

- 6e a) 3/12/1955/FP and b) 3/12/1956/LB – Demolition of the existing outbuildings and renovation of the former Victorian School. Development of the former school playground and outdoor space for 5no 4 bed dwellings and 2no 2 bed flats at Musley Infant School, Musley Hill, Ware SG12 7NB for Musley Hill Development Ltd
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Date of Receipt: a) 09.11.2012
b) 09.11.2012

Type: a) Full - Minor
b) Listed Building - Other

Parish: WARE

Ward: WARE – TRINITY

RECOMMENDATION:

- a) The Director of Neighbourhood Services be authorised to **GRANT** planning permission under planning ref: 3/12/1955/FP subject to the following conditions:
1. Three year time limit (IT12)
 2. Approved plans (2E10) – 1299 PL01; PL02; PL03 F; PL04 A; PL05 A; PL07 A; PL08 A; PL09 B; PL10 B
 3. Prior to the occupation of any of the residential units hereby approved, the listed school building shall be fully repaired and refurbished in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory development of the whole site and to ensure the historic and architectural character of the building is adequately restored in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

4. Hard Surfacing (Roads, Driveways) (3V21)
5. Boundary Walls and Fences (2E07)
6. Approved accesses only (3V04)
7. Pedestrian visibility splays (2.0m x 2.0m) (3V10)
8. Provision and retention of parking spaces (3V23)
9. Existing access closure (Musley Hill) (3V05)
10. Wheel washing facilities (3V25)

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11. Construction parking and storage (3V22)
12. Cycle Parking facilities (2E29)
13. Withdrawal of P.D (Schedule 2, Part 1 Classes A, B, C and E) (2E23)
14. Landscape design proposals (4P12) b, c, d, e, f, l, j, k and l
15. Landscape Works implementation (4P13)
16. Construction hours of working – plant and machinery (6N07)
17. The carports hereby approved shall remain open structures for the lifetime of the development hereby approved.

Reason: To ensure the continued provision of off street parking facilities in the interests of highway safety in accordance with Policy TR7 of the East Herts Local Plan Second Review April 2007.

18. Prior to the commencement of the development hereby approved, further survey work shall be undertaken to confirm the presence/absence of bats in accordance with the recommendations as set out in the Bat Inspection Report compiled by CSa Environmental Planning dated March 2013. The findings of these surveys shall be used to inform an appropriate bat mitigation strategy, the details of such shall be submitted to and agreed in writing by the Local Planning Authority. The approved mitigation measures shall then be carried out prior to the commencement of the development hereby permitted.

Reason: To mitigate against the potential presence of bats, a protected species, in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

19. Contaminated land survey and remediation (2F33)

Directives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.

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2. Highway Works (amended to contact Highways at County Hall, Hertford Tel 0300 123 4047).
3. (26LB) Relationship with Listed Building Consent
4. (19SN) Street Naming and Numbering
5. (28GP) Groundwater Protection Zone (Musley Lane)

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Hertfordshire County Structure Plan, Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007 and in particular Policies SD2, BH1, BH2, BH3, TR2, TR7, HSG7, ENV1, ENV2, ENV3, ENV16, LRC1; the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies and the pre-application advice given is that permission should be granted.

- b) The Director of Neighbourhood Services be authorised to **GRANT** listed building consent in respect of 3/12/1956LB subject to the following conditions:
 1. Listed Building Three year time limit (IT14)
 2. Samples of Materials (2E12)
 3. Listed building - making good (8L10)
 4. Repairs Schedule (8L11)
 5. Conservation Area (demolition) (8L12).
 6. Conservation Area (clearance of site) (8L13)
 7. Prior to the commencement of the works to the listed building hereby approved, further precautionary survey work shall be undertaken to confirm the presence/absence of bats in accordance with the recommendations as set out in the Bat Inspection Report compiled by CSa Environmental Planning dated March 2013. The findings of these surveys shall be used to inform an appropriate bat mitigation strategy,

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the details of such shall be submitted to and agreed in writing by the Local Planning Authority. The approved mitigation measures shall then be carried out prior to the commencement of the works hereby permitted.

Reason: To discharge the Council's and applicants legal duties in respect of European Protected Species under the Habitats Directive and mitigate against any potential harm to bats.

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 National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies and the pre-application advice given is that listed building consent should be granted.

_____ (195512FPLB.TA)

1.0 Background:

- 1.1 The application site is shown on the attached OS extract and is located on the corner of Musley Hill and Homefield Road in Ware. It comprises a Grade II listed single storey red brick Victorian School House, various outbuildings and a nineteenth century Fives Court. The Fives Court is specifically referenced in the listing. The school building is a valued local landmark of significant heritage interest. It is subject to long views as approached along nearby public roads.
- 1.2 The site is bounded to the south and east by close boarded fencing and to north and west by hedging and iron railings which are also referenced in the listing. Vehicular access is provided off Musley Hill and pedestrian access from Homefield Road. There is some sporadic planting contained within the site and a boundary hedge around the north east corner. Large areas of the site are hardsurfaced, including the school playing areas.
- 1.3 The site is located in a northern, primarily residential, suburb of Ware and is outside of the Ware Conservation Area. Housing in the surrounding streets is predominantly two storey in scale although there are elements of 3 storey and single storey buildings on Musley Hill. Homefield Road is fairly consistently two-storey with a mix of semi-detached and short terrace dwellings. Sandeman Gardens is a

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relatively new development of 20 detached, semi-detached and terraced dwellings located to the south east of the development site.

- 1.4 The proposed development comprises of several elements. It is proposed to fully restore the listed school building with the intention of returning it to its former school use. Members may be aware that the site has been unoccupied for in excess of 8 years and that the condition of the listed school building has been a significant local and conservation concern. Members resolved in their meeting of 7th November 2012 to grant a Section 54 Urgent Works Notice to secure works considered urgently necessary for the preservation of the listed school building and these works have since been undertaken. Part of the restoration works will include the protection and retention of the Fives Court and the restoration of the listed railings. It is proposed to demolish a group of latterly constructed and unsightly outbuildings. The school would be served by 6no car parking spaces.
- 1.5 As part of the works, 5no four bed dwellings are proposed to be erected on the site and 2no two bed flats. The dwellings would be arranged along the east perimeter of the site. Units 1-3 will front onto Homefield Road whilst no's 4-7 would front onto Sandeman Gardens. The new dwellings would be served by 13no car parking spaces, 6 of which would be contained within carports.
- 1.6 Both the school and the new dwellings would be served by a new vehicular access crossing off Homefield Road. The existing crossing, from Musley Hill, would be removed and the footway reinstated.
- 1.7 The proposal presented to Members has been amended since first submitted. The amended scheme has removed 2no dwellings from the proposal and retained the school playground area. Where access was previously proposed off Musley Hill, it is now proposed off Homefield Road. Following receipt of amended plans, relevant consultees and third parties were re-notified. It is the amended plans that Members are asked to consider.

2.0 Site History:

- 2.1 The site has previously been subject to the approval of planning permission for the extension of the school building and change of use to a community facility and the erection of 2no detached dwellings. This permission was last renewed on 1st March 2010 and has now expired. The specific details are as follows:

- 3/06/1580/FP – Demolition of outbuildings, erection of two 3

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bedroom residential dwellings and erection of extension to existing building for community use - Approved with Conditions
25th October 2006.

- 3/06/1581/LB - Demolition of outbuildings, erection of two 3 bedroom residential dwellings and erection of extension to existing building for community use - Approved with Conditions
11th August 2006
- 3/09/1613/FN – Demolition of outbuildings, erection of two 3 bedroom residential dwellings and erection of extension to existing building for community use - Approved with Conditions
10th December 2009.
- 3/09/1614/LB – Demolition of outbuilding, temporary building and timber shed. Alteration of Victorian building to accommodate community use, alteration to north east elevation to accommodate extension for community use - Approved with Conditions
1st March 2010

2.2 There are no longer any extant permissions on the site and none of the above applications have been implemented, hence why the school building continued to fall into disrepair. Prior to the above applications, Hertfordshire County Council granted Deemed Permissions for mobile classrooms at the site in 1987, 1991 and 1997.

3.0 Consultation Responses:

- 3.1 County Highways do not wish to restrict the grant of permission subject to conditions to secure a visibility splay onto Homefield Road, wheel washing facilities, parking areas and the closure of the Musley Hill entrance. County Highways are also seeking Section 106 contributions of £8,000 towards kerbing works and £7,500 for a new bus shelter. The amended proposal is an improved scheme as it removes vehicular parking from a classified road – Musley Hill.
- 3.2 The County Historic Environment Unit advise that the development is unlikely to have an impact upon significant heritage assets.
- 3.3 The Conservation Officer had raised concerns with the original proposal of 9no dwellings but is satisfied the amended scheme has overcome these concerns. An active use of the listed building is imperative to ensure the maintenance and longevity of the heritage asset. The reduction to 7no dwellings has alleviated the overall impact on the setting of the listed building. Re-locating the access has maintained

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views of the building from the north and helps to retain the relationship of the school with Fives Court, preserving the overall setting of the listed building. The layout of the dwellings is in keeping with the urban grain whilst their design reflects the Victorian architectural detail of the listed building. The success of the scheme also depends on the use of high quality materials and appropriate landscaping. Recommends Approval.

- 3.4 Environmental Health at East Herts District Council has advised that any permission granted should include conditions relating to hours of working and soil decontamination.
- 3.5 The Council's Landscape Officer recommends that consent is granted subject to landscaping conditions. The revised layout plan provides a suitable landscape setting for the listed building and new dwellings. Sufficient space is retained for appropriate tree planting.
- 3.6 Affinity Water wishes to notify the applicant that the site is located within the groundwater Source Protection Zone (SPZ) of Musley Lane Pumping Station.
- 3.7 The Victorian Society objects to the scheme as it will harm the setting of the listed building and because it fails to provide a sensitive, long term and viable use for the dilapidating historic structure.
- 3.8 English Heritage welcome the works to the listed building in principle although are concerned that no definite use has been identified. The works would diminish the significance of the listed building. The council should weigh the harm to the setting and significance of the school against the benefits that the proposals might generate.
- 3.9 Hertfordshire Biological Records Centre refers to the submitted Bat Survey Report dated March 2013 which advises that, whilst no bats were found, access to a number of the buildings was restricted and there are a number of external features within the school building that provide roosting opportunities. As a result, further emergence surveys should be carried out before a planning decision can be taken.
- 3.10 Sport England has no comments to make.

4.0 Town Council Representations:

- 4.1 Ware Town Council objects to the proposals on the grounds of insufficient parking and overdevelopment of the site. Existing traffic levels frequently create problems and Sandeman Gardens is already

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congested.

5.0 Other Representations:

- 5.1 Councillor J. Wing has objected to the planning application and listed building application and his objections to the revised application can be summarised as follows:
- The development should not be allowed to result in additional car parking on adjacent roads. Sandeman Gardens is already congested;
 - The provision of 6 spaces for the former school building is wholly inadequate;
 - The number of homes remains more than envisaged; and
 - Pedestrian access to the site off Sandeman Gardens will result in new residents using Sandeman Gardens to park cars
- 5.2 The application has been advertised by way of press notice, site notice and neighbour notification. It was re-notified following receipt of amended plans.
- 5.3 24 letters of objection from neighbouring occupiers were received in relation to the original plans. Of these, 12 neighbours have maintained their objection to the amended plans. Many of the neighbours have objected to both the planning application and the listed building application.
- 5.4 Many of the letters in response to the original scheme welcomed the re-use of the school building and supported the infill development in principle. However, there were strong concerns raised in relation to the number and size of dwellings proposed. Many felt that 9 dwellings was too high a density of development. Plot 1 was considered to be too close to the listed school building. With regard to the re-use of the scheme some letters were concerned that the proposed use was too vague, others felt that a lack of storage and parking would not help its ability to find a user. A nursery is felt to be a popular option for many neighbours.
- 5.5 The other objections were mostly concerned with parking congestion that is currently a problem and was felt likely to worsen with the proposed scheme. It was considered there should be 2 spaces per dwelling. The original access point off Musley Hill was criticised as difficult and dangerous with accidents already at the busy Musley Hill and Homefield Road junction. In terms of neighbour amenity, some

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concerns were raised in relation to overlooking and loss of view. One neighbour has objected that the proposed carports will impact upon amenity and outlook.

5.6 The 12 letters received in relation to the amended proposal raise similar objections. The letters generally acknowledge an improvement to the proposed scheme and some have welcomed the developer seeking to clarify the intended use of the premises as a Kindergarten/Day Nursery as well as the additional car parking. However, the content of the objections raised can be summarised as follows:

- Alternative community uses of the building may bring noise and anti social behaviour;
- Congestion and a risk of accidents will continue to occur;
- Insufficient parking for the school/community use;
- Site not large enough for the current proposal;
- The development will exacerbate existing parking problems on surrounding roads;
- The amount of development is not safe;
- The school would still be left with a small outdoor play area.

6.0 Policy:

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

SD3	Making Development More Sustainable
HSG7	Replacement Dwellings and Infill Development
TR2	Access to New Developments
TR7	Car Parking – Standards
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV9	Withdrawal of Domestic Permitted Development Rights
ENV16	Protected Species
BH6	New Development in Conservation Areas
LRC10	Tourism

6.2 In addition, the National Planning Policy Framework (NPPF) is of relevance in the determination of the application.

7.0 Considerations:

7.1 The main considerations in the determination of the planning application (3/12/1955/FP) relate to:

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- The principle of the development;
- The acceptability and quality of the design of the scheme;
- The related issue of balancing any harm to the setting of the listed building with the benefits of securing an active use;
- Whether the density and extent of development results in an unacceptable impact on neighbouring amenity;
- Whether the scheme is acceptable in a highway context and in terms of parking;
- The impact on protected species and whether any impacts can be suitably mitigated;

7.2 The main consideration in the determination of the listed building application (3/12/1956/LB) relates to:

- Whether the associated demolition works of some of the buildings surrounding the school harm the heritage asset (main school building) and whether the scheme is otherwise acceptable in conservation terms.

The Principle of the Development

- 7.3 The site is located within a residential area with mostly Victorian, relatively high density, housing to the south and more spacious later 20th century housing to the north. Within the East Herts Local Plan the site is located within the town of Ware wherein there is no objection in principle to development subject to the development complying with other policies in the Local Plan.
- 7.4 The question of principle lies in the site's designation as an Open Space. Policy LRC1 of the Local Plan states that proposals which result in the loss of open space, including school playing fields, will be refused unless (a) alternative facilities can be provided or (b) if it can be demonstrated that the facility is no longer needed and there is no longer viable demand for an alternative facility.
- 7.5 The site's planning history reveals that planning permission has been previously granted in 2006 for an extension to the school building to provide a community use and 2no detached dwellings. At the time, the question of open space was considered and the loss of playground accepted under point (b) of the policy. This was on the basis that the playground was not needed given the closure of the site. The site has since remained unoccupied and the playground is not in use or indeed accessible to members of the public. The site therefore serves no active purpose as open space and its loss can reasonably be justified under

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part (b) of Policy LRC1. It is noted that Sport England has not objected to the loss.

- 7.6 In this instance however, the amended plans have sought to retain the school's playground and the intention is for the school building to be occupied as a Kindergarten/Day Nursery. Whilst it is appreciated that there have been concerns raised from nearby residents about the possible use of the building, the applicant has confirmed that negotiations with a nursery school provider are at an advanced stage. Clearly, any occupation of the building outside of a D1 Use Class would require consent in the form of a separate change of use application from the Local Planning Authority.
- 7.7 Bringing the building back into active use and restoring it is, of course, a significant benefit of the scheme and one to which substantial weight should be given. The building is now in poor repair, considered vulnerable and at risk and has been subject of an Urgent Works notice to secure it as weathertight. Whilst there would be some loss of open space from the overall development, this should be balanced against the site's currently vacant use; the fact that an area of playing space would be retained, and the benefits derived from the restoration works.
- 7.8 Overall, the principle of development is considered acceptable. However, the benefits deriving from the scheme need to be balanced against any harm caused in any other respects.

Design and Conservation

- 7.9 Policy ENV1 requires all development proposals to be of a high standard of design and layout and to reflect local distinctiveness. The NPPF, at Section 7 attaches great importance to good design as a key aspect of sustainable development.
- 7.10 The application is submitted with a Design and Access Statement. The layout of the development is based around the retention of the school, the Fives Court and a free standing brick out house. The dwellings are designed to be subordinate to the school and their ridge heights would not exceed that of the main school building. The steeply sloping tiled roofs and large fenestration reflect the Victorian architectural detail of the listed school. The built form is all two-storey with accommodation within the roof on plots 1, 4, 5, 6 and 7.
- 7.11 The dwellings are all located to the east of the site to address either Sandeman Gardens or Homefield Road. Gardens back into the centre of the site towards the school and are of reasonable size. The two flats are

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in a corner location and Officers consider this works well. Overall, the dwellings have elevation interest and create a coherent sense of place.

- 7.12 In terms of density, whilst there has been some concern raised over a possible overdevelopment of the site, the design is considered to reasonably reflect both the pattern and density of development in the local area. Whilst the dwellings are afforded narrow gaps between one another and are gathered to one side of the site, this has the clear benefit of reducing the imposition on the immediate setting of the school, something that has been considerably improved as a result of the loss of 2 dwellings from the proposal. The removal of these dwellings (formerly Plots 1 and 2) and their flat roof elements has removed significant bulk from the development and allowed for views of the listed school from the north. The nearest dwelling is now some 16m from the east facing gable of the school. By comparison with the cancelled scheme and the 2006 and 2009 approved scheme, the design is now considerably more sensitive to the setting of the listed building. To reduce any impact going forward, I have recommended that permitted development rights be removed from the new dwellings, to ensure an element of control is retained by the Local Authority over new development in this sensitive setting.
- 7.13 The relocation of the access crossing to Homefield Road has also considerably improved the layout of the development and retained a more spacious setting for the school. The new access road helps to create a logical subdivision of the school with the new dwellings and retains the school's amenity space and playground area. The historic relationship of the school with the Fives Court is retained.
- 7.14 The scheme is now supported by the Council's Conservation Officer, who regards the development of the whole site as a catalyst for the required improvement to the listed building. However, the success of the scheme is considered to be dependent on the use of high quality materials and improved landscaping, both of which can be secured by appropriate conditions. It is noted that the scheme would result in the loss of some trees to the south east side of the site, but this has to be balanced against the significant additional planting that is being proposed, together with the retention of the hedgerow around the school building. It is also noted that the developer intends to convert the school playground area to a soft landscaped area.
- 7.15 Overall therefore, the proposed scheme is considered to secure a high standard of development that will sustain and enhance the setting the heritage assets. The developer is prepared to agree to a condition that the repair and restoration works to the school be completed prior to the

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occupation of any of the dwellings. This would ensure the overall site is developed without incurring significant delays in the improvement works to the school. This is considered both a key benefit and a reasonable condition on any consent granted. Furthermore, in view of the sensitive location of the proposed new dwellings, adjacent to the listed school, and the restricted size of the plots, Officers consider it necessary and reasonable to impose a condition withdrawing permitted development rights for future extensions; roof alterations and garden buildings so that the LPA can ensure that any future development respects the setting, character and appearance of the heritage asset.

Demolition works and listed building consent

- 7.16 The buildings the subject of demolition have already been approved for such previously as part of the 2006 and 2009 approvals. It is debatable whether the more modern flat roofed modular building requires consent, but in any case it is an unattractive post 1948 building that offers nothing of value to the listed building. Similarly, the demolition of two buildings that are physical extensions of the school have previously been approved for demolition and are not considered to add to the heritage value of the school building. One benefit of the amended proposal is the retention of a yellow brick outbuilding to the southern boundary of the site adjacent to the Fives Court.
- 7.17 The plans have included a schedule of renovation works and temporary works that are required. The Conservation Officer is satisfied with this programme of repair but would like the method of repair to be agreed by condition through the submission of a more detailed repairs schedule. There are no new windows, doors or other building works proposed and as such, no conditions are recommended in this regard. However, should this be the case, it would most likely require a separate listed building consent.
- 7.18 Overall, the works to the listed building are a positive development that would enhance and improve this heritage asset.

Neighbour Amenity

- 7.19 Policy ENV1 of the Local Plan requires development proposals to respect the amenity of occupiers of neighbouring buildings.
- 7.20 Some residents have objected that the scheme will result in overlooking from the new development or that the scheme is overbearing and overshadowing. Most of the objections related to the original proposal. In terms of overlooking, the dwellings do not directly face into

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neighbouring gardens in a manner that is different from existing dwellings within the surrounding area. The distances between the dwellings and neighbouring houses mean that the arrangement is acceptable in my view and is not a matter which could be refused and sustained in a planning appeal.

- 7.21 The car port placed on the south side of the site would have some impact on the neighbour at No.19 Sandeman Gardens and the views out from this property and is something that the neighbour has objected to. However, the carport would be a relatively open structure and located adjacent to a double garage at No.19. It is not the case, in Officers view, that this structure would cause significant enclosure or overshadowing so as to warrant refusal.
- 7.22 Officers note that some of the neighbour letters have registered concern about the use of the school building and the possible impact that could arise should an unsuitable community use be introduced. The applicant's have sought to address this by confirming that it is their intention to introduce day nursery at the building, which many of the letters tend to favour. However, it should be noted that the building has a current D1 use class and could be changed to another use within this use class without the need for planning permission. It is unlikely, in my view, that the small school building could contain a use so as to be so intensive to interfere with the amenities of neighbouring occupiers. However, as this is something outside of the control of the Local Authority, it is not something that can be held up as a reason to refuse the application.

Access and Car Parking

- 7.23 Concerns were raised about the use of the existing entrance to the site off Musley Hill both by nearby residents and County Highways. Whilst Highways did not wish to object to this access, they acknowledged that a Traffic Regulation Order to ensure that visibility splays are unobstructed by parked vehicles would be necessary to secure a safe means of access. Visibility splays are also required with the amended access, off Homefield Road, but this entry point avoids use of a classified road and can be introduced without interference with the nearby bus stop. As was referred to earlier in this report, the access off Homefield Road also results in benefits on Conservation grounds, in that the new access road creates a logical subdivision of the school building and the dwellings whilst ensuring that the school building is no longer separated from the listed Fives Court.
- 7.24 The main pedestrian access to the dwellings is provided from Homefield Road through the back of each of the dwellings. Access to the dwelling

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frontages is also available from either Homefield Road or Sandeman Gardens depending on the dwelling number. Access to the school is as existing although it will be improved by the introduction of a ramped path for wheelchair users.

- 7.25 The majority of the objections to the proposed scheme relate to car parking, anticipated congestion and traffic problems that may arise from the introduction of new development. The amended scheme has increased the amount of car parking for the dwellings and for the school building. 13 car parking spaces are proposed in total for the dwellings which equates to 1.86 spaces per dwelling. In effect, 6 of the units are provided with 2 spaces and 1 (dwelling no.1) with a single space.
- 7.26 The site is located within a 10 minute walk of Ware Town Centre (approximately 670m) and is designated as a Zone 4 area in the Council's adopted Vehicle Parking Standards October 2008. Under these standards the maximum parking provision for the proposed development of 5 x 4 bed houses and 2 x 2 bed flats would be 17 spaces.
- 7.27 Given the sustainable location of the site close to local services and the provision of nearby public transport options, the provision of 13 spaces to serve 7 dwellings, 2 of which are 2 bedroom flats is considered an acceptable level of provision that can reasonably accommodate parking demand without causing a build up of parking on nearby roads.
- 7.28 However, there is a strong level of concern amongst nearby residents about the parking provision of 6no spaces for the school building. This has been increased from 3 spaces during the course of the application. A Kindergarten Day Nursery (Class D1) seeks 1 space per 4 school children but as yet no indication of children numbers is available for the new use. However, it is reasonable to assume that the small scale of the school building would restrict the ability of the building to operate on a large scale in terms of numbers. It should also be acknowledged that the Nursery would be intended for the local community, many of which would be expected to walk to the site to drop off children. The only people using the facility that would be likely to need permanent parking provision would be members of staff, for which 6 spaces is considered an adequate level of provision.
- 7.29 There is the possibility that the building could be used for other Class D1 uses. However, any such use would be likely to draw custom from the local area, within easy walking distance and good public transport links. The intensity of any such use would also still be restricted by the size of the building.

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- 7.30 There is the option of increasing parking provision within the site for the community use, subject to planning permission, should any future use of the building require additional parking. However, this is not encouraged at this stage, given that the facility is intended to serve the immediate and local community and additional parking provision would result in reduced soft landscaping within the site. However, it could be accommodated if required, especially if this would increase the ability of the building to attract an occupant for the long term that will maintain the building in active use.
- 7.31 There is scope at this Zone 4 location, to impose a degree of flexibility in the application of maximum parking standards and it is considered that this should be the case at this location given the urgent need to secure the improvement works to the building and the ability to accommodate additional parking at the school in the future, should this be required.
- 7.32 It should also be noted that County Highways have not objected to the application but have recommended a series of conditions that have all been included as part of the recommendation.

Protected Species

- 7.33 Policy ENV16 of the Local Plan states that development that may have an adverse impact on a protected species will only be permitted where any harm can be avoided.
- 7.34 Herts Biological Records Centre (HBRC) had originally commented that the site may contain bats and that a survey was required to demonstrate their presence and mitigation measures.
- 7.35 A Bat Inspection Report has since been submitted which found no evidence of bats within the building. However, the Inspection Report did acknowledge some constraints, which included the inability to inspect parts of some of the buildings on site and furthermore, the internal inspection of the school building contained large amounts of bird debris (carcasses and droppings) which can heavily mask the presence of bats.
- 7.36 As a result of these constraints, HBRC have asked that further survey work is undertaken in accordance with the recommendations in the Inspection Report and they have suggested that these surveys should be undertaken prior to a decision being made on the application.
- 7.37 Bats are a protected species and, in the event of a bat roost being found, or where a proposed development has the potential to cause harm to bats or their habitats, the LPA has a statutory duty to apply

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three tests prior to making a decision on a planning application. These tests are set out below.

7.38 Although no bats have been found on the site, the report does acknowledge that the school building has the potential to support bats and, as a precautionary approach, Officers have therefore assumed that there is potential for harm to be caused to their habitat and have applied the three derogation tests at this stage in any event. These are:

- The proposals must be for imperative reasons of overriding public interest;
- There must be no satisfactory alternative which would have less impact on the bats at the site; and
- The favourable conservation status of the species can be maintained through mitigation measures.

7.39 In response to those three tests, officers can comment as follows:

- The repair and retention is essential for heritage and planning reasons. The school is a valued local building, a landmark and a grade II listed building. There is overriding public interest in its repair.
- There is no alternative to salvaging the building. This consent only requires modest alteration by demolition of single storey buildings previously approved without objection and these have not been highlighted as likely for a bat roost.
- A condition can be imposed on any permission granted to secure additional surveys which in themselves can provide the necessary measures to mitigate any impacts on bats.

7.40 In light of the above assessment, I am satisfied that the works can proceed in accordance with Policy ENV16 of the Local Plan and that harm to the protected species can be avoided or mitigated in accordance with the requirements of European and national wildlife legislation.

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7.41 The Highway authority has requested that contributions of £8,000 towards kerbing works and £7,500 for a new bus shelter be provided in this case. However, the size of the proposed development falls below the threshold at which the Council can seek contributions in accordance with its Planning Obligations SPD 2008. Such contributions are only required where a proposal would provide for 10 or more dwellings. The

a) 3/12/1955/FP and b) 3/12/1956/LB

proposal in this case is not considered to be of a scale that justifies, in itself, works to improve kerbing or bus shelters in the area. Officers cannot therefore recommend that those contributions are sought.

8.0 Conclusion:

- 8.1 The proposed development of the Musley Infant School site has been demonstrated to broadly comply with the relevant policies in the East Herts Local Plan and the National Planning Policy Framework.
- 8.2 There is an urgent need for the school building to be restored and the proposed works include the full renovation of the existing grade II listed school building, something that should, in Officers view, be given substantial weight in the assessment of the application.
- 8.3 The introduction of 5no dwellings and 2no flats on the site is considered to preserve the setting of the listed building and allows for the improvement works to be undertaken. The size, design and layout of the buildings and access is considered to sustain and enhance the setting of the listed building and secures a good standard of design that is in keeping with the character of the area. Appropriate landscaping and high quality materials will further enhance the site, which has lain vacant for in excess of 8 years.
- 8.4 The level of parking provision is within the Council's maximum standard, and the site is in a sustainable location with good access to local services and public transport. When weighed against the benefits of the scheme, this is considered to be acceptable.
- 8.5 The development can be provided without harm to neighbouring amenity or to protected species.
- 8.6 Having taken all matters into consideration and, subject to the conditions at the head of this report, Officers recommend that planning permission and Listed Building consent be granted.