRTPI**

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

**Decision date: 18TH October 2022**

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**Appeal Ref: APP/J1915/D/22/3298887**

**Cavehall Cottage, Wyddial, Hertfordshire SG9 0ER**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Ms Kirstie Adams against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0391/HH, dated 22 February 2022, was refused by notice dated 22 April 2022.
  - The development proposed is rear first floor extension to provide additional bedroom and accommodation.
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### Decision

1. The appeal is allowed and planning permission is granted for rear first floor extension to provide additional bedroom and accommodation at Cavehall Cottage, Wyddial, Hertfordshire SG9 0ER in accordance with the terms of the application, Ref 3/22/0391/HH, dated 22 April 2022, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: FGF PL 01 and FGF PL 02 Rev C.
  - 3) No development shall commence until details of the external materials have been submitted to and agreed in writing by the local planning authority (including timber cladding, slate, fenestration and rainwater goods). Thereafter the works shall be carried out in full accordance with the approved details and the development shall be maintained as approved.

### Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the host property and area.

### Reasons

3. The host property is a detached two storey dwelling located in a rural area and constructed from brick under a slate tiled roof with its principal elevation close to Vicarage Road. The property benefits from an existing double storey rear gable extension set on top of a single storey rendered extension spanning the full width of the rear elevation.

4. In this case there is no doubt that the size and scale proposed would cumulatively result in significant extensions and alterations to the original property. This includes from a pair of large outbuildings within close proximity to the dwelling<sup>1</sup>. That said there is no size limit imposed by the development plan policies before me and this is a rural property set within large grounds and surrounded by open agricultural fields, trees and in an area of similar rural properties.
5. The first floor gables have been designed to sit below the base of the existing chimney and their depth would be no greater than the existing gable. The depth would also not be as 'wide' as the flank of the main dwelling and the scale, form and mass would appear as a less important addition and therefore subservient. Visually, from the prominent approach down the hill from the west I observed that the existing view to the rear of the dwelling was of the rendered side wall and roof of the existing rear first floor extension. This would be replaced by a more sympathetic view of slate roof and timber cladding, the details of which could be agreed by condition. Such materials would be entirely reflective of local distinctiveness and character and the cladding would help to visually distinguish the extension from the main building.
6. The rear floor to ceiling windows whilst undoubtedly a requirement of more contemporary living standards are not entirely uncharacteristic of such detached rural properties, are appropriately scaled and would not appear visually incongruous. Any views of the glazing and the gable projections from the closest footpath to the rear would be across a large agricultural field and with the roof of the dwelling in the background. As such the eye would not be unacceptably drawn to the proposal from its rural surroundings.
7. These judgements involve a degree of subjectivity and although I acknowledge the council's concerns that the proposal would result in large cumulative extensions, overall there would be no significant or materially harmful impact from that increase in any public views. There would be no harmful or unacceptable erosion of the character or appearance of this rural property, its rural setting or the agrarian landscape within which it sits.
8. For these reasons, the proposal would not cause harm to the character and appearance of the host property or the area. It would not conflict with Policies GBR2, HOU11 and DES4 of the East Hertfordshire District Plan 2018 which, when taken as a whole and amongst other things require such development to be of a high standard of design, that extensions are appropriate to the character and appearance and setting of the site and/or surrounding area in terms of a number of typical design considerations, reflect local distinctiveness and are generally subservient to the dwelling.

### **Other Matters**

9. The Council's delegated report appears to question the lawfulness of the existing extensions I have referred to above and in the footnote below. However, no substantive details are provided as to the significance of this for the appeal and within the context of a Householder appeal it is not within my remit to determine whether such development is lawful. Given the nature of the proposal before me and amongst other considerations, this would be a matter solely between the council and the appellant to address. On the

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<sup>1</sup> LPA ref: 3/16/1010/HH, 3/16/0949/PNHH and 3/16/0122/HH.

evidence before me I see no reason why it should affect my determination of this appeal or in this particular case, be a consideration that should prevent me allowing the appeal and granting planning permission. I have not therefore considered it necessary to have regard to it any further.

### **Conclusion**

10. The proposal would be in accordance with the development plan, when read as a whole. There are no material considerations, including the National Planning Policy Framework which indicate a decision should be made other than in accordance with it.
11. I have considered the conditions put forward by the Council. Aside from the standard time limit condition, a condition is required to ensure compliance with the approved plans as this provides clarity. I note the suggestion with regard to matching materials but the approved plans refer to '*Feature Timber Cladding TBC*', it is therefore necessary for the parties to agree the details of this material, along with the other materials to be used in the construction of the external surfaces.
12. The appeal is allowed subject to the conditions above.

*Richard Aston*

INSPECTOR

NEW PLANNING APPEALS LODGED OCTOBER 2022  
Head of Planning and Building Control

Application Number	Proposal	Address	Decision	Appeal Start Date	Appeal Procedure
3/21/2084/FUL	Demolish garage and construct new detached dwelling with associated parking.	Land Adjacent To Byfield House Gypsy Lane Great Amwell Ware SG12 9RJ	Refused Delegated	19/10/2022	Written Representation
3/21/2458/FUL	Demolition of four agricultural buildings and erection of two detached four bedroom dwellings with integrated garages.	Highfield Nursery U40 Between Pigs Green And Hadham Road Wellpond Green Standon	Non Determination	04/10/2022	Written Representation
3/21/2558/HH	Removal of a glazed/brickwork corridor on West elevation. Construction of single storey rear/side infill extension. 1 new side door opening. Remove 1 ground floor side door opening and 1 ground floor side window opening. Replacement sliding doors on rear elevation.	228 Hertingfordbury Road Hertford SG14 2LB	Refused Delegated	14/10/2022	Written Representation
3/21/2559/LBC	Removal of a glazed/brickwork corridor on West elevation. Construction of single storey rear/side infill extension. 1 new side door opening. Remove 1 ground floor side door opening and 1 ground floor side window opening. Replacement sliding doors on rear elevation.	228 Hertingfordbury Road Hertford SG14 2LB	Refused Delegated	14/10/2022	Written Representation
3/21/2844/AGPN	Erection of agricultural barn	Goldings Rare Breed Farm Bramfield Road Hertford SG14 2HZ	Refused Delegated	04/10/2022	Written Representation
3/21/3066/TEL	The installation of a new 20 metre monopole tower, associated radio-equipment housing and ancillary development.	Mimram Road Hertford	Refused Delegated	05/10/2022	Written Representation
3/22/0078/FUL	Erection of open freestanding fabric tent (retrospective).	4 High Street Standon Ware SG11 1LA	Refused Delegated	17/10/2022	Written Representation
3/22/0158/HH	Creation of driveway with dropped kerb and electric charging point.	105 And 107 Station Road Puckeridge Ware SG11 1TF	Refused Delegated	04/10/2022	Written Representation
3/22/0596/HH	First floor side extension, single storey rear extension incorporating roof lantern. Part garage conversion, creation of dormer window to rear with rooflight to front and rear. Alterations to fenestration and rendering to front elevation.	12 Campbell Close Buntingford SG9 9BY	Refused Delegated	06/10/2022	Fasttrack
3/22/0804/HH	Erection of garage.	Canons House 2 Wadesmill Road Ware SG12 0RB	Refused Delegated	05/10/2022	Fasttrack
3/22/0967/FUL	Erection of ground mounted solar array on the site of part of the applicants garden consisting of 72 panels in 2 rows, each row 18 panels long by 2 panels high.	Land Adjacent To Ladygrove Stanstead Road Hunsdon Ware SG12 8PZ	Refused Delegated	05/10/2022	Fasttrack
3/22/1060/HH	Erection of part first floor and part two-storey rear extensions, extensions to side dormers with installation of roof lights, front facade to be insulated and clad with flint and alterations to fenestration.	11 Thorley Hill Bishops Stortford CM23 3ND	Refused Delegated	06/10/2022	Fasttrack
3/22/1108/HH	Double storey extension to gym/outbuilding to create garage and studio.	Danesbury The Street Aspenden Buntingford SG9 9PF	Refused Delegated	07/10/2022	Fasttrack
3/22/1127/HH	Proposed gable end roof extension with 2no. dormers and velux skylights. Erection of porch. Rear extension to facilitate open plan living space with bi-fold doors and lantern light. Replacement windows.	52 Mazoe Road Bishops Stortford CM23 3JT	Refused Delegated	05/10/2022	Fasttrack
3/22/1194/HH	Erection of single storey front extension, replacement roof for existing single storey element and alterations to fenestration	62 Hazeldell Watton At Stone Hertford SG14 3SW	Refused Delegated	06/10/2022	Fasttrack

Background Papers

None

Contact Officers

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



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

Application	Case Officer	Address	Proposal	Appeal Status	Procedure Type	Appeal Date
3/19/2282/FUL	TBA	Kecksys Farm Cambridge Road Sawbridgeworth CM21 9BZ	Retention of agricultural dwelling for use by owner of land; erection of balcony and access bridge; extension of existing roof and provision of rain screen to stair to agricultural store in basement.	INPROG	Hearing	TBA
3/20/0177/FUL	Rachael Collard	Wheelwrights Farm Rowney Lane Dane End Ware SG12 0JY	Change of use of land to a mixed use to use for the stabling/keeping of horses and as a residential caravan site for 4 Gypsy families, with a total of 6 caravans, including no more than 4 static caravans/mobile homes. Erection of 2 amenity buildings.	INPROG	Hearing	TBA
3/20/1040/FUL	Rachael Collard	Land At Millfield Lane Bury Green Little Hadham Ware SG11 2ED	Change of use of land to a four pitch Gypsy/Traveller site comprising the siting of 4 Mobile Homes, 4 Touring Caravans, and the erection of 4 dayroom buildings, and the formation of an internal track and hardstandings. Installation of bio disc septic tank.	INPROG	Public Inquiry	13/06/2022
3/20/1119/FUL	Rachael Collard	Wheelwrights Farm Rowney Lane Dane End Ware SG12 0JY	Construction of manège and access track.	INPROG	Hearing	TBA
3/20/2139/FUL	Rachael Collard	Plot 64 Land Opposite Mill View Hare Street Buntingford SG9 0DX	Change of use of the land to Gypsy and Traveller residential, with the siting of five caravans, of which no more than one would be a static caravan, erection of a shed, the provision of vehicular parking spaces and soft and hard landscaping, installation of a package treatment plant and associated foul drainage, widening of the existing vehicular access and repairs to the internal access road.	INPROG	Hearing	16/11/2022
3/21/2907/OUT	Jonathon Ashworth	1 Whempstead Road Benington Stevenage SG2 7BX	Demolition and removal of all poultry houses and other buildings. Erection of 12 detached dwelling houses (8 market houses and 4 affordable houses) with garages and car parking, change of use of the land to C3 residential, alterations to vehicular access and driveway off Whempstead Road. Children's play space, new turning head and associated visitor car parking - Outline planning application all matters reserved except for access, layout and scale.	INPROG	Hearing	14/12/2022
3/21/2908/OUT	Jonathon Ashworth	1 Whempstead Road Benington Stevenage SG2 7BX	Demolition and removal of all poultry houses and other buildings. Erection of 10 self-build/custom build detached dwelling houses with garages and car parking, change of use of the land to self-build residential plots, alterations to vehicular access and driveway off Whempstead Road. Children's play space, new turning head and associated visitor car parking - Outline planning application with all matters reserved except for access.	INPROG	Hearing	14/12/2022
3/22/0979/HH	Shamal London	6 Presdales Drive Ware SG12 9NS	Removal of conservatory and one chimney. Two storey rear extension incorporating Juliet balcony and single storey side extension with rooflights. Altered roof to front porch and the addition of a rear facing rooflight. Garage conversion with change of roof form.	LODGED	TBA	TBA
X/20/0177/CND	Rachael Collard	Land Off Chapel Lane Little Hadham	Discharge appeal conditions 5 (site development scheme) and 6 (landscape maintenance scheme) attached to 3/19/0893/FUL	INPROG	Public Inquiry	10/10/2022



# DEVELOPMENT CONTROL

## Major, Minor and Other Planning Applications

**Cumulative Performance**  
(calculated from April 2022)

	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23
<i>Total Applications Received</i>	191	403	616	827	1020	1219	1417					

<i>Percentage achieved against Local and National Targets</i>	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23		<b>Targets for Local Performance (set by East Herts)</b>	<b>National Targets (set by Government)</b>
<b>Major %</b>	-	67%	67%	75%	75%	77%	72%						<b>Major %</b>	<b>60%</b>	<b>60%</b>
<b>Minor %</b>	75%	65%	64%	64%	71%	65%	66%						<b>Minor %</b>	<b>80%</b>	<b>65%</b>
<b>Other %</b>	85%	85%	83%	83%	78%	82%	79%						<b>Other %</b>	<b>90%</b>	<b>80%</b>

<i>Appeals</i>	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23
Total number of appeal decisions (Monthly)	4	2	2	12	1	12	5					
Number Allowed against our refusal (Monthly)	1	1	1	7	0	6	2					

Total number of appeal decisions (Cumulative)	4	6	8	20	21	33	38					
Number Allowed against our refusal (Cumulative)	1	2	3	10	10	16	18					

AGENDA ITEM NO. 7D