



**MEETING** : DEVELOPMENT MANAGEMENT COMMITTEE  
**VENUE** : COUNCIL CHAMBER, WALLFIELDS, HERTFORD  
**DATE** : WEDNESDAY 20 SEPTEMBER 2023  
**TIME** : 7.00 PM

**PLEASE NOTE TIME AND VENUE**

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

**MEMBERS OF THE COMMITTEE**

Councillor Y Estop (Chairman)

Councillors R Buckmaster, V Burt, R Carter, S Copley, I Devonshire,  
J Dunlop, G Hill, A Holt, S Marlow, T Stowe and S Watson  
(Vice-Chairman)

**Substitutes**

|                     |                                    |
|---------------------|------------------------------------|
| Conservative Group: | Councillors S Bull and T Deffley   |
| Green:              | Councillors M Connolly and V Smith |
| Liberal Democrat:   | Councillor M Adams                 |

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

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## **Disclosable Pecuniary Interests**

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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## 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 - 19 July 2023 (Pages 6 - 16)

To confirm the Minutes of the meeting of the Committee held on Wednesday 19 July 2023.

### 5. Planning Applications for Consideration by the Committee (Pages 17 - 20)

(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, CM23 2BT (Pages 21 - 147)

Recommended for Approval

(B) 3/23/0775/FUL - Change of use of land to residential curtilage and erection of a 1.8 metre height fence (set in by 1.5 metre) and with managed peripheral landscaping at Land to the Rear Of 74, 75 And 76 Magnaville Road, Bishop's Stortford, Hertfordshire, CM23 4DW (Pages 148 - 162)

## Recommended for Refusal

- (C) 3/23/0440/FUL - Reconfiguration of ground floor to provide 1 Class E (Commercial, Business and Service Uses) unit, change of use of first floor from Class E use to 8 studios and 1 one bedroom and 1 two bedroom self-contained flats, and associated external alterations, Creation of an additional second floor to create 2 studios, 6 one bedroom and 1 two bedroom self-contained flats, reconfiguration of car parking and provision of cycle parking, and other ancillary works at 55 - 61 South Street and 2-4 Station Road, Bishop's Stortford, CM23 3AL (Pages 163 - 201)

## Recommended for Approval

### 6. Items for Reporting and Noting (Pages 202 - 306)

- (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 19 JULY 2023, AT 7.00 PM

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PRESENT: Councillor Y Estop (Chairman)  
Councillors R Buckmaster, R Carter,  
S Copley, I Devonshire, G Hill, T Stowe and  
S Watson

ALSO PRESENT:

Councillors A Daar, T Deffley, J Dunlop and  
V Glover-Ward

OFFICERS IN ATTENDANCE:

|                  |  |
|------------------|--|
| Maya Cullen      | - Senior Planning Officer                    |
| Richard Freeman  | - Interim Development Management Team Leader |
| Peter Mannings   | - Democratic Services Officer                |
| Ellen Neumann    | - Planning Officer                           |
| Sara Saunders    | - Head of Planning and Building Control      |
| Victoria Wilders | - Legal Services Manager                     |

96      APPOINTMENT OF VICE-CHAIRMAN

It was proposed by Councillor Hill and seconded by Councillor Carter, that Councillor Watson be appointed Vice-Chairman of the Development Management Committee for the 2023/24 civic year.

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

RESOLVED – that Councillor Watson be appointed Vice-Chairman of the Development Management Committee for the 2023/24 civic year.

97      APOLOGIES

Apologies for absence were submitted on behalf of Councillors Burt, Dunlop, Holt and Marlow. It was noted that Councillor Bull was substituting for Councillor Holt and Councillor Smith was substituting for Councillor Burt.

98      CHAIRMAN'S ANNOUNCEMENTS

The Chairman thanked Councillors Deering and Stowe for their work as the former Chairman and Vice-Chairman of the Committee. She said that this was the first formal meeting of the 2023/24 civic year and reminded members to use the microphones as the meeting was being broadcasted via You Tube.

99      DECLARATIONS OF INTEREST

Councillor Watson declared a non-pecuniary interest in that he had two children who attended Simon Balle All-through School. He confirmed that he felt that he was able to determine the application with a clear and open mind.

100     MINUTES - 5 APRIL 2023

Councillor Estop proposed and Councillor Stowe seconded, a motion that the Minutes of the meeting held on 5 April 2023 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. Councillors Buckmaster, Bull, Carter, Copley, Devonshire, Hill, Smith and Watson abstained from voting as they had not been present at the meeting on 5 April 2023.

**RESOLVED** – that the Minutes of the meeting held on 5 April 2023, be confirmed as a correct record and signed by the Chairman.

101     3/22/2534/FUL - REMOVAL OF FIVE TEMPORARY BUILDINGS, ERECTION OF A SPORTS HALL WITH RECEPTION AND ADMINISTRATIVE AREAS, AMENDMENTS TO VEHICULAR PARKING AND CIRCULATION, IMPROVEMENTS TO SECURITY AND PEDESTRIAN CONNECTIVITY, TOGETHER WITH HARD AND SOFT LANDSCAPING AND ASSOCIATED WORKS AT SIMON BALLE ALL-THROUGH SCHOOL, MANGROVE ROAD, HERTFORD, SG13 8AJ

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The Head of Planning and Building Control recommended that in respect of application 3/22/2534/FUL, planning permission be granted subject to the conditions detailed in the report.

The Planning Case Officer and the Interim Development Management Team Leader presented the application to the Committee and summarised in detail the main issues for Members to consider. Members were advised that there would be no harm to the setting of designated heritage assets and the materials proposed to be used in the construction were in keeping with the properties along Mangrove Road and would also be of a high-quality design.

Members were advised that the education, health and community benefits outweighed the limited harm to the green belt and the application was recommended for approval.

Rachel Kirk and Mike Moss addressed the Committee in support of the application.

Councillor Stowe asked for some clarification in respect of the comments from the conservation and urban design team regarding the grass areas and new parking areas having trees and shrubs. He also asked for some clarification in relation to the comments from the landscape officer in paragraph 5.9 regarding tree surrounds in the car parking areas and permeable paving.

Councillor Copley asked for some clarity as to the size of the trees to be removed and also in relation to the size of the proposed replacement trees. Councillor Smith asked if the proposed 12 cycle spaces were in addition to existing cycle spaces.

The Planning Officer advised that the 12 cycle parking spaces were in addition to the existing cycle parking at the school. The Interim Development Management Team Leader said that officers reported to committee the comments from conservation and urban design team and the landscaping officer. He said that a key issue was that the mature trees that fronted onto Mangrove Road were to be retained and there would no significant works near to them as these trees formed a very significant part of the conservation area.

Members were advised that in terms of the proposed planting, the comments from the landscaping officer regarding the indicative landscaping proposals being acceptable had been given slightly more weight in the report. The Interim Development Team Leader said that some of ecological precautionary approaches were aimed at mitigating concerns in respect of trees in car parks.

The Interim Development Management Team Leader referred to the calm garden or soft landscaped area adjacent to the reception and on the route for pupils to take into the school as being a significant benefit of the proposed scheme.

Members were advised that regarding the quality of the tree planting, this was a question of the right tree

in the right place. Whilst planting a semi mature specimen can be helpful for screening purposes, they were less likely to thrive once they were moved. He said that it was preferable to have younger trees planted.

Councillor Carter said that there was a lot of traffic and congestion in the surrounding roads around dropping off time, particularly in wet weather. She noted that there would be a traffic and construction management plan and the transport plan would be updated. She said that traffic management needed some attention due to congestion and it was important that there was sufficient parking for more sports fixtures.

The Chairman said that the application required the school to produce a travel plan. The Planning Officer said that in terms of the parking spaces for the use of the hall by wider community, this would likely be outside of school hours so there would be an acceptable level of parking spaces remaining outside of the school hours.

The Planning Officer said that a sustainable travel plan would be updated and secured by condition which would promote sustainable travel such as walking and promoting the local bus routes, and this had been recommended by the highway authority.

Officers did not anticipate that there would be any significant increase in traffic generation of traffic movements as some of the fixtures were being held at another site in Ware. Members were advised that the construction and traffic management plan would be

conditioned so that details of construction vehicle numbers and types of vehicles and parking would be detailed in that plan document that would have to be discharged prior to the commencement of the development.

Councillor Hill asked if any consideration had been given to increase or introduce a better cycleway to the school as Simon Balle was hemmed in by the A414 and cycling to the school was very difficult. He asked if any consideration had been given to introducing any shelter or photovoltaic (PV) cells to the parking bays to keep cars cool in the summer and increase the number of PV cells.

The Chairman said that the council was embarking on a local cycling and walking plan. She said that the suggestion about PV cells was something for the applicant to take away as a suggestion. Members could not add this to the application to make it acceptable.

The Planning Officer said that it was considered that the trips generated as part of the application would not be significant and additional cycleways were not proposed as part of the application.

Councillor Buckmaster asked about the archaeological report and referred to condition 5. She asked if this was going to be a desk-based report or an actual dig. The Interim Development Team Leader said that there had already been some works carried at the site as part of the historic development of the wider area.

Members were advised that a fair amount was known about the potential archaeology that might be present and the condition was the standard written scheme of investigation. This was more than desk based. The ground works would be monitored for archaeological impact by the Hertfordshire County Council's historic environmental unit and if works were required, these works would be detailed in that written scheme of investigation.

The Chairman commented on the principle of the development in green belt as the school was in the green belt. She said that Members had to consider the special circumstances which might make this development satisfactory and whether the proposed development would affect the openness of the green belt. She said that Members had to consider whether the development would affect the openness of the green belt.

The Planning Officer said that the very special circumstances centred on the community use that would be of great benefit in terms of other sports groups being able to use the sports hall outside of school hours, which would result in community health and social benefits for the school and the wider community.

Councillor Smith commented that she agreed with the views expressed in the report and thanked the school representatives for the case that they had put forwards.

The Chairman made several comments in respect of the planning conditions and asked for some clarity in respect of some of the conditions. The Planning Officer responded to these questions in detail for Members.

Councillor Watson commented on the loss of grey water storage now being an aspiration that the school might want to add later. He asked if that aspiration remained viable post construction. The Interim Development Management Team Leader said that grey water harvesting was very useful to reduce the need for mains water and as a way of dealing with surface water run-off. He explained in detail how grey water was considered in respect in flooding.

Members were advised that the grey water system had been removed from the surface water drainage strategy because the lead local flood authority could not be confident what impact it would have in terms of managing flood risk.

Councillor Watson asked about the 2 litre per second run off and what this was in relation to. The Interim Development Management Team Leader advised that the flow rate of 2 litres per second was the amount leaving the pipe into the sewer network from a storage tank. Members were advised that the flow rate of 2 litres per second was managed to avoid all the water hitting the wider drainage network at the same time.

Councillor Smith asked about condition 16 and bat and bird boxes. She asked if a specific reference could be added to that condition in respect of provision for swifts. Members were advised that the Herts and

Middlesex Wildlife Trust had not specifically asked for the protection of swifts.

The Interim Development Management Team Leader said that the committee could add that reference to the condition, but Officers recommended that this was not to the detriment of other bird species. He suggested an informative which was advice to the applicant that provision be made for swifts when condition 16 was discharged.

Councillor Stowe proposed and Councillor Devonshire seconded, a motion that application 3/22/2534/FUL be granted planning permission, subject to the conditions detailed at the end of the report and the additional condition detailed in the addendum, with delegated authority being granted to the Head of Planning and Building Control to finalise the detail of the conditions, subject to the following additional informative:

8. Provision of swift boxes

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

**RESOLVED** –that (A) in respect of application 3/22/2534/FUL, planning permission be granted subject to the conditions detailed at the end of the report and the additional condition detailed in the addendum, with delegated authority being granted to the Head of Planning and Building Control to finalise the detail of the conditions, subject to the following additional informative:

8. Provision of swift boxes

102 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.

103 URGENT BUSINESS

There was no urgent business.

The meeting closed at 8.04 pm

Chairman .....

Date .....



## East Herts Council Report

### Development Management Committee

**Date of Meeting:** 20 September 2023

**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. An Officer 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/>

**Contact Member** Councillor Vicky Glover-Ward, Executive Member for Planning and Growth  
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**Contact Officer** Sara Saunders, Head of Planning and Building Control, Tel: 01992 531656  
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## DEVELOPMENT MANAGEMENT COMMITTEE – 20 SEPTEMBER 2023

|                           |  |
|---------------------------|--|
| <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>             | Bishops Stortford Town Council   |
| <b>Ward</b>               | Bishops Stortford Parsonage  |

|  |                   |
|--|-------------------|
| <b>Date of Registration of Application</b> | 20.07.2021        |
| <b>Target Determination Date</b>           | 19.10.2021        |
| <b>Reason for Committee Report</b>         | Major application |
| <b>Case Officer</b>                        | Neil Button       |

### **RECOMMENDATION**

That planning permission is **GRANTED**, subject the conditions set out at the end of this report and subject to a S106 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.

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

- 1.1 Officers are seeking a further resolution from the Planning Committee to grant full planning permission for the proposed development (subject to application ref: 3/21/1756/FUL) subject to conditions and s106 legal agreement, following the previous resolution of the East Herts District Council's Planning Committee which resolved to approve the planning application subject to conditions/s106 agreement dated 7<sup>th</sup> December 2022.

- 1.2 The three-month deadline for the planning permission to be issued with a completed s106 agreement has expired. Therefore, it is necessary to request an extension to the period of time (from the planning committee) to allow for the s106 to be completed to the satisfaction of the local planning authority. The s106 agreement is in an advanced stage and with the obligations securing Travel Plan Contributions, a Travel Plan and a Local Employment and Skills Plan being substantially drafted and agreed between the parties. Officers consider it would not have been reasonable to refuse the application on the grounds cited in the original committee report, as these matters were agreed in principle at the time of the committee, and it is not unusual for 106 negotiations to extend beyond a 3 month period for a major planning application. The authority conveyed to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions is set out in the Council's Constitution including the authority to refuse the application. The recommendation has been amended accordingly to be consistent with the Constitution.
- 1.3 In addition, after the Development Management Committee (DMC) in December 2022, additional representations have been received from UKPN in respect of the electricity sub-station adjacent to the site. The representations raise potential new planning issues, which the previous planning committee did not have an opportunity to consider. The representations have resulted in the need for further clarifications to the technical information submitted in support of the planning application.
- 1.4 Thirdly, officers have reviewed the minutes of the previous planning committee whereby verbal representations were made by an adjoining resident in connection with the development and the highway safety impact on the existing occupier (a disabled person with a requirement for a wheelchair). It is considered appropriate to expand upon the consideration of these impacts, taking account of the Public Sector Equality Duties under the Equality Act 2010 and of the relevant planning policies with regards to accessibility, noise and highway safety. This report includes an explanation of the processes which officers have been through in comprehensively considering

these comments to assist members in coming to a view on the proposals.

- 1.5 Finally, given the previous recommendation was presented to members of the planning committee in December 2022, officers consider it is appropriate to consider whether there have been any material changes in circumstances which would give rise to any new planning issues to ensure a robust decision can be made on the proposed application. This includes updating the assessment of retail impact to ascertain whether the proposed development would still pass the sequential test (in terms of whether there are any more sequentially preferable sites in retail/town centre shopping planning policy terms) and whether the forecasted impacts have changed. The Retail Assessment has been updated and a summary of results has been presented by the Applicant which is reviewed in this report. It must be noted that there have been no changes in the relevant planning policies and guidance since December 2022.
- 1.6 The purpose of this update report is to address the above highlighted issues, which should be read alongside the original committee report which is appended to this report. The Planning History, Planning Policy Background, Consultee Comments, Neighbour, Member, Local Groups and Stakeholder comments and Main Issues are set out in the original officer report and do not need to be repeated in this report. Where relevant and as set out in paras 1.2-1.4, this report will include further clarifications in respect of:
- Current Site Description
  - Additional Representations
  - Equalities Considerations
  - Retail Assessment update
  - Other material changes in circumstances relevant to the determination of the application

### **Development Description**

- 1.7 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.

- 1.8 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.
- 1.9 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.
- 1.10 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.

### **Material Considerations**

- 1.11 Notwithstanding the additional comments, the main considerations in the determination of the application remain as presented in the original planning committee report as follows:
  - 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 Bishops Stortford town centre and other local retail centres.

- Whether the proposed development will provide satisfactory arrangements for pedestrians (comprising all users, including people of impaired mobility) 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 Bishops Stortford, Silverleys and Meads and the National Planning Policy Framework 2021.

1.12 The above considerations were explained in detail in the officer report and the issues were comprehensively debated at the DMC on 7<sup>th</sup> December 2022 when arriving at original resolution. This update reports seeks to highlight the following new material relating to the planning application that has been raised subsequently:

- Whether the conclusions in the Retail Assessment are still relevant or whether there have been any changes to the sequential assessment of sites or any change to the retail impact on other nearby town centres.
- Whether the development ensures satisfactory access/egress to the UKPN substation for appropriately sized vehicles.
- Whether the local planning authority has demonstrated its Public Sector Equality Duty (PSED) in considering the needs of

individuals of protected characteristics as defined in the Equality Act 2010, including any identified needs in respect of the representations made by the legal representative acting on behalf of the immediately adjoining residents, who include an individual with identified protected characteristics (disability).

- 1.13 The purpose of this report is to address the above issues which have subsequently come to light, and this report should be read alongside the previous report which addresses the substantive planning considerations raised in para 1.11 of this report. It is recommended that significant material weight needs to be given to the resolution of the previous planning committee on the key planning issues, and of the recommended planning conditions and obligations which remain as agreed under the previous DMC.

## **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 former Gates of Stortford car dealership; together with its associated forecourt car park. It is noted that at the time of writing this updated report, the site is currently vacant with the former occupier vacating earlier in 2023.
- 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 Main Policy Issues**

- 3.1 The Development Plan remains 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.
- 3.2 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.
- 3.3 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 (NPPF) 2021 and 2023.
- 3.4 There have been no changes to the relevant planning policies in the East Herts District Plan 2018, Neighbourhood Plan or Planning Guidance since the previous DMC in December 2022.

### **Equality Act 2010**

- 3.5 Section 149 of the Equality Act (2010) confirms that a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equalities considerations are factored into the planning process at various

stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. The policies and guidance referenced in the committee report and this updated report have all been subject to an equalities impact assessment (EqIA) therefore, the planning policy framework is considered to meet the first stage in the process. Officers have duly considered the equalities impacts on protected groups in the context of the development proposals, subject to this planning application which is set out in Section 10 of this report.

#### **4.0 Additional Representations received Post DMC**

- 4.1 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. A summary of the original representations, consultee responses, Member comments, Town and Parish Council and other local stakeholder comments are included in the previous DMC officer report.
- 4.2 No further public consultation has been carried out as there have been no changes proposed to the development following the previous DMC.
- 4.3 Notwithstanding this, the two following additional representations (from adjoining landowners) have been received following the previous DMC.

**UKPN** has submitted representations in its capacity as an adjoining occupier (ie: as a non-statutory consultee). The following points are summarised:

- Development which prevents HGV Low Loaders to the site (the adjacent sub-station) would be unacceptable to UKPN (which requires 24-hour access to the facility).
- This development 'may' prevent access to the sub-station.
- No tracking for a 90-degree left hand turn into the sub-station has been provided to demonstrate 24/7 access for HGVs.

- Ramp shown on application drawings is 1:8 gradient. HSE requires 1:12 gradient (max) for roadways within industrial sites.
- Gradient of ramp may not be safe for low loader vehicles with replacement transformers (which may topple over due to the turn).
- Applicant has not demonstrated that the revised access to the existing and operational substation meets UKPN access requirements.

*NB: Officer comment. No changes to the existing ramp or access to the substation are proposed under the current application (with the present arrangements maintained). Therefore, the development does not materially constrain access to the adjacent site.*

The following issues which have been highlighted by a legal representative acting on behalf of the **occupier of 289 Stanstead Road**. The most recent legal correspondence was submitted alongside 4 representations from the occupier, a letter from the social worker from Adult Disability Services and Group Manager from the transportation service. The headline issues were raised at the committee which followed written representations which were noted in the previous report:

- The proposed main road site access for the Lidl store would be 2.4 meters from the dropped curb of the driveway of 289 Stanstead Road. It is already challenging for the wheelchair adapted vehicles which the disabled occupier relies on for transportation to access the property, given the amount of traffic on Stanstead Road. Allowing the Lidl access to be on Stanstead Road, and so close to the home, this will exacerbate this situation and put the occupier's safety at risk. Requests have been made to move the site access to a different part of the application site but have been ignored. In case of previous development proposals for the site, DMC members noted with concern the proximity of the site access to 289 Stanstead Road and requested that it be moved away from the property, requiring a reconsideration of applications by the DMC1.

- Because the development will involve a change of use to a Lidl store, with extended operating times, there will be additional traffic at the application site than currently. The increased traffic which the proposed development would entail would cause increased noise, disturbance and loss of privacy to which the disabled occupier is particularly sensitive as a result of her disabilities. Previous development proposals for the application site have involved additional planting along the site boundary with 289 Stansted Road in order to ameliorate these impacts to some extent, but the form of mitigation currently proposed is not sufficient. Only 1.5m of landscape buffer is proposed at the front of the site, widening to 2.5m at its widest point.
- The council cannot lawfully issue a planning decision without having addressed the PSED, and the suggested legal error cannot be corrected until the application is returned to the planning committee.

*NB: Officer comment: The above planning and highways issues were largely addressed in the previous officer report and at the committee meeting (following verbal representations from the objector), with the exception of the specific consideration of the disabled occupier, and whether further or tailored mitigation was required to address their particular needs. Under the Local Authority's Public Sector Equality Duty, it is considered necessary to address these matters which are set out in part 6 of this update report.*

## **5.0 Consultee Responses to Additional Representations**

- 5.1 This section sets out the response from Hertfordshire County Council (HCC) acting as the Local Highways Authority who have been consulted on the new matters raised post DMC resolution. It was not necessary to reconsult more widely as all other planning issues were set out and addressed in the previous officer report.
- 5.2 HCC Highway Authority: The Highways Authority continue to raise no objection, subject to conditions and S106 Agreement for a Travel Plan. The following additional comments have been provided:

- The concerns raised by the adjoining resident are in relation to perceived impact on privacy, noise and disturbance as a result of increased traffic routing through the Lidl access – none of which are within the HCC highway remit. No new highway safety, capacity, or sustainability/accessibility concerns have been raised and therefore, no further conditions or mitigation above those referenced in the previous report are required.
- The UKPN concern is internal to the site and doesn't relate to any aspect of the public highway.

*NB: Officer Comment; The UKPN access to the sub-station has not been altered as a result of the proposals therefore, it is considered that the proposed development does not materially change how the access will function. Notwithstanding this, a swept path/tracking analysis has been submitted to indicate how access is provided for an appropriate sized HGV. HCC Highways provides no further comments on this.*

## **6.0 Consideration of Issues**

- 6.1 It should be noted that the previous resolution of the planning committee (to approve subject to s106/conditions) remains a relevant material consideration in the determination of this planning application. Officers consider therefore, that in absence of changes to the scheme, planning policy framework and the baseline in 2022 that the majority of the previous conclusions in the former report are applicable and need not be repeated in this report update. There are no changes to the conclusions or policy compliance with regards to the following topics: design, transport, air quality, neighbour amenity, ground contamination, climate change and sustainability, flood risk and drainage, trees, ecology and landscape, or noise.
- 6.2 Instead, this report focuses on the elements of the baseline (the existing environmental/economic and social condition of the site and surrounding context) which may have changed post December 2022 and the elements of the policy framework which were not specifically referenced in the previous report, namely a more

detailed demonstration of the equalities considerations in light of the Council's Public Sector Equality Duty.

6.3 The Main Planning Issues which the updated report addresses are as follows:

- **Principle of Development** (Retail Use and Change of Employment Type)
- **Transport and Highways Impacts** (the impact on UKPN access to substation)
- **Equalities Considerations** (impact on individuals with protected characteristics as set out in the Equality Act 2010, including the disabled occupied in 289 Stanstead Road) subject to the PSED.

### **Principle of Development**

#### Retail Update Post December 2022

6.4 An updated Retail Assessment has been submitted by the Applicant which considers whether there have been any changes in the local retail context, since the application was last discussed at Committee in December 2022. In order to ensure that a robust decision can be taken, the applicant has reviewed whether the previously submitted retail sequential assessment and retail impact assessment remains up to date. There have been no new retail studies or retail evidence documents have been produced by the Council to inform the updated assessment.

#### *Sequential Assessment of Sites*

6.5 EHDC Planning Officers and our retail advisors considered in December 2022 that there were no other more centrally located sites that were suitable and available for the proposed development, within the catchment area of the proposed store. As the site is located outside of the Town Centre, a Sequential Assessment of more suitable sites has been carried out in accordance with policy RTC1 and the NPPF.



- 6.6 The following sites were considered as part of the original planning submission and they have been reviewed by the applicant in August 2023 to see if there have been any pertinent changes of circumstance since December (ie: whether any of these sites are now viable (in terms of size/location and type or available).

| 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. <i>No change to previous position.</i>   |
| 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 an outline planning application. <i>No change to previous position.</i>                      |
| 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. <i>No change to previous position.</i> |
| The Mill Site             | The site is currently in use and does not represent an available redevelopment opportunity. <i>No change to previous position.</i>  |
| Jackson Square            | Although this unit is reasonably large at 1,599 sq. metres – it is smaller than current application   |

|  |   |
|--|---|
|  | <p>for 2368sq metres.</p> <p>Notwithstanding terms have been agreed with TK Maxx and as such the unit is not available.</p> <p><i>No change to previous position.</i></p> |
|--|---|

- 6.7 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 as of August 2023 that can accommodate the proposed use.
- 6.8 Proposed local centres at Bishops Stortford North and South have also been reviewed in August 2023. 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.
- 6.9 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 previous and updated 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 (as of September 2023), as they were back in December 2022.

- 6.10 In determining this application in December 2022, the Case Officer's report to Committee concluded that:

*"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".*

Officers have reviewed the sites again, as set out in the updated Retail Statement and have found that there have been no material changes to the circumstances of the identified sites, and no new sites have become available. As such, the conclusions of the previous Committee Report are relevant and still stand.

*Retail Impact on Town Centre Vitality and Viability*

- 6.11 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).
- 6.12 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.

- 6.13 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.
- 6.14 The applicants previous undertook 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.
- 6.15 The Applicant's full assessment was prepared and submitted to the Council in November 2021. Whilst this is 2 years' old, officers consider this is sufficiently up-to-date in retail planning policy terms, and provides a recent assessment of local shopping patterns, undertaken post COVID-19. The report remains suitable for considering the retail impacts of the scheme.
- 6.16 Notwithstanding this, a 'sensitivity test' has been provided by the Applicant which considers the latest retail data sources to see what effect this has on the previous overall findings. A similar sensitivity test was undertaken in November 2022, just before the application was previously considered at Committee. The latest sensitivity test (August 2023) is based upon the assumptions set out within Experian's Retail Planner Briefing Note 20, which was published in February 2023. The assumptions with regards to expenditure growth rates, proportion of spending on special forms of trading, and growth in rates of floorspace efficiency. Overall, this has had a minimal effect on the results, according to the Applicant's forecasts.
- 6.17 The updated sensitivity testing forecasts trade impact on Bishop's Stortford Town Centre is still around the 5% mark which is not near a level that would be considered to be 'significant' in retail impact terms (in terms of drawing significant trade from the town centre). The level of impact is lower than that forecast by the previous November 2022 sensitivity test, which was considered by the Committee in December.

- 6.18 As such, the applicant considers that the conclusions set out within the previously submitted reports – in relation to the implications of the trade impact on both Bishop’s Stortford and other nearby centres remain relevant, with no material change. The sensitivity test has been updated and re-run for completeness, based on the latest retail data available, and the results appear to corroborate the previously submitted analysis.
- 6.19 The table below summarises the change in forecast convenience trade impact, based on the new sensitivity test:

| Centre                             | WP Nov 2021<br><b>RIA</b> | WP Nov 2022<br><b>Sensitivity Test</b> | WP August 2023<br><b>Sensitivity Test</b> |
|------------------------------------|---------------------------|--|---|
| Bishop’s Stortford Town Centre     | 4.7%                      | 5.5%                                   | <b>5.2%</b>                               |
| Thorley District Centre            | 2.6%                      | 3.0%                                   | <b>2.8%</b>                               |
| Bishop’s Park Neighbourhood Centre | 4.6%                      | 5.3%                                   | <b>5.1%</b>                               |
| Snowley Local Parade               | 2.2%                      | 2.6%                                   | <b>2.5%</b>                               |
| Havers Lane Local Parade           | 3.1%                      | 3.6%                                   | <b>3.4%</b>                               |

- 6.20 The December 2022 Committee Report concluded on retail impact that:

*“Having considered the matter carefully, officers are satisfied that the Assessment overall is robust and that the impact on the vitality and viability of the 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”.*

- 6.21 The forecasted results set out in the updated sensitivity test suggest that this conclusion remains relevant and sound. Officers have duly taken account of the latest published retail data and trends in coming to a conclusion that the retail impacts ostensibly the same as previously assessed.
- 6.22 The previous conclusion was reached, in part, based on the analysis of trade diversion which was anticipated to occur from a store operating as a “Limited Assortment Discount Retailer”; that is an operator offering a limited number of products, at a discount. In

order to ensure that a different retail impact does not occur, it is recommended that a condition is secured which limits 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. This condition was recommended previously, and officers consider it remains necessary and justified in retail planning terms.

### **Transport and Highways Impact**

- 6.23 Although there are no general changes to the development, planning policy framework or baseline condition of the site and context in transport and highways terms, a new representation has been submitted by UK Power Networks (UKPN) on 21st June 2023 raising concern about the vehicular access to the existing substation which UKPN operates to the south of the application site.
- 6.24 UKPN is keen to ensure that access through the application site to the sub-station can still be achieved, with the new Lidl foodstore development in place. The sub-station access ramp is adjacent to the Lidl delivery bay.
- 6.25 As part of the application submission, detailed tracking/swept path plans have been submitted that demonstrate that HGVs can safely enter and exit the site. The Applicant has been in liaison with UKPN directly to resolve this matter, but officers note that the vehicle tracking, which shows that access to the sub-station is retained (with the same level of service access as at present) will not be compromised by the site's redevelopment.
- 6.26 The Highways Officer raises no further comments or objections to this matter and therefore, it is concluded that the proposals do not give rise to additional highways safety risk as a result of vehicles accessing the UKPN substation.

*Impact on Access/Egress arrangement for Occupiers of 289 Stanstead Road*

- 6.27 The Entrance into the application 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 application 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.
- 6.28 It is noted that the occupier of 289 Stansted Road has indicated that the proposed development (comprising the boundary 2.0m fence with landscaping) and access arrangement (close proximity to a private driveway) will affect their ability to access their property using a car as there would be more vehicles queuing on the highway due to close proximity of the adjacent access. It has been highlighted in the written correspondence that the occupier has a disabled daughter (who requires a wheelchair) and therefore, this must be taken into consideration when considering the impact of the development and the need for any special mitigation measures to minimise any harm occurred.
- 6.29 Whilst some queuing on the highway may occur, given the local highway authority's conclusions concerning trip generation, it is not considered that the level of impact (including on the access/egress to the neighbouring private drive) would be unacceptable subject to detailed drawings being submitted for approval for the amended vehicular access (conditions 16 and 17) and landscaping and boundary treatment (condition 35 and 3) to secure adequate visibility is preserved.
- 6.30 Trip generation, car parking provisions, access, servicing and deliveries including refuse vehicle movements were all addressed in the previous committee report. Therefore, it is not necessary to represent these considerations in this update report where the conclusions remain the same. In summary, the previous report

concluded that there were no adverse impacts on the neighbouring property in terms of obstructing or constraining access or egress to the private drive, or any other nearby property. The Highways Authority considers the development to be safe in highways safety terms and continue to raise no objection to the proposed development. No new technical highways issues are specifically raised with regards to the impact on 289 Stanstead Road.

### **Equalities Considerations**

- 6.31 The Council has a Public Sector Equality Duty under section 149 of the Equality Act 2010, which (amongst other things) requires the Council to have due regard to the need to eliminate discrimination/harassment/victimisation, advance equality of opportunity between people who share (and do not share) a protected characteristic and foster good relations between people who share (and do not share) a protected characteristic.
- 6.32 Having due regard to the need to advance equality of opportunity between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to:
- (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
  - (iii) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 6.33 Having due regard to the need to foster good relations between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to: (i) tackle prejudice; and (ii) promote understanding.



- 6.34 The protected characteristics referred to in the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The PSED is a continuing duty to have regard to the objectives identified in the Act as opposed to requiring the Council to achieve any particular outcome.
- 6.35 Due regard has been had to the needs of individuals with these protected characteristics, as required by the Act in order to understand the likely impact of the development proposal on them. Given that the duty is an ongoing one the Council will continue to have regard to it throughout the implementation of the development proposal, by virtue of the consideration of the discharge of planning conditions and planning obligations.
- 6.36 The application has been publicised in the local newspaper and a number of site notices were placed with individual consultation letters sent, inviting representations. Following a review of the consultation process, the majority of the matters raised have been addressed within the relevant sections of the previous report and have been taken into consideration as part of the decision-making process.
- 6.37 The consultation response confirms that there is an individual living in the neighbouring property at 289 Stanstead Road with disabilities. The occupier has a requirement for a wheelchair and has been identified as being sensitive to prolonged periods of noise. As such, officers have reviewed the potential impacts (from the development) on this occupier and any other user of the development, or pedestrian or highways user (with protected characteristics) in detail in order to identify whether there are an appropriate range of mitigation measures necessary which might minimise the perceived adverse impacts of the development or whether further measures are required in addition to the recommended conditions and planning obligations.
- In terms of the impact from increased traffic, the Highways Officer has previously advised that the additional impact from

the development is anticipated to be minor and negligible in terms of causing unsafe access/egress movements onto the neighbouring site. **Condition 16** is required which requires additional plans to be 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. These plans would need to be designed to enable the amended vehicular access to be safe and not to unduly prevent access/egress at the neighbouring property including the driveway which provides capability to support mobility vans which have wheelchair hoists/lifts. Highways Officer advice to date on this matter, concludes that the principle of the proposed site access is acceptable and does not affect the access/egress to the neighbouring front parking area at 289.

- The adjoining neighbour has queried whether the junction could be relocated or moved further north and additional landscape buffering to be included. As the improved junction was considered safe in highways terms, following due consideration by the Highways Authority, it was not appropriate to consider relocating. Notwithstanding this, the applicant has agreed to a range of conditions which would enable the detailed landscape treatment and detailed access design to be submitted and approved to the satisfaction of the Highways Authority in accordance with best practice and to minimise danger to highways users. It is considered that the clarification from the highways officer that the location of the site access is safe (from a highways perspective) in addition to the provision of planning conditions that seek to secure an acceptable and safe detailed design, will provide sufficient demonstration of how the LPA has carried out its PSED in this regard.
- It is noted that there would be noise from additional traffic created from other uses and (emerging/existing) developments in Bishop Stortford and so, it would not be possible to quantify this harm in terms of noise. Noise from additional traffic on Stanstead Road is not considered to be unduly harmful to the

neighbouring occupier or occupiers in the vicinity of the site (as a result of this development).

- Planning **Condition 3** is recommended which requires full 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 and any approved details shall be implemented in full prior to the first occupation of the development and maintained as such in perpetuity. It is considered these details will need to give further consideration to the needs of the occupier in coming to a satisfactory outcome which minimise noise disturbance (to reduce exposure to the noise in the form of an appropriate buffer) and ensures safe access and egress is retained at the neighbouring property. The condition itself is a direct response to the protected needs of the adjoining occupier (disability).
- Other planning conditions are recommended which require cycle parking (**condition 3 and 23**) and EV charging car parking spaces (**condition 14**) and a Travel Plan is secured under a **planning obligation** which seek to reduce car trips and promote more sustainable forms of travel. These controls further counteract the potential for additional car bound trips as a result of the development.
- In terms of exposure to noise, given the sensitive needs of the disabled occupier in 289 and other potential occupiers nearby (with protected characteristics including age, pregnancy and disability), **condition 5** is recommended to ensure construction works and operations are carried out within standard work times, and not too early or late at night.
- **Condition 6** (construction traffic management plan) and **condition 7** (construction environmental management plan) are required to ensure construction traffic is controlled and construction practices are considerate of neighbours, including those of the occupier and other nearby occupiers with protected characteristics (age, pregnancy and disability).

- Planning **condition 17** is recommended which requires additional plans showing the following details to be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority:
  - 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.
  - 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.
  - 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
- The above provisions in **condition 17** are required in order that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, and generally in the interest of sustainable travel options which accommodates all users, including those individuals with protected characteristics as defined in the Equality Act 2010.

- **Condition 22** is required to prevent the development from being 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 in order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises, and to ensure sustainable access by pedestrians. This condition is anticipated to provide mitigation to ensure the needs of individuals with protected characteristics such as mobility, age and pregnancy/maternity) are factored into the detailed design of the external environment.
- **Condition 25** is required to ensure that 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 condition stipulates that 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. The condition is required in order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development, noting the disabled occupier in no.289 is sensitive to noise. The Environmental Health Officers have recommended this condition in light of the information provided in the planning application.
- **Condition 30** is recommended to ensure the food store operates to appropriate opening hours to ensure noise disturbances are minimised and acknowledging the proximity of residential occupiers nearby.

- **Condition 31** includes a restriction on the delivery and refuse collection times to ensure these are not carried out at antisocial times and to protect amenities of nearby occupiers.
- It is considered that conditions 30 and 31 contain satisfactory controls appropriate to the proposed land use and which will not be unduly harmful to nearby residential occupiers, including the occupier in 289 with specified disabilities.

- 6.38 It is also important to consider the existing authorised uses on the site and surrounding context, which comprises a former car dealership in an industrial centre. These uses, including other industrial uses could occupy the industrial area without the need for planning permission and could likely cause noise, disturbances and traffic movements which are typical of industrial areas. It is considered a retail food-store could be more compatible with the residential uses in the area than an industrial use, or as a car showroom.
- 6.39 Notwithstanding the above, it is considered that there will be temporary (but limited) adverse impacts whilst the development is under construction. People with the following characteristics have the potential to be disadvantaged as a result of the construction works associated with the development eg: people with disabilities, maternity and pregnancy and younger children, older children and elderly residents/visitors. However, measures can be incorporated into the demolition method statement and construction management plan to mitigate the impact and minimise the extent of the effects.
- 6.40 There will be the loss of the existing car showroom which could impact on existing employees (although the showroom is now vacant, so this has occurred already).
- 6.41 It is anticipated that there will be some permanent adverse impact on the closest residential dwellings, as a result of the development in terms of noise from the comings and goings from the food store, including servicing and deliveries, customer car parking and refuse collection. The recommended conditions will minimise the on-going

environmental impacts to ensure the amenities of the occupiers are protected, including the specific impacts on individuals of protected characteristics as defined in the Equality Act 2010. Specified conditions are identified in order to address the particular needs of the disabled resident in the immediately adjoining property as stated in the above section of this report.

- 6.42 The recommendation, as revised and updated in this report includes satisfactory demonstration of how the LPA has considered the detailed impacts of the development on protected groups under the Equality Act, including those of the occupier in 289 Stanstead Road. In conclusion, it is considered that the needs of individuals with protected characteristics have been considered by the Local Planning Authority to appropriate level at this stage in the planning process, exercising its PSED in accordance with the 2010 Equality Act.

## **7.0 Legal Agreement**

- 7.1 As with the previous report, 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.

- 7.2 The reasons for these requirements are set out in the relevant sections of the previous committee 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).

## **8.0 Planning Balance/Conclusion**

- 8.1 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.
- 8.2 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.
- 8.3 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.
- 8.4 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 remain marginal at this time (September 2023) having regard to the updated forecasts.
- 8.5 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, including the resident (with Protected Characteristics (Mobility/Disability) as defined under the Equality Act 2010) in the immediately adjoining property on



Stanstead Road who has specific mobility requirements including wheelchair access.

- 8.6 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.
- 8.7 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.
- 8.8 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 ecological and landscape enhancements and will not increase the risk of flooding.
- 8.9 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 into 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.
- 8.10 The issues raised in this updated report address the additional comments received and ensure the assessment and conclusions are up to date and robust at the time of the further resolution of the planning committee.
- 8.11 The previous committee resolution is considered to comprise an important material consideration in forming a view on these proposals. Significant weight should therefore be afforded this, in addition to the above material considerations raised in this update

report which reinforce the original decision reached under the previous resolution.

- 8.12 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 LAeqT = 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.

32. 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 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.

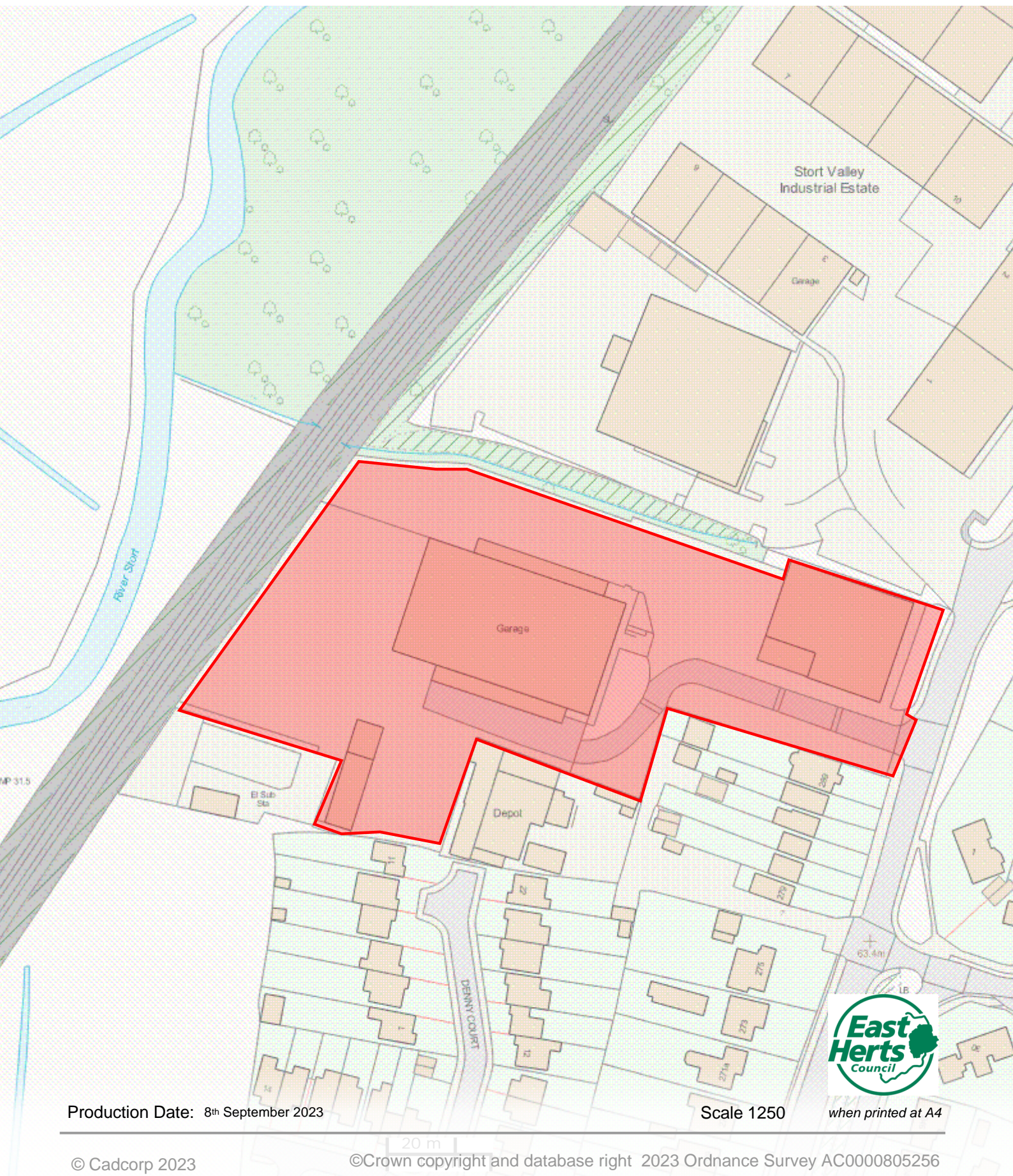
### **Summary of Reasons for Decision**

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.





3/21/1756/FUL: Gates Of Stortford, 295-297 Stansted Road, Bishops Stortford, CM23 2BT  
Scale 1:1250



## 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   | Not EIA Development     |            |

|  |  |  |  |
|--|--|--|--|
|  | buildings on the site and the erection of a Class E retail foodstore, with associated car parking, reconfigured site access, landscaping, swale, servicing and other associated works. |  |  |
|--|--|--|--|

#### **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 proposed development is acceptable within a designated employment area.  | INT1, DPS1<br>DPS2, ED1,<br>RTC1,<br>BISH11,<br>BISH12 | BP4                                      | Chapter 6<br>Chapter11               |  |
| 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,<br>BISH1,<br>BIS12                               | BP2                                      | Chapter6<br>Chapter 7                |  |
| Whether the proposed development will provide satisfactory arrangements for pedestrian and bus access, a satisfactory                                       | TRA1<br>TRA2<br>TRA3<br>CFLR9                          | TP1, TP3, TP4,<br>TP5, TP7, TP9,<br>TP12 | Chapter 8<br>Chapter 9<br>Chapter 12 |  |

|   |   |                            |                         |  |
|---|---|----------------------------|-------------------------|--|
| 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 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<br>Chapter14 |  |
| Whether the development would have an acceptable impact on neighbouring amenity.  | DES4, EQ2, EQ3, EQ4   | HDP1                       | Chapter 8<br>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 m2 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.<br>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 Stansted 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 Stansted 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 Stansted 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

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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 administrating 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.

# Agenda Item 5b

## DEVELOPMENT MANAGEMENT COMMITTEE – 20 SEPTEMBER 2023

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/23/0775/FUL  |
| <b>Proposal</b>           | Change of use of land to residential curtilage and erection of a 1.8 metre height fence (set in by 1.5 metre) and with managed peripheral landscaping. |
| <b>Location</b>           | Land to the Rear Of 74, 75 And 76 Magnaville Road, Bishop's Stortford, Hertfordshire, CM23 4DW   |
| <b>Applicant</b>          | Edmunds, Banks and Munro   |
| <b>Parish</b>             | Bishop's Stortford   |
| <b>Ward</b>               | Bishop's Stortford South   |

|  |                                 |
|--|---------------------------------|
| <b>Date of Registration of Application</b> | 20 <sup>th</sup> April 2023     |
| <b>Target Determination Date</b>           | 15 <sup>th</sup> June 2023      |
| <b>Reason for Committee Report</b>         | Call in request – Cllr Hollebon |
| <b>Case Officer</b>                        | Nicholas Reed                   |

### **RECOMMENDATION**

That planning permission be **REFUSED** for the reasons set out at the end of this report.

#### **1.0 Summary**

- 1.1 The planning application seeks permission for the change of use of land to residential garden and erection of a 1.8 metre height fence (set in by 1.5 metre) and with managed peripheral landscaping.
- 1.2 Planning permission was previously refused on 19<sup>th</sup> January 2023, under Local Planning Authority ref. 3/22/2385/FUL, for the change of use of land to residential curtilage and erection of a 2 metre high fence.
- 1.3 The main considerations for the proposal are:

- Principle of development
- Design and Layout
- Neighbour Amenity
- Highways Implications
- Landscaping and Biodiversity

1.4 The main issue for consideration is whether the proposed development is acceptable, having regard to policies in the East Herts District Plan 2018, the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision) and the National Planning Policy Framework (July 2021).

## **2.0 Site Description**

2.1 The application site is located within the settlement of Bishop's Stortford and is comprised of an area of landscaped amenity land located within a late 20<sup>th</sup> Century housing development (Thorley Park). The parcel of land is rectangular in shape and measures approximately 7 metres in width and 50 metres in length. The land is bounded to the north and east by boundary fencing associated with the rear gardens of properties located in Magnaville Road. To the west of the site are three parking spaces and to the south of the site is a public footpath that extends in an east, west direction and links into a public right of way (Bishop's Stortford 27), which is located to the west of the site. To the south of the site are a cluster of two storey blocks of flats which are located within an open, landscaped setting. The site is occupied by grassland and mature trees and hedging contributing to the landscape character and green infrastructure network within the immediate and wider locality.

## **3.0 Background to Proposal**

3.1 Planning permission has previously been refused for the enclosure of the application site with 2 metre high fencing and the change of use to residential curtilage under ref. 3/22/2385/FUL. The application was refused for the following reason:

1. The proposed development would result in the private enclosure and consequent loss of an area of open amenity space, which would have a detrimental impact on the character and appearance of the street scene and wider area. The proposal fails to demonstrate that the development would retain, protect or enhance biodiversity and green infrastructure. The proposal would thereby be contrary to Policies DES3, DES4, NE4 and HOU12 of the East Herts District Plan 2018 and the National Planning Policy Framework.

#### **4.0 Key Policy Issues**

- 4.1 These relate to the relevant policies in the National Planning Policy Framework (NPPF), the adopted East Herts District Plan 2018 (DP), and the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Review):

| <b>Key Issue</b>           | <b>NPPF</b>              | <b>District Plan Policy</b> | <b>Local Plan policy</b> |
|----------------------------|--------------------------|-----------------------------|--------------------------|
| Principle of Development   | Section 11               | HOU12                       |                          |
| Design and Layout          | Section 11<br>Section 12 | DES4<br>HOU12               | HDP2<br>HDP3             |
| Neighbour Amenity          | Section 12               | DES4                        |                          |
| Highway Implications       | Section 9                | TRA2                        |                          |
| Landscape and Biodiversity | Section 15               | DES3<br>NE4                 | GIP5                     |

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

#### **5.0 Summary of Consultee Responses**

##### **5.1 HCC Highway Authority**

The Highway Authority has commented that they do not wish to restrict the grant of planning permission. The application is acceptable in principle from a highways context. A public footpath runs along the southern boundary of the site and the proposed

fencing should not obstruct access to the street lighting column opposite the footpath to The Colts. An Informative relating to the storage of construction materials is recommended.

## 5.2 EHDC Landscape Advisor

The Council's Landscape Advisor comments that the site currently comprises an area of open space with trees alongside a public footpath within a residential housing estate and is an important part of the planned green infrastructure for the existing development, and which, as such, is important to retain.

- 5.3 This application runs contrary to Policy NE4 Green Infrastructure which aims to avoid the loss, fragmentation or functionality of the existing green infrastructure network. Neglect in the management of this open space, whether conscious or otherwise does not sway in favour of its removal/loss in terms of green infrastructure and public amenity, albeit that improved land management/maintenance may need to be put in place. Quite often such urban green infrastructure is the only "natural environment" that people connect with on a day-to-day basis, and this area of land contributes to the visual amenity of the immediate environs as well as the wider surroundings

## 6.0 Bishop's Stortford Town Council Representations

- 6.1 Bishop's Stortford Town Council comments that the Committee supports this application as it will improve the area which at present is land which is full of dog waste bags, litter, and a general dumping ground since the removal of brown refuse bins. The residents will install new fencing which will be put in place and this will be softened by plants and flowers.

## 7.0 Summary of Other Representations

- 7.1 The application has been advertised by neighbour consultation to local residents 20/04/2023. At the time of writing this report a total of 6 contributors commented on the application.
- 7.2 4 responses have been received in objection to the proposal on the following grounds:
- Thorley is a beautiful neighbourhood in Bishop's Stortford.
  - The footpaths provide an essential link across this part of Bishops Stortford, allowing cut throughs where there are no roads, allowing easy walking links to town and the station and as such reducing congestion, carbon footprints and making our town an open and welcoming friendly pedestrian environment.
  - This particular footpath provides a popular an essential safe link to hundreds of houses on Magnaville Road, The Colts, Grace Gardens, Hayley Bell Gardens Pamela Gardens, Pynchbek and Villers- Sur Marne to name but a few. It also provides an essential link to many flats and school children at both Richard Whittington and the high school. This footpath should not be removed as a result.
  - We object to this use of the land as it could set a precedent for public walkways to be narrowed. We believe narrow paths at dusk, early morning and night can become a place where people may feel unsafe walking alone therefore it is a loss of community space.
  - The application offers no benefit to the general public. Policy NE4 of the District Plan says that development proposals should avoid the loss, fragmentation or functionality of the green infrastructure network, including within the built environment. This application would lead to fragmentation and loss of green open space in Thorley Park. The Key Character Management Principle underlying Policy GIP2 in the adopted Bishop's Stortford Neighbourhood Plan for the area says that public green space within residential estates should be protected and enhanced. This proposal would have the opposite effect.
  - The proposed development would result in the private enclosure and the consequent loss of an area of open amenity



space, which would have a detrimental impact on the character and appearance of the street scene and wider area.

- The Bishop's Stortford & District Footpaths Association (BSDFA) objects to yet another planning application on Thorley Park that would result in the loss of a green space which has intrinsic amenity value. The verge is well established and breaks up the urban landscape on the estate providing an important wildlife corridor. The character of the public path would be compromised by the loss of the verge and the erection of high fencing which would adversely impact the open character of this area.
- This is the latest in a series of planning applications seeking to enclose and/or develop amenity space on Thorley Park. We are very concerned that if this application is approved it could set an undesirable precedent for future applications on the estate.
- We note that those supporting the application make reference to the verge being unkempt and overgrown. It is now recognised that such areas provide a haven for wildlife and that they should be celebrated rather than enclosed or built on.
- When Thorley Park was developed as a major urban extension of Bishop's Stortford in the 1970's and 1980's, careful thought was given at the time of that development to housing density, the layout of the residential streets and, most importantly, the provision of green spaces both to provide connecting routes between parts of the development and to the town centre and to the Thorley District Centre.
- Regrettably, not all these green spaces were adopted by the local authority on completion of the development (although it does maintain some of them) and we understand that a number of them have been sold off by the liquidators of Carillion, leading to speculative applications to convert public open space into private amenities. In this application the applicant hopes to convert land that has been treated as public open space and has been enjoyed as such by the public for many years into private amenities in the form of extended gardens. The applicant argues that the space is currently neglected and used as a waste dumping ground. If that is the

problem, the answer lies in maintaining it properly, not privatising it.

- This application offers no benefit to the general public - only to the residents whose gardens would be extended, and to the present owner of the site from the proceeds of sale. Policy NE4 of the District Plan says that development proposals should avoid the loss, fragmentation or functionality of the green infrastructure network, including within the built environment. This application would lead to fragmentation and loss of a green open space in Thorley Park. The Key Character Management Principle underlying Policy GIP2 in the adopted Neighbourhood Plan for the area says that public green space within residential estates should be protected and enhanced. This proposal would have the opposite effect.

7.3 2 responses have been received in support of the proposal. The following comments were received:

- The site is overgrown with thorn bushes and unkempt hedges;
- The land is not being used for amenity purposes, i.e., the definition of amenity land, which includes a plot of land used or intended to be used for a park, garden, playground, graveyard, educational institution, health institution, reading room, library, community centre, and places for religious workshops. None of these apply to the land, as it is simply not being used, except for dog fouling;
- The development would not impact the visual aspect of the area. A simple walk around the area would reveal that gardens abut the footpath on both sides, forming an alley on Thorley in numerous places, just across the main road;
- It would be a positive outcome for the area if this land were fenced in and looked after;
- There are various walkways around Thorley, that have been left in an awful state and are turning into a dumping ground.

## 8.0 Planning History

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

| Reference     | Proposal   | Decision | Date                                |
|---------------|--|----------|-------------------------------------|
| 3/22/2385/FUL | Change of use of land to residential curtilage and erection of a 2 metre high fence. | Refused  | 19 <sup>th</sup><br>January<br>2023 |

## 9.0 **Consideration of Relevant Issues**

### Principle of Development

- 9.1 Policy HOU12 allows for the change of use of amenity land to residential garden, only in certain circumstances. The change of use of land will only be granted where it would not result in an adverse effect on the character and appearance of the surrounding area and includes appropriate landscaping and boundary treatments. Part II of Policy HOU12 states that the enclosure of amenity land into residential garden within housing estates will not normally be given.
- 9.2 The proposal would comprise of a change of use of the application site to residential garden and the erection of a 1.8 metre high fence which is to be set in by 1.5 metres from the boundary, with managed peripheral landscaping.
- 9.3 The proposal would result in the enclosure of a valuable area of open landscape amenity space and green infrastructure within an established housing development. The loss of the existing landscaping and erection of new fencing would be harmful to the character and appearance of the street scene and wider locality. An appropriate landscaping scheme has not been submitted. The proposal would therefore fail to comply with Policy HOU12 of the East Herts district Plan 2018.
- 9.4 If this amenity space is enclosed and given over to residential garden, a precedent may be set for similar future applications in the wider area which would result in the loss and erosion of the wider

green infrastructure network seen throughout the Thorley Park housing estate to the detriment of the general amenity of the immediate and wider area.

### Design and Layout

- 9.5 Policy DES4 of the East Herts District Plan (2018) states all development proposals, must be of a high standard of design and layout to reflect and promote local distinctiveness.
- 9.6 The application site is comprised of an area of landscaped amenity land approximately 7 metres in width and 50 metres in length. The land is formed of areas of grassland and mature hedging and trees. The land consists of an area of soft landscaped amenity land within the Thorley Park housing estate. The purpose of such areas of the soft landscaping is to soften the appearance of built form and provide visual relief from hard landscape features and create an open verdant character to an area. Such landscaped areas are an important characteristic of the Thorley Park estate and are often focused on pedestrian routes, parking areas and other communal or public areas. These landscaped areas form part of the wider green infrastructure network and positively contribute to the landscape character and general amenity of the wider area.
- 9.7 The immediate locality is characterised by detached and semi-detached properties within Magnaville Road (to the north) which are set within well-proportioned modest plots, and blocks of Maisonettes to the South (The Colts) which are set within spacious communal landscaped grounds. There are numerous areas of surface and covered parking nearby which serve the maisonettes. The surrounding area contains areas of landscaped amenity land and planting in the form of mature trees and hedging. The streetscape within the locality is therefore characterised by relatively dense housing and hard landscaping features set in close proximity to the highway, with generous areas of landscaped amenity space which serves to soften the built form within the street and succeeds in creating a pleasant, open and spacious character. These landscaped amenity areas form an integral part of

the character and appearance of the street scape and locality and provide valuable areas of urban greening and green infrastructure.

- 9.8 The proposed development would comprise of the enclosure of an area of landscaped amenity land with a 1.8 metre fence and the change of use of the land to residential use. The proposed fencing would be set back from the site boundary by a 1.5 metre with a managed landscaped buffer strip being provided.
- 9.9 The proposed development would fundamentally alter the character and appearance of the locality. The effect of this would be the erosion of the open and verdant character of the area and the introduction of visually harmful hard landscaping features into the street scene, to the detriment of the area and the amenity of pedestrians using the footpath.
- 9.10 No landscaping details have been provided and any potential planting and soft landscaping within the proposed managed landscaped buffer would take time to establish; during this time the proposed development would appear as a harmful hard landscape feature which is readily visible from the public realm.
- 9.11 The proposal would result in the loss of an important area of mature landscaping which has intrinsic amenity value. The erection of 1.8metre high solid fence would introduce a substantial length of blank and featureless elevations which would detract from the existing soft landscaping within this area thereby resulting in an adverse effect on the character and appearance of the surrounding area and landscape. The proposal would therefore be contrary to Policies DES4 and HOU12.

#### Neighbour Amenity

- 9.12 The proposed fencing would be 1.8 metres in height and would be located approximately 4.5 metres from the closest residential property to the south (18 and 19 The Colts). The proposed development would be screened from the adjacent properties by existing boundary treatments, which include hedging and hedging.

- 9.13 The proposed development would be located sufficiently far from neighbouring properties to avoid a detrimental impact on the general amenity of the adjoining occupiers in terms of overbearing impacts, loss of privacy, or overshadowing. The proposal would accord with Policy DES4(c).

#### Highway Implications

- 9.14 The proposed fencing would be set back from the public footpath and parking area by 1.5 metres and as such there are no concerns relating to the obstruction of the footpath or obstruction to visibility for vehicles manoeuvring in and out of the parking spaces.
- 9.15 The Highway Authority does not wish to restrict the grant of planning permission. They have commented that access to the street lighting column should not be obstructed. They have recommended an informative relating to the storage of construction materials. The proposal would accord with Policy TRA2 of the District Plan 2018.

#### Landscape and Biodiversity

- 9.16 Policy DES3 states that development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value, in order to ensure that there is no net loss of such features. Where losses are unavoidable and justified by other material considerations, compensatory planting or habitat creation will be sought either within or outside the development site.
- 9.17 Policy NE4 (II) states that development proposals should avoid the loss, fragmentation or functionality of the green infrastructure network, including within the built environment. Proposals should maximise opportunities for urban greening.
- 9.18 Policy GIP5 of the Bishop's Stortford Neighbourhood Plan (First Revision) requires that development proposals should seek to protect wildlife and promote biodiversity.

- 9.19 The site is comprised of grassland, hedging and mature trees. The site is split into three main areas; an area of grass that occupies the southern part of the site adjacent to the footway, a section of hedging to the rear of the site which is adjacent to the existing boundary fencing, and a small grove of trees at the eastern end of the site. A mature birch tree is located in the south western corner of the site; this tree is a good quality specimen which appears to be in good condition. This soft landscaping and planting contribute positively to the character, appearance and general amenity of the street scene.
- 9.20 The biodiversity value of the site is unknown, and the application is not supported by an ecology report. The site, nevertheless, provides some habitat for wildlife and has intrinsic amenity, landscape, and biodiversity value as an area of green space within a built-up area.
- 9.21 The proposed fencing would be set back from the footway by approximately 1.5 metres and as such any supporting fence post is likely to need to be sunk into the ground in close proximity to the birch tree in the south eastern corner of the site; this is not considered to be good practice and would potentially harm the tree. Furthermore, at least one of the trees at the eastern end of the site would need to be removed in order to construct the fence. No arboricultural report has been submitted in support of the application which identifies the trees within the site or the potential impact of the proposed development on those trees.
- 9.22 No landscaping scheme has been provided as part of the application and it is unclear how the land would be used following a change of use to residential garden and its incorporation into the private gardens of the properties to the north. The presence of the existing trees and hedging on the site may result in pressure to remove these in the future in order to maximise the proposed private garden space. No landscaping or planting scheme for the managed landscape buffer have been provided.
- 9.23 It is advised by the applicant that the site is currently untidy and used as a dumping ground for garden waste, litter and dog waste. Numerous visits to the site have been undertaken; it was observed

that the site was not unduly overgrown, untidy, and no significant garden waste or litter was present; although it is acknowledged that some dog waste bags were present. It is contended that the proposal would allow the site to be cleaned up and the landscaped buffer would provide a maintained landscaped area. It is noted that the proposal would not prevent the type of antisocial behaviour identified.

- 9.24 The Council's Landscape Officer objects to the proposed development, advising that the proposal would result in the loss of an important area of planned green infrastructure and does not comply with Policy NE4. Neglect in the management of this open space, whether conscious or otherwise does not sway in favour of its removal/loss in terms of green infrastructure and public amenity.
- 9.25 Insufficient information has been submitted to demonstrate that the proposed development would retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value or avoid the fragmentation of green infrastructure within the built environment or that appropriate compensatory landscaping could be provided. The proposal would therefore fail to accord with Policies DES3 and NE4 of the District Plan 2018 and Policy GIP5 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley.

### Other Matters

- 9.26 Responses to the majority of the representations received have been addressed within the body of the report.
- 9.27 The comments received objecting to the loss of the footpath are noted, however, it is not proposed to block or obstruct the public footpath.

## **10.0 Conclusion**

- 10.1 The proposal would result in the loss of an important area of mature landscaping which has intrinsic amenity value to the wider



footpath network and character of the area. The erection of 1.8 metre high fencing would introduce a substantial length of blank and featureless structure which detracts from the existing soft landscaping within this area thereby resulting in an adverse effect on the character and appearance of the surrounding area and landscape. The proposal would therefore be contrary to Policies DES4 and HOU12.

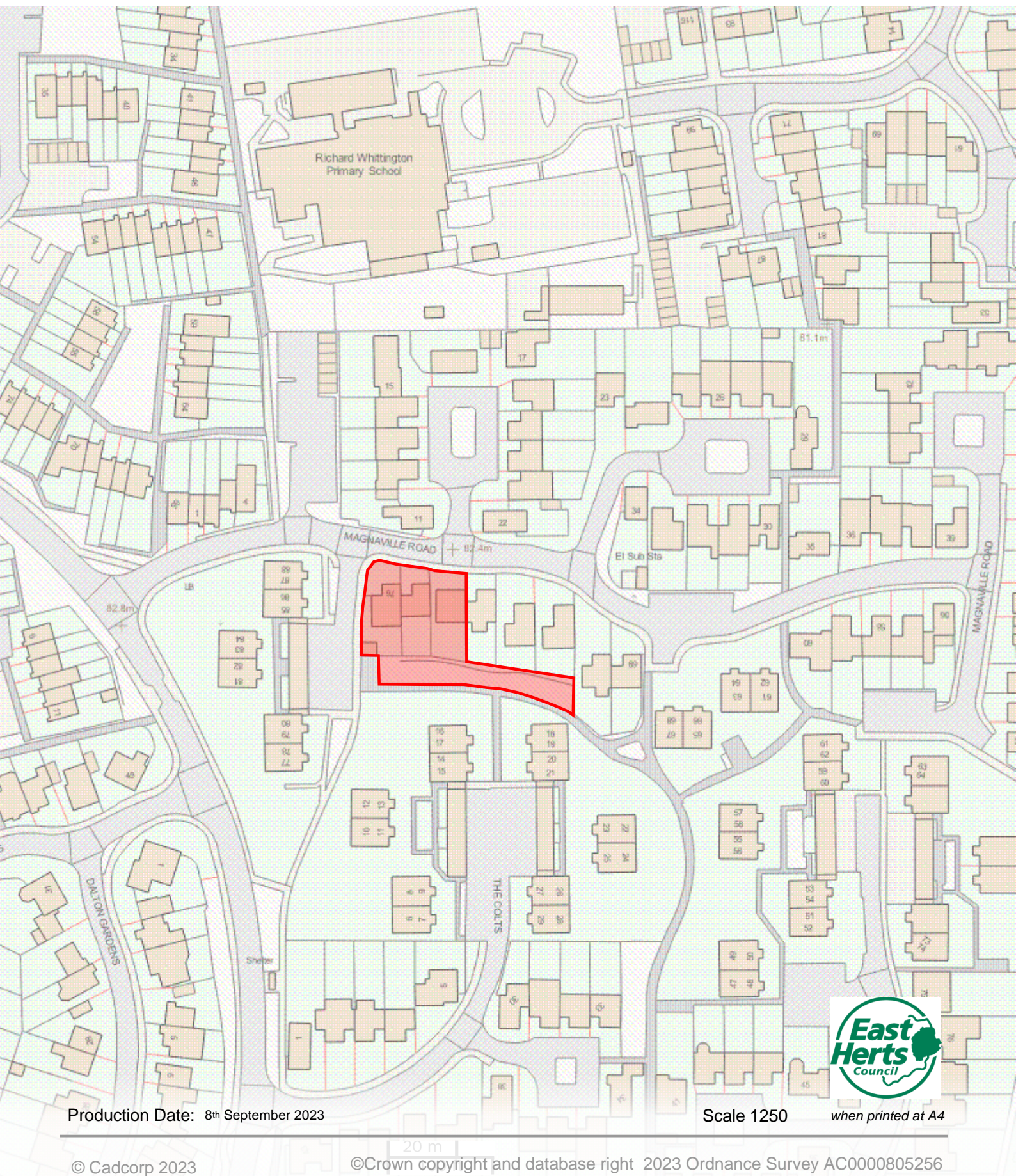
- 10.2 Insufficient information has been submitted to demonstrate that the proposed development would retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value or avoid the fragmentation of green infrastructure within the built environment or that appropriate compensatory landscaping could be provided. The proposal would therefore fail to accord with Policies HOU12, DES3 and NE4 of the District Plan 2018 and Policy GIP5 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley.
- 10.3 Overall, on the balance of considerations, the proposed development would not accord with the Development Plan when taken as a whole and the NPPF (2021 and 2023).

## **RECOMMENDATION**

That planning permission be **REFUSED** for the following reason:

The proposed development would result in the enclosure and consequent loss of an area of open amenity space, which would have a detrimental impact on the character and appearance of the street scene and wider area. The proposal fails to demonstrate that the development would retain, protect or enhance biodiversity and green infrastructure. The proposal would thereby be contrary to Policies DES3, DES4, NE4 and HOU12 of the East Herts District Plan 2018 and Policy GIP5 of the Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley (First Revision), and the National Planning Policy Framework (July 2021 and September 2023).





Production Date: 8th September 2023

Scale 1250

when printed at A4

3/23/0775/FUL: Land To The Rear Of 74, 75 And 76 Magnaville Road, Bishops Stortford, CM23 4DW  
Scale 1:1250



## DEVELOPMENT MANAGEMENT COMMITTEE – 20 SEPTEMBER 2023

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/23/0440/FUL  |
| <b>Proposal</b>           | Reconfiguration of ground floor to provide 1 Class E (Commercial, Business and Service Uses) unit, change of use of first floor from Class E use to 8 studios and 1 one bedroom and 1 two bedroom self-contained flats, and associated external alterations, Creation of an additional second floor to create 2 studios, 6 one bedroom and 1 two bedroom self-contained flats, reconfiguration of car parking and provision of cycle parking, and other ancillary works. |
| <b>Location</b>           | 55 - 61 South Street and 2-4 Station Road, Bishop's Stortford, CM23 3AL  |
| <b>Parish</b>             | Bishops Stortford Town Council   |
| <b>Ward</b>               | Bishops Stortford Central  |

|  |                            |
|--|----------------------------|
| <b>Date of Registration of Application</b> | 8 <sup>th</sup> March 2023 |
| <b>Target Determination Date</b>           | 7 <sup>th</sup> June 2023  |
| <b>Reason for Committee Report</b>         | Major and S106             |
| <b>Case Officer</b>                        | Diane Verona               |

### **RECOMMENDATION**

That planning permission is **GRANTED**, subject the conditions set out at the end of this report and subject to a S106 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.

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

- 1.1 This is a full planning application which seeks planning permission for the reconfiguration of ground floor to provide 1 Class E (Commercial, Business and Service Uses) unit, change of use of first

floor from Class E use to 8 studios and 1 one bedroom and 1 two bedroom self-contained flats, and associated external alterations, Creation of an additional second floor to create 2 studios, 6 one bedroom and 1 two bedroom self-contained flats, reconfiguration of car parking and provision of cycle parking, and other ancillary works.

1.2 The main considerations in the determination of the application are:

- Whether the proposed uses are acceptable principle.
- Whether the proposed development is acceptable within a Conservation Area.
- Whether there is adequate provision of affordable housing.
- Whether the proposed development will provide satisfactory arrangements for pedestrian and vehicular 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 and provide a sufficient level of amenity for future occupiers.
- 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, and the National Planning Policy Framework 2021.

## **2.0 Site Description**

- 2.1 The application site lies within the Town Centre and Primary Shopping Area of Bishop's Stortford, on the corner of South Street and Station Road. The site otherwise lies on a Secondary Shopping Frontage, within the Bishop's Stortford Conservation Area, and in an Area of Archaeological Significance. Furthermore, the site partially lies within Flood Zone 2
- 2.2 The building is in a prominent position, but currently does not contribute to the appearance of the surrounding area, being somewhat tired and dated in appearance, with painted brick facades at first floor, and a mismatch of shop fronts on the ground floor. The building currently provides Class E(a) and E(b) uses (formerly A1 and A3 uses).
- 2.3 The application site also falls within the Bishop Stortford All Saints, Central, South and part of the Thorley Neighbourhood Plan
- 2.4 It is noted that this application follows a refusal under reference 3/21/2418/FUL for the following reasons:
- 1 The design, scale, bulk and massing of the proposal would have an adverse effect on the character and appearance of the Bishop Stortford Conservation Area contrary to policies HA1 and HA4 of the East Herts District Plan 2018.
  - 2 Insufficient information has been provided to illustrate that the proposed development would enhance biodiversity and create opportunities for wildlife, through the submission of an up-to-date ecological survey, contrary to Policy NE3 of the East Herts District Plan 2018.
  - 3 Insufficient information has been provided to demonstrate how the proposed development would mitigate and/or adapt to climate change contrary to Policies CC1 and CC2 of the East Herts District Plan 2018.

- 4 The scheme fails to provide a mix of sizes of units to support the provision of a mixed and balanced community and is therefore contrary to policy HOU1 of the East Herts District Plan 2018
- 5 In the absence of a legal agreement in regard to the provision of Planning Obligations the proposal is contrary to policy HOU3 of the East Herts District Plan 2018
- 6 The layout of first floor units Nos. 05, 06, 07 and 08 and units 08 and 09 on the second floor would result in a restricted internal floorspace. Second floor units 08 and 09 face directly onto the shared internal courtyard which would result in loss of both outlook and privacy. As such, the proposal is contrary to policy DES4.

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

| Application Number | Proposal   | Decision                              |
|--------------------|--|---------------------------------------|
| 3/19/0742/FUL      | Retention of Class A1 unit (part ground and first floors), reconfiguration and change of use to create 2 no. units with flexible permission for Classes A1/A2/A3 (part ground floor) and 1 no. unit with flexible permission for Classes B1/D1/D2 uses (part ground and first floors) and associated external alterations. Construction of a second floor to create 1 no. 2-bedroom and 8 no. 1-bedroom self-contained flats, reconfiguration of car parking and provision of cycle parking, and other ancillary works | Granted with conditions<br>28.08.2019 |

|               |   |                                       |
|---------------|---|---------------------------------------|
| 3/19/2422/FUL | Change of use of 2no. class A1 units (both at part ground and part first floor levels) and 2no. class A3 units (one at part ground and one at part first floor level) to class B1 (offices) with associated external alterations; creation of second floor for class B1 (offices), together with roof terrace and plant, reconfiguration of existing car parking and provision of cycle parking and other ancillary works                               | Granted with Conditions<br>29.01.2020 |
| 3/21/2418/FUL | Reconfiguration of ground floor to provide 1 Class E (Commercial, Business and Service Uses) unit. Change of use of first floor from Class E use to Class C3 for 10 studios and 1no. 1-bedroom self-contained flat and associated external alterations. Addition of a second floor to create 2 studios, 5no. 1-bedroom and 2no. 2-bedroom self-contained flats. Reconfiguration of car parking and provision of cycle parking and other ancillary works | Refused<br>09.12.2022                 |

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

- 4.1 The main policy issues relate to the relevant planning policies in the East Herts District Plan 2018 and the National Planning Policy Framework 2021 (NPPF) as set out below.

| Main Issue               | NPPF                   | East Herts District Plan                      |
|--------------------------|------------------------|---|
| Principle of Development | Chapter 2, 4, 6, 7, 11 | INT1, DPS1, DPS2, DEL1, DES1, ED1, RTC1, RTC3 |

|  |                       |   |
|--|-----------------------|---|
| Layout, Scale, Appearance, Landscaping | Chapter 8, 11, 12, 15 | DES1, DES3, DES4, DES5, NE3, HA1, HA4, HOU1, HOU7 |
| Highway Impacts                        | Chapter 9             | TRA1, TRA2, TRA3,                                 |
| Impact on Amenity                      | Chapter 4, 12         | DES2, DES3, DES4, EQ1, EQ2, EQ3, EQ4              |
| Energy, Sustainability and Drainage    | Chapter 14            | CC1, CC2, WAT5, WAT6                              |

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 and informatives.
- 5.2 EHDC Environmental Health (Noise):
- 5.3 EHDC Environmental Health (Air and Land): No objection subject to conditions
- 5.4 Thames Water: No objection, subject to conditions and informatives to address surface water disposal.
- 5.5 HCC Growth and Infrastructure: has advised that they will be seeking non – transport financial contributions as shown in Section 10 of this report
- 5.6 HCC Highway Authority: No objection, subject to conditions and informatives
- 5.7 HCC Lead Local Flood Authority: No objection subject to conditions.
- 5.8 EHDC Archaeology: No objection as in this instance it is considered that the development is unlikely to have a significant impact on



heritage assets of archaeological interest, and I have no comment to make upon the proposal.

5.9 Waste and Recycling No objection subject to conditions

5.10 HCC Minerals and Waste: No objection subject to conditions

5.11 EHDC Landscape: Further information required however, this could be secured by condition

5.12 HCC Ecology: No objection subject to conditions

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

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

6.1 The Committee object to the application as it is detrimental to the street scene and unduly prominent. It also contravenes HA1 and HA4 of the District Plan.

## **7.0 Summary of Other Representations**

7.1 85 neighbouring properties have been consulted by letter. The application has been publicised by site notice and press advert. 2 letters have been received in response: 2 objecting.

7.2 The 2 letters of objection raised the following issues:

- It is detrimental to the street scene. Pavements are narrow, it is too high and will create too much traffic not just in construction but afterwards on a corner where there are multi-set traffic lights.
- It is unduly prominent and far too high to be in keeping with the market Town aesthetic that it sits amongst
- It contravenes policies HA1 and HA4 of the District Plan

- The town has created an over-supply of flats many of which remain mid-construction or empty. E.G., at the train station, on Hadham Road. Creating more is very bad planning. In addition, what is the quality of the studios and who are they for? They should be of a good standard and they are too small to be so. We are already seeing an increase in Anti-social behaviour and low level crime which has coincided with the mass building developments, and we have the YMCA at the other end of town which has permanent detritus, broken windows and a smell of weed (I walk past it every day on the school run.) We should not replicate this at the other end of town,
- There is already substantial expansion in this area of similar properties by the station and within the town as a whole. The infrastructure around this property is poor, the pavements are narrow and busy which will add to the hazards already having to be negotiated whilst out and about, to pass someone on the street you frequently have to walk into the road to allow enough considerate space to walk by. Vehicles arriving and leaving this property will add to these hazards and create dangerous access problems. There are problems with water pressure in this area, additional dwellings will add to the complications this is causing. This proposal will therefore add stress to an already fragile infrastructure.
- The creation of an additional second floor is not necessary and is not designed as in keeping with the historic market town. The elevation of this second floor will be intrusive and overlook my property and will take away the uninterrupted light I have. My privacy will also be taken away.
- I brought my property as a quiet retirement home, not a home in which I will feel intimidated in by the 2nd floor glaring into my property, nor a home where I want to hear the noise of and see the disruption of building work being carried out.

## 8.0 **Consideration of Issues**

### Principle

- 8.1 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 sites within the urban areas of Bishop's Stortford, Buntingford, Hertford, Sawbridgeworth and Ware. As this is a site in Bishop's Stortford and in a sustainable location within the Town Centre, the principle of the development accords with policy DPS2.
- 8.2 The application site lies within the built-up area of Bishop's Stortford, whereby in principle, there is no objection to development. The Vision and Strategic Objectives within the District Plan support the provision of retail and other main town centre uses within the Primary Shopping Area of Bishop's Stortford, whilst Secondary Shopping Frontages should seek to retain main town centre uses or those which will support the vitality and viability of the frontage or town centre as a whole. The provision of C3 Residential uses which are considered to be a main town centre use together with the provision of a unit within Use Class E within the Secondary Shopping Frontage is considered to be acceptable. As such the proposal accords with Policies RTC1 and RTC3
- 8.3 As such the principle of development is acceptable provided that the proposal accords with all other relevant policies. Consequently, further consideration will be given to the effect on the Bishops Stortford Conservation Area, the amenities of neighbouring properties, future occupiers, the provision of parking and any other highway considerations, with reference to Policies DES4, HA1, HA4, TRA1, TRA2 and TRA3.
- 8.4 A recent appeal decision concluded that the Council cannot currently demonstrate a five year supply of deliverable housing sites. The consequence of not having a 5YHLS is that the 'tilted balance' is engaged in the decision-making process. The tilted

balance refers to paragraph 11(d) of the NPPF which states that if the most relevant Local Plan policies for determining a planning application are out of date (such as when a 5YHLS cannot be demonstrated), the application should be approved unless the application of NPPF policies that protect areas or assets of particular importance (as defined by the NPPF) provide a clear reason for refusing permission or the harm caused by the application significantly and demonstrably outweigh its benefits, when assessed against policies of the NPPF as a whole. In this context, the policies considered to be out of date include in particular those relating to the development strategy and delivery of housing which are referred to in this report.

### Housing Mix and Affordable Housing

- 8.5 Policy HOU1 sets out the Council's approach to housing mix and policy HOU3 sets out its approach to affordable housing. They state, in summary, that proposals should provide a mix of sizes of units to support the provision of mixed and balanced communities, and that affordable housing should be provided on "major" schemes (those over 10 units), unless a viability assessment indicates that the scheme cannot support this provision.
- 8.6 As such, and as set out in the submitted FVA, local character is a key consideration as it must not be the Plan's intention that each development contains the full range of housing types specified in the SHMA – the overall housing mix policy is expected to be delivered through a higher proportion of smaller units in urban centre developments and larger homes where these are appropriate to the local character and where the market expects them to be.
- 8.7 A total of 19 residential units are proposed; the breakdown of which is outlined below:

100% Market housing

| Type         | Number | %<br>Provided |
|--------------|--------|---------------|
| One bed flat | 7      | 36.84         |
| Two bed flat | 2      | 10.53         |
| Studio       | 10     | 52.63         |
| Total        | 19     |               |

- 8.8 19 flats are proposed with a range of dwelling sizes from studio to 1 and 2 bedroom units. This is considered to be an appropriate mix for a scheme of this nature.
- 8.9 The 2015 expectation is that the East Hertfordshire District has a need for 1,520 market flats to be delivered over a 22-year period between 2011 and 2033, of which 47% are to be 1-bedroom units and 53% 2 bedrooms or more.
- 8.10 These are expected to be delivered in locations that suit the type and size, as confirmed in paragraph 5.94 of the SHMA (2015), which states: "Of course, the spatial distribution of housing provision will be determined through the planning process, which will also consider the most appropriate location for market and affordable housing, and the type and size of properties to be provided in different areas."
- 8.11 The proposal provides no affordable housing and a Financial Viability Assessment has been provided which sets out the expected costs and revenues to the scheme and justifies the nil provision.
- 8.12 The provision of affordable housing in an important policy requirement and an element of the "planning balance" which needs to be arrived at on schemes. The District has a significant waiting list of people needing accommodation and schemes should be making their contribution to them. The District Plan was adopted following a rigorous assessment of affordable housing need and whether the policies contained in the plan were appropriate to ensure that this could be met, without bringing the overall delivery of the plan in to question or stymieing growth and development. The Plan was therefore adopted, with a requirement for 40% affordable housing

on major sites, but with an acknowledgement that some sites may not be able to meet this and so in those instances a viability assessment could be provided.

- 8.13 Officers consider that it is a reasonable position that this scheme provides no affordable housing. The proposal is extensively a conversion and reconfiguration of an existing building, which has significant additional costs associated with it, whilst in some cases units would attract a sub-optimal market value due to their arrangements and need to preserve the existing fabric. The new build elements of the scheme on the additional second floor would not have these constraints, but the project needs to be considered as a whole from a viability perspective and some issues, such as more complex construction on a tight site, apply to both elements of the scheme.
- 8.14 In assessing the overall viability of the scheme, regard needs to be had to the financial contributions which the scheme will require, which are in the order of approximately £98,000 (and are detailed at the end of the report). Officers, therefore, are satisfied that the scheme cannot support the provision of affordable housing.
- 8.15 Consideration has been given to whether an “upwards only” financial review mechanism (where the viability of the scheme is re-assessed prior to commencement of development) should be used. This mechanism would allow for the viability to be re-tested when the scheme is commenced and affordable housing secured at a later date if the scheme can support it then. A pre-commencement review mechanism is included in the recommendation.

#### Design layout, heritage, character and appearance

- 8.16 Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 places a statutory duty on the Council to give special regard to the desirability of preserving Listed buildings, their settings and historic interest. Section 72 places a similar duty to have special regard to the desirability of preserving or enhancing the character of a Conservation Area. 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.

- 8.5 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.
- 8.6 Policy HA4 of the District Plan advises that new development, extensions and alterations to existing buildings in Conservation Areas will be permitted provided that they preserve or enhance the special interest, character and appearance of the area. Development proposals outside a Conservation Area which affect its setting will be considered likewise.
- 8.7 The proposed development comprises the refurbishment of the existing facades, and a vertical extension to the building to provide an additional (new second) floor. The site lies on a prominent location on the corner of South Street and Station Road. However, it is noted that there are other three and four storey properties along South Street and Station Road, including Bridge House opposite the site on South Street, Archer Place and 45-47a South Street. Riverside Wharf, which lies some 35 metres to the east on the opposite side of Station Road measures approx. 20 metres in height and includes 5.5 storey elements. As such, the addition of a further storey will not be out of keeping with the surrounding area. Furthermore, on the South Street elevation and angled elevation on the corner, the second floor is proposed to be stepped back, which will reduce the prominence of the proposal where the views are most readily available in the high street.
- 8.8 The Council's Conservation and Urban Design officer requested a number of amendments to the original scheme which have now been addressed and the appropriate changes made.
- 8.9 Revised plans have been submitted which include further justification for the lack of a step-back on the second floor of the Station Road façade. The consultant engineer confirmed that the extension proposals will have to be supported on the existing

structural grid of columns that form the principal frame to the existing building. Whilst the existing structural grid of columns is set back into the building on the South Street elevation, it is within the side elevation on Station Road. Therefore, on this side the consultant engineer states in their view that the second-floor elevation will need to be on the line of the existing ground floor elevation

- 8.10 The structural constraints will result in a less successful frontage on Station Road however, it is deemed that the articulation of the design and materials on the second floor will help to mitigate the solidity of the form to an acceptable level.
- 8.11 As requested by the C and UD team, the corner windows to the first and second floor have been amended, the spacing of first floor windows on the Station Road elevation have been revisited and the blocked window at ground floor level on the eastern elevation has been reopened. The fenestration is now satisfactory.
- 8.12 Details and specification of all external materials can be submitted for approval by condition, as requested by the applicant. Opportunities to unify the appearance of the three levels of the façades should be sought through the specification of materials. For instance, the proposed bricks for the second floor should closely match the existing ground floor brickwork and matching finishes should be chosen for different metal elements such as shopfronts, windows and balustrades. In addition, the design of the exposed channel above the first and second floor should be coordinated in terms of height, materials or finishes.
- 8.13 The photovoltaic panels proposed at roof level should be hidden from view within the conservation area behind the proposed parapet. Detailed information on the layout of the proposed panels including sections and elevation showing their height in relation to the parapet should be provided for approval by condition.



## **Transport considerations**

- 9.4 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.
- 9.5 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.
- 9.6 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.
- 9.7 The site is located in the town centre of Bishop's Stortford and currently comprises a 2 storey commercial premises providing retail and commercial floorspace over ground and first floor levels. It is served by an existing shared access from Station Road. The applicant has indicated that there are no changes to the existing access, and they are proposing parking for staff only for the commercial land use. They have stated that there will be no access for large service vehicles to the site and refuse collection will be from Station Road as existing. There is a slight concern however about access for smaller service vehicle such as supermarket delivery vans at circa 6.5m in length. The access is gated, and there are 'no-waiting' restrictions outside the site.
- 9.8 This proposal has been considered and it is acknowledged that the site is in a sustainable location well served by public transport and pedestrian footways. The applicant has proposed 24 cycle spaces indicated on drawing ref: PL0009 and this is acceptable. There are double yellow lines on the surrounding public highway and a bus

stop outside of the site. Due to the site being in the town centre which comprises a heavily trafficked area as well as being used by pedestrians for accessing the town centre, the Highway Authority has recommended a condition and highway informatives in the interest of highway safety and to minimise the impact of construction vehicles on the surrounding public highway.

#### Neighbour amenity

- 9.9 There are a number of properties which lie adjacent to the site or share a boundary with the existing building. However, due to the layout of the surrounding area and buildings, and the uses of the surrounding buildings, it is not considered that the proposed development would result in unacceptable harm to any neighbouring properties in terms of loss of light, any overbearing impact, or a loss of privacy or similar. As such, the proposal accords with DES4 in this regard.

#### Amenity of future occupiers

- 9.10 Various policies in the District Plan require that a satisfactory living environment is provided for future occupiers. Policy DES4 requires that schemes are well designed and meet the needs of future occupiers and policies EQ1 and 2 require that land contamination and noise pollution is acceptable.
- 9.11 On the first floor the 8 no. studio flats range between 37.5 and 48.6 sqm, the 1 no. 1B2P is 51 sqm and the 1 no. 2B3P apartment is 68.3 sqm. On the second floor the 2 no. studios are between 37 and 42.5 sqm. The 6 no. 1B2P apartments between 53 and 61 sqm and the 1 no. 2B3P apartment is 61.4 sqm.
- 9.12 The government has published, through its Technical Housing Standards, the “Nationally Described Space Standards” which set out internal space requirements for new residential units. The following table sets out an assessment against these:

| Unit         | Size   | NDSS Requirement     | Proposed Floorspace | Conversion/ New Build |
|--------------|--------|----------------------|---------------------|-----------------------|
| First Floor  |        |                      |                     |                       |
| 1            | Studio | 37*/39m <sup>2</sup> | 40.5m <sup>2</sup>  | Conversion            |
| 2            | Studio | 37*/39m <sup>2</sup> | 37.7m <sup>2</sup>  | Conversion            |
| 3            | 1B2P   | 51m <sup>2</sup>     | 51m <sup>2</sup>    | Conversion            |
| 4            | Studio | 37*/39m <sup>2</sup> | 38m <sup>2</sup>    | Conversion            |
| 5            | Studio | 37*/39m <sup>2</sup> | 48.6m <sup>2</sup>  | Conversion            |
| 6            | Studio | 37*/39m <sup>2</sup> | 45.4m <sup>2</sup>  | Conversion            |
| 7            | 2B3P   | 61m <sup>2</sup>     | 68.3m <sup>2</sup>  | Conversion            |
| 8            | Studio | 37*/39m <sup>2</sup> | 37.1m <sup>2</sup>  | Conversion            |
| 9            | Studio | 37*/39m <sup>2</sup> | 38.1m <sup>2</sup>  | Conversion            |
| 10           | Studio | 37*/39m <sup>2</sup> | 37.5m <sup>2</sup>  | Conversion            |
| Second Floor |        |                      |                     |                       |
| 1            | Studio | 37*/39m <sup>2</sup> | 42.5m <sup>2</sup>  | New Build             |
| 2            | Studio | 37*/39m <sup>2</sup> | 37m <sup>2</sup>    | New Build             |
| 3            | 2B3P   | 61m <sup>2</sup>     | 61.4m <sup>2</sup>  | New Build             |
| 4            | 1B2P   | 51m <sup>2</sup>     | 56.3m <sup>2</sup>  | New Build             |
| 5            | 1B2P   | 51m <sup>2</sup>     | 53m <sup>2</sup>    | New Build             |
| 6            | 1B2P   | 51m <sup>2</sup>     | 55m <sup>2</sup>    | New Build             |
| 7            | 1B2P   | 51m <sup>2</sup>     | 61m <sup>2</sup>    | New Build             |
| 8            | 1B2P   | 51m <sup>2</sup>     | 59.7m <sup>2</sup>  | New Build             |
| 9            | 1B2P   | 51m <sup>2</sup>     | 61m <sup>2</sup>    | New Build             |

\* Where a 1b1p (Studio) has a shower room instead of a bathroom, the floor area may be reduced from 39m<sup>2</sup> to 37m<sup>2</sup>, as shown bracketed

- 9.13 As can be seen, the majority of units meet and, in some instances, comfortably exceed the minimum required floorspace. On balance this is considered acceptable.
- 9.14 Beyond the proposed floor areas, all units are provided with acceptable light and outlook, with habitable rooms facing towards the north, east or west. The converted buildings on the first floor face onto the communal amenity area
- 9.15 Units 1, 2 and 3 of the new build on the second floor are provided with private amenity areas on the west elevation in the form of

balconies. All the new build flat face onto an internal courtyard which will be the shared amenity space.

- 9.16 A condition will be imposed to ensure that the new residential units comply with the building Regulations requirement M4 (2): category 2 – Accessible and Adaptable Dwellings. Similarly, a condition is recommended relating to land contamination based on advice from Environmental Health.

#### Flood risk and drainage

- 9.17 The application site lies within Flood Zone 2. The proposed commercial uses are considered “less vulnerable” in flooding terms and residential uses “more vulnerable”. These uses are considered acceptable in these flood zones where supported by a Flood Risk Assessment (FRA) which demonstrates that a development can be made safe. Measures in the submitted FRA are acceptable in principle, subject to conditions to secure the detail.
- 9.18 Based on the Flood Risk Assessment and Design and Access Statement submitted with the application, the proposed conversion will not require any external changes as the building roof area will not increase. Recognising the above, it is understood that there will be no new impermeable drained areas proposed as part of the proposed development, nor changes to the existing surface water drainage system. Therefore, proposals are unlikely to impact the flood risk and drainage. It is recommended that it be considered if there could be an inclusion of rainwater reuse (or harvesting in the building) and/or a green roof as would be beneficial to the overall long term sustainable use of water and flood resilience of the building.
- 9.19 In this regard, subject to the conditions suggested by the Lead Flood Authority, the proposal would not conflict with the NPPF or Policies WAT1 and WAT5 of the East Herts District Plan 2018

## Landscaping

- 9.20 The Planning Statement says that the rear courtyard will be repaved and resurfaced with 9 parking spaces reinstated and to include new landscaping around the new parking courtyard together with the provision of 24 cycle parking spaces.

The proposed Site/Roof Plan Drwg PL008 shows an indicative layout but no meaningful hard or soft landscape details neither does DrwgPL009 REV A.

Consequently, it is recommended that a suitable hard and soft landscape condition be attached to any grant of planning permission and this to be discharged prior to commencement of the construction phase.

## Ecology and Biodiversity

- 9.21 A Preliminary Ecological Assessment (PEA) and Preliminary Roost Assessment together with a Biodiversity Net Gain Assessment (BNG) were submitted with the application both prepared by Arbtech Consulting Ltd, both dated 13th January 2023.
- 9.22 The PEA shows that there are no suitable places for roosting bats within the site or any habitat for other protected species.
- 9.23 The BNG concludes that the baseline value of the site is 0 units comprising developed land: sealed surface and a very small area of bramble scrub. The post development habitat value of the site is 0.05 units comprising the retained building and car park and the creation of mixed shrub planting. The results in a net change in biodiversity of 286% which is a significant gain.
- 9.24 The site is a modern, flat roofed building surrounded by roads and car park hardstanding in the middle of Bishops Stortford. It has no ecological interest.

There is an insignificant likelihood of bats, although some similar buildings can provide opportunities in certain situations.

The Preliminary Ecological Appraisal found no habitats or features of importance. One boundary has scattered bramble. The PEA also includes a Preliminary Roost Assessment of the main Building B1 which was assessed as being of negligible value, which officers have no reason to doubt. Two bat boxes are recommended, although the site does not offer any foraging opportunities and the location is unlikely to attract bats. However, the River Stort corridor is quite close to the east and such features could be of potential value if otherwise absent from this highly urbanised area.

The PEA concludes that there are no existing nesting opportunities for birds, although bird boxes are recommended.

A Biodiversity Net Gain of 288% has been calculated, which is welcomed. This is consistent with Policies NE1, NE2 and NE3. This is significant BNG but has to be seen in the context of the site – which is currently is effectively devoid of any habitat other than bare concrete. When BNG is a legal requirement, the full metric spreadsheet must be submitted to enable proper scrutiny of the assessments.

Despite the comprehensive lack of ecological interest, the applicant is commended in seeking to enhance the site's ecological value. A landscaping scheme will be needed as a condition of approval to demonstrate how the BNG is to be provided on site. There are no ecological constraints and the application can be determined accordingly.

- 9.25 Subject to the above it is considered that the development complies with Policy NE3 of the District Plan.

### Air Quality

- 9.26 Policy EQ4 requires that all developments include measures to minimise air quality impact with reference to the design, construction and operation of developments.
- 9.27 The Council's Environmental Health officer has assessed the proposal and is satisfied with the conclusions of the odour assessment provided. Whilst it is likely some odour will be experienced this will be of a level in keeping with the nature of the area and not assessed to be at such a level as to be deemed a statutory nuisance.

### Climate Change and sustainability

- 9.28 Paragraph 154 of the NPPF and Policy CC1 of the District Plan requires that development proposals introduce measures that address climate change.
- 9.29 Policy CC2 of the District Plan states that all new developments should demonstrate how carbon dioxide emissions will be minimised across the development site, taking account of all levels of the energy hierarchy. Achieving standards above and beyond the requirements of Building Regulations is encouraged.
- 9.30 Carbon reduction should be met on-site unless it can be demonstrated that this is not feasible or viable. In such cases effective offsetting measures to reduce on-site carbon emissions will be accepted as allowable solutions.
- 9.31 The energy embodied in construction materials should be reduced through re-use and recycling, where possible, of existing materials and the use of sustainable materials and local sourcing.
- 9.32 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.

- 9.33 The application has been submitted together with a Sustainable Construction, Energy and Water Statement outlines how the proposed development seeks to achieve a CO2 emission reduction target of 52% using SAP12 carbon factors when compared to Building Regulations compliant building. These are the standards that are set out in the District Plan which generally seek to achieve standards above the Building Control Regulations. Various other sustainability measures are outlined above in other sections within the Statement on flood risk, air quality, trees and ecology.
- 9.34 In conclusion, it is considered that, subject to a condition to secure the measures proposed, the proposal is in accordance with Policies CC1 and CC2 of the East Herts Local District Plan 2018.

#### Response to third party comments

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

### **10.0 Legal Agreement**

- 10.1 The following planning obligations are sought to support/mitigate the impacts of the development proposed:
- “Upward only” financial review mechanism to secure an analysis of scheme viability near to commencement of development so as secure affordable housing (or contribution in lieu of affordable housing) should the scheme’s viability improve.
  - Monitoring Fees – HCC will charge monitoring fees. These will be based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340 (adjusted for inflation against RPI 1Q2021). For further information on monitoring fees please see section 5.5 of the Guide to Developer Infrastructure Contributions.
  - Primary Education towards the delivery of a new primary school in the area and/or provision serving the development (£42,275



(which includes land costs of £841) index linked to BCIS 1Q2022).

- Secondary Education towards the expansion of Bishop's Stortford High School and the Hertfordshire and Essex High School and/or provision serving the development (£37,385 index linked to BCIS 1Q2022).
- Special Educational Needs and Disabilities (SEND) towards the delivery of new Severe Learning Difficulty (SLD) special school places (EAST) and/or provision serving the development (£4,944 index linked to BCIS 1Q2022).
- Library Service towards the delivery of a new centre at Bishop's Stortford and/or provision serving the development (£3,623 index linked to BCIS 1Q2022).
- Youth Service towards increasing the capacity of Bishop's Stortford Young People's Centre and/or provision serving the development (£433 index linked to BCIS 1Q2022).
- Waste Service towards Bishop's Stortford Recycling Centre and/or provision serving the development (£278 index linked to BCIS 1Q2022).
- Waste Service Transfer Station towards the new Eastern Transfer Station and/or provision serving the development (£2,003 index linked to BCIS 3Q2022).
- Fire and Rescue Service towards new fire station provision at Bishop's Stortford or provision serving the development (£7,231 index linked to BCIS 1Q2022).
- Allotments - £2,363
- Bowls - £3,218
- Children's Play and Provision for Young People - £28,691

- Fitness Gyms - £3,399
- Natural and Semi Natural Green Space - £5,545
- Outdoor Tennis - £2,205
- Parks and Gardens and Amenity Green Space - £13,172
- Sports Halls - £7,649
- Studio Space – £1,404
- Swimming Pool - £7,821
- Village and Community Centres - £9,258

## **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 proposed scheme has been fully assessed in relation to its impact on heritage assets and the Council's Conservation officer has concluded that proposal will improve the appearance of the existing vacant building.
- 11.3 The proposal will result in the provision of an additional 19 residential units within an area assigned for residential development, as well as appropriate ground floor uses. The lack of provision of affordable housing is acceptable in this case and outweighed by the scheme bringing back in to use the existing building.

- 11.4 The proposed use will result in an increase in vehicle numbers and movements at the site however, the number of designated vehicle parking spaces will be reserved for the staff of the ground floor commercial unit only. The vehicular movements at and around the site has been assessed and it is considered that it will not adversely affect the free flow of traffic.
- 11.5 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.
- 11.6 Overall, on the balance of considerations the scheme is considered to be of good design quality and a sustainable form of development.

## **12.0 Recommendation**

- 12.1 That planning permission is **GRANTED** subject to the satisfactory completion of a legal agreement and the conditions set out at the end of this report.
- 12.2 That delegated authority is granted to the Head of Planning and Building Control to finalise the Legal Agreement and conditions.

## **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. Prior to any above ground construction works being commenced, details of the layout of the proposed photovoltaic panels, including sections and elevation showing their height in relation to the parapet, shall be submitted to and approved in writing by the Local Planning Authority, and 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

4. No development shall commence until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority, including elements of the CLOCS standards as set out in the Highway Authority's Construction Management template. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Management Plan / Statement shall include details of:
  - a/. photographic condition survey of public carriageways, verges and footways in the vicinity of the site,
  - b/. routing of construction vehicles to/from the site,
  - c/. access arrangements to the site (inclusive of signage),
  - d/. programme of works (Work programme and/or timescale for each phase of construction works),
  - e/. the estimated number, type and routing of construction vehicle per day/week;
  - f/. traffic management requirements (including details of any vehicle holding area, details of the vehicle call up procedure),
  - g/. construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas),
  - h/. siting and details of wheel washing facilities, cleaning of site entrances, site tracks and the adjacent public highway,

- i/. timing of construction activities (including delivery times and removal of waste) and to network peak times,
- j/. provision of sufficient contractors, staff and visitors on-site parking prior to commencement of construction activities,
- k/. details of measures to protect pedestrians and other highway users from construction activities on the highway,
- l/. coordination with other development projects in the vicinity,
- m/. details of measures and training to reduce the danger posed to cyclists by HGVs, including membership of the Freight Operators Recognition Scheme or an approved equivalent,
- n/. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements. The applicant is advised to use HCC's Construction Management Plan template, which can be tailored to the scale of the development can be found here: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

5. No development shall commence until a Parking, Delivery, Servicing and Emergency Vehicle Management Plan has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, to illustrate how vehicle and cycle parking, servicing, deliveries, and emergency vehicle access associated with the development will be operated and managed. The Plan must be implemented and adhered to in full thereafter.

Reason: To ensure all vehicles accessing and using the site do so safely and conveniently, causing no conflict with other vehicles or site users.

6. No development shall take place until a Site Waste Management Plan (SWMP) for the site has been submitted to the Local Planning Authority and approved in consultation with the Waste Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.

Reason: This is a pre-commencement condition to promote sustainable development and to ensure measures are in place to minimise waste generation and maximise the on-site and off-site reuse and recycling of waste materials, in accordance with Policy 12 of the Hertfordshire Waste Core Strategy and Development Management Policies Development Plan Document (2012).

7. Prior to the commencement of development, full details of the on-site storage facilities for waste including waste for recycling shall be submitted to and approved in writing by the local planning authority. Such details shall identify the specific positions of where wheeled bins, will be stationed and walk distances for residents including the specific arrangements to enable collection from the kerbside of the adopted highway/ refuse collection vehicle access point or within 10m. The approved facilities shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residents/occupiers and in the interests of visual amenity.

8. Any gas-fired boiler shall meet a minimum standard of <40 mgNO<sub>x</sub>/kWh

Reason: In order to ensure an adequate level of air quality for residents of the new dwellings in accordance with policy EQ4 Air

Quality of the adopted East Herts District Plan 2018 and in line with the East Herts Sustainability SPD and IAQM Guidance 2017

9. In connection with all site preparation, demolition, construction, conversion 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.

10. Best Practicable Means (BPM) shall be used in controlling dust emissions during all site preparation, demolition, construction and ancillary activities.

Reason: In order to ensure an adequate level of amenity for nearby residents in accordance with Policy EQ4 Air Quality of the adopted East Herts District Plan 2018.

11. The development shall be undertaken in accordance with two documents. Firstly, the Flood Risk Assessment, prepared by Cole Easdon, ref SST/csp/8267ehdc, dated 19 January 2023. Secondly the Agent Response to LLFA, prepared by Cole Easdon, subject ref 55 - 61 South Street And 2-4 Station Road - 3/23/0440/FUL (8267), dated 31 May 2023. Unless otherwise submitted and approved in writing with the Local Planning Authority. The works shall be fully implemented in accordance with the approved scheme before the development is brought into use, or as set out in the approved phasing details.

Reason: To prevent flooding in accordance with National Planning Policy Framework paragraph 167, 169 and 174 by ensuring the satisfactory management of local sources of flooding surface water flow paths, storage and disposal of surface water from the site in a range of rainfall events and ensuring the SuDS proposed operates

as designed for the lifetime of the development.

12. Upon completion of the drainage works for the site in accordance with the timing/phasing arrangements, the following must be submitted to and approved in writing by the Local Planning Authority prior to first occupation:
  1. Provision of a verification report (appended with substantiating evidence demonstrating the approved construction details and specification have been implemented in accordance with the drainage scheme). The verification report shall include photographs of excavations and soil profiles/horizons, installation of any surface water structure (during construction and final make up) and the control mechanism.
  2. Provision of a complete set of as built drawings for site drainage.
  3. A final management and maintenance plan for the drainage network, including a drawing which identifies each feature to be made available to any parties responsible for maintenance.
  4. Arrangements for adoption and any other measurements to secure the operation of the scheme throughout its lifetime including name and contact details of any appointed management company and confirmation they have accepted the scheme.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. In accordance with section 21 of the Flood and Water Management Act 2010 and Policy WAT5 Sustainable Drainage of the East Herts District Plan, 2018.

13. All waste materials and rubbish associated with demolition and / or construction shall be contained on site in appropriate containers which, when full, should be promptly removed to a licensed disposal site.



Reason: In order to ensure an adequate level of amenity for nearby residents in accordance with Policy EQ4 Air Quality of the adopted East Herts District Plan 2018

14. Prior to the commencement of the development hereby approved, a finalised Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, and the plan shall include the following:
- a) The demolition and 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 site security, lighting and hoarding
  - f) Management of traffic to reduce congestion and protect pedestrians
  - 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.

All works shall be carried out in accordance with the approved

CEMP thereafter.

Reason: In the interests of avoiding potential detrimental impacts on the amenity of occupiers of neighbouring properties in accordance with Policy DES4 Design of Development, Policy EQ2 Noise Pollution and Policy EQ4 Air Quality of the adopted East Herts District Plan 2018.

15. 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 9/19 'Domestic exterior lighting: getting it right!'. Lighting should be minimised 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.

16. The ground floor area shown on the approved drawings as being for commercial use shall only be used within Use Class E(c) and Use Class E(g)(i).

Reason: In the interests of residential amenity and the vitality of the Town Centre.

17. Prior to the commencement of relevant works, the external materials of construction for the development hereby permitted 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.and good design in accordance with Policy DES4 of the East Herts District Plan 2018.

18. 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 including trees, planting plans, schedules of plants including replacement trees, 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.

19. Prior to the erection of any above ground superstructure, details of the 4 habitat boxes/structures to be installed shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the unit they are to be installed on (or the nearest proposed unit) and maintained throughout the lifetime of the development, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To improve the biodiversity value of the site and surrounding environment, in accordance with policy NE3 of the East Herts District Plan 2018.

20. Prior to the erection of any above ground superstructure a full metric to demonstrate Biodiversity Net Gain shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be maintained throughout the lifetime of the development, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To improve the biodiversity value of the site and surrounding environment, in accordance with policy NE3 of the East Herts District Plan 2018.

## Plans

| Plan Ref | Version | Received                     |
|----------|---------|------------------------------|
| PL017    |         | 8 <sup>th</sup> March 2023   |
| PL013    |         | 8 <sup>th</sup> March 2023   |
| PL012    |         | 8 <sup>th</sup> March 2023   |
| PL006    |         | 8 <sup>th</sup> March 2023   |
| PL005    |         | 8 <sup>th</sup> March 2023   |
| PL004    |         | 8 <sup>th</sup> March 2023   |
| PL003    |         | 8 <sup>th</sup> March 2023   |
| PL001    | Rev A   | 10 <sup>th</sup> August 2023 |
| PL016    |         | 8 <sup>th</sup> March 2023   |
| PL009    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL010    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL011    | Rev B   | 10 <sup>th</sup> August 2023 |
| PL014    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL015    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL007    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL018    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL020    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL021    | Rev A   | 27 <sup>th</sup> April 2023  |
| PL022    | Rev A   | 27 <sup>th</sup> April 2023  |

## Informatives

1. Other legislation (01OL1)
2. Construction Standards

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 all highway works. The construction of highway 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

3. 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:

<http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

4. Parking and storage of materials

The applicant is advised that all areas for parking, storage, and delivery of materials associated with the construction of this development should be provided within the site and the use of such areas must not interfere with the use of 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> or by telephoning 0300 1234047

5. 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 website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

6. Section 106 Planning Obligations

Planning permission to be granted subject to the applicant entering into a Section 106 agreement to secure monies to support/mitigate the impacts of the development proposed as shown and listed in Section 10 of this report.

7. Electric Vehicle Charging Points

Electric vehicle charging point specification for domestic installations cable and circuitry ratings should be of an adequate size to ensure a minimum continuous current demand for the vehicle of 16A and a maximum demand of 32A (which is recommended for Eco Developments).

- o A separate dedicated circuit protected by an RCBO should be provided from the main distribution board, to a suitably enclosed termination point within a garage, or an accessible enclosed termination point future connection to an external charging point.
- o The electrical circuit shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practise on Electric Vehicle Charging Equipment Installation 2012 ISBN 978-1-84919-515-7.

Additional guidance on charge point installation is available from the Office for Zero Emission Vehicles at <https://www.gov.uk/government/organisations/office-for-zero-emission-vehicles>.

8. Noise and Vibration Control

During any site preparation, demolition and construction phase the guidance in BS 5228-1:2009+A1:2014 'Code of practice for noise and vibration control on construction and open sites' should be adhered to.

**Summary of Reasons for Decision**

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

## KEY DATA

### Residential Development

| Residential density      | 92 habitable rooms/Ha (Low) |                 |
|--------------------------|-----------------------------|-----------------|
|                          | Bedrooms                    | Number of units |
| Number of existing units | 0                           | 0               |
| Number of new flat units | 1                           | 17              |
|                          | 2                           | 2               |
|                          |                             |                 |
| Total                    |                             | 19              |

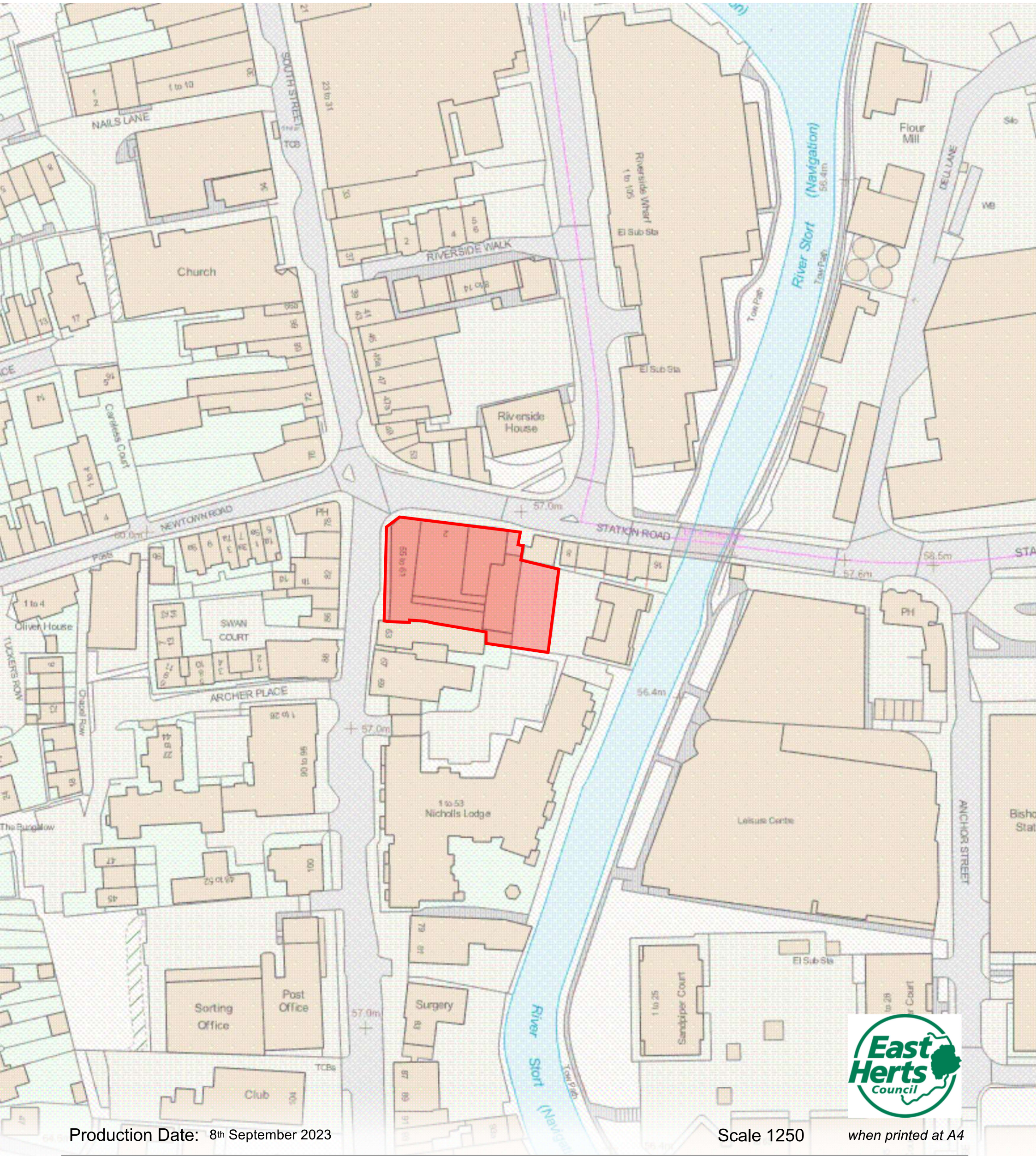
### Housing Tenures

| Private | Affordable Rent | Intermediate | Notes |
|---------|-----------------|--------------|-------|
| 19      | 0               | 0            | N/A   |

### 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.





3/23/0440/FUL: 55 - 61 South Street And 2-4 Station Road , Bishops Stortford, CM23 3AL  
Scale 1:1250



# Agenda Item 6

## EAST HERFORDS COUNCIL DEVELOPMENT MANAGEMENT COMMITTEE ITEMS FOR REPORT AND NOTING

July - August 2023

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/20/2139/FUL  |
| <b>Decsn</b>              | Non Determination  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | Plot 64 Land Opposite Mill ViewHare StreetBuntingford SG9 0DX  |
| <b>Appellant</b>          | Mr Simon Doherty   |
| <b>Proposal</b>           | 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. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/21/0435/HH  |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | 52 Tamworth RoadHertford SG13 7DN   |
| <b>Appellant</b>          | Mr And Mrs Drewery  |
| <b>Proposal</b>           | Single storey side extensions; part single part two storey rear extension including roof lights and solar panels. |
| <b>Appeal Decision</b>    | Withdrawn   |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/21/1326/FUL  |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | Elbow Lane FarmElbow LaneHertford HeathHertford SG13 7QA   |
| <b>Appellant</b>          | Mr Teresa Walker   |
| <b>Proposal</b>           | Demolition of stable block and partial demolition of equestrian block and the development of the remaining equestrian block to include 4 x 4 bedroomed and 4 x 3 bedroomed dwellings, including associated site landscaping. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/21/1834/ODPN  |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Collier HouseMead LaneHertford SG13 7AX   |
| <b>Appellant</b>          | Mr Richard Mordain  |
| <b>Proposal</b>           | Change of use from office use (Class B1(a)) to residential use (Class C3) to create 10 one bedroom flats and 7 two bedroom flats. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/21/2694/HH                                    |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated                                       |
| <b>Address</b>            | KeepersHigh WychSawbridgeworth CM21 0LA         |
| <b>Appellant</b>          | Mr M Waterson                                   |
| <b>Proposal</b>           | First floor side extension (part retrospective) |
| <b>Appeal Decision</b>    | Allowed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/21/2871/FUL   |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Land Adj Borley Green BarnConduit LaneBrent PelhamBuntingford SG9 0AJ |
| <b>Appellant</b>          | Mr M Benjamin   |
| <b>Proposal</b>           | Erection of 1, 4 bedroomed dwelling                                   |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/21/3006/FUL   |
| <b>Decsn</b>              | Non Determination   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Collier HouseMead LaneHertford SG13 7AX   |
| <b>Appellant</b>          | Mr Richard Mordain  |
| <b>Proposal</b>           | Erection of access ramp and stairs to create accessible route to widened tow path (1.8 metres) and external alterations to conservatory and window openings |
| <b>Appeal Decision</b>    | Allowed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/0786/FUL   |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | How Green Farm Baldock RoadBuntingford SG9 9RH  |
| <b>Appellant</b>          | Seamus Deegan   |
| <b>Proposal</b>           | Retention of conversion of workshop to 1 detached house, raising the roof height to create first floor accommodation, Two storey side extension, single storey rear extension, 4 front dormers, 4 rear dormers and alterations to fenestration. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/0862/HH   |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | 62 Warwick RoadBishops Stortford CM23 5NW  |
| <b>Appellant</b>          | Mr Roger Hawkins   |
| <b>Proposal</b>           | First floor rear extension, re-roofing of existing house, 1 new first floor side window. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/1193/FUL  |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | Rear Of Fryars Farm CottageFryars LaneHigh WychSawbridgeworth CM21 0LB   |
| <b>Appellant</b>          | Mr Simon Thake   |
| <b>Proposal</b>           | Change of use of agricultural/forestry stores, workshops and maintenance building to create residential dwelling. Works to include the erection of a single storey lean-to extension and chimney. Erection of garage and entrance gates, erection of solar panels, and external alterations to windows and doors with the insertion of rooflights and insertion of air source heat pump. Landscaping and associated works. |
| <b>Appeal Decision</b>    | Allowed  |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/1349/FUL  |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | Land At Gilston LaneGilston Park Gilston   |
| <b>Appellant</b>          | Mr James O'Driscoll  |
| <b>Proposal</b>           | Construction of stables and associated use of land for equestrian use with associated hard standing, parking and creation of access. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/1385/TEL  |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | Stansted Road Street WorksStansted RoadBishops Stortford CM23 2FP                                    |
| <b>Appellant</b>          | CK Hutchison Networks (UK) Ltd   |
| <b>Proposal</b>           | Proposed 5G telecoms installation: a new 15 metre H3G street pole and additional equipment cabinets. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/1433/FUL   |
| <b>Decsn</b>              | Non Determination   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Highfield NurseryWellpond GreenStandon SG11 1NL   |
| <b>Appellant</b>          | Mr Barry Pestell  |
| <b>Proposal</b>           | Demolition of agricultural building and erection of one four bedroom single storey detached dwelling. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/1488/FUL   |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | 167 Ware RoadHertford SG13 7EQ  |
| <b>Appellant</b>          | Mr D Karia  |
| <b>Proposal</b>           | Removal of garage. Construction of 2 one bedroom dwellings with private amenity space, bin storage, bicycle parking, off-street car parking, landscaping and new access onto Cromwell Road. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |               |
|---------------------------|---------------|
| <b>Application Number</b> | 3/22/1513/TEL |
| <b>Decsn</b>              | Refused       |
| <b>Level of Decision</b>  | Delegated     |

|                        |   |
|------------------------|---|
| <b>Address</b>         | Land Adjacent To The A 1184London RoadSpellbrookBishops Stortford CM23 4AU  |
| <b>Appellant</b>       | CK Hutchison Networks (UK) Ltd  |
| <b>Proposal</b>        | Installation of a new monopole 15 metre in height together with 3 equipment cabinets at the base of the column and ancillary development. |
| <b>Appeal Decision</b> | Dismissed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/1540/TEL   |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Great Hadham RoadBishops Stortford CM23 4NB   |
| <b>Appellant</b>          | Thomas Gallivan   |
| <b>Proposal</b>           | Proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/1562/HH   |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | 8 Glebe ViewWalkernStevenage SG2 7PQ   |
| <b>Appellant</b>          | Mr. Anthony John Packer  |
| <b>Proposal</b>           | Single storey rear extension and partial garage conversion to create self-contained attached annex. Replace 1 garage door with 2 new single front doors. |
| <b>Appeal Decision</b>    | Dismissed  |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/1849/HH  |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | High TreesGreat HorneadBuntingford SG9 0NR  |
| <b>Appellant</b>          | Ms Kathryn Stacey   |
| <b>Proposal</b>           | Construction of single storey side extension with a first floor balcony above behind tiled mansard roof, single storey glazed front porch extension, two storey side/rear/front extension incorporating enlargement of first floor front and side windows |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/2102/HH   |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | 7 Cozens RoadWare SG12 7HH   |
| <b>Appellant</b>          | Mr John and Katrina Willicombe   |
| <b>Proposal</b>           | Erection of two storey side, rear and front extension. Installation of rear ground floor door, erection of front porch and alterations to fenestration |
| <b>Appeal Decision</b>    | Allowed  |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/2341/HH  |
| <b>Decsn</b>              | Refused   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | LongacreHigh Elms LaneBeningtonStevenage SG2 7DG  |
| <b>Appellant</b>          | Mr Nick Dobie   |
| <b>Proposal</b>           | Demolition and reconstruction of roof. Erection of single storey side and rear extension. Installation of loft conversion incorporating 6 dormer windows. Alterations to external fenestration. |
| <b>Appeal Decision</b>    | Dismissed   |

|                           |   |
|---------------------------|---|
| <b>Application Number</b> | 3/22/2346/FUL   |
| <b>Decsn</b>              | Non Determination   |
| <b>Level of Decision</b>  | Delegated   |
| <b>Address</b>            | Land At Railway StreetHertford SG14 1BU   |
| <b>Appellant</b>          |   |
| <b>Proposal</b>           | Erection of 34 1 and 2 bed Retirement Living apartments including communal facilities, access, car parking and landscaping and 203 sqm of retail/commercial use (Class E) |
| <b>Appeal Decision</b>    | Allowed   |

|                           |  |
|---------------------------|--|
| <b>Application Number</b> | 3/22/2544/HH   |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | 17 ChadwellWare SG12 9JY   |
| <b>Appellant</b>          | Mr M And Mrs D Kendall   |
| <b>Proposal</b>           | First floor rear/side extension with the rear flat roof dormer extended sideways. Pitched roof front dormer extended forward. Cropped hip side roof reformed as gable end. |

|                           |  |
|---------------------------|--|
| <b>Appeal Decision</b>    | Allowed  |
| <b>Application Number</b> | 3/23/0079/HH   |
| <b>Decsn</b>              | Refused  |
| <b>Level of Decision</b>  | Delegated  |
| <b>Address</b>            | 5 North Road GardensHertford SG14 1NH  |
| <b>Appellant</b>          | Mr & Mrs T & H Barnes  |
| <b>Proposal</b>           | Proposed single storey rear extension and first floor rear extension incorporating a rear facing Juliet balcony, part single storey part two storey front extension, existing roof removed and re-pitched with proposed office/study in roof space and 3 roof light windows to rear. New first floor side window, alterations to fenestration, replace all windows with proposed powder coated aluminium framed windows, alterations to external materials to include vertical cedar cladding. |
| <b>Appeal Decision</b>    | Allowed  |

#### Background Papers

Correspondence at Essential Reference Paper 'A'

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



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## Appeal Decision

Site visit made on 17 November 2022

**by Frances Mahoney MRTPI IHBC**

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

**Decision date: 27<sup>th</sup> July 2023**

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**Appeal Ref: APP/J1915/W/21/3279181**

**Plot 64, Land opposite Mill View, Hare Street, Buntingford SG9 0DX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr Simon Doherty against East Herts Council.
  - The application Ref 3/20/2139/FUL, dated 31 October 2020.
  - The development proposed is the change of use of land to Gypsy and Traveller residential with the siting of four caravans of which no more than two would be static caravans, part retrospective.
- 

### Decision

1. The appeal is dismissed, and planning permission refused.

### Preliminary matters

2. This appeal began its progress through the appeal process identified as requiring to be heard by means of a Hearing. This was at the request of the Appellant.
3. The Hearing was booked to sit for two days on the 16 and 17 November 2022. However, as of the 30 September 2022 the Appellant's appointed agent withdrew his support for the Appellant and his case, and informed the case officer that he would take no further part in the proceedings<sup>1</sup>.
4. Efforts were made to contact the Appellant over the intervening period<sup>2</sup>. However, the only contact details available to either the Planning Inspectorate or the Council was the address of the appeal site. A number of letters were sent<sup>3</sup> in attempts to engage with the Appellant as to how he wished to proceed<sup>4</sup>. However, no response was received.
5. The Council also visited the appeal site to ascertain whether the Appellant was in residence. This proved not to be the case and the mobile home and touring caravan which were stationed close to the appeal site and were thought to have been occupied by the Appellant earlier in the year<sup>5</sup>, were damaged with

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<sup>1</sup> However, the Statement of Case and accompanying documents submitted with the Planning Appeal Form was not withdrawn by the Appellant's appointed agent and so remained as evidence to support the appeal.

<sup>2</sup> End of September to the date of the opening of the Hearing (16 November 2022).

<sup>3</sup> Some registered delivery some hand delivered to the static caravan.

<sup>4</sup> Further documents submitted by the Council prior to the Hearing were also sent to the Appellant at the address of the appeal site.

<sup>5</sup> Observations of the Council's Officers on previous visits to the site.

- windows smashed, furniture in disarray and were left open to the elements, with no sign of occupancy being evident<sup>6</sup>.
6. Without any pre-Hearing instruction from the Appellant the Hearing went ahead and opened on the 16 November 2022. The Appellant did not attend<sup>7</sup> nor did any appointed representative for him. As a result, the Hearing was adjourned to make further attempts to contact the Appellant.
  7. The appeal site visit, however, did go ahead on the 17 November 2022.
  8. Subsequently over the next few months both the Council and the Planning Inspectorate went to considerable trouble to seek to make contact with the Appellant<sup>8</sup>. This was to no avail. Comments were received from a family member, but these were not authorised by the Appellant as being pertinent to his case. These have, therefore, been considered on the basis of interested party comments.
  9. Without any contact from the Appellant since his agent stepped back in September 2022, I considered that to maintain an open, impartial, fair and transparent environment for the consideration of this appeal, it was not possible to proceed with the appeal as a Hearing. However, with the Appellant's statement of case being the main body of evidence in support of the proposal, I have considered the appeal on the basis of the written representations submitted.
  10. It has been noted that the description of development expressed on the planning application form<sup>9</sup> differs from that on the appeal form<sup>10</sup>. Block Plan SD02v5 sets out the proposed layout for the appeal site and it shows the siting of a single static home, the stationing of four touring caravans, a shed and three parking spaces, along with the location and pipework run for a package treatment works to deal with foul waste. This plan has been agreed as the relevant plan in respect of the planning application which the Council considered. I consider the description of development expressed on the appeal form describes the layout of the site as shown on the agreed Block Plan. I shall proceed to consider the appeal accordingly.
  11. Within the written cases I have been referred to the existing layout and condition of the appeal site. The initial description of the change of use suggests it would be part retrospective. At the site visit I observed that the existing static caravan along with the tourer were not laid out in accordance with the submitted agreed Block Plan. It also became apparent on closer inspection that these caravans were not standing on Plot 64 but on an adjacent plot (number unknown). Plot 64 was able to be identified through the location of the identified trees on the Block Plan. Therefore, it is clear that no part of the proposed change of use is retrospective and that any existing caravans are located outside of the appeal site<sup>11</sup>.

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<sup>6</sup> Site was unkempt and overgrown.

<sup>7</sup> Nor make any contact.

<sup>8</sup> Letters to the appeal site were observed to either remain in the letter box or were returned by the Post Office as undeliverable. The site was also visited by Council Officers to check if the Appellant had returned to the site.

<sup>9</sup> As set out in the relevant bullet point above.

<sup>10</sup> 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.

<sup>11</sup> This is confirmed in paragraph 3.19 of the Appellant's statement of case.

12. In addition, the proposed drainage scheme as shown on Dwg no SD09V4 shows connections from the static caravan and one of the touring caravans and the shed to be connected to a package treatment works. The discharging pipework is proposed to be laid under the existing access road and the treatment works would be installed on land to the south-east of Plot 64. Notice was served on the owner of the plot across the access track<sup>12</sup>.
13. This is an appeal against the failure of the Council to give notice within the prescribed period of a decision. The Council's statement of case sets out that the following matters would have formed the basis of putative reasons for refusal:
- Harm highway safety with specific regard to inadequate visibility splays;
  - Unsustainable location of Gypsy and Traveller site;
  - Harm to character and appearance of the area and local landscape;
  - Harm to biodiversity; and
  - Risk of Flooding.

### **Background**

14. There is no issue taken that the status of the Appellant is anything other than a Gypsy<sup>13</sup>. From the evidence before me I see no reason to disagree.
15. The appeal site lies in open countryside outside of the village of Hare Street. It forms part of a predominantly wooded piece of land between the B1368 and the River Quin<sup>14</sup>. There are two points of vehicular access into the woodland. The appeal site is proposed to be accessed from the southern most access point along an unmade track which meanders towards the appeal site, which is set some 200 metres from the main road.
16. This wooded, overgrown land, at some point, has been divided into individual plots. These are owned by individuals, some owning a number of plots. This was certainly the case as of September 1976<sup>15</sup>. From the site visit it is apparent that much of the land is overgrown and wooded. However, some plots are still discernible due to fencing and there is evidence of old sheds and other structures which would seem to indicate that, at some time some plots were likely used for informal, occasional occupation for recreation/leisure and camping. There was virtually no evidence of any recent use or occupation. The state of the access tracks, both north and south, were such that vehicular access would be restricted by reasons of the poor condition of the unconsolidated surface, including deep potholes susceptible to holding water in wet conditions, particularly the access track to the south<sup>16</sup>.
17. In May 1976 the Council served an Article 4 direction appertaining to the wider wooded area, including the appeal site, restricting the erection or construction of gates, fences, walls or other means of enclosure. This has the effect of

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<sup>12</sup> The drainage field.

<sup>13</sup> Accord with the definition as set out in Annex 1 of the Planning policy for traveller sites (PPTS).

<sup>14</sup> Approximately 7 hectares – Appellant's figure – uncontested.

<sup>15</sup> Conveyance dated 27 September 1976 shows land divided into plots.

<sup>16</sup> The Appellant and his brother-in-law have owned Plot 64 since February 2003. This brings with it a right of way over the access track from the B1368.



preventing the establishment of the subdivision of the woodland into discernible individual plots.

18. The Appellant's static caravan was the only evidence of previous residential use that I observed at my site visit, although the caravan was never connected to mains electricity or a formalised drainage system. In general, the plotlands appeared abandoned, but interested parties have indicated that it is used by dog walkers and local residents, although it is unclear whether public access to this wooded area is authorised<sup>17</sup>.
19. The Appellant and his family have over the years camped at the plotland site with both tents and touring caravans, but they were permanently based in Wood Green, North London on a Council Gypsy and Traveller site. The family made the move to Hare Street as their pitch at Wood Green was small and they felt unsafe in an environment of increasing urban offence. The move was made to the appeal site in November 2018 when the threatening atmosphere towards some family members at the Wood Green site increased markedly. For much of 2019 the family travelled but returned to settle in June 2019 as the children were offered places at the local school.
20. In October 2019 the Council served an uncontested 'status quo' injunction on the Appellant which, they contend, had the effect of making it impossible for the family to live on the land and forced them into homelessness<sup>18</sup>.
21. The planning application the subject of this appeal was submitted in November 2020<sup>19</sup>. Following some exchanges with the Council and apparent unexplained delays the Appellant submitted his appeal in July 2021 for non-determination.

## **Planning Policy**

22. The Development Plan includes the relevant policies of the East Herts District Plan 2018 (LP) and the Buntingford Community Area Neighbourhood Plan.

## **Matters for consideration**

### *Highways*

23. The concerns raised relate to the impact of vehicles accessing the appeal site entering and exiting the plotland via the southern access. As already described the access track is currently unsuitable for vehicles to manoeuvre along its length and considerable work would need to be undertaken to consolidate and level the surface and make it passable in all weathers.
24. The access itself is similarly poorly surfaced with a locked barrier preventing access into the plotland.
25. The B1368 is a secondary distributor road where a speed limit of 60mph is relevant in the vicinity of the access point. The access point would require considerable improvements including widening and consolidated surfacing for 5.1 metres back from the carriageway. However, at present the access can only demonstrate substandard visibility in both directions, which the Highway Authority consider would give rise to harmful conditions to other road users. As I observed at the site visit, vehicles emerging onto the main road would be

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<sup>17</sup> Public footpath Hormead 002 runs alongside the River Quin outside of the wooded plotland area.

<sup>18</sup> Appellant's statement of case paragraph 3.12.

<sup>19</sup> A previous application 3/19/2256/FUL was withdrawn.

doing so into potentially fast-moving traffic and would not be readily seen resulting in considerable harm to the safety of highway users.

26. The Highway Authority require visibility splays of 2.4 x 150 metres to the north of the access and 2.4 x 160 metres to the south. This would need considerable removal of frontage hedgerows and tree growth, particularly to the south. In addition, to the north the visibility splay would cross over to the opposite side of the road leaving much of the highway in this direction behind the visibility splay. The tree and hedgerow removal may be possible within the highway verge, but this is unclear and may involve vegetation removal on land not in the control of the Appellant. The Highway Authority has not given consent to remove the vegetation.
27. Therefore, the appeal proposal, in respect of the use and alterations to the existing access to Plot 64 to accommodate the vehicle movements resultant from the proposed change of use, would not provide a safe and suitable access, and would have an unacceptable impact on highway safety, visibility being limited and substandard at the access point<sup>20</sup>. The identified unacceptable impact on highway safety is ascribed substantial weight in the balance of this decision.

#### *Sustainability of the location*

28. PPTS does not preclude the location of Gypsy and Traveller sites within rural areas but does set out at paragraph 25 that sites should be strictly limited in open countryside that is away from existing settlements or outside areas allocated in the development plan. So, the question is whether the appeal site is 'away' from existing settlements.
29. LP Policy GBR2 follows the terms of the PPTS acknowledging that sites in rural areas beyond the Green Belt may in principle be acceptable. This is subject to compliance with the criteria set out in LP Policies HOU9 and HOU10. LP Policies HOU9 requires that sites must be in sustainable locations in terms of accessibility to existing local services. LP Policy TRA1 also requires development to be located which enables sustainable journeys to be made.
30. The appeal site lies outside of the village of Hare Street<sup>21</sup>. There is some 600 metres to the main built environment of the village. There are limited services in the village with no school, shop or doctors. The nearest school is 1.5 kilometres from the site and the nearest shops are in Buntingford 3 kilometres away. The nearest bus stop is within the village itself some 750 metres away, but the service is limited.
31. There is no pedestrian footpath in either direction on either side of the road from the appeal site access. It would be necessary to either walk in the road or cross over and climb a small bank to find a safe walking refuge. Walking with a buggy/young children or children on their own in an area where speeds of traffic could be up to 60 mph would be dangerous and would dissuade walking into Hare Street.

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<sup>20</sup> Contrary to LP Policies HOU9, TRA2 and the National Planning Policy Framework (the Framework) paragraph 111.

<sup>21</sup> LP Group 2 village – infill development may be allowed subject to it relating well to the village in terms of location, layout and connectivity, not detract from the openness of the countryside and not add to an isolated group of buildings.

32. Therefore, I am led to the conclusion that the appeal site is 'away' from the nearest settlement and that a private motor vehicle would be the predominant means of transport for the residents of the appeal site. However, I have no doubt it would equally apply to the settled community in the immediate vicinity, including those living in Hare Street itself.
33. Travel distances to services are moderate and no different for those in the traveller community to those in the settled community. Nonetheless, there is a qualified tension with the terms of LP Policies HOU9 and TRA1, along with paragraph 105 of the Framework. That notwithstanding, for the reasons set out above, I ascribe only limited weight to that policy conflict.

### *Character and appearance*

34. LP Policy GBR2 sets out that the rural area beyond the Green Belt is a valued countryside resource and that accommodation for Gypsies and Travellers will be permitted providing that it is compatible with the character and appearance of the rural area, the occupation and use of the site not causing undue harm to the visual amenity and character of the area, and it should be capable of assimilation into the surrounding landscape without significant adverse effect<sup>22</sup>.
35. The Framework at paragraph 174 identifies that decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside<sup>23</sup>.
36. The appeal site is located in policy terms in the rural area beyond the Green Belt and within the landscape character area 145 Quin Valley<sup>24</sup>.
37. It is not part of the Council's case that the appeal site lies within a valued landscape in the terms of paragraph 174 a) of the Framework. However, it is noted that the rural area beyond the Green Belt is highly valued by District residents and visitors, particularly for its open and largely undeveloped nature.
38. The appeal site lies in close proximity to the River Quin at the bottom of a shallow valley with sloping sides. The surroundings are, in the main, open arable farmland, including some intervening hedgerows which are generally low, with limited pockets of woodland, neither of which, as landscape features, interfere with the extensive views across and along the valley which are achievable both from high points as well as from the bottom of the valley, amongst other viewpoints.
39. The rural natural environment of the immediate environs of the appeal site is read in the landscape as part of the wider countryside, even given its proximity to the village of Hare Street and the sporadic homes and buildings along the B1368.
40. Plot 64 is located on a cleared section of a small, wooded area some distance from the main road and the village. The boundary to the River includes an unkempt hedgerow which is not continuous with some areas of sparse growth.
41. From public footpath Hormead 002 running along the river side, Plot 64 would be seen. At the site visit the existing static caravan on the adjacent land to

<sup>22</sup> LP Policy HOU9. LP Policies DES2, 3 & 4 all follow on in a similar vein of conserving, enhancing or improving upon the character and distinctive features of the surrounding landscape.

<sup>23</sup> The protective element in this Framework policy is reflected further in PPTS paragraph 4 k.

<sup>24</sup> Herts Landscape Character Assessment DPD 2007.

Plot 64 was clearly visible particularly being an unexpected urban feature in an essentially unspoilt rural landscape. This is similarly true when the appeal site is viewed from Anderson's Lane which runs along a high point of the valley at a distance to the east. The proposed single static and four touring caravans, along with the shed, parking for three vehicles, hard surfacing of the plot and other associated domestic paraphernalia and activities, set at a low point in the valley within an environment of cleared land, juxtaposed with the remaining wooded plotland and the open surrounding arable land, would be prominent and alien features which would jar against the pleasant open rural landscape, which, whilst unremarkable, has a character of its own which contributes to the wider countryside of the District.

42. At the site visit it was plain that Plot 64 was not visible from the B1368, there being a thick hedge and trees along the frontage to both the north and south of the access. This hedge, including mature trees, stretches back into the plotland area.
43. However, as explained above in relation to the provision of the required visibility splays for the altered and improved access to serve the appeal proposal, a considerable part of the frontage hedge would need to be removed, particularly to the south of the access. This would result in the area, including Plot 64, being opened to view from the main road and the urbanising domestic character and appearance of Plot 64, once occupied, being visually apparent much as it would be when viewed from the east.
44. In addition, the making up and widening of the access and its hard surfacing, along with the relaying of the track to give ready vehicle access to Plot 64, would also impact on the undeveloped character and appearance of this section of the main road as well as that of the plotland itself.
45. I appreciate there may be some existing structures within the plotland already, but as I saw for myself these are mainly dilapidated small sheds and shelters, predominantly in the wooded area. There was little evidence of consistent and recent use of other plots.
46. The loss of the frontage hedge and trees along this part of the B1368 would also affect the character and appearance of this rural route, diminishing its verdant appearance as it enters the built-up area of Hare Street.
47. Therefore, for the above reasons I consider that the appeal proposal would not conserve, improve or enhance the natural and local environment, the intrinsic character and beauty of the countryside being unacceptably eroded. Thereby the terms of the relevant development plan policies, set out above, would be compromised, the character and quality of the landscape being unsatisfactorily undermined. This policy conflict and impact on character and appearance are ascribed substantial weight in the balance of this decision.

#### *Impact on biodiversity*

48. A Preliminary Ecological report (PER) was submitted, although this post-dates the clearance of Plot 64 and its immediate environs. There has been no suggestion that permission from the Council was required to remove trees, bushes and undergrowth. The question of whether the Appellant had the permission of the owners of the adjacent land to carry out such clearance is a civil matter.

49. However, the PER was undertaken outside of the optimal months and has not evidenced any net gains in respect of biodiversity enhancements. This is a matter which could be dealt with by the imposition of a condition requiring a further survey report to be undertaken and mitigating/enhancement measures identified where necessary.
50. However, the proposed necessary removal of the native hedgerow on the frontage with the B1368 to provide visibility splays, is extensive and is likely to result in significant harm to biodiversity. There is limited land in the ownership of the Appellant to undertake likely mitigating measures for such a loss.
51. In my view, in these circumstances of uncertainty in relation to impacts, it is reasonable to conclude that there would be significant harm to biodiversity resulting from the change of use of Plot 64 and the need to alter and expand the access and visibility splays onto the main road. It is difficult to see how adequate mitigation would be provided in the gift of the Appellant. In these circumstances the Framework at paragraph 180 indicates planning permission should be refused<sup>25</sup>. I give this conflict with national guidance significant weight<sup>26</sup>.

### *Flooding*

52. The Environment Agency Flood Map for Planning dated 15 January 2020 shows a very small part of Plot 64 being within Flood Zone 2. This does not include any part of the site upon which caravans are proposed to be stationed. The majority of the area of Plot 64 is within Flood Zone 1. In such areas a site-specific flood risk assessment is not required. However, where a more vulnerable use on land that may be subject to other sources of flooding, such as the River Quin or surface water, an assessment should accompany the planning application<sup>27</sup>. No such assessment was submitted.
53. Therefore, on the evidence before me I cannot be sure that the proposal would not be affected by the environmental hazard of flooding, increasing the risk to people on site which may affect future residents' health or welfare<sup>28</sup>. It may be that once an appropriate assessment was completed flooding may not prove a barrier to the proposed change of use, but until such time I give the lack of clarity in this regard considerable weight.

### **Other considerations**

#### *General need for and provision of sites*

54. The Government's overarching aim is to ensure fair and equal treatment for Travellers, in a way that facilitates the traditional and nomadic way of life of Travellers while respecting the interests of the settled community<sup>29</sup>. National policy recognises that there is a need to increase the number of Traveller sites in appropriate locations with planning permission, to address under provision and maintain an appropriate level of supply. The PPTS sets out how Gypsy and Traveller accommodation needs should be assessed.

<sup>25</sup> The terms of the Framework are reflected in LP Policies NE2 and NE3.

<sup>26</sup> I have considered the possibility that compensation could be paid as a last resort for the impact on biodiversity. However, this has not been offered by the Appellant and I give this little weight.

<sup>27</sup> Framework footnote 55.

<sup>28</sup> Contrary to LP Policies HOU9 and WAT1.

<sup>29</sup> Paragraph 3 of the PPTS.

55. Prior to the opening of the Hearing the Council updated their statement of case identifying that in May 2022 a final version of the East Herts Gypsies and Travellers and Travelling Show People Accommodation Needs Assessment was published. This updated the earlier version of May 2016.
56. It identifies an increased need for pitches from that in the 2016 version. For the five-year period 2022/23 to 2026/27 there is a shortfall of 31 pitches for Gypsy and Travellers. Over the whole assessment period 2022/23 to 2036/37 the overall need raises to 43 pitches. The needs of the Appellant and his family were factored into the survey work underpinning the assessment.
57. Clearly there is a pressing need for appropriate pitches within the District, and if considered appropriate, Plot 64 would make a contribution to the woeful shortfall in available pitches in the District. The Council acknowledge that it is currently unable to demonstrate a five-year supply of pitches to match identified need<sup>30</sup>. This factor weighs significantly in favour of the proposal.

#### *Alternatives*

58. No alternative suitable Gypsy sites were promoted by the Council as being available to accommodate the Appellant and his family.
59. However, whilst at some point in late 2018 the Appellant and his family were living on the land adjacent to Plot 64, by mid-2022<sup>31</sup> they were gone with the static caravan and one touring caravan being in an uninhabitable condition. The site appeared to have been abandoned for some time<sup>32</sup>.

#### *Personal circumstances*

60. At the time the planning application was submitted the Appellant's family consisted of Mr and Mrs Doherty, 8 children of which 3 are over 18 years of age, 3 would be of secondary school age and 2 of primary school age<sup>33</sup>.
61. 2 family members have health problems, but these were being treated by medical intervention.
62. At the time that the initial evidence for the appeal was produced 2 of the children were in local primary school education, 1 at a local nursery and 1 at the local middle school.
63. At some time in 2022, I understand, the family had fragmented with the Appellant no longer residing with his family. Clearly the family circumstances have changed. I have no information about where the Appellant is resident having had no contact from him in nearly a year. I understand some of the family are staying with relatives, but with the static caravan previously occupied by the family being in an uninhabitable state, without basic services/facilities on the appeal site, and the access track being almost impassable, a return is not an option.
64. The children are no longer attending the local schools<sup>34</sup> and I have no information whether they are now back in education. Living at a settled base,

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<sup>30</sup> Council's letter dated 27 October 2022.

<sup>31</sup> When visits to the appeal site were made by the Council trying to make contact with the Appellant on behalf of the Inspector.

<sup>32</sup> Observation by the Inspector at the site visit in November 2022.

<sup>33</sup> As of July 2023.

<sup>34</sup> Appellant's statement of case paragraph 5.21.



as opposed to a life on the road, would maintain access to education for the children<sup>35</sup>. However, I have noted that Mrs Doherty and the children do travel to Scotland and to Gypsy fairs and Gypsy Christian conventions being only intermittently on the land adjacent to Plot 64 between late 2018 and the end of June 2019.

65. Achieving a safe and secure home base in which all the children can thrive, both in terms of their overall health and educational needs, is a primary consideration. Even in the situation of not knowing what the circumstances of the family and, more particularly the children are, their well-being and education does weigh heavily as a primary consideration in the balance of the decision<sup>36</sup>.

*Whether the proposal represents intentional unauthorised change of use*

66. The Appellant and his family did move onto the land adjacent to the appeal site in June 2018, but their occupation was intermittent as they travelled considerably that year and into 2019. In addition, I note that the family did spend time at the land prior to this date camping for a break from their Wood Green life.
67. A planning application was submitted in November 2019, but was subsequently withdrawn, with the application the subject of this appeal being submitted in November 2020. The appeal for non-determination was submitted in July 2021. This indicates a desire to engage with the planning system.
68. Over some of this period the children were attending school and also the Country suffered from the extraordinary circumstances of the COVID pandemic which meant that, in general, we all had to stay put.
69. Although the Appellant occupied the plot adjacent to Plot 64, he did so under the impression he was on his own land. The works carried out were limited and were to create basic conditions where the family could live on the land. From what I saw at my appeal site visit none of the works were such that they could not be relatively easily reversed. This does not apply to the removal of trees, but I am not aware of the extent of that removal, nor the offence caused in that instance.
70. Therefore, I am satisfied that, considering the circumstances described in the evidence before me, as well as a lack of readily available Gypsy sites within the District whilst an intentional unauthorised change of use has been carried out, I afford this little weight in the balance of this decision.

**Planning balance<sup>37</sup>**

71. At the onset of considering the issues in the planning balance I have borne in mind the duty placed on me within the Public Sector Duty. I have also considered the best interests of the children as a primary consideration.
72. Conflict with development plan policy and that of the Framework and PPTS has been identified in respect of the impact of the proposal on the character and

<sup>35</sup> PPTS paragraph 13 c).

<sup>36</sup> The best interests of the child must be consider first - Article 3(1) of the United Nations Convention on the Rights of the Child.

<sup>37</sup> Hierarchy of weighting used - Considerable (at the lower end) – significant – substantial (at the upper end).

appearance of the countryside landscape, on highway safety, on biodiversity and to a lesser degree in respect of the harm in flooding terms and locational sustainability. The harms identified in combination represent a total amount of great harm which is substantial and would weigh against the proposal.

73. On the other side of the balance is the benefit that the proposal would contribute to meeting a pressing unmet need and towards achieving a five-year supply of deliverable land for the provision of new Gypsy and Traveller sites, which is a significant material consideration.
74. In addition, the appeal site would offer a settled base for the family. This would maintain their traditional Gypsy way of life whilst providing the opportunity for the children to access education and the health issues of the family could be continued to be addressed.
75. The likely consequences of the lack of provision would be a serious interference with the individuals' rights to respect for private and family life and the home<sup>38</sup>. This existence would also not be in the best interests of children or a family unit.
76. All of these matters, in combination, attract significant weight in favour of the proposal. However, taking into account the extent of the harms identified above, particularly those relating to highway safety and impact on the character and appearance of the locality, I consider the harms of such substantial weight as to outweigh the matters in favour of the proposal.
77. I have given consideration to whether a temporary permission might be appropriate, but I am conscious that to make Plot 64 habitable a package treatment plant and drainage field would need to be installed. This would be on land not in the ownership of the Appellant and I have no reassurance that the permission of the landowner has been secured<sup>39</sup>. Further there would need to be considerable investment in providing the treatment plant, and basic services, along with bringing a considerable length of access track to a standard where vehicles, including caravans, could pass over it, and creating an environment on Plot 64 capable of supporting family occupancy.
78. In addition, to make the existing vehicular access safe for all road users, albeit for a temporary period, the same works of widening and removal of an extensive part of the frontage hedge would be required. The same weight of harm in respect of the impact on highway safety and character and appearance would apply even in the case of a temporary permission.
79. Therefore, I consider that the grant of a temporary permission would place an unreasonable burden of financing the installation of the Gypsy accommodation on the Appellant, and the substantial weight identified to the harms to the permanent proposal would equally apply in the case of a temporary permission.
80. This leads me to the conclusion that a temporary permission would be equally objectionable as that of a permanent permission, even when weighed against the consequences of not granting permission.

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<sup>38</sup> Article 8 of the European Convention on Human Rights.

<sup>39</sup> I am aware notice was served on the owner.



## **Conclusion**

81. From the evidence before me I have come to the conclusion that Plot 64 is just not suitable for the purpose of accommodating a Gypsy and Traveller pitch, even when the best interest of the children and the rights of the individuals' to a private life and a home, which is all any of us hope for, is factored into the balance.
82. With the disengagement of the Appellant from this process I have had to consider the proposal without updates or explanation. The family are not resident at the appeal site, and I am informed are living with relatives. I am not aware of the whereabouts of the Appellant nor of any other changes in circumstances for the family. The dismissal of this appeal would not make the family homeless as I understand the evidence. I am, therefore, satisfied that in the circumstances of the evidence before me, the level of harms identified are sufficiently weighty to warrant the dismissal of this appeal.
83. Therefore, this appeal for a 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 is dismissed and planning permission refused.

*Frances Mahoney*

INSPECTOR



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# Appeal Decision

Site visit made on 16 May 2023

**by R Bartlett PGDip URP MRTPI**

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

**Decision date: 10 July 2023**

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**Appeal Ref: APP/J1915/W/22/3304110**

**Elbow Lane Farm, Elbow Lane, Hertford Heath SG13 7QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Teresa Walker of Ladkarn Developments Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/1326/FUL, dated 13 May 2021, was refused by notice dated 16 May 2022.
  - The development proposed is demolition of existing stable block and partial demolition of existing equestrian block, and the development of the remaining equestrian block to include 4No. 4 bedroom 6 person dwellings and 4No.3 bedroom 5 person dwellings, including associated site landscaping.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The Council's second reason for refusal related to insufficient information being submitted to minimise future energy demands generated by the development. The Council has suggested a planning condition that could address this matter, which I agree would be reasonable. It is therefore not necessary for me to consider this matter further.
3. Consequently, the main issue is whether future occupiers of the proposed development would have adequate access to services and facilities without undue reliance on private car use.

## Reasons

4. The site is located in the open countryside and is detached from any built-up settlement. It forms part of the wider Elbow Farm site, which comprises a former farmhouse and garage together with 13 other dwellings, which have been created through the conversion of former agricultural, equestrian and holiday let buildings. The appeal relates to the partial demolition and conversion of the last remaining equestrian building, which is in the centre of the site.
5. Vehicular access is via Elbow Lane, a private block paved access road off Mangrove Lane to the south. To the north of the farmhouse, Elbow Lane becomes an unsurfaced byway, providing mainly for pedestrian and cycle access to and from the village of Hertford Heath.
6. From the evidence before me, walking into Hertford Heath from the site, via the unlit and unsurfaced public byway (the shortest route), would be between 1.5 and 2km and would take approximately 20 to 30 minutes. A round trip

would be double this. The larger settlements of Herford and Hoddesdon, which provide larger supermarkets, health care and employment, are over 3km away and again would not be easily accessible other than by private car due to the narrow country roads being unlit and having no footpaths.

7. Reference has been made to PPG13 and the Manual for Streets (MfS) suggesting that 2km is an appropriate walking distance. PPG13 was replaced by the National Planning Policy Framework (the Framework) in 2012 and as such I afford this no weight. Although the MfS makes reference to the former PPG13, it also states that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas, which residents may access comfortably on foot.
8. The distance between the nearest facilities and the appeal site is approximately double this, and I would anticipate most people would not walk 2km, other than for leisure purposes, if they had the option of driving, particularly in the hours of darkness, bad weather, when carrying shopping or visiting multiple destinations.
9. I have also been referred to the Hertford Heath Neighbourhood Plan. Whilst I have not been provided with a copy of this, or its current status, I have no reason to disagree that the village of Hertford Heath has a range of services, facilities and public transport links. Nevertheless, as the appeal site is not within or close to the village, I afford this very little weight.
10. I acknowledge that the appellant has no control over where the local bus routes run. However, national and local planning policies seek to control the location of new development to ensure amongst other things that it is located where it would be well served by services and facilities, including public transport. It is not therefore unreasonable to refuse planning permissions on the basis that the site does not have appropriate access to these.
11. The increase in home working and delivery services and the availability of super-fast broadband would not in my view significantly reduce the number of times most people would leave their homes or use their cars.
12. I therefore conclude that future occupiers of the proposal would not have adequate access to services and facilities without undue reliance on private car use. The proposal is therefore contrary to Policies DPS2 and TRA1 of the East Herts District Plan (October 2018), which set out a hierarchy of development locations and seek, amongst other things, to ensure that new development is primarily located in places which enable sustainable journeys to be made to key services and facilities to help aid carbon emission reduction. The proposal would also conflict with the Framework in this respect.

### **Other Matters**

13. The historic use of the site as a pharmaceutical company and then an equestrian centre would inevitably have generated significant traffic movement. The submitted Design and Access Statement advises that at its peak the 27 stables would have generated 40 vehicle movements per day. However, these uses ceased in 2002 and 2017. Moreover, these uses would have been subject to different planning policies and had different locational needs to that of new residential development.

14. There is no evidence before me to suggest that the building to be converted in this case has any lawful use that would generate the same level of private car use as the proposal for 8 family dwellings. The 8 dwellings proposed, in addition to the 13 dwellings already approved on the wider site, could potentially generate a greater number of private car movements than the historic uses.
15. The appellant has submitted copies of two appeal decisions, which were allowed, and granted prior approval for the conversion of buildings on the wider Elbow Lane Farm site to dwellings. However, as these appeals related to prior approvals, the matter of access to services and facilities was not before the Inspectors or indeed the Council for their consideration.
16. The fact that other dwellings recently approved at Elbow Farm and on other similar nearby former farm sites have equally poor access to services, is not a reason to allow more dwellings in such locations. I do not have the full details of each of the cases I have been referred to, but from the information before me, it would appear that these earlier approvals comprise a combination of schemes for smaller numbers of dwellings, prior approvals, full applications for amended schemes that had a fallback position, and the removal of holiday let conditions due to lack of interest from holidaying horse owners and the decline of the equestrian business. As the circumstances do not appear to be directly comparable to the case before me, I afford these decisions very limited weight. I have dealt with this case on its own merits.
17. The Council accepts that it has less than a five-year supply of housing land. Consequently, paragraph 11(d) of the Framework, is engaged. This advises that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
18. The proposal is on previously developed land and would re-use part of an existing building, which is supported by paragraph 119 of the Framework. However, given the extent of new building work required, the sustainability benefits of reusing limited parts of the existing building would be very modest. The partial demolition of the building would increase the level of open space within the site, which would enhance the openness of the Green Belt as well as improving the outlook and surroundings for occupiers of the adjacent dwellings and potentially delivering biodiversity net gains. As there is nothing before me to suggest that this redundant building could not be fully or partially demolished anyway, I afford these benefits only moderate weight.
19. I recognise that there would be economic benefits during the construction phase and that future occupiers of the proposal would potentially support the viability and vitality of some village facilities and services. However, given the poor access to these village services it is more likely that future occupiers of the development would drive to the larger settlements, in which new housing should be located. I therefore afford these benefits limited weight.
20. I note the intention to use heat pumps, to provide electric vehicle charging points and cycle parking, but as all new homes are required to meet energy efficiency standards and to provide measures to encourage sustainable travel, such measures are neutral and do not weigh in favour of the proposal.

21. The proposal would make a modest contribution to the supply of housing, which would form part of a small existing community and I afford this significant weight. However, this must be balanced against its location.
22. Future occupiers of the development would have poor access to services and facilities. Whilst I acknowledge and have taken account of the fact that sustainable transport solutions vary between urban and rural areas, paragraph 105 of the Framework is very clear that significant development should be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. The proposal, particularly when taken with other recent development on the site, is significant and I attach substantial weight to this matter.
23. When assessed against the policies in the Framework taken as a whole, I consider that the harm I have identified would significantly and demonstrably outweigh the modest benefits of the proposal.

### **Conclusion**

24. I conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, the appeal is dismissed.

*R Bartlett*

INSPECTOR



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## Appeal Decisions

Site visit made on 23 May 2023

**by Robert Naylor BSc (Hons) MPhil MRTPI**

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

**Decision date:**

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### **Appeal A Ref: APP/J1915/W/22/3292976**

#### **Collier House, Mead Lane, Hertford SG13 7AX**

- 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 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by Mr Richard Mordain of Tuner and Co (Glasgow) Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/1834/ODPN, dated 7 July 2021, was refused by notice dated 10 September 2021.
  - The development proposed is for a change of use from office use (Class B1(a)) to residential use (Class C3) to create 10 one bedroom flats and 7 two bedroom flats.
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### **Appeal B Ref: APP/J1915/W/22/3303513**

#### **Collier House, Mead Lane, Hertford SG13 7AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Richard Mordain of Tuner and Co (Glasgow) Ltd against East Hertfordshire District Council.
  - The application Ref 3/21/3006/FUL, is dated 29 November 2021.
  - The development proposed is for the erection of access ramp and stairs to create accessible route to widened towpath (2 metres) and external alterations to conservatory and window openings.
- 

### **Decision**

1. **Appeal A** is dismissed.
2. **Appeal B** is allowed and planning permission is granted for the erection of access ramp and stairs to create accessible route to widened towpath (2 metres) and external alterations to conservatory and window openings at Collier House, Mead Lane, Hertford SG13 7AX in accordance with the terms of the application, Ref 3/21/3006/FUL, dated 29 November 2021, subject to the conditions in the attached schedule.

### **Preliminary Matters**

3. The description of development for **Appeal A** cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. The latter more accurately reflects the scope of the proposed plans which were submitted, consulted upon, determined by the Council and are now the subject of this appeal. As no parties' interests would be prejudiced, in the interests of clarity I rely upon that latter description for the purposes of the heading above.

4. The Council has highlighted that the description of the development in respect to **Appeal B** has also changed. However, the amended description to incorporate the widening of the towpath to 2 metres instead of 1.8 metres as referred to in the application form has been agreed by both parties, along with the amended plans. Therefore, in the interests of clarity I rely upon the agreed description for the purposes of the heading above and paragraph 2 of my Decision.
5. Office to dwellinghouse conversions are permitted development under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). Under paragraph O.2 of the GPDO, the developer is required to apply to the Local Planning Authority as to whether prior approval is required.
6. The prior approval matters are concerned with transport and highway impacts of the proposed development; contamination risks on site; flooding risks on the site; impacts of noise from commercial premises on the intended occupiers of the development and the provision of adequate natural light in all habitable rooms of the dwellinghouses.
7. The Council refused to grant prior approval for the scheme under Class O of the GPDO, as they considered the proposal had transport and highway safety implications, failing to provide safe access for pedestrians. The Council further considered that operational development was also required in order to provide adequate natural light in habitable rooms of the proposal, which cannot be approved under the prior approval regulations.
8. Paragraph W (10)(b) of Part 3 of Schedule 2 of the GPDO is clear that applications for prior approval should be determined having regard to the National Planning Policy Framework (the Framework) so far as it is relevant to the subject matter of the prior approval, as if the application were a planning application. I have determined **Appeal A** on this basis.

### Background and Main Issues

9. The appeal site is a three-storey brick building currently in use as an office located at the northern end of Mead Lane industrial estate, adjoining the south bank of the River Lea. The site is accessed from Mead Lane via an unnamed accessway which runs through the industrial estate, although there is also a pedestrian access from the towpath which runs along the riverside.
10. A previous appeal<sup>1</sup> at the site, also for prior approval, was dismissed as the Inspector found that the development would not provide safe and suitable access for pedestrians, concluding that the scheme would have an unacceptable impact on highway safety. Following the appeal, the appellant submitted a planning application<sup>2</sup> which was approved by the Council, for improved access to the towpath to the north of the appeal site and adjacent to the River Lea. However, this permission was never implemented and has now lapsed, although the details are similar to that currently proposed under **Appeal B**.
11. The main issue in regard to **Appeal A** is whether sufficient information has been provided to demonstrate that the proposed development complies with

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<sup>1</sup> PINS Ref: APP/J1915/W/19/3223464

<sup>2</sup> East Hertfordshire District Council Planning Ref: 3/19/1412/FUL



condition O.2 (1) (a) of Part 3 of Schedule 2 of the GPDO regarding transport and the highway impacts of the proposed development, and condition O.2 (1) (e) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

12. The main issues of **Appeal B** are the effects of the proposal on i) the character and appearance of the area; ii) the neighbouring amenity and iii) the accessibility of the building.

## Reasons

13. In regard to **Appeal B** the Council have indicated that had they determined the application, they would have granted planning permission for the proposed scheme. This was on the basis that the application replicated the previously allowed scheme which lapsed in September 2022. As such they do not seek to contest the appeal, given they have found no harm from the proposed scheme. In regard to the effects of the proposal on the character and appearance of the area, the neighbouring amenity and the accessibility of the building, I would concur with the Council's opinion that there would be no harm as a result of the proposal, as I have been presented with no substantive evidence to reach an alternative view. Subject to the conditions as set out in the attached Schedule, the proposal would be acceptable.
14. I now turn to **Appeal A**. The Framework identifies that opportunities to promote sustainable transport modes should be taken up, depending on the type of development and its location, further highlighting that safe and suitable access to these sites should be achieved for all users. Paragraph 111 of the Framework states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
15. The appeal site is located at the end of an unnamed accessway within the Mead Lane industrial estate. The accessway is in constant use for the businesses located on the estate which includes uses such as steel fabricators, car repairs and a haulage company (Matthews Haulage) which is located in close proximity to the access of the proposed site. The existing office can be accessed from the north and south of the site. The south access is via the aforementioned accessway, while the northern access is along a towpath running adjacent to the River Lea and is pedestrian access only. Neither route is illuminated, and the unnamed accessway is a narrow route which does not benefit from a pavement.
16. The previous appeal was dismissed as the Inspector found that the development would have an unacceptable impact on highway safety, opining that whilst *'Collier House is favourably located to access town centre amenities, the poor pedestrian environment could deter future occupiers from walking to the town centre, despite the short distances involved. I conclude that the use of this service road by pedestrians would be highly unsatisfactory and likely to have an adverse effect on their future safety.'* I have no evidence before me to highlight that there has been any change in circumstance for either access under which the previous scheme was assessed.
17. The County Highway Authority maintain their concerns that the proposal would have implications for the free and safe flow of public highway users, and future occupiers of the development, including those with mobility issues. As well as



the ability to access the site by sustainable travel modes other than the private motorcar. As part of the application, the appellant submitted a revised Transport Statement<sup>3</sup> (TS) which included traffic/pedestrian surveys undertaken around the appeal site. Unsurprisingly, given the industrial nature of the surrounds and lack of pavement, the surveys highlight that a total of 872 vehicular movements (89%) took place at the entrance to the unnamed accessway, with only 109 pedestrian and cycle movements (11%) in the same 12-hour period.

18. During my site observations there was a distinct lack of pedestrian activity, whilst there were several large vehicles utilising the accessway. Furthermore, the accessway appeared heavily parked, reducing passing points which would require pedestrians to venture into the road to negotiate parked vehicles given the absence of a pavement. The higher percentage of vehicular movements in this location, would result in conflict between vehicle and pedestrian users along the accessway effecting the pedestrian safety of future occupiers. This conflict would be further exacerbated for pedestrians at the southern access of the appeal site, given its close proximity to the access for the existing haulage firm.
19. However, the TS suggests that the primary pedestrian access will be the traffic free towpath to the north of the site, with the southern accessway being secondary, should pedestrians choose this route. The traffic/pedestrian surveys highlight that a significant number of pedestrians and cyclist already use the towpath. The TS indicates a total of 359 pedestrians and 51 cyclists were recorded in the 12-hour period. This included 37 pedestrians and cyclist movements between 1700-1900 hours, when it was dark.
20. In allowing **Appeal B**, these works would enable a new ramped access and steps to be provided at the site, allowing better more accessible pedestrian connections to the towpath route. Furthermore, the associated works to widen the towpath to 2 metres outside the appeal site would also significantly improve pedestrian links. The appellant has indicated that a negatively worded condition and/or a planning obligation could be used to secure the works are undertaken before the scheme subject to **Appeal A** is occupied.
21. Furthermore, the appellant indicates that the works to the towpath would be undertaken in conjunction with works at the adjoining site, where planning permission has been secured on appeal<sup>4</sup> for 375 residential dwellings, including associated works to access, open space and landscaping. However, I have no evidence before me in regard to any approved works associated with either external lighting and/or improvements to the towpath at the adjoining site.
22. Whilst the principle of the works to the towpath have been accepted by the Canal and River Trust (CRT), who could undertake the towpath improvements under their permitted development rights, they are clear that the towpath should not be relied upon as a primary access to the site. Nor would the CRT accept the location of any lighting bollards on land within their ownership.
23. Given these issues, I share the previous Inspectors' concerns regarding the suitability of the towpath for regular usage, as this route would remain largely unlit, and where the towpath adjoins the appeal site, would be too narrow for

<sup>3</sup> Prepared by Patrick Parsons Ltd dated June 2021 Ref: A21134 V2.0

<sup>4</sup> PINS Ref: APP/J1915/W/19/3234842

multi-user routes, particularly in respect to future occupiers who might have pushchairs or mobility issues.

24. Even if I was to accept the use of a Grampian condition or suitably worded planning obligation, the proposed improvement works to the towpath do not outweigh the harm I have identified in respect to the highway safety issues associated with the pedestrian access along the unnamed accessway to the south of the site.
25. Whilst I acknowledge that the appeal site is located in a relatively sustainable location, the lack of pavement along the unnamed accessway, the uncertainty in respect to the improvements to the towpath, and the unlit nature of both routes is such that travelling by more sustainable means such as walking or cycling would be unlikely, particularly for occupants with mobility issues or with young children, and especially in the dark or during inclement weather. As such, the proposal would not provide safe and suitable access for pedestrians, resulting in significant adverse transport and highways impacts contrary to paragraphs 110, 111 and 112 of the Framework.
26. In regard to the operational development required to provide larger window openings to ensure adequate natural light in all habitable rooms, the appellant has indicated a Grampian condition could be attached to any approval. This would secure that the ramped access, external alterations to the window openings and the improvements to the towpath, can be delivered before the scheme subject to **Appeal A** is occupied. I have considered that the use of the negatively worded condition to prevent occupation of the proposed dwellings until the approved works have been carried out, is an obvious solution to allowing the change of use to occur.
27. However, even if the Grampian condition could secure the works necessary to address condition O.2 (1) (e) of Part 3 of Schedule 2 of the GPDO, this does not negate the harm I have identified in respect to highway safety. Given that the development would not provide safe and suitable access for pedestrians, the scheme would have an unacceptable impact on highway safety, and is therefore not permitted development, under O.2 (1) (a) of the GPDO.

## Conditions

28. I have considered the Councils suggested conditions in respect to **Appeal B** having regard to the tests set out at paragraph 56 of the Framework. As a result, I have amended some where necessary for the sake of consistency, brevity, clarity and to ensure that they meet the tests in the Framework.
29. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. I also have imposed a condition in respect to materials to match those stated on the application form in order to ensure an acceptable visual effect.
30. I have attached conditions to provide soft treatments to the bank, verge and hedge and the site boundaries which should be provided and maintained thereafter to protect the character and appearance of the area, whilst also meeting with CRT specifications.

31. There is a need to protect biodiversity and nesting birds given their ecological value. I have imposed the condition that incorporates the requirements set out in the Council's suggested conditions in regard to this matter.
32. Conditions controlling the use of external lighting are also required, in the interest of the appearance of the proposal and impacts on ecology and biodiversity.

### **Conclusion**

33. In regard to **Appeal A** I have found the proposal would not meet the conditions of paragraphs O.2 and W.(3) of the GPDO in respect of transport and highway safety at the site. Prior approval is required for this matter, and I have found, based on the evidence before me, that it should not be granted. The proposal is not therefore permitted development and **Appeal A** is dismissed.
34. In regard to **Appeal B** the proposal would accord with the development plan, when read as a whole and the Framework. Having considered all material considerations and other relevant matters raised, I therefore conclude that **Appeal B** is allowed.

*Robert Naylor*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3449 01 B; 3449 23 C; 3449 24 A; 3449 28 A; 3449 29 and PP101 P8.
- 3) The external materials of construction and finishes for the ramp and building works hereby permitted shall match those stated on the application form, unless otherwise agreed in writing by the Local Planning Authority.
- 4) Prior to the commencement of works to the towpath, detailed plans shall be submitted to and approved in writing by the Local Planning Authority illustrating the dimensions of the improvements to the towpath relative to the bank, verge and hedge. The information shall also provide details of boundary treatment, soft and hard landscaping including works required for the extended towpath width and linkages to the towpath at the site boundaries. The works shall be carried out in accordance with the approved details and maintained thereafter.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No vegetation clearance shall be undertaken during the bird nesting season (March to August inclusive) unless a checking survey including a working method statement has first been undertaken by a suitably qualified ecologist to confirm the absence of nesting birds. The checking survey and working method statement shall be submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
- 7) Prior to the commencement of works to the ramp and stairs, details of any proposed lighting shall be submitted to and approved in writing by the Local Planning Authority.
- 8) No lighting shall be installed along the towpath without the prior consent of the Local Planning Authority.

END OF SCHEDULE



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## Appeal Decision

Site visit made on 28 June 2023

**by J Hobbs MRTPI MCD BSc (hons)**

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

**Decision date: 22 August 2023**

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**Appeal Ref: APP/J1915/D/22/3296289**

**Keepers, High Wych, Sawbridgeworth, Hertfordshire CM21 0LA**

- 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 Matthew Waterson against the decision of East Hertfordshire District Council.
  - The application Ref 3/21/2694/HH, dated 26 October 2021, was refused by notice dated 2 March 2022.
  - The development proposed is first floor extension to existing dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for first floor extension to existing dwelling at Keepers, High Wych, Sawbridgeworth, Hertfordshire CM21 0LA in accordance with the terms of the application, Ref 3/21/2694/HH, dated 26 October 2021, and the plans submitted with it, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the approved plan, ref. 2542/6.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

### Preliminary Matters

2. The appellant has stated in the application form that works have already started but have not been completed. During my site visit, I observed that works were ongoing, and the proposed development had not been completed. For these reasons, throughout my decision I will refer to the works as the proposed development; however, some aspects may have already been completed and I have assessed the appeal on that basis.
3. Whilst not referred to in the reason for refusal, the development for the area includes the Gilston Area Neighbourhood Plan (GANP) which is referred to in the officer report. I have therefore taken it into account in my determination of the appeal and as the appellant has referred to it in their evidence, I have not sought any further comments on the matter.

## **Main Issue**

4. The main issue of the appeal is the effect of the proposed development on the character and appearance of the area.

## **Reasons**

5. The appeal site comprises two large, detached dwellings, sited fairly close together within a triangular plot of land. The appeal site accommodates a number of outbuildings as well as a shared driveway which opens up to a small lawned area. The site is remote from other neighbouring dwellings. The wider rural area is characterised by relatively flat, open fields which are largely free from development with sporadic clusters of woodland, including one opposite the appeal site. These factors combine to create a spacious and verdant character.

The wider rural area is characterised by relatively flat, open fields interspersed with sporadic clusters of woodland, including one opposite the appeal site. Within the wider landscape, there are some pockets of residential properties surrounded by landscaping that is domestic in appearance. Overall, notwithstanding that there are some buildings, the area has an open and verdant character. However, it should be noted that the appeal site forms part of a large site that has been allocated for residential development. On the evidence before me, it is not clear whether the allocation will be delivered and across what timescale. Nevertheless, it is a material consideration in this appeal.

6. The proposed first floor extension would be constructed above the existing ground floor extension and would not alter the footprint of the building. Notwithstanding, the overall size and massing of the appeal property would increase. However, the eaves and ridge height of the proposed extension would be below the eaves and ridge height of the existing property.
7. The proposed development in combination with the previously permitted extensions, would lead to a larger property. However, the original property was a substantial residential dwelling which disrupted the spacious and verdant qualities of the rural character. The proposed development would not materially affect the rural character as it would be a relatively small extension, in relation to the original dwelling and the other extensions and would be viewed in conjunction with the two dwellings and various outbuildings. As such, it would not appear as visually dominant or as an imposing feature in the wider area.
8. The Council contend that the brickwork of the partially built side extension does not match the existing building and therefore the extension would appear incongruous. Nevertheless, a condition requiring materials of external surfaces to match the existing building would be imposed, which would ensure that the appearance of the proposed extension is in keeping with the existing extensions and the original building.
9. For these reasons, I conclude that the proposed development would not have a harmful effect on the character and appearance of the area. The proposed development would therefore be in accordance with policies HOU11, DES4 and GBR2 of the East Herts District Plan, October 2018. These policies indicate that proposals for extensions must be of a size, scale, mass, form, siting, design and materials that are appropriate to the character, appearance and setting of

the dwelling, particularly in the Rural Area Beyond the Green Belt; and, all proposals must be of a high standard of design and layout to reflect and promote local distinctiveness. The proposed development would also comply with GANP Policy AG1 as it would maintain the countryside character of the landscape setting, amongst other things.

### **Conditions**

10. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the guidance contained within the Planning Practice Guidance and paragraph 56 of the National Planning Policy Framework.
11. Conditions specifying a time limit to implement the permission and the approved plan are required in the interest of certainty. A condition requiring the materials of the external surfaces to match the existing building is required in order to ensure the character and appearance of the area is conserved.

### **Conclusion**

12. The proposed development complies with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh this.
13. Therefore, for the reasons given above I conclude that the appeal is allowed, and planning permission is granted.

*J Hobbs*

INSPECTOR





# Appeal Decision

Site visit made on 5 July 2023

**by R Gee BA (Hons) Dip TP PGCert UD MRTPI**

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

**Decision date: 21 August 2023**

**Appeal Ref: APP/J1915/W/22/3313458**

**Borley Green Barn, Conduit Lane, Brent Pelham SG9 0AJ**

- 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 M Benjamin against the decision of East Hertfordshire District Council.
- The application Ref 3/21/2871/FUL, dated 8 November 2021, was refused by notice dated 15 November 2022.
- The development proposed is described as erection of new build residential unit.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities; and
  - ii) the effect of the development proposed on the character and appearance of the area.

## Reasons

### *Location and accessibility*

3. Policy DPS2 of the East Hertfordshire District Plan 2018 (District Plan) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy.
4. Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The amount of development directed to each village flows from the group it is put in, with Group 1 villages likely to see more growth than Group 2 and 3 villages.
5. The appeal site lies within a Rural Area beyond the Green Belt, outside of any recognised settlement boundary as set out in the District Plan. Therefore, the appeal site is part of the countryside. The nearest settlement listed within the policy is Brent Pelham, approximately 1km away, which has limited services.
6. Under Policy VILL3 of the District Plan, Brent Pelham is classed as a Group 3 Village. Group 3 Villages are identified in Policy VILL3 as the least sustainable



locations for development in the district. This policy permits limited infill development in Group 3 villages if identified in an adopted Neighbourhood Plan (NP). I have not been directed to any adopted NP and therefore the proposal does not glean support from Policy VILL3.

7. As the appeal site is located in the Rural Area Beyond the Green Belt (the 'Rural Area') and therefore Policy GBR2 is relevant. It lists several types of development that will be permitted in the Rural Area in addition to that set out in the VILL policies, provided they are compatible with the character and appearance of the area. The types of development permitted by Policy GBR2 include limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations.
8. The appeal site would be separated from the adjacent dwelling and outbuildings at Borley Green Barn by a paddock. Given this intervening space, and open fields beyond, the proposed dwelling would not be located within a group of existing properties and would not constitute infill development.
9. The appellant states that the appeal site has been close mown grass that has been used by the occupiers of Borley Green Barn for over 15 years as formal garden and constitutes previously developed land. Having regard to the National Planning Policy Framework (the Framework) definition of previously developed land, I have little evidence to substantiate that the appeal site comprises such.
10. I therefore do not concur that the proposed development comprises a form of development set out as acceptable in Policy GBR2 of the District Plan.
11. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. Paragraph 103 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
12. From the evidence before me access to the settlements and their services is limited. Conduit Lane, which links the appeal site to Brent Pelham, is an unlit, road with no pavement and is subject to the national speed limit. Whilst I note the health benefits and lower carbon emissions derived from sustainable travel, given the distances involved, the limitations of the immediate rural roads road and limited public transport, the future occupants of the proposed dwelling would be unlikely to walk or cycle and would be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
13. The appellant refers to a number of appeal decisions<sup>1</sup> stating that these provide support to the appropriate location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance which refers to the importance of determining similar cases in a similar manner. I am not party to the evidence before the Inspector, however, based on the limited information before me, I do not consider the cases to be directly comparable to the appeal

<sup>1</sup> APP/J1915/W/16/3147738, APP/J1915/W/18/3205669 and APP/J1915/W/20/3258799

before me as the description of development, site location and context differ. In any event, I have determined this case on its own merits.

14. For the reasons outlined above, I conclude that the appeal site is not in a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. As a result, the development would conflict with policies DPS2, GBR2, VILL3 and TRA1 of the District Plan. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities. It would also conflict with the Framework which seeks to promote sustainable development and protect the open countryside.

#### *Character and appearance*

15. The construction of a dwelling on the site would encroach into a field. The dwelling would be set back from the highway and screened in part by the substantial boundary hedge, however, the removal of sections of hedging to provide vehicular access would reduce the attractiveness of the continuous boundary hedge within the landscape.
16. The curtilage to the proposed dwelling would be large and disproportionate to the size of the dwelling. The domestication of the plot, including the proposed garage, would give rise to a suburban appearance, contrary to the character and appearance of the site and open countryside.
17. Dwellings within surrounding areas vary in scale and design. The scale, design and mass of the proposed dwelling would be reflective of the nearby dwelling and outbuildings at Borley Green Barn. Whilst a suitable external finish and landscaping could be conditioned, the very presence of development would have a negative impact on intrinsic character and beauty of the countryside.
18. Even if I were to consider the proposal as previously developed land, in addition to concluding that the site would not be in a suitable location for housing, the proposed development would erode the contribution the appeal site makes to the rural character and appearance of the area contrary to the District Plan policy.
19. For these reasons, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policies GBR2 and DES4 of the District Plan. Collectively, these seek control to be exerted over development within the Rural Area beyond the Green Belt to safeguard the highly valued countryside and its open and largely undeveloped nature and to respect the character of the site and the surrounding area. The development would also conflict with the Framework which requires development to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

#### **Other Matters**

20. I appreciate that the appellant wishes to construct the dwelling so that family can continue to reside in the locality and to provide support for any future needs they may have. However, I have not been provided with any evidence that the personal circumstances of the appellant would be enough to outweigh the harm associated with the location of the development and the character and appearance of the area.

21. I note the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures and biodiversity improvements. However, these factors carry no more than limited weight in favour of the development. There would be moderate, social and economic benefits associated with the proposal relating to construction employment, spend within the local economy once the dwelling is occupied and the personal well-being benefits of residing in a countryside location. The dwelling would also contribute towards housing provision, noting that the Framework is supportive of small and medium sized sites, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. However, given the small scale of the proposed development the weight afforded to these benefits is limited.
22. The availability of superfast broadband to support the potential for homeworking and home delivery services are noted. As is the absence of objections from statutory consultees or neighbouring properties. However, these are neutral factors in the determination of the appeal.

### **Conclusion**

23. For the reasons given above, having had regard to the development plan and Framework as a whole, the appeal is dismissed.

*R Gee*

INSPECTOR



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## Appeal Decision

Site visit made on 28 June 2023

**by J Hobbs MRTPI MCD BSc (hons)**

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

**Decision date: 15<sup>th</sup> August 2023**

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**Appeal Ref: APP/J1915/W/22/3311426**

**How Green Farm, Baldock Road, Buntingford, Hertfordshire SG9 9RH**

- 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 Seamus Deezan against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/0786/FUL, dated 9 April 2022, was refused by notice dated 23 August 2022.
  - The development proposed is described as 'retention of conversion of workshop to 1 detached house, raising the roof height to create first floor accommodation, Two storey side extension, single storey rear extension, 4 front dormers, 4 rear dormers and alterations to fenestration'.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant has indicated on the Application Form that the works had started but had not been completed, at the time of submitting the application. The Council has considered the appeal proposal as retrospective development. The built development I observed during my site visit did not match the application plans, for example there was additional fenestration on the dwelling that has been built. My decision is based upon the application plans only, and I will therefore refer to the works as the proposed development throughout my decision; albeit certain aspects have already been constructed.
3. The appellant has indicated within their representations that they believe the site is in the Green Belt. However, the site is not within the Green Belt.

### Main Issues

4. The main issues are:
  - the effect of the proposed development on the character and appearance of the area; and
  - whether the appeal site is an appropriate location for the proposed development, having regard to the development strategy and the accessibility of services; and
  - the effect of the proposed development on the living conditions of future occupiers of the proposed dwelling and residents of How Green Farm, with regard to privacy, noise, and disturbance.

## Reasons

### *Character and appearance*

5. The appeal site is the farmyard associated with How Green Farm. The proposal would convert and extend a smaller, shorter workshop and would be sited close but perpendicular to the existing farmhouse on the same hardstanding.
6. The farmyard is accessed via a long narrow driveway, leading from Baldock Road, and is largely surrounded by open fields with agricultural buildings further beyond the farmhouse. Whilst there are several agricultural buildings within the farmstead these are largely screened by the farmhouse and trees. Given its size, massing and prominent location within the farmyard, the farmhouse is one of the most dominant features within long range views from the site access and Baldock Road.
7. The surrounding area is characterised by a patchwork of fields, largely free from development, which alongside low hedgerows creates a spacious and verdant character. The farmyard includes a significant amount of built development, in a relatively small area and therefore it appears as a densely developed farmyard. However, most of this development appears to be associated with an agricultural use which contributes to the rural character.
8. Given the size and prominence of the existing farmhouse, it has a suburbanising effect on the site and wider area, but the prevailing character is of an agricultural site associated with a working farmstead, surrounded by open fields.
9. From the evidence before me, it is not clear whether the original workshop was utilised as part of the wider agricultural unit or whether it was used in association with another type of business, or as a standalone workshop. Regardless, based on the application plans, it was utilitarian in appearance and looked similar to an agricultural building. This would have contributed to the wider rural character.
10. The proposed dwelling would be similar in height, but slightly shorter than the existing farmhouse, and it would utilise similar materials for the external surfaces including the windows. It would therefore be similar in appearance. Notwithstanding, the proposed development would not be sympathetic to the existing farmhouse as it would lead to the subdivision of the farmyard, for further residential development, and therefore it would interrupt the rural setting of the farmhouse.
11. The proposed dwelling would be sited on existing hardstanding and not on open fields. Nevertheless, it would be sited closer to the road and would therefore appear as a more dominant feature in wider views and incongruous when compared to the surrounding agricultural buildings and rural character. The introduction of an additional dwelling would appear visually intrusive when viewed alongside the surrounding fields which are generally free from development. This would have a suburbanising effect on the character of the wider area due to its domestic appearance. Given its proximity to the existing farmhouse, this suburbanising effect would be amplified as there would be two dwellings, domestic in appearance, sited close together.
12. The appellant accepts that the introduction of a new dwelling would lead to an intensification of use of the site. The increase in activity associated with the

residential properties would also have a suburbanising effect. Nevertheless, the appellant contends it would improve the appearance of the site. However, the existing workshop is in keeping with the wider rural character, but the appeal proposal would not be for the reasons given above.

13. The appellant contends that upward extensions should be allowed where they are consistent with the prevailing height of surrounding buildings. However, in this instance, it would lead to a large dwelling which is at odds with the rural character of the area. Furthermore, whilst the appeal proposal would potentially make an efficient use of the land it would not maintain the area's prevailing character and setting. Finally, there is no substantive evidence before me that either the workshop or the surrounding land was underutilised or could not be utilised more effectively without the proposed change of use. Therefore, I cannot conclude that the appeal proposal would lead to a more effective use of the land and building.
14. Having come to the conclusions above, the proposed development would have a materially harmful effect on the character and appearance of the area. It would therefore conflict with DP policies GBR2 and DES4 that seek amongst other thing to ensure that development proposals must be of a high standard of design and are compatible with the character and appearance of the rural area. In reaching this conclusion I have had regard to paragraphs 120, 124, 126 and 130 of the Framework.

#### *Appropriate location*

15. DP Policy DPS2 sets out the strategy to deliver sustainable development and provides a hierarchy of where development will be directed to. Sustainable brownfield sites are top of the hierarchy, followed by sites within identified settlements, urban extensions to other identified settlements and limited development in villages.
16. The appellant contends that the appeal site is not outside of a village as it is within the curtilage of the existing farmhouse. Notwithstanding, it is accepted by both parties that the site is outside of the recognised village boundaries. Therefore, for the purposes of the development plan, the appeal site is not within a village, and it is located within the rural area beyond the Green Belt.
17. DP Policy GBR2 outlines specific exceptions where development would be supported in the rural area beyond the Green Belt. Criterion (e) supports the complete redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.
18. As above, there is no substantive evidence before me on the previous use of the workshop for me to conclude that it was not being used for agricultural purposes. Therefore, I cannot conclude on whether it could be considered as previously developed land, as per the definition in the Framework.
19. Nevertheless, even if the workshop and surrounding land could be considered as previously developed land, the appeal proposal would be harmful to the character and appearance of the area for the reasons given above.
20. The appeal site is remote from the nearest settlement which accommodates key services and facilities. This section of Baldock Road is a single carriageway road and is subject to the national speed limit and it does not benefit from a



footpath or street lighting. Moreover, the appellant acknowledges there is no public transport provision in this rural area and has not demonstrated how the proposal would contribute to or support local transport networks. Therefore, given the significant distance to key services and facilities and the above characteristics of Baldock Road, future residents would be disincentivised from using sustainable transport modes (cycling/walking) and are likely to be highly reliant on the use of private transport.

21. The appellant has identified that a family member would reside in the proposed dwelling, and they would use an electric car. The application is for a dwelling with an unfettered use and there is no substantive evidence before me which indicates that the family member is required to reside close to the existing farmhouse. The proposed use of an electric car is acknowledged; however, the proposed dwelling may not always be occupied by the appellant's family and therefore the ongoing availability and use of an electric car is not guaranteed.
22. In conclusion, the appeal site is not an appropriate location for the proposed development, having regard to the development strategy and the accessibility of services. The appeal proposal would be contrary to DP Policies DPS2, GBR2, INT1 and TRA2 that seek amongst other things to direct development to the most sustainable locations. In reaching this conclusion I have had regard to paragraphs 111, 119, 120 and 130 of the Framework.
23. As the appeal site is in the rural area beyond the Green Belt there is no conflict with DP Policy VILL3 as this specifically relates to development in identified villages only.

#### *Living conditions*

24. The proposed dwelling would include dormers to the front of the property which would be in proximity to the existing farmhouse. Given, the siting of the proposed dwelling, perpendicular to the existing farmhouse, there would be no direct views toward the farmhouse, but there would be indirect views.
25. The section of the existing farmhouse closest to the proposed dwelling only accommodates ground floor windows, the proposed dormers would be above these windows. Whilst there would be obscured views, given the lack of fenestration on the farmhouse in proximity to the proposed dormers and direct views would be of a shared space, the proposed development would not lead to an increase in the extent of perceived overlooking.
26. The number of bedrooms within the proposed dwelling is not quantified; however, it appears to be capable of accommodating a single family. There would be an increase in vehicle movements, nevertheless, the increase in movements is not expected to be significant given the scale of the proposed development.
27. The limited increase in vehicular movements associated with a single dwelling would not materially affect the residents of the proposed dwelling. Likewise, the vehicular movements associated with the existing farmhouse would be limited and would not have a harmful effect on future residents of the proposed dwelling.
28. I conclude that the proposed development would not have a harmful effect on the living conditions of future occupiers of the proposed dwelling and residents of How Green Farm, with regard to privacy, noise, and disturbance. In this

respect it would be in accordance with DP Policy DES4 where it explains that development should avoid significant detrimental impacts on the amenity of occupiers of neighbouring property and land. Also, in this regard, it is in accordance with paragraph 130 of the Framework, which indicates that planning decisions should ensure developments create places with a high standard of amenity.

### **Other Matters**

29. The Council acknowledge that they cannot demonstrate a five-year supply of deliverable housing sites. Accordingly, the presumption in favour of sustainable development, identified within paragraph 11 of the Framework is engaged. Consequently, the provision of 1 additional dwelling would be a benefit, although the proposal would have a negligible impact on addressing the recognised shortfall in housing supply. The scheme has been designed with the aim of reducing carbon emissions as such this would be a limited environmental benefit given the modest scale of the development.
30. I have no reason to doubt that the proposal would result in little disturbance to neighbours as it would be in proximity to only one property; also, that there is not a need for significant earthworks or major landscaping. The provision of off-street parking, the retention of the existing security arrangements, a lack of an effect on the trees, the workshop not being listed, the appeal site not being within a Conservation Area or subject to Article 4 directions are all highlighted within the appellant's representations. Nonetheless, these are all neutral factors.
31. The appellant has provided 3 examples of where they consider that the Council has permitted similar developments. However, each of these examples include sites which are within a recognised village boundary and are therefore materially different to the appeal proposal.
32. The appellant contends that the proposed development would preserve a heritage asset. There is no substantive evidence before me that there are any designated assets within or close to the appeal site. Without further evidence, I cannot conclude that the proposed development would preserve a heritage asset.
33. It is acknowledged that a farmhouse is already sited within the appeal site. However, the application for a replacement farmhouse was approved in 1985 and was assessed against a different development plan. On the evidence before me, it is not clear whether that permission was implemented, or whether the existing farmhouse predates that application. For these reasons, the existing residential use holds little weight when considering the appeal proposal.

### **Planning Balance and Conclusion**

34. The main benefit of the appeal proposal is the provision of an additional dwelling. Moreover, I accept that there would be a very limited environmental benefit from the proposal. Furthermore, I have found that the proposal would not result in harm to the living conditions of future occupiers of the proposed dwelling and residents of How Green Farm.
35. However, I have found that the appeal site is not an appropriate location for the proposed development, having regard to the development strategy and the accessibility of services and that material harm would be caused to the



character and appearance of the area. Consequently, the proposed development conflicts with the development plan when considered as a whole and there are no material considerations including the provisions of Paragraph 11 of the Framework, either individually or in combination, that outweigh the identified harm and associated development plan conflict.

36. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

*J Hobbs*

INSPECTOR

## Appeal Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 4<sup>th</sup> July 2023**

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**Appeal Ref: APP/J1915/D/23/3319377**

**62 Warwick Road, Bishops Stortford, Hertfordshire CM23 5NW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr R Hawkins against the decision of East Herts Council.
  - The application Ref 3/22/0862/HH, dated 20 April 2022, was refused by notice dated 13 January 2023.
  - The development proposed is a first floor extension and re-roofing of existing house.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the conservation area.

### Reasons

3. The property is situated within the Bishop's Stortford Conservation Area. In the vicinity of this dwelling, the tree lined road, the grass verges, adjoining high front boundary hedges and mature garden landscaping provide a positive contribution to the character of the area. In addition, at intervals along the road, there are numerous period properties which provide architectural interest and quality. The appeal property is one of these quality period dwellings and sits alongside similar detached houses with matching original distinctive features at number 64 and 66 Warwick Road. The distinctive angled front bays of these houses face travellers heading east. This corner detail within the frontage, draws views into the properties allowing the depth and detailing of the side elevations to be experienced. This is particularly the case with regard to numbers 62 and 66 given the separation distance from the nearest dwelling to the west, which allows more open views.
  4. The proposal would extend the dwelling at two storey level to the rear, as a continuation of the existing roof form. Although the roof height is reduced at the rear, the projection would nevertheless be indistinguishable from the original built form. The new window details have to some extent, sought to limit or integrate this greater depth of development in order to provide a more satisfactory composition. However, given the particular characteristics of the original design which draws attention into the site, this new element would be
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- relatively prominent in views given the openness of the frontage at first floor level. The proposal would detract from the proportions of the house and would result in harm to its character and appearance. Although limited to being perceived in only a small area of the conservation area, given that this property is a positive feature, this would result in harm to the character and appearance of the conservation area.
5. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty requiring that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. The *National Planning Policy Framework* is clear that any harm to a heritage asset, such as a conservation area, should be weighed against the public benefits of the proposal. In this case, the proposal would not preserve or enhance the character or appearance of the conservation area and would result in less than substantial harm as described by the *Framework*.
  6. With regard to the design overall, the loss of the detailed gable, despite being reproduced, would be unfortunate. The composition of the new rear elevation, which would be dominated by the large first floor glazing panels, would be entirely at odds with the overall design and would appear incongruous alongside the replaced and original gable detailing. The infill area of the extension would be contrived and at odds with the design of the house overall. Whilst the rear of the property would not be publicly viewed, these combinations do not represent good design and detract from the overall character of the property. Whilst the ground floor modern extension has been accepted, this is clearly distinguishable from the original design and offers a subservient, positive juxtaposition. This would not be the case with the new first floor elements nor would they sit comfortably together.
  7. The proposal would conflict with Policy HA4 of the East Herts District Plan 2018 (DP) as it would fail to preserve or enhance the special interest, character and appearance of the conservation area. It would also conflict with the design objectives of DP policy DES4 and HOU11 as it would not represent a high standard of design given this particular context; it would not be appropriate to the character, appearance and setting of the existing dwelling; nor would it appear as a subservient addition. The proposal would also be in conflict with policy HDP2 of Bishop's Stortford Neighbourhood Plan for All Saints, Central, South and part of Thorley 2022 for the same reasons.
  8. DP policy HA1 relates to heritage assets and follows the requirements of the *Framework*, requiring that less than substantial harm should be weighed against the public benefits of the proposal.
  9. The works referred to at 66 Warwick Road have altered its overall form and character. Permission was granted before the property was included in the conservation area and under different development plan policies. That development is also significantly different to that now being proposed. Nevertheless, it is evident that similar considerations were taken into account at that time. Given the differing circumstances however, it does not provide significant weight in favour of this proposal.
  10. Warwick Road is characterised by the trees, hedges and the relatively spacious perception provided by the set back of buildings. As such, changes to the rear

of properties have a lesser impact than those located nearer to the road. I have had regard to this and the lack of any changes to the frontage in my assessment. However, I have also taken into account the particular circumstances and design details of this property.

11. There would be public benefits from the improved fabric of the building with regard to insulation. There are also economic benefits that would result from the works and social benefits from the general improvement of the living accommodation. However, whilst I have had regard to the matters put forward, the public benefits are not sufficient to outweigh the less than substantial harm that would result to the conservation area. The proposal therefore conflicts with the heritage requirements of DP policy HA1 and the similar requirements of the *Framework*. My other design reservations add to this concern. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**



## Appeal Decision

Site visit made on 11 July 2023

**by R Bartlett PGDip URP MRTPI**

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

**Decision date: 14 July 2023**

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### **Appeal Ref: APP/J1915/W/22/3313115**

#### **Fryars Farm, Fryars Lane, High Wych, Hertfordshire, CM21 0LB**

- 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 Thake against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1193/FUL, dated 8 June 2022, was refused by notice dated 31 August 2022.
  - The development proposed is change of use of agricultural and forestry stores, workshops and maintenance building to one residential dwelling, including single storey lean-to extension and other external alterations, landscaping, erection of single storey detached garage building and new entrance gate.
- 

### **Decision**

1. The appeal is allowed and planning permission is granted for change of use of agricultural and forestry stores, workshops and maintenance building to one residential dwelling, including single storey lean-to extension and other external alterations, landscaping, erection of a single storey detached garage building and new entrance gates at Fryars Farm, Fryars Lane, High Wych, Hertfordshire, CM21 0LB in accordance with the terms of the application, Ref 3/22/1193/FUL, dated 8 June 2022, subject to the conditions set out in the attached schedule.

### **Main Issue**

2. The main issue is whether the site is in a suitable location for a residential conversion.

### **Reasons**

3. The appeal site is located within a small group of dwellings in the open countryside, outside of any identified settlement limits. Consequently, the proposed dwelling would be some distance from services and facilities, and future occupiers of it would be heavily reliant upon a car to access these.
4. Whilst the location of new development is significant in terms of assessing its overall sustainability and its long-term effects on the environment, this is only one of several considerations. In this case, although future occupiers of the proposal would be reliant upon private car use to access services and facilities, neither the length of such journeys, nor the number of journeys generated by a single family dwelling, would be significant. The Local Highway Authority comments on the proposal state that traffic generation will not be significant compared to the existing use.

5. Policy DPS2 of the East Herts District Plan (October 2018) (EHDP) is a strategic policy that makes no reference to conversions in rural areas. Policy TRA1 requires development proposals to be primarily, not solely, located in places which enable sustainable journeys to be made to key services and facilities. This flexibility reflects paragraph 105 of the National Planning Policy Framework (the Framework) and the supporting text to Policy TRA1, which recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
6. The proposal relates to the extension and alteration of an existing building. It is not disputed that these works would be appropriate in terms of scale, design and materials, to the character, appearance and setting of the site and its surroundings. Accordingly, the development would fall within category (d) of Policy GBR2 of the EHDP. There is nothing within this policy that would prevent or restrict the conversion of a rural building to a dwelling. Moreover paragraph 80 of the Framework is clear that isolated homes in the countryside can be acceptable where the development would, amongst other things, re-use a redundant or disused building and enhance its immediate setting. I do not consider category (e) of Policy GBR2 to be relevant as this relates to the re-development of previously developed land, the definition of which specifically excludes agricultural buildings.
7. The building to be converted is in excellent condition. Despite only being built in 2008, it is of traditional design and appearance, which reflects its rural surroundings. It is no longer required for agricultural purposes and its reuse for any other purpose would be likely to result in some related travel by car. The high-quality residential conversion proposed would make effective and beneficial use of this attractive building, ensuring that it continues to enhance its rural setting.
8. I therefore conclude that due to the fact the proposal relates to the conversion of an existing building, the site is a suitable location for a residential use of the scale proposed. The proposal would accord with Policy GBR2(d) of the EHDP, which seeks to maintain the rural area beyond the Green Belt as a valued countryside resource, and Policy INT1, which reflects the presumption in favour of sustainable development set out in the Framework. I also find no direct conflict with Policies DPS2 and TRA1, which do not seek to resist the conversion of buildings in rural areas.

### **Other Matters**

9. My attention has been drawn to three linked appeals in Bennington. These each relate to much larger development proposals, involving new build housing, and as such are not comparable to the proposal before me.
10. Whilst not referred to in its reason for refusal, the Council's appeal statement suggests that the large garden of the proposed dwelling could contain residential paraphernalia that would adversely impact upon the character and appearance of the rural area. However, given the mature landscape screening that surrounds the site and the presence of other nearby residential properties, I do not concur with this view. I also note that the original officer report concluded that the proposal would not be readily seen from outside of the site and would be acceptable in design terms.

## Conditions

11. The Council has provided a list of conditions, which the appellant has agreed to. I have considered these in line with the relevant tests set out at paragraph 56 of the Framework.
12. I have imposed the standard time limit condition for commencement of the development and a condition listing the approved drawings for the avoidance of doubt. Conditions controlling external materials and protecting existing trees and hedges are necessary to preserve the rural character and appearance of the area. The removal of some permitted development rights, to restrict roof and upward extensions, is reasonable to preserve the rural character of the building and its surroundings. Biodiversity net gains are necessary to enhance the nature conservation value of the site and water efficiency measures are imposed due to the site being in an area of high water stress.
13. However, I do not consider it necessary to remove all permitted development rights for extensions and outbuildings or to require additional landscaping, as the new single storey extension and garage building would be adequately screened by existing buildings and landscaping. A construction hours condition is not necessary given the relatively small scale nature of the development and the space between the site and neighbouring dwellings. Hard surfaces and boundary treatments are shown on the approved drawings and are largely to remain as existing.

## Conclusion

14. For the reasons given above, having had regard to the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

*R Bartlett*

INSPECTOR

## Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 134\_PL\_001 Rev.B, 134\_PL\_200 Rev.A, 134\_PL\_201 Rev.A, 134\_PL\_202 Rev.A, 134\_PL\_203 Rev.A, 134\_PL\_220 Rev.A, 134\_PL\_221 Rev.A and 134\_PL\_240 Rev.A.
- 3) The development hereby permitted shall be carried out using the external materials shown on drawing nos. 134\_PL\_220 Rev.A, 134\_PL\_221 Rev.A and 134\_PL\_203 Rev.A.
- 4) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed, and shall be protected during the course of the development in accordance with BS5837:2012. In the event that any trees and hedges are damaged or destroyed during the course of the development or within 5 years of its completion, these shall be replaced with new trees and hedges of the same or similar species, within the next available planting season.
- 5) Prior to the occupation of the dwelling hereby approved, the biodiversity enhancements set out in section 7 of the submitted Bat Survey, dated July 2022, shall be provided on the site and shall thereafter be retained in perpetuity.
- 6) Prior to the occupation of the dwelling hereby approved, measures shall be provided to ensure the development can achieve a water efficiency standard of 110 litres (or less) per person per day. These measures shall thereafter be retained in perpetuity.
- 7) Notwithstanding the provisions of Schedule 2, Part 1, Class AA, Class B or Class C, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) or any subsequent order, no upward extensions or extensions or alterations to the roof of the dwelling hereby approved, shall be undertaken without the prior written permission of the local planning authority.



## Appeal Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 1<sup>st</sup> August 2023**

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**Appeal Ref: APP/J1915/W/22/3312866**

**Land at Gilston Lane, Gilston Park, Gilston, Hertfordshire CM20 2SF**

- 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 O'Driscoll against the decision of East Herts Council.
  - The application Ref 3/22/1349/FUL, dated 1 August 2022, was refused by notice dated 7 November 2022.
  - The development proposed is stables and associated use of land for equestrian use.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect on the character and appearance of the area; and the adequacy of the site with regard to the welfare of the horses.

### Reasons

3. The proposal is for a complex of three stables, a barn and a tack room. In addition, there would be a cobbled yard and an additional extensive area for parking and turning. The site area is given on the application form as 0.234Ha. The stable floorplan and yard area, together with the parking and turning areas, would occupy a large part of the southwest area of the site. It is not clear if the area between these and the western boundary would be suitable for grazing or as an area for the horses to be put out. The area to the north is very restricted due to the triangular nature of the site and the level of vegetation on the boundaries. The main remaining area for either grazing or exercise for the horses would therefore be along the southeast and eastern boundaries.
  4. The appellant is clear that the horses would be fed from straw rather than grazed and that they would be exercised locally on the bridlepaths and within the surrounding countryside. Little other information has been provided as to how the horses would be managed although it is suggested that a condition could be attached to a permission to secure a Pasture Management Plan which could confirm details of arrangements for feeding, grazing and exercise.
  5. As the council do not raise an in principle objection to the use of the site for stabling or the keeping of horses, it is evident that it is the size of the facility and the scale of the supporting land, in combination, that is of concern. Policy
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- GBR2(b) of the East Herts District Plan 2018 (DP) allows for equine development that accords with policy CFLR6 (Equine Development). Policy CFLR6 seeks to permit equine development if certain criteria are met. This includes part (c) that the siting, scale and design of the proposal is in keeping with the character of the area, with adequate pasture to support horses.
6. At present, the land lies within open countryside with the nearest properties being clearly separate from this site to the north and screened from it. The site is well screened by the boundary and surrounding vegetation, apart from one section along the southern boundary in the vicinity of the proposed access. From this point, the new works would be clearly evident and would dominate the site given the scale of hardstanding and the scale of the building proposed. The nature of the parking and turning area surface would help to reduce its prominence and there is potential for further boundary planting which would assist further. However, given the shape of the field and the need to retain the boundary planting, the new works and any associated vehicles and trailers situated on the large parking area, would result in the activity and the buildings being dominant within this relatively small site. This would be a relatively large area of development on a very constrained site.
  7. Whilst the design and materials proposed are not uncommon for such a development, given the scale of the building and its surfaced surrounds, which would be in the most prominent part of the site, it does not appear to have been sited or designed to minimise its visual intrusion. It would avoid concerns with regard to flood risk associated with the building works and the boundary landscaping could be enhanced. However, no justification has been provided as to why a development of this scale would be necessary. It represents an overly large development within the restricted confines of this site.
  8. When taking away the stables, yard and parking; and the areas more likely to flood, together with the need to protect the boundary landscaping, the amount of useable remaining space would be limited. No evidence or figure has been provided as to what useable space would remain. The appellant has made reference to the Code of practice for the welfare of horses, ponies, donkeys and their hybrids 2017 (the Code). This advises that as a general rule, each horse requires approximately 0.5 to 1Ha of grazing of a suitable quality if no supplementary feeding is being provided but also that a smaller area may be adequate if a horse is principally housed and grazing areas are used only for occasional turnout. Clearly, as the entire site extends to only 0.234Ha this would not provide anything like the pasture recommended for three horses.
  9. The appellant is clear however that the horses would be hay fed and as such a smaller area referenced by the Code may be adequate. However, the areas suitable within the site have not been defined and there is nothing before me that suggests that such a limited area would be adequate. The Code advises that stabled horses benefit from daily turnout in the field to allow them to graze and socialise with other horses. This is to ensure that the horses are able to behave normally as required by the Animal Welfare Act 2006. It is not clear from the evidence if this is anticipated or feasible. The Code does identify that if turnout is not feasible, stabled horses should receive appropriate exercise daily. The appellant has advised that offsite exercise would be undertaken but is not clear if this would amount to the full extent of the horses out of stable experience.

10. The lack of space for turning out these horses would clearly result in management challenges and increase the need for offsite exercise. The Code goes into some detail as to the need to prevent over-grazing, maintaining good drainage and the need for an adequately sized, well drained area of pasture on which horses can stand and lie down, and on which to be fed and watered. The appellant suggests that these matters could be addressed in a Pasture Management Plan.
11. It is not clear from the application material or the statement of case how these matters would be addressed given that the areas of suitable land is likely to be very limited. This information is particularly relevant and necessary given that the proposal does not satisfy the policy requirement of DP policy CFLR6(c) or therefore, policy GBR2(b). Given the information submitted as part of the application and appeal, I would not be satisfied that such a condition would be suitably precise nor that the likely contents of such a document would suggest that a decision at odds with the policies should be reached.
12. A Framework Paddock Management Plan was submitted with the appellant's final comments and is dated April 2023. In addition, the final comments indicate that discussions have taken place with the British Horse Society and quotes from them are included, although the document from which these are copied is not provided. The purpose of final comments is to allow the appellant to comment on the council's statement of case. This is new information that neither the council nor third parties have had an opportunity to respond to. Accepting this new information without the opportunity for it to be scrutinised would prejudice the council and other interested parties. In any event, the document does not appear to address the space limitations or identify what land would be available and useable by the horses.
13. Reference has been made to a previous decision in 2006 that accepted this building as proposed. Although some works were undertaken, it is not being claimed that the permission was lawfully commenced and is therefore extant. It is not for this appeal to assess lawfulness in any event and therefore, I must assume that the permission has expired. That decision was based on previous development plan policies and although it has been suggested that the countryside policies have not materially changed, the historic policies have not been provided for comparison. The previous decision does not therefore represent a fallback position and as it has expired, the current development plan policies must be applied. The Code was also introduced well after that decision. In these circumstances, the previous permission can be afforded little weight.
14. The proposal would result in an active use of this currently overgrown site. Given its countryside location and its likely biodiversity value, I am not satisfied that this would bring significant ecological benefits. It would bring economic benefits from construction works and private social benefits from its use. Its use, even as a private stable, would undoubtedly also bring further economic benefits to the rural economy. These matter weigh in its favour.
15. An extract from the development plan has been provided which indicates that much of the surrounding land falls within an allocation for the Gilston Area Urban Development which the appellant suggests would change the context of the site which may, in the future, be experienced as part of the new

settlements. Given the nature of the allocation, I am not satisfied that it provides weight in favour of this development.

16. Whilst there would be some benefits to the proposal and there is no in principle objection to the use, my main finding is that the proposal represents an overly large development on a very limited site which would detract from the character and appearance of the site and the surrounding area. The lack of clarity as to whether the number of horses could be adequately managed, adds to this concern. As the matters put forward do not outweigh these concerns, I dismiss the appeal.

*Peter Eggleton*  
INSPECTOR



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## Appeal Decision

Site visit made on 7 June 2023

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

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

**Decision date: 4 July 2023**

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**Appeal Ref: APP/J1915/W/22/3307717**

**Stansted Road Street Works, Stansted Road, Bishop's Stortford,  
Hertfordshire, CM23 2FP**

- 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 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Ltd. against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1385/TEL dated 2 July 2022, was refused by notice dated 25 August 2022.
  - The development proposed is a 5G telecoms installation: H3G street pole and additional equipment cabinets.
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### Decision

1. The appeal is dismissed

### Procedural matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

### Planning Policy

3. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the Framework<sup>1</sup> only in so far as they are a material consideration relevant to matters of siting and appearance.

### Main issue

4. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO.
5. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

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<sup>1</sup> National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

## Reasons

6. The proposed installation would be located on a small grassed area that fronts onto the busy Stansted Road (B1383). It forms one half of a pair of prominent small green spaces that sit either side of the entrance to Cannons Close, both of which are set against a backdrop of mature trees and hedgerows.
7. Although the street scene surrounding the proposed installation includes utilitarian highway paraphernalia such as a street light column, telegraph pole, grit bin and equipment cabinets, these are; (1) on the periphery of the small green space; (2) commonly found in the public realm adjacent to roads; and (3) set behind the adjacent public footway directly adjacent to the trees and hedgerows. As a consequence, their prominence and visual impact in the street scene is muted.
8. On the other hand, the proposed installation, with 15 metre high monopole mast, would be taller than the street light column & telegraph pole and be positioned forward of the public footway on the small grassed area. It would as a consequence appear as an intrusive and prominent feature in the street scene and cause significant harm to the character and appearance of the area.
9. Paragraph 115 of the Framework states that where new sites are required (such as for 5G), equipment should be sympathetically designed and camouflaged where appropriate. Set against this context, I recognise that the appellant has designed the installation to be as low as possible and finished in green to mitigate its impact against the backdrop of existing trees & hedges. I also acknowledge that there is a lamp post, telegraph pole, grit bin and equipment cabinets nearby, along with inspection chambers, a post box, road sign and tree within the grassed area, and that the site does not fall within a conservation area. However, none of these factors are sufficient to mitigate the harmfully incongruous and intrusive appearance of the proposal in this prominent location.
10. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.
11. In view of the above, and insofar as they are material considerations relevant to matters of siting and appearance, I conclude that the scheme's harm to the character and appearance of the area would conflict with Policies ED3 and DES4 of the District Plan<sup>2</sup>, which collectively seek, amongst other things, that;- (1) new structures are sympathetically and appropriately located; and (2) that proposals respect the character of the site and surrounding area.
12. The Government has set out its commitment to supporting the deployment of gigabit broadband across the country and bringing digital connectivity to local businesses & residents to enable faster economic growth and social inclusion<sup>3</sup>.
13. This is reinforced by Paragraph 114 of the Framework which states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being' and that 'planning decisions should

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<sup>2</sup> East Herts District Plan, October 2018, East Herts Council.

<sup>3</sup> Written statements by the Department for Digital, Culture, Media & Sport and Ministry of Housing, Communities and Local Government dated 7 March 2019 and 27 August 2000.

support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre connections.’

14. Set against the above context, I recognise that the purpose of the installation is to provide new 5G coverage which would facilitate significantly improved connectivity for the target coverage area and that the scheme would accordingly provide public benefits in accordance with the economic and social objectives of the Framework. I also acknowledge that it would be available for sharing by another operator.
15. Nevertheless, the Framework also states at Paragraph 117 that for a new mast or base station, evidence must be supplied that the operator has explored the possibility of erecting antennas on an existing building, mast or other structure. Although the appellant states that they have carried this objective out and considered a variety of other locations, I do not consider it has been sufficiently evidenced and demonstrated that there exist no other; (1) masts in the locality that could be shared; and (2) alternative sites in a less prominent position, potentially accompanied by a more inconspicuous design of mast, that could also prove suitable and less harmful (such as the Shell garage to the north or whether the installation/sharing of a taller mast in the industrial estate to the north or the leisure centre to the west of the main rail line could provide the necessary coverage over a larger area, or by combining a monopole mast with an existing street light column). As a consequence, I am not convinced that no suitable alternatives exist that would prove less harmful.
16. The proposed installation is not therefore acceptable in respect of its siting and appearance.

### **Conclusion**

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

*Robert Fallon*

INSPECTOR

## Appeal Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 1<sup>st</sup> August 2023**

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**Appeal Ref: APP/J1915/W/22/3311566**

**Highfield Nursery, Wellpond Green, Standon, Hertfordshire SG11 1NL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Barry Pestell against East Herts Council.
  - The application Ref 3/22/1433/FUL is dated 23 June 2022.
  - The development proposed is the demolition of agricultural building and erection of one four bedroom single storey detached dwelling.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by Mr Barry Pestell against East Herts Council. This application is the subject of a separate Decision.

### Procedural matters and main issues

3. The appeal is lodged against non-determination of the application. The council's delegated report recommends refusal for two reasons. The first relates to the impact on the character and appearance of the rural area. The second relates to the sustainability of the location with regard to access to facilities and services.
  4. The existing building has permission under Class Q of the Town and Country Planning (General Development Order) (England) 2015 to be converted from an agricultural use to a residential use. This proposal would replicate that permission in terms of replacing the building with a new one of the same size and design. The main difference would be the size of the garden area which would be larger under the appeal proposal than is allowed by the Class Q permission. The building works associated with the Class Q consent are currently underway and nearing completion.
  5. The main issues are therefore the effect on the character and appearance of the area; and whether the proposal would be located in a sustainable location with regard to access to facilities and services.
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## Reasons

6. A recent appeal decision APP/J1915/W/22/3302750, dated 7 March 2023, related to a proposal to replace existing buildings on this site, including this building, with new build dwellings. The designs of the replacement dwellings differed from the original Class Q permissions and as such, the appeal considerations were different. However, the Inspector's findings with regard to the location of the site are directly relevant.
7. The East Herts District Plan 2018 (DP) policy DPS2 sets out a sustainable settlement hierarchy which directs new development to larger settlements. Outside of these, development should be proportionate to local needs. The policy is supported by policy TRA1 which aims to encourage development in locations which would allow access to services by a genuine choice of transport modes. The policies are consistent with the *National Planning Policy Framework*. The appeal site is not on a bus route, local roads are unlit and do not have the benefit of pedestrian footways. New residential development in this location would therefore conflict with both the development plan and the *Framework* with regard to the accessibility of this location.
8. There is however a fallback position which would result in the creation of a new dwelling, by conversion, which would be identical in many respects. There is now no doubt about the likelihood of this fallback position being implemented as the works are nearing completion. I agree with the conclusions of my colleague that whilst there is conflict with DP policies DPS2 and TRA1, the fallback position is a material consideration and it is sufficient to indicate that an alternative conclusion should be reached in this regard.
9. The remaining issue relates to the effect on the character and appearance of the area. The previous appeal included buildings of differing design and as such, although much of the assessment is comparable, the findings are not directly relevant to this proposal.
10. Wellpond Green is a rural settlement set in open countryside. The settlement pattern largely comprises of short stretches of detached residential properties fronting roads with occasional large properties set away from roads in extensive gardens. The introduction of new housing beyond the back gardens of the roadside properties and in an open area with a former nursery use, would consolidate development within this open area and be at odds with the existing rural character. Policy DES3 requires new development to respect the character of its surrounding area which this would not. This policy is supported by policy GBR2 which seeks to protect the rural areas beyond the Green Belt from development. This would introduce new residential development beyond the settlement into this backland area which would erode its rural character and that of the wider area. The proposal would clearly conflict with the development plan policies.
11. The fallback position to convert this former agricultural building is however a material consideration. In terms of the building works, the impact on the character and appearance of the area would be the same as the permitted development as the building structure would be new but the external appearance would be the same. In this respect, it cannot be concluded that the

proposed building works, when compared to the fallback position, would harm the character or appearance of the area.

12. The only significant difference between the Class Q conversion and this proposal relates to the curtilage of the respective dwellings. The Class Q plans show a tightly drawn curtilage with a total area of 316m<sup>2</sup>. This would provide only a very narrow strip of garden to each side of the converted building for domestic use. The current proposal illustrates a much larger area to all sides and is annotated as being in excess of 700m<sup>2</sup>.
13. The limited extension of the curtilage to the north and west would be towards an existing building and adjacent to the heavily landscaped rear garden boundary of the residential property, The Old House. This small area would be closely related to the new dwelling and would be of a small size and irregular shape. Its contribution towards the openness of this area is limited. To the east there is an existing glasshouse. The evidence before me is that a change of use of that building, or its surrounds, has not been accepted and it therefore retains its lawful agricultural use. The proposed minor change in alignment of this boundary would result in only a narrow additional strip of residential curtilage beyond the Class Q approval which would allow for the necessary parking and turning of vehicles. Given this limited change and close proximity of this area to the dwelling, although extending the residential character further, it would not result in a significant change to the original consent or increase its wider impact.
14. The land to the south is now predominantly grassed but was originally the site of large areas of glasshouses. The original nursery house, Sandwood, now sits in isolation to the southeast and does not appear to have a defined residential curtilage. The appellant suggests that the substantial area between these two buildings and around that house, already resembles a residential garden rather than an agricultural holding. However, there is nothing before me to suggest that any of the open land has a lawful use other than agriculture. Although currently mown grass, it does not have the characteristics of a garden closely associated with a dwelling and the current management regime may not persist into the future.
15. The scale of the extension of the curtilage to the south would be significant. Although a boundary fence has been erected and may not require consent, the change of use would change the character of this area of land from open grassland to domestic garden. The council are concerned that this would allow for the erection of domestic buildings which would further change the open character of this area. This could be brought under control by a condition removing permitted development rights. However, general paraphernalia associated with gardens and changes with regard to planting, boundary treatments and maintenance regimes would inevitably change its character in any event. Once established as a garden with a domestic character, it would be more difficult to justify any restrictions on garden buildings. Whilst I acknowledge that this area of land is not publicly visible, it is evident from its surrounds, albeit in private views. The use of such a large area as garden would however change the character of this open land and it would make other similar changes more difficult to resist.

16. The scale of the proposed curtilage, particularly its extension to the south, would result in harm to the character and appearance of this area. It would therefore conflict with DP policies VILL3(iii), GBR2 and HOU12(a&b) as it would extend the domestic area of this group of isolated buildings to the detriment of the surrounding rural character and appearance of the area.
17. In conclusion, a new dwelling in this location would conflict with the development plan. However, this conflict would be outweighed by the weight attributed to the fallback position, which is currently being implemented. The extension of the curtilage beyond that accepted by the fallback position would domesticate more of this open land within the countryside and it would individually and cumulatively erode the rural character and appearance of the area.
18. I have had regard to the appeal decisions submitted and the High Court judgement referred to and these support the above general approach to the fallback position. The appeal decision APP/H0502/W/17/3170904 supports the approach with regard to the extended curtilage.
19. The benefits of this scheme compared to that of the fallback position are put forward as including the improved construction of the dwelling which may offer improved energy efficiency. There is no overall energy/carbon comparison between these schemes but I do not underestimate the benefits of improved energy efficiency during the lifetime of the property. The improved curtilage would offer some private benefits to future occupants. Overall, whilst there would be some benefits to this proposal compared to the Class Q development, there are no matters that are sufficient to outweigh my concerns with regard to the large extended garden. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**

## Costs Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 1<sup>st</sup> August 2023**

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### **Costs application in relation to Appeal Ref: APP/J1915/W/22/3311566 Highfield Nursery, Wellpond Green, Standon, Hertfordshire SG11 1NL**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Barry Pestell for a full award of costs against East Herts Council.
  - The appeal was made against the failure of the council to issue a notice of their decision within the prescribed period on an application for planning permission for the demolition of an agricultural building and erection of one four-bedroom single storey detached dwelling.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. *Planning Practice Guidance* advises that costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
  3. It is alleged that the council acted unreasonably by failing to take into account the fallback position on the appeal site despite well-established case law.
  4. The first requirement for the council during its assessment of a case is to consider its compliance or otherwise with the development plan. The council carried out this assessment and found there to be clear conflict with regard to each main issue. It must then have regard to other considerations and determine whether these are sufficient to indicate that an alternative decision should be reached. It is evident from the council's delegated report that the fallback position was considered. The report does not clearly set out the balancing exercise which would have been helpful. However, there is nothing to suggest that all appropriate matters were not taken into account.
  5. It is for the decision maker to determine the weight to be attributed to the fallback position on a case by case basis. I am not satisfied that the council acted unreasonably in reaching its decision.
  6. The applicant makes reference to an appeal at the same site reference APP/J1915/W/22/3302750 which addressed issues which remained for the second appeal. That appeal decision was issued on 7 March 2023. It therefore
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was issued after the council's decision and the submission of the second appeal in November 2022. The appellant's statement of case for the second appeal was also dated before the first appeal decision. The council did not submit a statement but wrote to say that they would be relying only on their delegated report. The council at that time, were in possession of the first appeal decision and appended it to their letter but did not address its conclusions.

7. This new information was material to the second appeal and it would have been helpful if the council had addressed it. This may have limited the extent of the final comments made by the appellant. Any wasted costs would however only relate to the second part of the appellant's final comments submission. In any event however, although it would have been helpful had the council addressed this new information directly, I am not satisfied that they acted unreasonably in relying on their delegated report, particularly as they forwarded the first appeal decision with their response to ensure that it formed part of the appeal documents.
8. Overall, I am unable to conclude that the actions of the council fall within the examples of unreasonable behaviour set out in the *Guidance*. Whilst these are not exhaustive, I do not agree that they behaved unreasonably. I therefore find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the *Guidance*, has not been demonstrated and an award of costs is not therefore justified.

*Peter Eggleton*

INSPECTOR

## Appeal Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 1<sup>st</sup> August 2023**

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**Appeal Ref: APP/J1915/W/22/3312961**

**167 Ware Road, Hertford, Hertfordshire SG13 7EQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr D Karia against the decision of East Herts Council.
  - The application Ref 3/22/1488/FUL, dated 12 July 2022, was refused by notice dated 16 November 2022.
  - The development proposed is a two storey building including side dormers to create two one-bedroom dwellings with private amenity space, bin storage, bicycle parking and off-street parking including landscaping.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect on the character and appearance of the area; the effect on the living conditions of neighbouring residents; the effect on highway safety; and whether the proposal would be sufficiently adaptable to climate change.

### Reasons

3. The proposed building would extend across the full width of this site and although the first-floor accommodation would be contained within the roof form, it would be of a significant height. At present, the area is characterised by the frontages of the predominantly semi-detached houses on the north side of Cromwell Road and the back gardens of the properties on Ware Road. These back gardens contain many garden type structures which are generally low level in height and also some trees which bring some greenery. Otherwise however, the narrow road and prominence of parked cars to both sides, together with the outbuildings and high boundary fences ensure that the south side of Cromwell Road has the character of a residential service or access road.
  4. As the proposal would cover the entirety of the width of the site it would be a dominant new feature and given its height, it would be prominent in views despite its set back. The set back would provide the parking and utility areas but there would be little opportunity for meaningful planting of any scale. The proposed design, which includes blank, side facing, dormers above the large forward facing gable, would not be of any significant architectural interest. It
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would appear cramped within the plot and it would dominate the appearance of the backs of these properties.

5. The boundary trees, which lie within the neighbouring property, would either need to be severely pruned or more likely, would not survive much beyond the building works. This scale of development, on such a limited plot, would entirely change the character of this immediate area. Given its current character, the site and its neighbours, may be able to accommodate some positive built interventions but this proposal would represent overdevelopment; it would not be of a high design standard particularly as it would appear so cramped and would allow for so little landscaping; and if repeated, it would result in an overly urban character which would be at odds with the area in general.
6. The proximity of the proposed building to the boundary would result in it being unacceptably overbearing when in the garden of 169 Ware Road and when viewed from the rear of that house. The proposed rear facing first-floor windows would increase overlooking of the neighbouring private garden and rear rooms of that property. Concentrating outdoor activity into such a small area at the rear would also be likely to harm the enjoyment of the neighbouring garden and patio area. The proposed block plan and distances shown by the appellant confirm these inadequate relationships. The proposal would be entirely unacceptable with regard to the harm to the living conditions of the residents of number 169 with regard to outlook, privacy and noise. These concerns, with regard to privacy and amenity would also apply to the residents of number 165 although the impact on outlook would be more limited.
7. Given the above, the proposal would not be of a high standard of design and layout and would not reflect or promote local distinctiveness. It would result in unacceptably harmful impacts on the amenity of occupiers of neighbouring properties. It would therefore conflict with the design and amenity requirements of policy DES4(a & c) of the East Herts District Plan 2018 (DP). As this policy generally accords with both the design and amenity requirements of the *National Planning Policy Framework*, it must be afforded full weight.
8. In addition to the above, the amenity areas proposed for the new houses would be inadequate in size and outlook for the future residents. The rear facing living room and bedroom windows would similarly have particularly poor outlooks. Although the appellant advises that the properties would meet the Nationally Described Space Standards (2015) which is a positive matter, the standards do not address these relationships. In addition, the rear of the shop is dominated by noise from the cooling systems and nothing has been submitted to demonstrate that this would not remain the case. It has also not been demonstrated that the large commercial waste bin associated with the shop would be satisfactorily re-located away from the garden areas. Even if the impacts of the shop could be avoided, the dwellings would not provide adequate amenity for future residents. This adds to my concerns.
9. The council has raised concerns about visibility from the access. The appellant does not have control of the neighbouring rear boundaries and cannot therefore secure significant visibility splays for vehicles leaving the proposed parking areas, particularly to the east. However, this is a common feature

along this road and vehicle speeds are limited. Highway safety issues do not add to my concerns.

10. The remaining issue raised by the council relates to how the development would be adaptable to climate change. This is a matter that could, to some extent, be addressed by conditions as suggested by the appellant. The loss of greenery and open space is a matter that weighs against the proposal and the potential for new planting and sustainable drainage provisions would be limited. Whilst further information would be required in this regard generally, given my main findings, this is not a matter on which my decision would turn.
11. Reference has been made to 2 Cromwell Road which is a one-bedroom dwelling that was permitted in 2014. The current proposal mimics, to some extent, the form of that dwelling although the side dormers would be at odds with the characteristics of the neighbouring house. The spatial relations with the adjoining properties also differ. It does however provide weight in favour of the principle of some form of development although not the relationships currently proposed. It was also allowed prior to the adoption of the policies of the current development plan. Whilst offering some support for the principle of development, it does not offer support for the details put forward.
12. It is suggested that there would be a realistic fallback position for the conversion of the existing outbuilding. No lawful development certificate has been provided to support this potential alternative development. However, the conversion of the existing building would not result in the same level of harm, particularly with regard to the impact on the character and appearance of the area or the reduction in outlook that would be experienced by the residents of number 169 in particular. This is not therefore a matter that provides weight in favour of the proposal.
13. The development would assist in boosting housing provision by making a more efficient use of this space within the built-up area. This gains support from DP policy DPS2. The additional housing, the building works and the future occupiers would also contribute to the social and economic objectives of the *Framework*.
14. In conclusion, whilst there are matters that provide weight in favour of this proposal, particularly the provision of additional houses, they are not sufficient to outweigh my concerns particularly with regard to living conditions but also with regard to the impact on the character and appearance of the area. I therefore dismiss the appeal.

*Peter Eggleton*

**INSPECTOR**





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## Appeal Decision

Site visit made on 7 June 2023

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

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

**Decision date: 4 July 2023**

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**Appeal Ref: APP/J1915/W/22/3312678**

**Land adjacent to the A1184, London Road, Spellbrook, Bishop's Stortford, Hertfordshire**

- 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 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Ltd. against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1513/TEL dated 15 July 2022, was refused by notice dated 23 September 2022.
  - The development proposed is the installation of a new monopole 15m in height together with 3 no equipment cabinets at the base of the column and ancillary development
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The address on the application form and appeal form does not correspond with that on the decision notice. I have used the one shown on the decision notice as I consider this to be more accurate and am satisfied that dealing with the appeal on this basis has not prejudiced the interests of any party.
3. The submitted drawings and appeal statement reveal that the proposed monopole mast and equipment cabinets would be coloured grey (RAL-7035). However, this conflicts with the application supplementary information which states that the equipment cabinets would be green. For the avoidance of doubt, I have assessed the scheme on the basis of the former documents, namely that the proposed monopole mast and equipment cabinets would be coloured grey.
4. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

### Planning Policy

5. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the

development plan and the Framework<sup>1</sup> only in so far as they are a material consideration relevant to matters of siting and appearance.

### **Main issue**

6. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO.
7. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

### **Reasons**

8. The proposed installation would be located on a grass verge on the western side of the busy London Road (A1184), to the north of the built-up area of Spellbrook and within the open countryside. The proposed location is set against a backdrop of mature trees and hedgerows of varying and limited height. Overall, I found the area to have an edge of settlement countryside character.
9. Although the street scene surrounding the proposed installation includes utilitarian highway paraphernalia such as a circular speed limit sign, small equipment cabinet, bus stop shelter with associated refuse bin, telegraph pole and street light columns, these are of a limited height and commonly found in the public realm adjacent to roads. As a consequence, their prominence and visual impact in the street scene is muted.
10. On the other hand, the proposed installation, with 15 metre high monopole mast, would project well above the trees & hedgerows, bus stop shelter, refuse bin, speed limit sign, telegraph pole & street light columns and be positioned in a highly exposed location such that it would be clearly visible on the grass verge when approaching in both directions. It would as a consequence appear as an intrusive and prominent feature in the street scene and cause significant harm to the character and appearance of the area.
11. Paragraph 115 of the Framework states that where new sites are required (such as for 5G), equipment should be sympathetically designed and camouflaged where appropriate. Set against this context, I recognise that the appellant has designed the installation to be as low as possible to mitigate its impact against the backdrop of existing trees & hedges. I also acknowledge that there is a speed limit sign, telegraph pole, bus stop shelter with refuse bin and small equipment cabinet close-by, along with a lamp post on the opposite side of the road, and that the site does not fall within a conservation area. However, none of these factors are sufficient to mitigate the harmfully incongruous and intrusive appearance of the proposal in this prominent location.
12. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.

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<sup>1</sup> National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

13. In view of the above, and insofar as they are material considerations relevant to matters of siting and appearance, I conclude that the scheme's harm to the character and appearance of the area would conflict with Policies ED3 and DES4 of the District Plan<sup>2</sup>, which collectively seek, amongst other things, that; - (1) new structures are sympathetically and appropriately located; and (2) that proposals respect the character of the site and surrounding area.
14. The Government has set out its commitment to supporting the deployment of gigabit broadband across the country and bringing digital connectivity to local businesses & residents to enable faster economic growth and social inclusion<sup>3</sup>.
15. This is reinforced by Paragraph 114 of the Framework which states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being' and that 'planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre connections.'
16. Set against the above context, I recognise that the purpose of the installation is to provide new 5G coverage which would facilitate significantly improved connectivity for the target coverage area and that the scheme would accordingly provide public benefits in accordance with the economic and social objectives of the Framework. I also acknowledge that it would be available for sharing by another operator.
17. Nevertheless, the Framework also states at Paragraph 117 that for a new mast or base station, evidence must be supplied that the operator has explored the possibility of erecting antennas on an existing building, mast or other structure. Although the appellant states that they have carried this objective out and considered a variety of other locations, including the utilisation of existing rooftops, I do not consider it has been sufficiently evidenced and demonstrated that there exist no other; (1) masts in the locality that could be shared; and (2) alternative sites in a less prominent position, potentially accompanied by a more inconspicuous design of mast, that could also prove suitable and less harmful (such as the installation of a mast within and to the rear of; - (a) the Hilton Suzuki site to the north; (b) the industrial unit site on Spellbrook Lane West; or (c) the commercial area adjacent to the railway line on Spellbrook Lane East). As a consequence, I am not convinced that no suitable alternatives exist that would prove less harmful.
18. The proposed installation is not therefore acceptable in respect of its siting and appearance.

## **Conclusion**

19. For the reasons given above, I conclude that the appeal should be dismissed.

*Robert Fallon*

INSPECTOR

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<sup>2</sup> East Herts District Plan, October 2018, East Herts Council.

<sup>3</sup> Written statement by the Department for Digital, Culture, Media & Sport and Ministry of Housing, Communities and Local Government dated 27 August 2000.



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## Appeal Decision

Site visit made on 7 June 2023

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

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

**Decision date: 4 July 2023**

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**Appeal Ref: APP/J1915/W/22/3307861**

**Great Hadham Road, Bishop's Stortford, Hertfordshire**

- 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 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by CK Hutchison Networks (UK) Ltd. against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1540/TEL dated 19 July 2022, was refused by notice dated 13 September 2022.
  - The development proposed is a 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. Although the appellant's appeal statement is accurate in relation to the site address, development details and plans, it refers to an application reference number of 3/22/1385/TEL, which is incorrect. I also observed that the cell area & discounted options in this document differ from those shown in the site specific information & planning justification statement. For the avoidance of doubt, I have therefore assessed the scheme on the basis of both sets of discounted options and have treated the reference to 3/22/1385/TEL as a typing error.
3. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the 'GPDO'), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

### Planning Policy

4. The provisions of Schedule 2, Part 16, Class A of the GPDO do not require regard be had to the development plan. I have had regard to the policies of the development plan and the Framework<sup>1</sup> only in so far as they are a material consideration relevant to matters of siting and appearance.

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<sup>1</sup> National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

## **Main issue**

5. The principle of development is not subject to consideration in a prior approval application as this is established by virtue of the GPDO. As a consequence, the matter referred to by the Council of whether or not the proposal represents inappropriate development in the Green Belt does not arise.
6. Accordingly, the main issues are the effect of the siting and appearance of the proposed installation on the character & appearance of the area and pedestrian safety, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

## **Reasons**

7. The proposed installation would be located on a public footway on the northern side of Great Hadham Road (B1004), a main route leading into the centre of Bishop's Stortford. The Council states that the appeal site also falls within the Metropolitan Green Belt and an adopted Green Wedge. This stretch of the road is enclosed by a woodland belt to its northern side and a large area of parkland to the south screened by mature trees and hedgerows. Overall, I found the area to have a semi-rural character.
8. Although the street scene surrounding the proposed installation includes a street light column, this is of a limited height and commonly found in the public realm adjacent to roads. As a consequence, its prominence and visual impact in the street scene is muted.
9. On the other hand, the proposed installation, with 20 metre high monopole mast, would project well above the woodland belt and street light column and be positioned in a highly exposed location such that it would be clearly visible when approaching in both directions on Great Hadham Road. It would as a consequence appear as an intrusive and prominent feature in the street scene and cause significant harm to the character and appearance of the area.
10. Paragraph 115 of the Framework states that where new sites are required (such as for 5G), equipment should be sympathetically designed and camouflaged where appropriate. Set against this context, I recognise that the appellant has designed the installation to be as low as possible to mitigate its impact against the backdrop of the existing woodland belt. I also acknowledge that there is a lamp post nearby, along with inspection chambers, and that the site does not fall within a conservation area. However, none of these factors are sufficient to mitigate the harmfully incongruous and intrusive appearance of the proposal in this prominent location.
11. The safety and free flow of pedestrians would also be significantly impaired by the scheme's obstruction of the footway. Whilst I recognise that the development proposes a footpath extension into the grass verge to enable pedestrians to walk around the equipment, this would constitute an abrupt change in the footway's straight alignment that would be more difficult to navigate for parents with pushchairs and people with disabilities/mobility difficulties, such as those with a guide dog/white mobility cane or in wheelchairs/mobility scooters. This harm would be intensified by the equipment restricting visibility of oncoming pedestrians, which would lead to conflict

- between users of the footway. The scheme would as a consequence result in harm to pedestrian safety.
12. Reference has been made to various social and economic benefits but these have not been taken into account in considering the matters of siting and appearance.
  13. In view of the above, and insofar as they are material considerations relevant to matters of siting and appearance, I conclude that the scheme's harm to the character & appearance of the area and pedestrian safety would conflict with Policies ED3 and DES4 of the District Plan<sup>2</sup>, which collectively seek, amongst other things;- (1) that new structures are sympathetically and appropriately located; (2) that proposals respect the character of the site and surrounding area; and (3) that development maximises accessibility of the public realm and enables easy navigation and movement through space.
  14. Furthermore, I also find that insofar as it is a material consideration relevant to matters of siting and appearance, that the scheme's harm to pedestrian safety would conflict with Paragraph 112 of the Framework which seeks, amongst other things, to ensure: (1) the needs of people with disabilities and reduced mobility are addressed; and (2) the creation of safe places that minimise the scope for conflicts between pedestrians.
  15. The Government has set out its commitment to supporting the deployment of gigabit broadband across the country and bringing digital connectivity to local businesses & residents to enable faster economic growth and social inclusion<sup>3</sup>.
  16. This is reinforced by Paragraph 114 of the Framework which states that 'advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being' and that 'planning decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre connections.'
  17. Set against the above context, I recognise that the purpose of the installation is to provide new 5G coverage which would facilitate significantly improved connectivity for the target coverage area and that the scheme would accordingly provide public benefits in accordance with the economic and social objectives of the Framework. I also acknowledge that it would be available for sharing by another operator.
  18. Nevertheless, the Framework also states at Paragraph 117 that for a new mast or base station, evidence must be supplied that the operator has explored the possibility of erecting antennas on an existing building, mast or other structure. Although the appellant states that they have carried this objective out and considered a variety of other locations, I do not consider it has been sufficiently evidenced and demonstrated that there exist no other; (1) masts in the locality that could be shared; and (2) alternative sites in a less prominent position, potentially accompanied by a more inconspicuous design of mast, that could also prove suitable and less harmful (such as recessing the mast into the Woodland belt to the north, or within the parkland to the south towards its edge where it could be screened by new and existing landscaping, or by combining a monopole mast with an existing street light column). As a

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<sup>2</sup> East Herts District Plan, October 2018, East Herts Council.

<sup>3</sup> Written statements by the Department for Digital, Culture, Media & Sport and Ministry of Housing, Communities and Local Government dated 7 March 2019 and 27 August 2000.

consequence, I am not convinced that no suitable alternatives exist that would prove less harmful.

19. The proposed installation is not therefore acceptable in respect of its siting and appearance.

**Conclusion**

20. For the reasons given above, I conclude that the appeal should be dismissed.

*Robert Fallon*

INSPECTOR



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# Appeal Decision

Site visit made on 31 July 2023

**by Les Greenwood MRTPI**

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

**Decision date: 23<sup>rd</sup> August 2023**

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## **Appeal Ref: APP/J1915/D/23/3320176**

### **8 Glebe View, Walkern, Hertfordshire SG2 7PQ**

- 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 Anthony John Packer against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/1562/HH, dated 21 July 2022, was refused by notice dated 7 February 2023.
  - The development proposed is a ground floor extension on the back of the property.
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### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Walkern Conservation Area.

### **Reasons**

1. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Policy HA4 of the East Herts District Plan 2018 (DP), Policy 3 of the Walkern Parish Neighbourhood Plan 2017-2033 (NP) and the National Planning Policy Framework (the Framework) consequently give great weight to the conservation of heritage assets including conservation areas. The conservation area is characterised by a wide variety of buildings, which fit within a traditional rural style but with a range of different sitings, forms and materials. This creates a multi-faceted yet harmonious rural character.
2. 8 Glebe View is a detached house within a late 20th Century housing development on the edge of the village and just within the conservation area. These houses are noted to be 'neutral features' in the Council's Walkern Conservation Character Analysis Map. They are handsome buildings, set out informally around the cul-de-sac with traditional proportions, features and detailing, but enough variation in materials and siting to accord with the mixed character of the conservation area. No 8 is typical of the houses here, a 2.5 storey house with a single storey pitched roof garage to the side. It sits at the



head of the cul-de-sac in a focal point for views along the street. The proposal is to convert part of the garage to annexe accommodation, with a change of one vehicular garage door to 2 person doors at the front and a large single storey extension with a zinc roof at the back.

3. The submitted drawings appear to show the 2 proposed personal doors at the front in a modern style which conflicts with the more refined, vernacular design of the rest of the frontage including the simply designed garage doors. The new doors would be prominent features, detracting from the presentation of the building in the street scene. The appellant says that the joinery details would match existing, but it appears that the existing door they would match is at the back of the garage, out of public view.
4. The proposed rear extension would be of contemporary form, style and materials, in contrast to No 8 and surrounding houses. Modern extensions can, however, sometimes be successfully added to traditionally designed buildings. In this case, although the extension would have a large footprint and irregular shape, it would be low in height and would fit comfortably within the large garden area so that it would be a subsidiary feature that would not cramp or overdevelop the site.
5. The rear extension would be tucked away at the back so that it would not readily be seen in any public views. The Council refers to views from the field to the rear, but this appears to be private land and I have seen no evidence of any public rights of way nearby. The rear extension would nevertheless be seen by neighbours and this part of the proposal is once again let down by the somewhat crude detailing shown on the submitted drawings including the new glazing and awkward, shallow pitched and asymmetrical roof. I am left unconvinced that this structure would be of sufficient quality to fit in well.
6. Although I find no objection to the conversion of the garage and to the general location and scale of the proposed rear extension, I conclude that due to the poor detailing shown on the submitted plans the proposal would unacceptably harm the character and appearance of the conservation area. The proposal conflicts with the shared aims of DP policies HA4, DES4, GBR2, HOU11 and HOU13, NP Policy 3 and the Framework, to protect heritage assets and to ensure that extensions are designed to a high standard which complements the surrounding area.
7. The harm to the conservation area, in the terms of Framework paragraph 199, would be less than substantial and would be towards the lower end of that broad spectrum. I note that the house is well separated from nearby listed buildings so that it would not affect their settings. I recognise the appellant's reasonable wish to improve the property and the minor contribution this would make towards the Framework's social objective of providing homes to meet the needs of present and future generations. I nevertheless give great weight to the harm that would be caused to the conservation area and, with reference to Framework paragraph 202, find no public benefits that would outweigh this harm to the significance of a designated heritage asset.
8. I have considered all other matters raised, including a neighbour's comments about living conditions and parking. I agree with the Council that there would not be any undue effects on in regard to these issues. The rear section of No 9 next door appears to gain its main light and outlook from the rear, rather than

from the ground floor side windows facing the site of the proposed extension. Privacy could be protected by a condition requiring obscure glazing of any proposed side windows and/or by fencing on the boundary. Disruption due to construction works should be a temporary. The house would retain parking spaces to the front and the proposal should not significantly increase traffic or pressure for on-street parking on this cul-de-sac.

9. For the reasons set out above in regard to the main issue, I conclude that the appeal should not succeed.

*Les Greenwood*

INSPECTOR



## Appeal Decision

Site visit made on 8 August 2023

**by Nick Bowden BA(Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 24 August 2023**

**Appeal Ref: APP/J1915/D/23/3319818**

**High Trees, Great Hornead, Hertfordshire SG9 0NR**

- 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 Mrs Kathryn Stacey against the decision of East Hertfordshire District Council.
- The application Ref 3/22/1849/HH, dated 1 September 2022, was refused by notice dated 13 January 2023.
- The development proposed is the construction of a single storey side extension with a first floor balcony above behind tiled mansard roof, single storey glazed front porch extension, two storey side / rear / front extension incorporating enlargement of first floor front and side windows.

### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the design of the proposed extensions on the host dwelling and the street scene and whether the development would preserve or enhance the character or appearance of the Great Hornead Conservation Area (CA).

### Reasons

3. High Trees is a detached, circa 1970s, brick-built dwelling with timber cladding to the first floor and under a tiled, pitched roof. It is set within a substantially sized plot and surrounded by numerous mature trees. The dwelling is separated from the road by a generous lawn and a small stream.
4. The property is within the Great Hornead CA which is characterised by a variety of buildings and uses in the vicinity, albeit that much of the area is residential in nature. To the south side of the road, lower density detached homes of varying sizes prevail. To the north are a mix of comparatively smaller dwellings, the village hall, and current and former agricultural buildings. Most buildings are set within well landscaped plots with some barely visible in the public realm. Those that are closer to the road provide group interest due to their form and features neatly punctuating the vegetated nature of the area. The existing dwelling at High Trees represents a comparatively modern addition to the immediate locality. Its modest scale, use of wooden cladding to much of the upper floor and sylvan setting is such that it makes a neutral contribution to the CA.

5. The proposed extensions would considerably enlarge the existing dwelling. This would introduce a transverse gable with half hipped ends to front and rear and a further single-storey extension to the opposing side. The large two-storey extension to one side would noticeably unbalance the proportions of the house with the mix of half hips, full hip to one side and overhanging eaves failing to reflect the proportions of the existing dwelling. The use of patio glazing at ground floor level jars with the comparatively small windows to the upper floor which, in combination, gives a squat, unbalanced and excessively wide appearance. The extensions would fail to integrate with the existing dwelling in a satisfactory manner to the detriment of its present simple form.
6. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The extensions to the dwelling do not integrate in a satisfactory manner and they would fail the statutory test. I accept that the dwelling is set back from the road and within a substantial plot. However, this only assists in rendering the current dwellings presence in the CA as neutral, whereas enlarging the dwelling in the manner proposed would fail to preserve this situation.
7. Paragraph 202 of the National Planning Policy Framework (NPPF) stipulates that in situations where the harm to the CA is less than substantial, as in this case, this harm should be balanced against the public benefits. The appellant notes that the proposed extensions are for family use, as a home for life. This is a perfectly reasonable aspiration, but it is not a public benefit and does not outweigh the harm to the CA. Reference is also made to a previously permitted scheme for three new dwellings to replace the existing one. Details of this scheme have not been provided as evidence and as such I must give this negligible weight.
8. I conclude that the proposed extensions would fail to integrate satisfactorily with the existing dwelling to the detriment of its simple form and scale and to that of the street scene. It would, therefore, fail to preserve or enhance the character or appearance of the Great Hornead CA. The proposed development thus conflicts with policies HOU11, DES4 and HA4 of the East Herts District Plan (2018) and the NPPF. These policies seek a high standard of design and layout and to preserve or enhance the special interest, character and appearance of the area.

### **Conclusion**

9. For the reasons given above, and having regard to all the evidence before me, including representations in support, I conclude that the appeal should be dismissed.

*Nick Bowden*

INSPECTOR

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## Appeal Decision

Site visit made on 20 June 2023

**by P Eggleton BSc(Hons) MRTPI**

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

**Decision date: 3<sup>rd</sup> July 2023**

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**Appeal Ref: APP/J1915/D/23/3316763**

**7 Cozens Road, Ware, Hertfordshire SG12 7HH**

- 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 Katrina Willicombe against the decision of East Herts Council.
  - The application Ref 3/22/2102/HH, dated 5 October 2022, was refused by notice dated 5 December 2022.
  - The development proposed is a two storey rear and side extension and porch.
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### Decision

1. The appeal is allowed and planning permission is granted for a two storey rear and side extension and porch at 7 Cozens Road, Ware, Hertfordshire SG12 7HH in accordance with the terms of the application, Ref 3/22/2102/HH, dated 5 October 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: 22007.100-104 & 22007.300-304.
  - 3) The works hereby permitted shall be carried out in accordance with the description of materials set out in the application form.

### Main Issues

2. The main issues are the effect on the character and appearance of the area; and the effect on highway safety.

### Reasons

3. The works would represent a re-modelling of this property, utilising the area to its side which is currently bounded by a brick wall and accommodates single storey, flat roofed structures. The proposed design would result in these, and the rear extension, being replaced by a two storey addition. The design includes a front and rear facing two storey gable and a large front porch with a pitched roof. The property is currently of a simple design and these new interventions would add to its interest. Although the roof form to the rear would be slightly contrived, overall, the property would have an improved appearance.
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4. This is a prominent corner location and the works would benefit the character and appearance of the area. It therefore gains support from policy DES4 of the East Herts District Plan 2018 (DP) which seeks to make the best possible use of the available land by respecting or improving upon the character of the site and the surrounding area. DP policy HOU11(a) requires that development is appropriate to the character and appearance of the dwelling and surrounding area and is generally subservient. Although not subservient, the proposal would satisfy the main objectives of this policy.
5. The proposal includes the provision of a front vehicular access and parking for vehicles within the site. There would be visibility from this access which would be sufficient for the speed of traffic that navigates the bend outside the house. The new access would be similar to that of the neighbouring property. This is a residential street where accesses are common. On-street parking takes place along the road at certain points and given the curvature of the road at this point, off-street parking is likely to offer benefits in terms of forward visibility for drivers compared to on-street parking. The proposal is unlikely to significantly change driving conditions given the current driveway provisions locally.
6. The highway authority have objected to the proposal on the basis that each point of access onto the highway creates an additional point where conflicts can occur and therefore seek to keep access points to a minimum in the interests of highway safety, particularly where the vehicle access crosses a footway. They go on to advise that additional accesses on many occasions will remove kerbside parking, thus having a detrimental effect on highway amenity.
7. The geometry of this road is such that on-street parking outside this property on the inside of the bend would add to highway safety concerns. Furthermore, there is no evidence of parking stress in this area so there would be little impact on highway amenity. Footway users have good visibility across this frontage and indeed across that of the neighbouring property and as a result, this additional access would not significantly alter safety or convenience for footpath users. This appears to be an unusual situation whereby the garage to the property requires access over third party land. The legal position regarding the use of the garage or the land outside it, is not clear. However, the issue is whether the additional access would result in harm with regard to highway safety. Whilst the highway authority may wish to limit access points generally, this is not a requirement of DP policy TRA2. The proposal needs to be considered on the specific circumstances of this individual case and there is no evidence to suggest that there would be conflict with that policy or any significant change with regard to highway safety.
8. In terms of the exact position and detail of the footpath crossover, this is outside the application site and is a matter that can be addressed when an application to drop the kerb is made to the responsible local authority.
9. The final matter raised by the council relates to the certificate served with the application which failed to consider any potential intrusion of foundations or eaves beyond the boundary of the site into the wide grass verge area. The appellant has now served a notice on the owners and no comments have been received. It is not clear where the adopted highway extends to, but in any

event, it would appear that all parties are now fully aware of the proposal and would not be prejudiced.

10. Overall, the proposal would improve the appearance of the property and would not result in any material change with regard to highway safety. There would be no conflict with the development plan policies or those of the *National Planning Policy Framework* with regard to design or road safety. As there are no other matters that weigh significantly against the proposal, I allow the appeal.
11. I have imposed conditions relating to the commencement of development and the details of the approved plans for the avoidance of doubt and in the interests of proper planning. The application form sets out the details of the materials to be used and a condition would require that these details are implemented to ensure that the development would have a satisfactory appearance.

*Peter Eggleton*

**INSPECTOR**

# Appeal Decision

Site visit made on 31 July 2023

**by Les Greenwood MRTPI**

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

**Decision date: 23<sup>rd</sup> August 2023**

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**Appeal Ref: APP/J1915/D/23/3320047**

**Longacre, High Elms Lane, Benington SG2 7DG**

- 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 Nick Dobie against the decision of East Hertfordshire District Council.
  - The application Ref 3/22/2341/HH, dated 1 November 2022, was refused by notice dated 19 January 2023.
  - The development proposed is the remodelling of the existing property including the demolition and reconstruction of the existing roof form.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the house and the local area.

## Reasons

3. Longacre is a detached house of modest 20<sup>th</sup> Century design, located on an extensive corner plot in the countryside well outside of the village of Benington. The area around the property is characterised by occasional residential dwellings, mainly of traditional rural design and scale, including a detached house opposite, across High Elms Lane, and a pair of semi-detached houses further along Whempstead Road. The next plot on High Elms Lane is occupied by a much taller house of more modern and unusual design, Larkins. That house has almost triangular side gables, with a deep plan and a tall roof providing accommodation at both first and second floor levels within the roof space.
4. The proposal would fundamentally change Longacre. The roof would be raised and extensions added to the front and rear, deepening the plan form and providing second floor level accommodation. The roof would change from a traditional pitched roof to a crown roof, with a flat roof section in the middle surrounded by pitched roof sections. A long, single storey, flat roofed swimming pool extension would be added at the back, next to the Whempstead Road boundary and behind a new side extension. A new double garage is also



proposed, but I understand that the Council raises no objection to this particular part of the proposal.

5. The alterations would make the house much bulkier and give it a much more modern appearance, with glazed gable features dominating the front elevation and extensive glazing to the rear. Policy HOU11 of the East Herts District Plan 2018 (DP) says that extensions should generally appear as subservient additions. There will be exceptions to this general stricture, however, where in the words of DP policies DES4 and GBR2, the proposal is of high standard of design and its size, scale, mass, form, siting, design and materials of construction are appropriate to the character, appearance and setting of the site and/or surrounding areas.
6. This is a large plot which should potentially be capable of accommodating a large house. A house of the proposed height, bulk and modern design would, however, stand out dramatically from the other, more modestly designed and scaled houses along this part of Whempstead Road. It would be prominent and dominant in views from both roads, especially in the months when deciduous trees and hedges have lost their leaves. The cumulative effect of the various changes would be a building that would fail to respect its rural context.
7. The appellant points to Larkins next door as an example of the varied size and design of houses in the locality. That house is itself somewhat exceptional in its design, form and scale, however, and does not sit comfortably with other houses in the area. It is set well away from Whempstead Road and has no material effect on the character of that road, as would the appeal proposal. I find that the existence of Larkins does not justify this particular proposal.
8. I note the appellant's argument that the swimming pool extension could be built as an outbuilding without the need for a planning application, under permitted development rights<sup>1</sup>. I give this limited weight as a fall-back position as it has not been confirmed by a Lawful Development Certificate and I have seen no specific details. This would not be a determining factor for this appeal in any case. I also understand that a new planning application for a replacement dwelling of the same design as the appeal proposal has been submitted to the Council. I have not been advised of any decision on that application.
9. I conclude that the appeal proposal would unacceptably harm the character and appearance of the house and the local area. It therefore conflicts with the shared aim of DP policies HOU11, DES4 and GBR2 and the National Planning Policy Framework to secure a high standard of design that is appropriate to local character.
10. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should not succeed.

*Les Greenwood*

INSPECTOR

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<sup>1</sup> Town and Country Planning (General Permitted Development)(England) Order 1995 (as amended)



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## Appeal Decision

Inquiry held 4 – 7 July 2023

Site visit made unaccompanied on 5 July 2023

**by Jonathan Price BA(Hons) DipTP MRTPI DMS**

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

**Decision date: 18<sup>th</sup> August 2023**

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**Appeal Ref: APP/J1915/W/23/3318094**

**41 Railway Street, Hertford, Hertfordshire SG14 1BA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Churchill Retirement Living Ltd (CRL) against East Hertfordshire District Council (EHDC).
  - The application Ref 3/22/2346/FUL, is dated 4 November 2022.
  - The development proposed is redevelopment to form 34 retirement living apartments for older persons including associated communal facilities, access, parking and landscaping and 3 retail units (Use Class E).
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### Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form 34 retirement living apartments for older persons including associated communal facilities, access, parking and landscaping and 3 retail units (Use Class E) at 41 Railway Street, Hertford, Hertfordshire SG14 1BA in accordance with the terms of the application, Ref 3/22/2346/FUL, dated 4 November 2022, subject to the conditions set out in the schedule attached to this decision.

### Preliminary Matters

2. The appellant submitted to the Inquiry a draft unilateral undertaking (UU), made to EHDC and Hertfordshire County Council (HCC) under section 106 of the Town and Country Planning Act 1990. A copy of a completed version dated 4 August 2023 was subsequently provided. The UU secures a developer contribution of £490,612 towards off-site affordable housing. Various non-affordable housing contributions are also provided for. The amounts sought by EHDC<sup>1</sup> are secured. The contributions fall somewhat short of those towards the funding of libraries and waste recycling/transfer required by HCC. The UU contains a 'blue pencil' clause allowing a reallocation towards off-site affordable housing of any other contributions found to fail the tests in Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010. I set out my findings over the UU later on in this decision.

### Background and Main Issues

3. The appeal relates to a cleared site, originally intended for an 86-bed hotel. This formed part of a wider mixed-use redevelopment in this part of Hertford

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<sup>1</sup> These include financial contributions towards bowls, sports hall, swimming pool, fitness gym, studio space, village and community centres, and parks, gardens and amenity green space.

town centre that is otherwise nearing completion. The planning application was made originally for 36 retirement living apartments with three retail units. Following meetings with the Council the design was amended, reducing the number of residential units to the 34 under consideration in this appeal.

4. A main statement of common ground (SoCG) sets out the issues agreed between the parties. The proposed land use is found acceptable in principle and to comply with policies HERT1 and RTC4 of the East Herts District Plan of October 2018 (DP).
5. It is common ground that the Council can currently demonstrate only a 4.41-year supply of deliverable housing land, less than the five-year amount specified in paragraph 74 of the National Planning Policy Framework (the Framework). It is agreed that there is an identified unmet need for specialist older persons' housing in East Herts. The SoCG confirmed there to be no highway safety objections to the proposal and that drainage and flood risk could be satisfactorily addressed by conditions.
6. CRL have a business model to provide schemes of all market accommodation for older people. On this basis, the Council has agreed to affordable housing requirements being met by a financial contribution towards off-site provision, as allowed for under DP policy HOU3. The amount the scheme can viably contribute towards off-site affordable housing remains a central matter of dispute between the parties.
7. The appeal is over non-determination and so the Council provided four putative reasons why permission would have been refused had it been in a position to make a decision. The main issues in the appeal reflect these in summary form. They are whether the proposal would:
  - make appropriate contributions towards affordable housing provision and other infrastructure;
  - be of a contextually satisfactory design, including in respect of designated heritage assets; and
  - provide acceptable living conditions for future occupiers, with particular regard to outlook, ventilation and communal outside space.

## Reasons

*Whether adequate contributions are made towards affordable housing provision and other infrastructure.*

8. The UU secures the non-affordable housing contributions sought by EHDC. There is a relatively small shortfall in meeting the contributions sought by HCC and this weighs in the overall balance. Much the largest financial contribution from the scheme, both sought and offered, is towards affordable housing. Therefore, in respect of this main issue, the focus of the Inquiry concerned what the scheme could viably contribute towards this.
9. Policy HOU3 of the DP requires 40% affordable housing for residential developments of more than 15 gross additional dwellings, such as in this case. As set out in its affordable housing supplementary planning document<sup>2</sup>, the Council will seek to secure financial contributions broadly equivalent to the cost

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<sup>2</sup> East Herts Affordable Housing SPD May 2020.

of providing the affordable housing on-site. In its viability evidence, the Council shows the residual value of the appeal scheme provides a net surplus of £1,133,000 over a scheme with 13 affordable units provided on-site. This figure was not challenged and I have taken it to be approximately the *in lieu* requirement for 40% affordable housing.

10. Policy HOU3 may permit a lower affordable housing contribution if it is demonstrated that the 40% cannot be achieved due to viability reasons. In accordance with this policy, the appellant had provided a financial viability assessment (FVA) to justify the level of contribution towards affordable housing and other requirements. The Council had provided an independent review of this. Paragraph 58 of the Framework states that the weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case. The Planning Practice Guidance (PPG) sets out the key principles in understanding viability in decision taking<sup>3</sup>.
11. The parties had reached agreement over the Gross Development Value (GDV) of the appeal proposal and found little difference over its Residual Land Value (RLV). Where the parties were significantly apart was over the Benchmark Land Value (BLV) attributed to the site. This is critical since any excess in RLV over the BLV is generally accepted to represent the amount a scheme can viably contribute to financial obligations, in this instance off-site affordable housing and other infrastructure.
12. The site has been cleared in advance of redevelopment. As such it provides no reasonable basis for deriving a BLV based upon an existing use; the approach generally advocated by the PPG<sup>4</sup>. Instead, the appellant has relied on an assessment of alternative use value (AUV), related to the extant 86-bed hotel consent. The PPG<sup>5</sup> acknowledges that AUV may be informative in establishing a BLV. This is where the use is policy-compliant and capable of implementation, as the recent hotel planning permission would suggest.
13. The hotel had originally been intended as a Premier Inn, but owners Whitbread had stepped back in September 2020 on account of the Covid pandemic. This situation thus made way for the later CRL proposal. The unprecedented effects of Covid provide a reasonable explanation, required by PPG paragraph 017, why that alternative use had not been pursued.
14. There is no dispute that AUV is an appropriate methodology for establishing BLV in this case. However, PPG paragraph 017 requires AUV to reflect a demonstrable market demand. The viability of the appeal scheme should be assessed against the alternative use providing the greatest BLV. The parties differ widely over a BLV based on the permitted hotel use. The appellant's hotel BLV is one of around £2m. This is compared to the Council's calculation of about £0.25m.
15. As an alternative to the hotel, the Council has tested a conventional flatted residential scheme on the appeal site, with a policy-compliant 40% on-site affordable housing, and found this to generate a residual value of £1.16m. Using this residential figure in an AUV, and deducting it from the RLV for the CRL proposal, the Council shows the appeal scheme to generate a surplus

<sup>3</sup> Viability - GOV.UK ([www.gov.uk](http://www.gov.uk))

<sup>4</sup> Paragraph: 013 Reference ID: 10-013-20190509

<sup>5</sup> Paragraph: 017 Reference ID: 10-017-20190509

sufficient to fully meet the in lieu 40% off-site affordable housing payment, as well as the other infrastructure contributions.

16. Therefore, the determinative matter becomes whether a BLV based on the permitted hotel exceeds that of a policy compliant market housing scheme and comprises a reasonable AUV for assessing a viable appeal scheme contribution. The fact that the parties are so far apart over the hotel BLV reveals valuation to be a highly inexact discipline. It is evident that relatively small variations in assumptions and inputs can generate widely differing BLV outputs.
17. The AUV is a theoretical exercise to assess the viable level of contributions from the CRL scheme. If it is to be based on a hotel, this should reflect a continuing market demand. Covid stalled the Hertford Premier Inn scheme, which was then overtaken by events with CRL stepping in with its retirement housing proposal. Whitbread has confirmed an ongoing interest in the site for a Premier Inn<sup>6</sup>, although is clearly not in a position to pursue this with the current involvement of CRL. I note also that Hertford/Ware features on the expansion list targeted by Travelodge; the other main budget hotel operator.
18. The data illustrates that market performance among branded budget hotels in the area has returned strongly post-pandemic. However, this is not conclusive evidence that a hotel would offer the highest BLV for the site, in the context of a high demand for housing in this area. Premier Inn already has a successful local presence with its Ware operation. A generally strong market demand might indicate a hotel BLV higher than estimated by the Council. However, this would not necessarily suggest to me this exceeds that generated by a general residential scheme.
19. Although giving rise to similar figures, much was made of the appellant's original August 2022 hotel valuation<sup>7</sup> being based on a profits method and being revised shortly before the Inquiry by one applying an investment approach<sup>8</sup>. The Council's substantially lower site hotel value was a profits-based assessment. The RICS Valuation Practice Guidance, advisory and not mandatory, states that certain trade related properties, including hotels, are valued using the profits method guidance. However, there might be some justification for the amended investment-based approach. This is because the majority of budget hotels are held as investments<sup>9</sup>, and transactions take place on this basis. The appellant's adopted hotel valuation reflects the advisory RICS iSurv Material on Hotels. This advises that the valuer must adopt the prevalent methodology of the active buyers in the local hotel market, which is mainly investment based.
20. The Council finds the appellant's investment approach valuation too high. Contributory factors include too great an anticipated market rent, based on comparison with higher value, metropolitan locations, such as central Manchester. I acknowledge, however, that the comparators used reflect the appellant's valuer's particular experience in the hotel market.
21. The appellant applies its profits approach to cross check the investment valuation. I find the Council's criticisms on this quite persuasive. I agree that

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<sup>6</sup> letter from Whitbread dated 20 June 2023.

<sup>7</sup> Valuation Report Proposed Hotel Development, Railway Street, Hertford SG14 1BA by Christie and Co dated 5 August 2022.

<sup>8</sup> Christie and Co letter of 14 June 2023.

<sup>9</sup> 47% Premier Inn, 100% Travelodge

food and beverage income is unlikely to experience a 22% annual increase factored into the calculation, in a location with a high level of existing competition. Even with ongoing lean hotel management processes, a general shortage of labour puts into question the anticipated reduced wage bill. Current high energy costs also place a question mark over the reduced overheads factored in by the appellant. Overall, the Council's financial estimates over revenues, costs and net operating profit provide a sound challenge to those put forward by the appellant.

22. The Council also considers the appellant is over-estimating Average Daily Rate (ADR) for a hotel here. The relatively high ADR shown by the Ware Premier Inn would likely be less with competition from a second facility located close by in Hertford. The Council's lower ADR figure is substantiated by the widely used STR evidence and is reasonable in my view.
23. For developer profit the PPG indicates 15%-20% of GDV in relation to establishing the viability of plan policies. However, I accept that for a custom-built budget hotel there is a lower risk profile and 6% might be an acceptable contractor's profit in the AUV calculation.
24. Considering the evidence in the round, and accepting valuation is not an exact discipline, a hotel BLV could fall somewhere within a wide range. Such a margin provides reasonable scope for judging that, on the balance of probabilities, a policy compliant market housing scheme provides the appropriate basis for AUV. The agreed RLV of the appeal scheme would most likely provide a surplus over a residential BLV sufficient to meet 40% off-site affordable housing and other contributions.
25. The appellant's FVA does not adequately substantiate the lower than 40% equivalent payment offered towards off-site affordable housing, in conflict with DP Policy HOU3. The harm from this policy conflict is of a substantial magnitude, since the UU proposes only in the order of 43% of the affordable housing contribution that this scheme might viably make. However, there is a realistic fallback situation, with implementation of the extant hotel consent resulting in no affordable housing contributions whatsoever. Giving weight to this fallback, the overall harm arising from the inadequate affordable housing contribution then reduces significantly.
26. The shortfall in the scheme contributions towards libraries, waste recycling and waste transfer is not contested and leads to the proposal conflicting with DP policies CFLR7 and DEL2. The harm from these policy conflicts is quite small in degree, related to the scale of deficit.

*Whether a contextually satisfactory design, including in respect of designated heritage assets.*

27. The vacant appeal site forms a corner segment of an area previously occupied by the twentieth century Bircherley Green shopping centre. Adjacent parts have been replaced by the now well-advanced re-development, which fronts onto the River Lea to the north. This part of Hertford town centre has more recent development, of a comparatively larger scale. In addition to the Bircherley Green re-development, this includes the adjacent multi-storey car park and four storey Bircherley Court apartment complex opposite to this. To its west and south, Bircherley Green gives way to a finer grain of development in the more historic parts of the town centre.



28. The appeal scheme would be broadly comparable to the approved hotel in scale, height, position and footprint. Fronting closely onto Bircherley Street and Railway Street, it would reflect a historic built pattern. To one side the scheme would face the contemporary four-storey Bircherley Court development. The other side is adjacent to and across from the smaller scale of historic development running along Railway Street. To the other sides, the scheme abuts existing development, including the adjacent multi-storey car park. The visually more accessible views of the proposal are from Bircherley and Railway Streets. The corner aspect of the scheme, at the junction of these streets, would be a prominent feature in views into the town centre from a main eastern entrance.
29. The revision to the scheme, from 36 to 34 apartments, allowed for a reduction in overall height, scale and massing. The lowered ridge and eaves heights adjoining the existing two-storey building at 31-33 Railway Street better manage the transition in scale to the smaller historic buildings adjacent and opposite.
30. The original Bircherley Green development had overridden the historic plot pattern in this part of Hertford town centre, which otherwise remains largely undisturbed. These historic plots are generally quite long and narrow, leading to a varied and vertical rhythm of street frontages. In the appeal scheme, the southern elevation onto Railway Street includes a projecting central section, of a contrasting white brick to the buff sections either side, that rises to a triangular parapet. The rectangular bay, with the recessed sections to either side, articulates the prevailing plot widths and would help restore a historic built rhythm along Railway Street.
31. The corresponding eastern elevation repeats this articulation, providing the scheme a balanced appearance. The mixture of buff and white brickwork reflects the facing materials used in the contemporary Bircherley Court development opposite. It is the design of the prominent corner section, between these southern and western elevations, to which the Council's objections relate. As the tallest element of the scheme, this creates an appropriate landmark feature, announcing a main entry point to the historic core of Hertford. This full four-storey corner element rises to a triangular parapet, repeating those to both sides and concealing the pyramidal roof structure behind.
32. Like the triangular parapets, the repetitive nature of the fenestration provides balance and coherence to the scheme overall. The larger windows and tall brick piers, along with the tall central parapet, provide strong emphasis to the focal point of the scheme. The building heights and window sizes then moderate at each side, blending in appropriately with their surroundings. Whilst the arches above the windows might be decorative rather than structural, this is not a fatal flaw in a scheme that possesses a satisfactory appearance overall.
33. The scheme provides no access to public realm, such that part III of DP Policy DES4 regarding maximising legibility must apply. Whilst the entrance is to the rear, rather than more obviously at the corner, the scheme nonetheless possesses architectural legibility. It clearly reads as a landmark feature, responding to a visually significant location and emphasising, in distinct design terms, the junction between contemporary redevelopment and a more preserved historic core. The proposal satisfies the relevant part I of DES4, by

providing a high standard of design and layout to reflect and promote local distinctiveness. It satisfies part I (a) by respecting and improving the character of the site and surroundings in terms of scale, height, mass and design features.

34. DP Policy HERT7 expects proposals to take account of, and contribute positively to, the Hertford Town Centre Urban Design Strategy (HTCUDS). This strategy promoted the Bircherley Green re-development. The appeal scheme would be an appropriate alternative to the approved hotel. It would equally mark the eastern entrance to a main connecting spine that the HTCUDS identifies as linking key places within the town centre, thus satisfying Policy HERT7.
35. The appeal site is within the Hertford Conservation Area<sup>10</sup> (CA) and there are several listed buildings within its vicinity. I have duties under Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. These are to have special regard to the desirability of preserving the settings of any listed buildings affected and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
36. The CA is quite large and covers the historic part of Hertford. This proposal is located on the eastern side of the Central Historic Core, as defined in the CA Appraisal<sup>11</sup>. It is significant for its high concentration of listed buildings and historic street pattern and development frontages. Of the nearby listed buildings, the Grade 1 listed Friends' Meeting House, and its neighbouring Grade 2 listed Priory Rooms, lie further to the east on Railway Street, set apart by intervening modern development. The retrusive settings of these historic buildings would not be adversely affected by the proposal, and their significance would be preserved.
37. The Grade 2 listed buildings<sup>12</sup> fronting Railway Street relate more closely to the CRL proposal. As listed buildings these are also all of national significance, related to their architectural and historic interest as well as their group value. The empty gap in the street currently detracts from their settings. The appeal scheme would restore development with a series of shop fronts that reflect the plot rhythm and street appearance. The views of these listed buildings would not be significantly reduced and appreciation of their settings would be improved by a sympathetically designed sequence of new shop fronts. Therefore, the proposal would preserve the settings of all affected listed buildings and comply with DP Policy HA7.
38. The proposal would respect the established built pattern, be of an appropriate scale, height and form for its location and suitable traditional materials might be conditional. I have addressed the Council's detailed design concerns above, which relate only to the corner elevation. I consider this taller element, with its triangular parapet, pyramidal roof and larger openings, to provide a suitable landmark feature. The design of this keystone section fits in suitably with an overall scheme which would preserve the character and appearance of the CA, in full accordance with Policy HA4.
39. As I find that it would not cause harm to the significance of the designated heritage assets discussed, this proposal satisfies DP Policy HA1. Concluding on

<sup>10</sup> As designated in 1967, revised in 1981 and further amended in 1996.

<sup>11</sup> Hertford Conservation Area Appraisal and Management Plan - adopted March 2017

<sup>12</sup> Nos. 28-30, 32, 34 and 36 opposite the scheme and 23 - 25 and 27 - 29 beyond to the west.



this main issue, the proposal would be of a contextually satisfactory design, including in respect of designated heritage assets, in conformity with development plan policy.

*Living conditions provided for future occupiers, with particular regard to aspect, ventilation and outside space.*

40. As part of achieving well-designed places, paragraph 130 of the Framework seeks that developments promote health and well-being, with a high standard of amenity for existing and future users. The issue of whether this scheme would provide acceptable living conditions for its future occupiers is a proper matter in the overall consideration of design. This is regardless of relevant DP Policy DES4 referring only to the amenity of neighbouring occupiers. I agree with the Council that market forces should not be the sole arbiter of what amounts to acceptable living conditions.
41. In this context, it is necessary to consider the particular living requirements of a likely older occupier and the trade-offs made in choosing to live in a town centre. I have no reason to doubt the CRL evidence that a purchaser might typically be of an advanced age and seeking single person accommodation for independent living, but within a communal environment with a degree of on-site assistance available. Further motivations would be to downsize to a smaller, more manageable home which is close to shops and services and where there would not be a dependence on private car use, once that option needs to be relinquished.
42. The appeal site offers proximity to public transport and a good range of town centre facilities. Being on an urban site, and to fit in with its surroundings, the scheme provides the relatively high density of accommodation typical of a town centre apartment development. There are no private balconies or roof terraces, which might have offered better living conditions. Nevertheless, the single aspect nature of most of the apartments, and the lack of private amenity space, is not unusual for town centre flats and would provide satisfactory living conditions.
43. In this case the occupiers would instead have the benefit of the communal lounge, with the small external sitting out area leading from this to use in suitable weather. Clearly, larger external grounds, with sunnier spots, would have provided improved living conditions. However, the external area fails no set standards and is not of an inadequate size given its more passive function. The site circumstances, whereby a compatible scheme must front onto the adjacent streets, dictate the location of the communal open space. There will be the expected background noise resulting from the town centre location and a degree of vehicular activity to the outer sides of the external amenity space. Whilst not reducing this noise, the fencing and planting around the perimeter would provide the sitting out area a secluded and pleasant feel, as the scheme illustrations show. The area would enjoy some direct sunlight in summer months and, overall, provide occupiers with a pleasant outside space to enjoy at appropriate times.
44. The general high level of activity, including an evening economy, means that a town centre location cannot guarantee the same lower noise environment provided by a suburban site. In this case, the Council notes in particular the live music hosted on the opposite side of Railway Street, at the Hertford Bell public house. However, satisfactory internal noise levels within the apartments

would be provided by closed windows, with mechanical ventilation providing fresh air and cooling when required. This would be an arrangement common to numerous town centre apartment schemes, allowing effective use of urban sites to provide housing. DP Policy EQ4, quoted in the Council's putative refusal reason is not relevant, since this relates to the effect of development on air quality. Otherwise, the proposal would provide acceptable living conditions for future occupiers, including in respect of the outlook and ventilation to all apartments and the quality of the communal outside space.

### **Planning obligation**

45. The UU secures the financial contributions in the areas sought by HCC; towards waste recycling, waste transfer, libraries, fire and rescue and monitoring fees. Although the amounts offered by the appellant fall somewhat short of those required by HCC, the principle of these obligations is supported by the statement provided. The UU does not reflect the wording that HCC would have recommended in a trilateral agreement. This includes not providing the project flexibility, occupier liability and payment triggers in the way HCC would have sought. Nonetheless, I consider the obligations made remain adequately deliverable and enforceable in the manner set out.
46. The other non-affordable housing obligations are the financial contributions sought by EHDC and the amounts have been agreed. Including that towards off-site affordable housing, the policy justification for requiring these obligations is set out in the Council's CIL compliance statement.
47. On the basis of the evidence and policy justification put to me, I am satisfied that all the obligations made in the UU meet the three tests in Regulation 122(2) of the CIL Regulations 2010, as repeated in Framework paragraph 57. I consider each obligation in the UU to be a) necessary to make the development acceptable in planning terms, b) directly related to the development and c) fairly and reasonably related in scale and kind to the development.

### **Planning Balance**

48. The proposal brings forward a number of benefits and weight is ascribed to these, having regard to the conclusions of Inspectors in the two appeal decisions<sup>13</sup> drawn to my attention, relating to CRL schemes allowed elsewhere.
49. The 34 residential units will meet DP housing supply policies DPS1 and 3 and help redress the five year undersupply identified in paragraph 6 (above). This benefit attracts substantial weight. That the units will be specialised accommodation for older people will meet an unmet need and principally satisfies DP policies HOU 1 and 6. The PPG<sup>14</sup> refers to a critical need generally to provide housing for older people, and I give this benefit significant weight. This weighting factors in wider social benefits, both in terms of the improved health and well-being of older residents and the freeing up of larger family homes.

<sup>13</sup> Appeal Ref: APP/N1730/W/20/3261194 Former Fleet Police Station, 13 Crookham Road, Fleet GU51 5QQ – 31 retirement apartments allowed 14 May 2021 and Appeal Ref: APP/H1705/W/20/3248204 Former Basingstoke Police Station, London Road, Basingstoke RG21 4AD – 56 retirement apartments allowed 24 June 2021.

<sup>14</sup> Paragraph: 001 Reference ID: 63-001-20190626 Revision date: 26 June 2019

50. The UU makes non-affordable housing contributions that carry small positive weight. This is despite the small shortfall in the amounts sought for libraries and waste recycling/transfer. The benefit of the affordable housing contribution of £490,612 helps meet a critical need and, although not policy compliant, still attracts moderate weight.
51. Substantial weight is given to the benefit of using suitable brownfield land within Hertford town centre for homes, in accordance with Framework paragraph 120 c). This helps deliver sustainable development in accordance with the strategy of DP Policy DPS2. This substantial weight reflects the proposal being in a highly sustainable location, where future residents would enjoy good accessibility to a wide range of services, in compliance with DP Policy DPS2 and paragraph 8 of the Framework. This positive weighting also factors in the scheme making efficient use of land and satisfying DP Policy HOU2 and paragraphs 119, 124 and 125 of the Framework.
52. In accordance with paragraph 81 of the Framework, I attach significant weight to the proposal's economic benefits, including the construction works, new Class E units and increased consumer spend within the town centre. The overall environmental benefits of the scheme attract more modest weight overall, although the swift bricks are particularly beneficial to a declining bird species dependant on nesting opportunities in buildings.
53. Considerable importance and weight is attributed to the satisfaction of the S66(1) and 72(1) duties, and with the proposal addressing a harmful gap within the CA through the provision of an acceptable scheme.
54. On the basis of the planning benefits discussed above, it is clear that the proposal complies with a large number of development plan policies. Nevertheless, the provision of sufficient affordable housing, as specified in Policy HOU3, is an important aim of the DP. This consideration is sufficient for me to conclude that the proposal would conflict with the development plan when considered as a whole. Therefore it is necessary to decide whether material considerations would indicate approval despite this conflict. Of these, the Framework carries considerable weight in policy terms.
55. The Council cannot currently demonstrate a five year supply of deliverable housing sites. Therefore, the DP policies most important for determining this appeal are deemed to be out-of-date by Framework paragraph 11 d), the terms of which must be given considerable weight. Under paragraph 11 d) i), the application of Framework policies protecting designated heritage assets does not provide a clear reason for refusal in this case. The tilted balance under 11 d) ii) therefore applies. There is an adverse impact stemming from an affordable housing contribution substantially lower than required by DP Policy HOU3. However, this harm would not be of a magnitude to significantly and demonstrably outweigh the many benefits that would flow from this proposal, when assessed against Framework policies taken as a whole. Material considerations would therefore indicate this appeal should be allowed.

### **Conditions and conclusion**

56. The conditions suggested by the Council, along with the appellant's comments, were discussed at the Inquiry. I have amended, reordered and in some case combined those that meet the tests in paragraph 55 of the Framework, seeking to avoid repetition and to provide clarity and conciseness. Condition 1 applies

the standard three-year period for commencement. For certainty, condition 2 sets out the plans approved.

57. For the proposal to be acceptable, certain matters have to be agreed before the development can proceed. Such pre-commencement conditions have the appellant's prior written agreement. Condition 3 ensures the finished floor and ridge heights are as shown on the approved plans, in the interests of character and appearance. Conditions 4 and 5 respectively ensure adequate surface water drainage and flood risk measures are put in place. In the interests of highway safety and neighbouring living conditions, condition 6 requires adherence to an agreed Construction Method Statement (CMS).
58. At stages following commencement, a number of conditions are necessary. Condition 7 addresses any previously unidentified site contamination. Condition 8 ensures adequate parking and servicing arrangements, in the interest of highway safety. To reduce carbon emissions, condition 9 requires agreed energy efficiency measures be put in place. Condition 10 requires swift bricks be provided to provide nesting sites for this declining species of bird. In the interest of the satisfactory appearance of the completed development, condition 11 requires detailed approval of all external materials and features. Condition 12 requires agreement to piling methods, including to safeguard nearby underground utilities.
59. A number of conditions need to be satisfied before the approved development can be occupied. Condition 13 is necessary to ensure that the surface water drainage infrastructure is operated, managed and maintained throughout the life of the development. Condition 14 ensures that the shared surface area, parking spaces and access are adequately drained and surfaced. To promote sustainable travel modes, condition 15 is necessary to secure application of an agreed Travel Plan. In the interests of residential living conditions, condition 16 is needed to apply the noise management measures proposed. Condition 17 requires the implementation of external landscaping measures, principally necessary to ensure the quality of the residents' outside sitting area. Condition 18 is necessary to ensure adequate water efficiency standards. Finally, condition 19 is necessary to ensure occupation by the older age groups the scheme has been designed for, and upon which basis the benefits of the proposal have been assessed.
60. Specific conditions governing construction waste management and dust emissions are unnecessary, given these matters are covered by the CMS. Also unnecessary is a condition requiring the access arrangements to be the subject of a Stage 1 Road Safety Audit, as these are as previously approved for a hotel on this site and are found equally acceptable for this proposal. The permission is for three Class E retail units and there are no reasonable grounds for a condition requiring further approval for uses a), b) and c) within that category. Nor is there any necessity for a condition removing permitted development rights for additional storeys, as these do not apply to buildings built after 5 March 2018.
61. Subject to these conditions, I conclude the appeal should succeed.

*Jonathan Price*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Neil Cameron of King's Counsel, instructed by Matthew Shellum of Planning Issues Limited

He called:

Matthew Shellum BA(Hons) DipTP MRTPI Planning Director and Head of Appeals, Planning Issues Limited.

Gideon Lemberg BArch RIBA ARB - Eastern Design Director of Planning Issues Ltd

William Bedford BA MCIfA Director of Landgage Heritage Ltd

R James Mackay BSc(Hons) MRICS (RICS Registered Valuer)  
Alder King LLP

Karl Hines BSc(Hons) MRICS, Director Christie and Co.

### FOR THE LOCAL PLANNING AUTHORITY:

Annabel Graham Paul of Counsel, instructed by Victoria Wilders, Legal Services Manager, EHDC

She called:

Amit Patel BSc (Hons) MSc DipEc - Principal Planning Officer, EHDC

Richard Freeman - Interim Development Management Team Leader, EHDC

Leena Shah BArch MLA CMLI - Conservation and Urban Design Officer, EHDC

Emma Keller Bsc (Hons) - Conservation and Urban Design Officer, EHDC

Andrew Jones BSc MRICS - Director, BPS Chartered Surveyors

Melvin J Gold, FIH - Hotel Industry Consultant of Melvin Gold Consulting

## INQUIRY DOCUMENTS (ID)

ID 1 Opening statement on behalf of the appellant by Neil Cameron KC.

ID 2 Opening statement on behalf of the Council by Annabel Graham Paul of Counsel.

ID 3 Copy of appellants' draft UU.

ID 4 HCC's supplementary statement concerning the UU of 6 July 2023

ID 5 Appellant's written agreement to the terms of the pre-commencement conditions suggested pursuant of sections 100ZA(4-6) of the TCPA

ID 6 Closing statement on behalf of the Council by Annabel Graham Paul of Counsel.

ID 7 Closing statement on behalf of the appellant by Neil Cameron KC.

## **SCHEDULE OF CONDITIONS**

### *Time period for commencement*

1. The development hereby permitted shall begin not later than three years from the date of this decision.

### *The details and drawings subject to which the planning permission is granted*

2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site location plan 40043HT-PL01A, site plan 40043HT-PL02A, ground floor plan 40043HT-PL03A, first floor plan 40043HT-PL04A, second floor plan 40043HT-PL05A, third floor plan 40043HT-PL06A, roof plan 40043HT-PL07A, elevations 1 40043HT-PL08A, elevations 2 40043HT-PL09A and elevations 3 40043HT-PL10A.

### *Pre-commencement conditions*

3. Prior to the commencement of development hereby approved, detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to and approved in writing by the local planning authority and the completed development shall accord with these approved plans.
4. Prior to the commencement of the development hereby permitted, construction drawings of the surface water drainage network, associated sustainable drainage components, flow control mechanisms and a sustainable drainage scheme (SuDS) construction method statement shall have been submitted to and approved in writing by the local planning authority. The scheme shall then be constructed in accordance with these approved details.
5. Prior to the commencement of the development hereby permitted, full details of all required flood resilient and resistant technical measures shall be submitted to and approved in writing by the local planning authority. The scheme shall then be constructed in accordance with these approved details.
6. Prior to the commencement of the development, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The CMS shall include:
  - the construction programme;
  - methods for accessing the site, including traffic management measures and wider construction vehicle routing;
  - numbers of daily construction vehicles including details of their sizes;
  - hours of operation and construction vehicle movements;
  - any works to the public highway to facilitate construction;
  - parking, turning and loading/unloading arrangements for operatives and visitors;
  - the erection and maintenance of security hoardings and signage;
  - safety measures for existing public highway users;
  - wheel washing facilities;
  - measures to control the emission of dust and dirt during construction;



- consultation arrangements with neighbouring occupiers;
- a scheme for the recycling/disposing of waste resulting from the construction works.

The approved CMS shall be adhered to throughout the construction period of the development.

*Pre-commencement above slab level and other construction stage conditions*

7. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
8. No development shall commence above slab level until a management and operation plan for vehicle and cycle parking, servicing, deliveries, refuse collection and emergency vehicle access associated with the development shall have been submitted to and approved in writing by the local planning authority. The plan approved shall thereafter be adhered to.
9. No development shall commence above slab level until details of the design and construction of the development demonstrating how it would minimise overheating in summer and reduce the need for heating in the winter have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be implemented in accordance with the approved details.
10. No development shall commence above slab level until details of the design and position of swift bricks shall be submitted to and approved in writing by the local planning authority. The development shall then be implemented with swift bricks in accordance with these approved details.
11. No development shall commence above slab level or on the respective part of the development until details or samples of the following have been submitted to and agreed by the local planning authority:
  - facing bricks and roof tiles;
  - all external lighting;
  - rainwater goods, including profiles, positioning, materials, colour and fixings;
  - Juliet balconies, including depth, soffits, railings and attachments;
  - dormers, roof soffits (finishing and fixings) and windows (including materials and colour, a section of the glazing bars and frame moulding, position of the window frame in relation to the face of the wall, depth of reveal, jambs, soffits and sill detail);
  - commercial frontages, including canopies and details of fascia signage zones.

Development shall be carried out in accordance with the approved details.

- 12.No piling shall take place until a piling method statement (detailing the programme for the works, the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including noise emissions and measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure) has been submitted to and approved in writing by the local planning authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

*Pre-occupancy conditions*

- 13.The development hereby approved shall not be first occupied until details of the operation, maintenance and management of the surface water drainage that shall have been provided in accordance with condition 4 have been submitted to and approved in writing by the local planning authority. The details of the scheme to be submitted for approval shall include:
- a detailed verification report demonstrating the approved construction details and specifications have been implemented in accordance with the surface water drainage scheme,
  - a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

The approved details shall thereafter be adhered to.

- 14.The building shall not be occupied until the shared service area, accesses and car parking spaces shown in drawing number 40043HT-PL02 rev.A have been drained and surfaced in accordance with details that shall have had the prior written agreement of the local planning authority. These areas shall thereafter be kept available at all times for access, parking and servicing.
- 15.The building shall not be occupied until a Residential Travel Plan (RTP) to promote sustainable travel measures has been submitted to and approved in writing by the local planning authority. The RTP shall thereafter be implemented as approved.
- 16.The building shall not be occupied until noise management measures based on 24Acoustics report ref. R9594-1 Rev 1 have been submitted to and approved in writing by the local planning authority. These details shall ensure noise levels in external amenity areas meet the lower limit for noise specified in BS8233:2014 '*Guidance on sound insulation and noise reduction for buildings*'. Noise levels from building services, including MVHR systems operating at maximum capacity, shall not exceed NR 20 in bedrooms (2300 to 0700 hours) and NR 25 in all habitable rooms (0700 to 2300 hours). The noise management measures shall thereafter be maintained as approved.
- 17.The building shall not be occupied until hard and soft landscaping based on the submitted Landscape Strategy Masterplan ( ref: JBA 22/232 - SK02) has been implemented in accordance with details that shall have had the prior written approval of the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or



diseased shall be replaced in the next planting season with others of similar size and species.

18. Prior to the first occupation of any dwelling or other unit, measures shall be incorporated to provide a water efficiency standard of 110 litres (or less) per person per day in accordance with details that shall have had the prior written approval of the local planning authority.

*Conditions relating to post occupancy monitoring and management*

19. Each dwelling hereby permitted shall be occupied only by; (i) a person aged 60 years or over; (ii) a person aged 55 years or older living as part of a single household with the above person in (i); or (iii) a person aged 55 years or older who were living as part of a single household with the person identified in (i) who has since died.

- End -



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## Appeal Decision

Site visit made on 1 August 2023

**by P B Jarvis BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 August 2023**

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**Appeal Ref: APP/J1915/D/23/3319414**

**17 Chadwell, Ware SG12 9JY**

- 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 Kendall against the decision of East Herts District Council.
  - The application Ref 3/22/2544/HH, dated 7 December 2022, was refused by notice dated 3 February 2023.
  - The proposed development is first floor rear extension, existing pitched dormer extended.
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### Procedural Matters

1. The Council has described the development as "First floor rear / side extension with rear flat roof dormer extended sideways; pitched roof front dormer extended forward and cropped hip side roof reformed as gable end". This more accurately describes the whole development.
2. I have also been referred to a recent decision of the Council relating to the "removal of rear dormer; proposed first floor rear flat roof dormer extension; pitched roof front dormer extended forward; cropped side roof reformed as gable end" at the appeal property<sup>1</sup>. This was approved after this appeal was lodged and being a similar scheme to that before me is a material consideration which I have taken into account.

### Decision

3. The appeal is allowed and planning permission is granted for first floor rear / side extension with rear flat roof dormer extended sideways; pitched roof front dormer extended forward and cropped hip side roof reformed as gable end at 17 Chadwell, Ware SG12 9JY in accordance with the terms of application ref: 3/22/2544/HH dated 7 December 2022 and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14481-S001-1<sup>st</sup> (Existing: plans & elevations) and 14481-P003-A (Proposals).
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used on the existing dwelling.

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<sup>1</sup> Application ref: 3/23/0342/HH

## **Main Issue**

4. The Council does not object to the alteration to the reformed gable end therefore the main issue is the impact of the front and rear dormer alterations on the character and appearance of the host dwelling and wider area.

## **Reasons**

5. The dwelling on the appeal site is a large detached two storey property set on land that slopes up from the road. It has traditional features including round bay windows and forward projecting gable with central front door entrance accessed via steps from the landscaped front garden. There is an attached garage to the side with steep pitched roof above providing first floor accommodation served by a centrally positioned, pitched roof dormer to the front and small flat roofed rear addition.
6. The wider street scene comprises a mixture of older, more traditional properties such as on the appeal site, predominantly detached but with some semi-detached, as well as more modern properties. The properties are located on one side of the road only with a well vegetated embankment between them and the main Hertford Road to the north, which runs parallel to Chadwell. There are a number of mature trees within this area giving the road a pleasant 'green' character.
7. The proposal would involve the enlargement of the existing front dormer extending it forward so that it would be set close to the front edge of the garage roof, just behind the eaves. The additional bulk would be visible in the street scene being set close to the front roof edge, but the extended dormer would remain proportionate in size relative to the roofslope and would not dominate the existing roof form. In views approaching from the west along Chadwell, the dormer would appear noticeably larger but, given the set back of the property from the road frontage and that the dormer would not extend forward of the main front gable of the existing dwelling against which it would be read, it would not appear as a dominant or intrusive addition. Overall, it would be a sympathetic addition in terms of scale and design.
8. The rear addition would not be readily seen within the street scene of Chadwell, with only the side elevation of the addition being visible above the flank elevation of the existing garage which is set forward relative to the adjoining property. Notwithstanding this due to its relatively small scale when seen against the backdrop of the main dwelling, it would be seen as a modest addition in this glimpsed view.
9. In design terms, it would result in a much larger, rear flat roofed addition to a property which has predominantly pitched roofs. In addition, it would occupy virtually the whole of the roofslope resulting in a somewhat over-scaled addition. However, there are a number of examples of similar rear additions to nearby properties, notably the property next door but one to the appeal site, which can be seen in views from Chadwell Rise to the west. However, the proposed dormer would be more discretely located at first floor rather than roof level and would not be visible from this nearby street. Overall, I do not consider that it would be out of keeping or unsympathetic in this context.
10. I note that the recent approval allowed for smaller additions than that now proposed, with the front dormer maintaining a set back from the roof edge and

the existing small rear addition removed and replaced with a more centrally located flat roofed dormer retaining more of the existing roofslope. However, for the reasons set out above, the slightly larger additions in the appeal scheme before me would not be so different as to render them unacceptable.

11. I therefore find that the proposal would not be harmful to the character and appearance of the area. It would thereby accord with Policies HOU11 and DES4 of the East Herts District Plan (2018) which seek, amongst other things, a high standard of design and layout to reflect and promote local distinctiveness and to ensure that extensions and alterations to dwellings are of a size, scale, mass, form, siting and design that are appropriate to the character, appearance and setting of the existing dwelling and the surrounding area and be generally subservient in appearance. Dormers should be appropriate to the design and character of the dwelling and its surroundings and generally of limited extent and modest proportions so as to not dominate the existing roof form.

### **Conclusions**

12. Conditions to ensure that the development is built in accordance with the approved plans and uses matching materials are necessary for the avoidance of doubt and in the interests of the visual amenity of the area.
13. I conclude that the appeal should be allowed and planning permission granted.

*P B Jarvis*

INSPECTOR



## Appeal Decision

Site visit made on 1 August 2023

**by P B Jarvis BSc (Hons) DipTP MRTPI**

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

**Decision date: 24 August 2023**

**Appeal Ref: APP/J1915/D/23/3320276**

**5 North Road Gardens, Hertford SG14 1NH**

- 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 Barnes against the decision of East Herts District Council.
- The application Ref 3/23/0079/HH, dated 18 January 2023, was refused by notice dated 16 March 2023.
- The proposed development is single storey rear extension, part single storey part two storey front extension, existing roof removed and re-pitched with proposed office/study in roof spaces; roof lights to rear.

### Procedural Matter

1. The Council has described the development as "Single storey rear extension and first floor rear extension incorporating a rear facing Juliet balcony, part single storey part two storey front extension, existing roof removed and re-pitched with proposed office/study in roof space and 3 roof light windows to rear; new first floor side window, alterations to fenestration, replace all windows with powder coated aluminium framed windows, alterations to external materials to include vertical cedar cladding". This more accurately describes the whole development.

### Decision

2. The appeal is allowed and planning permission is granted for single storey rear extension and first floor rear extension incorporating a rear facing Juliet balcony, part single storey part two storey front extension, existing roof removed and re-pitched with proposed office/study in roof space and 3 roof light windows to rear; new first floor side window, alterations to fenestration, replace all windows with powder coated aluminium framed windows, alterations to external materials to include vertical cedar cladding, at 5 North Road Gardens, Hertford, SG14 1NH in accordance with the terms of application ref: 3/23/0079/HH dated 18 January 2023 and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20454-S001-1<sup>st</sup> (existing – plans and elevations) and 20454-P002-A (option 2: proposed plans and elevations).
  - 3) No development shall take place until samples / details of the materials to be used in the external surfaces of the development have been submitted to and approved in writing by the local planning authority. The approved

details shall be used in the implementation of the development hereby approved.

- 4) No development shall take place until full details of the front parking / garden area have been submitted to and approved in writing by the local planning authority. These details shall include the extent and details of surfacing to be installed and planting to be retained and/or provided. The development shall thereafter be implemented in accordance with the approved details.

### **Main Issue**

3. The main issue is the impact on the character and appearance of the host dwelling, street scene and wider area.

### **Reasons**

4. The appeal site comprises a detached modern dwelling of brick elevations and tiled roof located on the northern side of a small cul-de-sac which slopes up from the main North Road from which it is accessed. It has a single storey addition to the rear. A second dwelling of similar age and appearance is located at the end of the road, to the south of the appeal site, occupying higher land. The remaining properties to the south and south-east side of the road comprise two pairs of older more traditional style dwellings which have projecting gable fronts with roughcast render elevations and mature hedges to the front boundaries.
5. The surrounding area including nearby North Road, is of more varied character with a mixture of modern and traditional dwellings. These include two new contemporary dwellings of white render and grey brick elevations as well as a small estate of modern dwellings which whilst of more 'traditional' design, incorporate white render and brick elevations with grey tiled pitched roofs.
6. Policy HOU11 of the East Herts District Plan (2018) (EHDP) states that in addition to being of a size, scale, mass, form, siting, design and materials appropriate to the character, appearance and setting of the existing dwelling and surrounding area, extensions and alterations to dwellings should also generally appear as a subservient addition to the dwelling.
7. The overall size of the extensions would not be significantly greater in floorspace terms, the main additional areas being the first floor rear extension and the office/study created in the enlarged roofspace and in that respect the proposal would be subservient. However, the increased roof height and resultant additional roof bulk could not be considered subservient; but the proposed extensions effectively result in a redesign of the existing dwelling and, in my opinion, the issue is whether the enlarged dwelling would be appropriate to the character and appearance of its setting and the surrounding area having regard to the factors set out in the relevant policy.
8. The proposed extensions and alterations would result in a dwelling of greater scale and bulk than existing and the increased roof height together with the side and rear first floor additions would be clearly visible in the street scene in approaches from the entrance to the cul-de-sac from where its elevated position is most noticeable.

9. Notwithstanding these visual impacts, I do not consider that the extended dwelling would appear unduly prominent; it would maintain the same setback from the road frontage and the increased ridge height would not be significantly higher and would be seen against the dwelling at the top of the cul-de-sac in respect of which it occupies a lower position.
10. The proposed external materials would be quite different from the existing brick elevations with a dark grey rendered finish to the ground floor elevations, vertical cedar cladding to first floor and a natural slate roof. Whilst these external materials would contrast with the external appearance of the other dwellings in the cul-de-sac, they would complement the proposed design of the extended dwelling. Furthermore, as noted above, there is a much greater variation to the street scene in the wider area encompassing North Road and the proposal would not appear incongruous in this context.
11. Overall, I find that the proposal would be well designed, and whilst resulting in a larger dwelling of different external appearance to those within the immediate street scene, would nevertheless be appropriate in the wider, more varied setting. Indeed, I consider that it would add interest to the street scene.
12. I therefore find that the proposal would not be harmful to the character and appearance of the host dwelling, street scene or wider area and it would accord with EHDP Policies HOU11 and DES4 which in addition to the above seek a high standard of design to reflect and promote local distinctiveness that respects or improves upon the character of a site.
13. With regard to the National Planning Policy Framework (the Framework), I consider that the proposal would comply with relevant policies that seek to achieve good design, by adding to the overall quality of the area and being sympathetic to the surrounding built environment.

### **Conditions**

14. A condition to ensure that the proposal complies with the approved plans is necessary in the interests of clarify and proper planning. Whilst the plans indicate the materials to be used, given that these will be new, a condition to require samples/details of the materials to be used in the external surfaces is necessary in the interests of visual amenity. Given the comments of the Council's highway officer and others and lack of detail shown on the plans, a condition is also necessary to require details of how the front parking and garden area is to be treated in the interests of highway safety and visual amenity.

### **Conclusions**

15. I therefore conclude that this appeal should be allowed and planning permission granted.

*P B Jarvis*

INSPECTOR

NEW PLANNING APPEALS LODGED JULY-AUGUST 2023  
Head of Planning and Building Control

| Application Number | Proposal  | Address  | Decision          | Appeal Start Date | Appeal Procedure       |
|--------------------|---|--|-------------------|-------------------|------------------------|
| 3/22/1309/FUL      | Conversion of stable building to provide a single residential unit with associated parking and amenity space.   | Jesmond Cottage2 Cross RoadEpping GreenHertfordshireSG13 8NG           | Refused Delegated | 24/07/2023        | Written Representation |
| 3/22/1706/FUL      | Replacement of window to front and rear elevations with wood effect UPVC sash casement windows.   | 59A Fore StreetHertfordHertfordshireSG14 1AL                           | Refused Delegated | 08/08/2023        | Written Representation |
| 3/22/1838/LBC      | Replacement to front and rear windows at first and second floor with double glazed wood effect UPVC sash white windows.   | Flats A And B 71 Fore StreetHertfordHertfordshireSG14 1AL              | Refused Delegated | 08/08/2023        | Written Representation |
| 3/22/1841/FUL      | Replacement to front and rear windows at first and second floor with double glazed wood effect UPVC Sash white windows.   | Flats A And B 71 Fore StreetHertfordHertfordshireSG14 1AL              | Refused Delegated | 08/08/2023        | Written Representation |
| 3/22/1842/ADV      | Retention of 2 internally illuminated fascia signs  | 34 Amwell EndWareHertfordshireSG12 9HW                                 | Refused Delegated | 25/07/2023        | Written Representation |
| 3/22/1935/FUL      | Demolition of stable block and partial demolition of equestrian block and the development of the remaining equestrian block to include 4, 4 bedroomed dwellings and 2, 3 bedroomed dwellings, including associated landscaping.   | Elbow Lane FarmElbow LaneHertford HeathHertfordHertfordshireSG13 7QA   | Refused Delegated | 19/07/2023        | Written Representation |
| 3/22/2123/LBC      | The siting of an air source heat pump at the rear (Retrospective).  | Shem NicholsThe StreetAspendenBuntingfordHertfordshireSG9 9PG          | Refused Delegated | 31/07/2023        | Written Representation |
| 3/22/2155/FUL      | Change of use of land from agriculture to residential. Erection of outbuilding to provide garage and ancillary accommodation  | Grudds FarmGreen TyeMuch HadhamHertfordshireSG10 6JP                   | Refused Delegated | 20/07/2023        | Written Representation |
| 3/22/2459/VAR      | Siting of a mobile home for a temporary period of 3 years for an agricultural worker's dwelling. Variation of condition 2 (use shall cease on or before 3rd April 2023) of planning permission: 3/19/2616/FUL - To allow the mobile home to be stationed for 3 more years (Replace '3rd April 2023' with '3rd April 2026'). | Paddock LodgeChaldean FarmBromley LaneMuch HadhamHertfordshireSG10 6HU | Refused Delegated | 07/08/2023        | Hearing                |
| 3/23/0146/HH       | Erection of single storey rear extension; front extension; increase in roof height to accommodate loft conversion, incorporating 5 dormer windows and two skylight windows. Alterations to front and side fenestrations.  | Camps Hill BungalowNorth RoadHertfordHertfordshireSG14 1NE             | Refused Delegated | 04/07/2023        | Fast Track             |

**Background Papers**

None

**Contact Officers**

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



## DEVELOPMENT CONTROL

### Major, Minor and Other Planning Applications

#### Cumulative Performance

( calculated from April 2023 )

|  | Apr-23 | May-23 | Jun-23 | Jul-23 | Aug-23 | Sep-23 | Oct-23 | Nov-23 | Dec-23 | Jan-24 | Feb-24 | Mar-24 |         |  |
|--|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|---------|--|
| Total Applications Received                            | 160    | 340    | 519    | 689    | 839    |        |        |        |        |        |        |        |         |  |
| Percentage achieved against Local and National Targets | Apr-22 | May-22 | Jun-22 | Jul-22 | Aug-22 | Sep-22 | Oct-22 | Nov-22 | Dec-22 | Jan-23 | Feb-23 | Mar-23 |         | National Designation Targets (set by Government) |
| Major %  | 100%   | 80%    | 67%    | 78%    | 75%    |        |        |        |        |        |        |        | Major % | 60%  |
| Minor and Other %                                      | 84%    | 83%    | 85%    | 86%    | 85%    |        |        |        |        |        |        |        | Minor % | 70%  |
|  | Apr-23 | May-23 | Jun-23 | Jul-23 | Aug-23 | Sep-23 | Oct-23 | Nov-23 | Dec-23 | Jan-24 | Feb-24 | Mar-24 |         |  |
| Total number of appeal decisions (Monthly)             | 10     | 6      | 5      | 10     | 12     |        |        |        |        |        |        |        |         |  |
| Number Allowed against our refusal (Monthly)           | 5      | 2      | 1      | 3      | 4      |        |        |        |        |        |        |        |         |  |
|  | Apr-23 | May-23 | Jun-23 | Jul-23 | Aug-23 | Sep-23 | Oct-23 | Nov-23 | Dec-23 | Jan-24 | Feb-24 | Mar-24 |         |  |
| Total number of appeal decisions (Cumulative)          | 10     | 16     | 21     | 31     | 43     |        |        |        |        |        |        |        |         |  |
| Number Allowed against our refusal (Cumulative)        | 5      | 7      | 8      | 11     | 15     |        |        |        |        |        |        |        |         |  |

**AGENDA ITEM NO. 7D**

Public Inquiry and Hearing Dates  
All Hertford Council Chamber unless specified

| Application   | Case Officer | Address  | Proposal  | Appeal Status | Procedure Type | Appeal Date |
|---------------|--------------|--|---|---------------|----------------|-------------|
| 3/22/0815/FUL | Amit Patel   | Quinbury FarmHay StreetBraughingWareHertfordshire SG11 2RE | Continued erection of four dwellings previously approved under reference 3/14/1204/FP.  | INPROG        | Public Inquiry | 17/10/2023  |
| 3/22/2459/VAR | Janna Hon    | Paddock LodgeChaldean FarmBromley LaneMuch Hadham SG10 6HU | Siting of a mobile home for a temporary period of 3 years for an agricultural worker's dwelling. Variation of condition 2 (use shall cease on or before 3rd April 2023) of planning permission: 3/19/2616/FUL - To allow the mobile home to be stationed for 3 more years (Replace '3rd April 2023' with '3rd April 2026'). | INPROG        | Hearing        | 24/10/2023  |