

**5a 3/13/1348/FN – Indoor tennis centre incorporating indoor courts, pool, gym and outdoor facilities including outdoor swimming pool, tennis courts and golf range (Renewal of Planning Approval with Conditions ref: 3/08/1465/FP) at Land west of Sele Farm Estate, Welwyn Road, Hertford, Hertfordshire for David Lloyd Leisure**

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**Date of Receipt:** 24.07.2013

**Type:** Full – Major

**Parish:** HERTFORD, HERTINGFORDBURY

**Ward:** HERTFORD – SELE  
HERTFORD – RURAL SOUTH

**RECOMMENDATION:**

That, subject to a deed of variation in respect of the Unilateral Obligation dated 6 September 2010 to ensure that its requirements are properly related to this proposal and to cover the following:

1. The provision, prior to the commencement of works on the site, of the following highway related matters:
  - a) Widening of Welwyn Road at the proposed vehicular access to provide a right hand turning lane, pedestrian refuge islands, and appropriate white line markings.
  - b) The provision of a shared use cycle/ pedestrian way alongside Welwyn Road from the point of access into the development to the western end of the existing footway and the widening and conversion of the existing footway for shared use between its western end and Windsor Drive including all administrative and legal costs of that conversion.
  - c) Provision of streetlighting on Welwyn Road from the western end of the existing streetlighting to a point just west of the access junction improvement mentioned at (a) above.
  - d) The bearing of all costs by the developer of introducing a 30mph speed limit over a length of Welwyn Road from the westernmost point of the new streetlighting (point c) above) to the existing 30mph limit near Thieves Lane together with such other highway warning signage as appropriate.
  - e) The provision of a bus stop and shelter on the northern side of Welwyn Road at least 120m east of the proposed junction, and the provision of a bus stop, shelter and section of footway on the southern side of Welwyn Road together with green carriageway surfacing. Neither shelter shall have any illuminated advertisements.

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2. The provision and dedication of footpaths within the site, linking Sele Farm estate with BR11 and FP61.
3. The provision and implementation of a landscaping scheme, together with a scheme of management for the landscaping of the whole site, including the retention of the public open space recreation areas and the retention, protection of and long term maintenance of the County Wildlife Site and a commitment that such land will be safeguarded against the provision of any further building.
4. The provision of a community package providing free and/or reduced cost access for schools and the local community to the club facilities.
5. The provision of a financial contribution of £55000 towards public transport infrastructure improvements:

The Director of Neighbourhood Services be authorised to **GRANT** planning permission subject to the following conditions:

1. Three Year Time Limit (1T12)
2. Approved plans (2E10) (1940-P(0)003D, 1940-P(0)004D, 1940-P(0)005C, 1940-P(0)0006C, 1940-P(0)001A, 40230(60)601)
3. Boundary walls and fences (2E07) insert 'including catch and security fencing'
4. Materials of construction (2E11)
5. Levels (2E05)
6. Refuse disposal facilities (2E27)
7. No external loudspeakers (2E25)
8. No external lighting (2E26) insert 'with the exception of the lighting shown on the plan approved hereby'
9. Cycle Parking facilities (2E29) insert 'for a minimum of cycles'
10. Approved accesses only (3V04)
11. Existing access closure (3V05)
12. Hard surfacing (3V21)

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13. Construction parking and storage (3V22)
14. Wheel washing facilities (3V25)
15. Green Travel Plans (3V27) insert 'The approved Travel Plan shall be implemented and retained in force.'
16. Tree retention and protection (4P05)
17. Hedge retention and protection (4P06)
18. Landscape design proposals (4P12)
19. Landscape works implementation (4P13)
20. Construction hours of working plant and machinery (6N07)
21. Details of the location, design and means of operation of any vehicle or other access barrier, shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development.

Reason: The plans submitted are insufficient for consideration of the details mentioned.

22. Prior to the commencement of development, detailed plans showing the proposed junction access arrangements, and the internal vehicular areas, shall be submitted to and approved in writing by the Local Planning Authority. Such works shall be carried out in accordance with the approved plans, and in the case of the works for the access junction, shall be provided prior to the commencement of any further works on the site.

Reason: In order to ensure adequate highway arrangements for the development at all times.

23. Prior to the first occupation of the development hereby permitted, details of a phased parking scheme shall be submitted to and approved in writing by the Local Planning Authority. Spaces shall be provided within the application site for the parking of cars in accordance with the approved scheme and such spaces shall be retained at all times for use in connection with the development hereby permitted.

Reason: To ensure adequate off street parking provision for the development, in the interests of highway safety, in accordance with

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policy TR7 of the East Herts Local Plan Second Review April 2007.

24. Notwithstanding the submitted plans, landscaped mounding shall be provided in accordance with details which shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development.

Reason: In the interests of visual amenity in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

25. Notwithstanding the provisions of the Town and Country Planning General Permitted Development Order 1995, the areas shown for landscaping on the plans approved hereby shall be retained and maintained as open landscaping, and shall not be developed, enclosed or used in any way that is detrimental to that character.

Reason: To ensure the continuity of amenity value afforded by the approved landscaping, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

26. Any external lighting shall not be switched on before 1300 hours on any day. The external lighting of any sports facilities shall be switched off by 2230 hours, and any lighting to the parking areas shall be switched off by 2359 hours on any day. No lighting shall be brought into operational use until such time as appropriate hooding and shielding has been installed to the satisfaction of the Local Planning Authority.

Reason: In the interests of the amenities of nearby residents in accordance with policy ENV1 and ENV23 of the East Herts Local Plan Second Review April 2007.

27. Details of any external plant, or external ducts and extractors, including location, design and noise emissions, shall be submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development. There shall be no occupation of any part of the development for its permitted use prior to the implementation of noise abatement measures that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of nearby residents in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

28. Access to and egress from the site for works in relation to the development approved hereby, shall only be obtained from the

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approved access as shown on the plan approved hereby.

Reason: To ensure a satisfactory access for the construction traffic.

29. Prior to the commencement of development details shall be submitted to and approved in writing by the Local Planning Authority, of proposed measures for controlling dust arising from the carrying out of development. Such measures shall be in operation during the whole of the period when works in connection with the development are being undertaken.

Reason: In the interests of the amenities of nearby residents in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

30. There shall be no occupation of any part of the development for its permitted use prior to the provision of an illuminated footpath link not exceeding 400m in overall length between the existing bus stop in Bentley Road and the entrance of the indoor tennis club building. The whole footpath link shall not be constructed other than in accordance with plans which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise the reliance upon private car transport in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

31. No soakaways shall be constructed in contaminated ground.

Reason: To prevent pollution of the water environment in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007 .

32. The construction of the foul and surface water drainage system shall be carried out in accordance with details submitted to and approved in writing by the Local Planning Authority before the development commences.

Reason: To ensure appropriate means of drainage of the site in accordance with policy ENV21 of the East Herts Local Plan Second Review April 2007.

33. No works or development shall take place until full details of a scheme for the construction of a cycleway and footway in front of Nos. 6 to 10 and 12 to 16 Welwyn Road has been submitted to and approved in

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writing by the Local Planning Authority. No building within the development is to be occupied until the cycleway and footway has been constructed in accordance with the details agreed in writing, and shall thereafter be retained to the satisfaction of the Local Planning Authority.

Reason: To minimise the reliance upon private car transport in accordance with in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

34. Prior to the commencement of any works on the site and at an appropriate time of year a surveys of bat, badger, reptile and invertebrate activity, including details for their protection and any necessary mitigation measures, shall be undertaken by a suitable specialist. This shall be submitted to and approved in writing by the Local Planning Authority and any subsequent mitigation shall be undertaken in accordance with the findings of the survey.

Reason: To protect the habitats of bats which are a protected species under the Wildlife and Access to the Countryside Act 1981, and in accordance with policy ENV16 of the East Herts Local Plan Second Review April 2007.

35. Prior to the commencement of development details of measures to be incorporated into the scheme to minimise the risk of crime and to meet the specific security needs of the development shall be submitted to and approved by the Local Planning Authority. Any security measures proposed shall seek to achieve the 'Secured by Design' accreditation awarded by the Hertfordshire Constabulary.

Reason: To ensure that the necessary crime prevention measures are incorporated into the development in accordance with policy ENV3 of the East Herts Local Plan Second Review April 2007.

36. Prior to the commencement of development details of measures for securing more than 10% of the energy for the development from sustainable energy shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented thereafter.

Reason: In the interests of sustainable development in accordance with the provisions of the East Herts Local Plan Second Review April 2007 and the National Planning Policy Framework.

37. Prior to the commencement of construction works hereby permitted remediation of the site shall be carried out in accordance with the

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Remediation Strategy hereby approved. If any unsuspected contamination is found then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a further Remediation Strategy to the Local Planning Authority and that has been agreed in writing. On completion of the works of remediation, the developer shall provide a validation report which confirms that the works have been completed in accordance with the approved documents and plans.

Reason: To minimise and prevent pollution of the land and the water environment and ensure the effectiveness of the remediation strategy in mitigating contamination and preventing pollution of controlled waters in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

38. Prior to the commencement of development details of the foundation design shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To minimise and prevent pollution of the land and the water environment in accordance with policy ENV20 of the East Herts Local Plan Second Review April 2007.

39. The function room and restaurant shall be vacated by 23:59 hours on any day.

Reason: In the interest of the amenities of nearby residents in accordance with policy ENV1 of the East Herts Local Plan Second Review April 2007.

#### Directives:

1. Other legislation.
2. The applicant is advised that in order for the Local Planning Authority to discharge condition 32, the following information should be provided:
  - A clearly labeled drainage layout plan showing pipe networks and any attenuation ponds, swales, temporary basins or soakaways. This plan should show any pipe 'node numbers' that have been referred to in network calculations and it should also show invert and cover levels of manholes;
  - Confirmation of critical storm duration;
  - Where infiltration forms part of the proposed stormwater system

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such as infiltration trenches and soakaways, soakage test results and test locations in accordance with BRE digest 365;

- Where on site attenuation is to be achieved through attenuation ponds, swales or temporary basins calculations showing the volume of these;
- Where an outfall discharge control device is to be used such as a hydrobrake or twin orifice, this should be shown on the plan with the rate of discharge stated;
- Calculations to demonstrate how the system operates during a 1 in 100 year critical duration storm event. If overland flooding occurs in this event, a plan should also be submitted detailing the location of the overland flow paths.

#### Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner with regard to the policies of the Development Plan (Minerals Local Plan, Waste Core Strategy and Development Management Policies DPD 2012 and the 'saved' policies of the East Herts Local Plan Second Review April 2007); the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012. The balance of the considerations having regard to those policies and the previous permission granted under ref: 3/08/1465/FP is that permission should be granted.

Please note that under regulation 11D of the Town and Country Planning (fees for applications and deemed applications) (amendment) (England) Regulations 2008, a fee is chargeable of £97 per request (or £28 where the related permission was for extending or altering a dwelling house) for the discharge and/or confirmation of compliance with a condition. To avoid any unnecessary cost we would recommend that you submit all the required information for discharge of conditions in one application as the fee is payable per request.

\_\_\_\_\_ (134813FN.TA)

#### **1.0 Background:**

1.1 The application site is located on the west side of Hertford, within the Metropolitan Green Belt and outside the development boundary for the town, as shown on the attached OS extract. The site is irregular in shape and is some 12 hectares in size. The site appears generally as 'scrubland' and has an artificial ditch and mound running along the whole length of its frontage along Welwyn Road. Some 2.8 hectares of the application site is an identified Wildlife Site containing a species



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diverse old grassland and scrub.

- 1.2 Immediately to the east is Sele Farm Residential Estate. The site is bounded to the South and West by open fields and to the North West by a wood known as Archers Spring. Immediately to the south of the site is the B1000, Welwyn Road.
- 1.3 Planning permission is sought to renew extant planning permission ref: 3/08/1465/FP which was granted subject to a Section 106 unilateral undertaking on 6<sup>th</sup> September 2010. The current application is an exact replica of that previously approved proposal.
- 1.4 The application therefore proposes an indoor and outdoor sports complex, comprising the construction of an indoor tennis club, outdoor tennis courts, outdoor swimming pool and sports facilities, golf driving range, outdoor recreational area, public open space and car park.
- 1.5 The proposed indoor tennis club comprises a building some 8450 square metres in size. It would have barrel vaulted roofs and be clad in profiled metal sheeting. The proposed building is L-shaped, the longest dimension of which is 109 metres and the widest, 68 metres. The building would be a maximum of 10 metres in height. It is proposed that the slab level will be set 1 metre below the existing natural ground level.
- 1.6 The building would accommodate 4 tennis courts, squash and badminton courts, a swimming pool, a fitness gym a restaurant/bar and function suite, a beauty salon and a crèche. Externally 7 tennis courts, 4 of which would be covered in winter via a bubble covering, a beach volleyball court, a basketball court and a golf driving range are proposed. The golf driving range would have 24 bays and would be illuminated.
- 1.7 Facilities available to the public would comprise the existing natural ecological area to the north west of the site, known as Archers Springs, and an area to the east of the site between the sports hall and the residential estate, which would be a semi- formal park containing a basketball court, children's playground and kick about pitch.
- 1.8 Vehicular access is proposed from Welwyn Road. A total of 350 car parking spaces are proposed of which 18 would be for disabled persons. Twenty covered cycling spaces are also proposed. Pedestrian accesses from the existing bus terminal point in Bentley Road and the newly constructed Sele Farm Community Centre.
- 1.9 The submitted landscape strategy plan indicates comprehensive

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landscaping of the site is to be undertaken and this includes landscaping of existing and proposed mounding, the car park and parkland areas. The north west area (Archers Springs) is to remain natural.

- 1.10 As part of the proposals the applicant is offering a 'Community Outreach Package', which would enable 350 hours per annum of access to the racquet facilities without cost to non member sectors of the public identified by the local planning authority. The anticipated key sectors of the public who may benefit are local schools, single parent groups, retirement age groups and other special needs groups. In addition, coaching to school parties will be provided at non-commercial rates.
- 1.11 The application is accompanied by a number of supporting documents including an updated Planning Statement, an updated Transport Assessment, a Flood Risk Assessment, a Habitat Survey Report, a Noise Assessment, a Lighting Assessment Report, a Sewer and Utilities Infrastructure Statement, and a Remediation Study.

## **2.0 Site History:**

- 2.1 In 1999, following a history of previous applications, an application for the construction of an indoor tennis club and associated facilities, driving range, public car park and maintained recreational area was submitted to the council for consideration (LPA Ref: 3/99/1945/FP). Members resolved to grant planning permission subject to conditions, a Section 106 Agreement and the agreement of the Secretary of State to the departure from the Local Plan.
- 2.2 In the event, the Secretary of State 'called in' the application and after a public inquiry determined that planning permission should be granted in 2001.
- 2.3 In 2006 an application to renew the above planning permission was granted (LPA Ref: 3/05/1491/FN), subject to a revised Section 106 agreement. The application, being a renewal of the then existing planning permission, was identical to that previously approved by the Secretary of State.
- 2.4 In September 2010, full planning permission (LPA Ref: 3/08/1465/FP) was approved subject to a new Section 106 agreement under the same terms. This application expires on 6<sup>th</sup> September 2013 and as no work has commenced on site the applicants David Lloyd Leisure have submitted the current identical application to renew the extant permission.

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### **3.0 Consultation Responses:**

- 3.1 The Planning Obligations Unit comment that they would wish to see the provision of fire hydrants but note these were not included on the previous unilateral undertaking
- 3.2 Hertfordshire Highways comment that they do not wish to restrict the grant of consent subject to the previously imposed highway related conditions and the delivery of the same off site highway works through an updated Section 106 agreement. This should include an up to date sustainable transport contribution.
- 3.3 Hertfordshire Biological Records Centre comment that they have no objection to the renewal of planning permission 3/08/1465/FP provided the conditions relating to ecological matters will remain.
- 3.4 Herts and Middlesex Wildlife Trust comment that the habitats on site, including a Local Wildlife Site, currently suffer from inappropriate use by motorcycles. The plans suggest that the LWS, trees and hedgerows and a further strip of publicly accessible green space is to be retained. No objection to the granting of permission subject to suitable conditions to minimise impacts on habitats and species within the site and to ensure the long term integrity of the LWS.
- 3.5 Natural England comment that it is for the local planning authority to determine whether or not the application is consistent with national or local policies on biodiversity and landscape.
- 3.6 The Environment Agency comment that planning permission can be granted if conditions requiring 1) a detailed surface water drainage scheme and 2) in the event of contamination not previously identified being found, no further development shall proceed without an updated remediation strategy.
- 3.7 The Council's Engineers comment that the development would not currently be considered as sustainable construction and recommend better use of above ground SuDs drainage systems such as swales, retention/detention ponds, external rain harvesting water butts, green roofs and grey water recycling/internal rainwater harvesting.
- 3.8 The Councils Environmental Health Unit does not wish to restrict the grant of permission subject to a condition relating to Soil Decontamination.
- 3.9 The Council's Landscape Officer recommends consent subject to

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conditions to improve the landscape setting to the car park.

- 3.10 The Minerals and Waste Team at Herts County Council have recommended that the re-use of unavoidable waste and the use of recycled materials is encouraged where appropriate.
- 3.11 Thames Water comments that any permission should include conditions requiring further details of on and off site drainage works and the emptying of swimming pools.
- 3.12 Sport England confirms its support of this application and does not consider that a review of the justification for providing these facilities is required. The development would provide a range of sports facilities that could help increase participation in sports.
- 3.13 At the time of writing this report, no comments have been received from the Council's Planning Policy Section, The Architectural Liaison Officer, The Woodland Trust, CPRE, The Passenger Transport Unit or EDF Energy Networks. Any responses will be reported to Members at the committee meeting.

#### **4.0 Town and Parish Council Representations:**

- 4.1 Hertingfordbury Parish Council and Hertford Town Council are yet to provide comments. Any comments received will be reported to Members at the Committee Meeting.

#### **5.0 Other Representations:**

- 5.1 The application has been advertised by way of press notice, site notices and neighbour notification.
- 5.2 At the time of writing, 5 letters of representation have been received raising the following comments:
- Development is a great idea;
  - Wonderful opportunity to provide local employment and sporting facilities;
  - Would cause noise and disturbance;
  - There are already an abundance of tennis facilities in Hertford;
  - Residents of Perrett Gardens would be affected;
  - Unwelcome traffic;
  - Loss of outlook;
  - Development should include a footpath across the Welwyn Road to

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allow residents to safely access Panshanger Park;

- Loss of open land;

5.3 Hertford Swimming Club have stated that the proposed facility should be accessible to the Club at appropriate times for school children and at rates that are comparable to other pools in the area.

### **6.0 Policy:**

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

SD1	Making Development More Sustainable
SD2	Settlement Hierarchy
SD4	Sustainable Development and Nature Conservation
SD5	Development on Contaminated Land
GBC1	Appropriate Development in the Green Belt
TR1	Traffic Reduction in New Developments
TR2	Access to New Developments
TR3	Transport Assessments
TR4	Travel Plans
TR7	Car Parking- Standards
TR13	Cycling –Facilities Provision (Non- Residential)
ENV1	Design and Environmental Quality
ENV2	Landscaping
ENV3	Planning Out Crime- New Development
ENV4	Access for Disabled People
ENV11	Protecting of Existing Hedgerows and Trees
ENV14	Local Sites
ENV15	Nature Conservation Area Management Agreements
ENV16	Protected Species
ENV20	Groundwater Protection
ENV21	Surface Water Drainage
ENV23	Light Pollution and Floodlighting
ENV24	Noise generating Development
IMP1	Planning Obligations

6.2 In addition, the National Planning Policy Framework is also particularly relevant given that it represents the main change in planning policy since the approval of the application in September 2010.

### **7.0 Considerations:**

7.1 This application has been submitted under the temporary power, extended to allow planning permissions that were extant on the 1<sup>st</sup>

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October 2010, to be kept alive through an extension of their time limit. The intention is that this will speed up the economic recovery together with avoiding a deluge of planning applications being submitted at a time when the market improves.

- 7.2 The application is a replica of that approved in September 2010 (Ref 3/08/1465/FP). When considering proposals for the renewal of planning permission, the local planning authority must take into account the existing permission and only reach a different conclusion if either relevant planning policy has changed substantially or if there has been a relevant and substantial change in the physical situation on site or in the local surroundings.

#### Publication of the National Planning Policy Framework (NPPF)

- 7.3 The NPPF was published on 27<sup>th</sup> March 2012 and replaced a raft of previous planning policy statements (PPS's) and planning policy guidance (PPG's). It does not alter the statutory status of the Local Plan as the starting point for decision making. However, it constitutes guidance for local planning authorities and acts as a material consideration in determining planning applications. The weight given to policies within the NPPF is dependent on the degree of consistency with policies in the Local Plan. It is therefore necessary to consider the acceptability of the proposal in light of its publication.

#### Principle of Development and the Green Belt

- 7.4 The NPPF maintains that the protection of the Green Belt is of great importance and identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts, i.e. their openness and permanence, and the five purposes of including land in Green Belts are unchanged from previous guidance in PPG2.
- 7.5 The proposed development has previously been found to represent 'inappropriate' development in the Green Belt and consequently it has needed to be considered whether there are any very special circumstances to warrant a decision that overrides Green Belt policy. The NPPF maintains that inappropriate development is by definition harmful to the Green Belt and should not be allowed except in very special circumstances.
- 7.6 In terms of whether the development should continue to be regarded as inappropriate, the NPPF identifies that the provision of 'appropriate' facilities for outdoor sport and recreation need not be inappropriate.

This is a slight deviation from Local Plan Policy GBC1 and PPG2, both of which refer to smallscale 'essential' facilities. However, the NPPF maintains the condition of PPG2 that such facilities should preserve the openness of the Green Belt and not conflict with the purposes of including land within it. This would not be the case here as the development replaces undeveloped and open land and would have a substantial visual impact.

- 7.7 As such, and for the purposes of this application, it is not considered that Green Belt policies as contained within the NPPF have changed significantly since the grant of permission in 2010. Accordingly, the development should continue to be regarded as inappropriate development and 'very special circumstances' would be required to override the harm to the Green Belt and any other harm caused.

Very special circumstances

- 7.8 The Secretary of State identified 5 factors which contributed towards the existence of very special circumstances in 2001; need; the site's favorable location; its sustainability; its benefit to the local community and the gains to nature conservation.
- 7.9 In seeking to renew the grant of permission, the applicant states that the proposal meets a need which is still present.
- 7.10 In June 2011 East Herts published its latest Assessment of Sports Facilities which demonstrated that East Herts is well served by a range of high quality, indoor and outdoor sports facilities. In terms of indoor tennis centres, East Herts has exactly the national and regional average level of provision but is considerably below the provision in Hertfordshire as a whole.
- 7.11 The Sports Facilities Strategy 2007-2016 by Sport England and Active Hertfordshire identifies a deficit of multiple use sporting facilities in the District and acknowledges that the lack of facilities managed by the authority is a significant barrier to implementing community benefits. Although a strategic need has not been identified for additional indoor tennis facilities in Hertford (mainly due to the proximity of the Legends Tennis UK site at Haileybury), Hertford was identified as a priority area within the district for additional sport hall provision. Overall a need has been identified for an additional 4.2 x four court sport halls and 182 fitness stations in East Hertfordshire over the period up to 2016.
- 7.12 The facilities proposed are to be used principally by members and therefore the level of accessibility and affordability would not be

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expected to be the same as a local authority facility. However the facilities would be suitable for addressing the needs of at least part of the community and the community outreach programs would open up access to the facilities for other groups.

- 7.13 As such, Officers consider that, while need for an indoor tennis centre may not be considered as a determining factor in its own right, there is unmet need for more general and localized sporting facilities in Hertford of which the proposal would also deliver.
- 7.14 With regard to the site being favourably located, this is considered to remain the case. It was acknowledged by the Secretary of State in 2001 that such a scheme would require a minimum of 2.43 hectares of land for core facilities to achieve commercial viability and at that time there were no alternative sites that were either suitable or available. This was equally the case in 2010 when the application was last approved. Since that time, no alternative sites have been identified in the Local Plan and there have been no substantial physical changes on the site itself.
- 7.15 Members may be aware that the site has been considered for future residential development as part of the Call for Sites process. In July 2012, the Council's Planning Executive Panel considered that the site was in a good location in relation to existing facilities, had good vehicular access, had the potential for public transport utilisation and that the site would require limited new infrastructure. This application would also secure significant highway, footpath and cycleway enhancements and a contribution towards sustainable transport. The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. As such, the favourable location of the site should still be considered a significant material consideration.
- 7.16 Turning to the sustainable nature of the development. The applicant has, in line with Policy SD1 submitted a sustainability statement which sets out how the development will contribute towards healthy socially integrated communities, sustainable movement patterns, the sustainable use of resources and the creation of a healthy economy whilst being physically well integrated and protecting and enhancing the environment. Key sustainability measures include the provision of a range of activities, new bus stops, footpaths and cycleways and a community program which promotes access to the local community. Whilst I accept the report's conclusions, many of these measures would now be a standard requirement of development of this scale and nature. This is particularly the case since the publication of the NPPF, which



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has at its heart a presumption in favour of sustainable development as a golden thread running through plan making and decision taking. It is therefore considered that many of the sustainability benefits put forward can no longer be considered as a factor contributing towards the very special circumstances of the case.

- 7.17 With regards to the benefit to the local community, the project would still provide substantial benefit to local people in the package of sports and recreation facilities available. Sport England support the proposal. It would secure 75% of the land given over to public use, significantly more than at present. Whilst not extensive in hours, the community outreach programme is good in principle and would materially benefit the local community. The employment potential of the development at some 80-100 full and part time staff would be significant and is likely to attract local people. Overall it is considered that there would still be a considerable benefit to the local community resulting from the development.
- 7.18 With regard to ecology and nature conservation, the proposal would replace the existing landscape which has been scarred by years of neglect and unauthorised activities. The application, like those preceding it, includes proposals to enhance the existing landscape and includes a detailed Landscape and Wildlife Management Scheme. Subsequent to the Secretary of State's decision, part of the site to the north-west was identified as a Wildlife Site. Previous approvals have been subject to Section 106 obligations to secure the protection and future management of this County Wildlife Site together with providing positive management of the site to optimise its conservation value. Accordingly and in line with relevant policies contained in the NPPF, the development is considered to contribute, conserve and enhance the natural environment.
- 7.19 It is noted that HBRC are satisfied that the Ecological Survey remains valid and that, subject to conditions requiring the provision of further detailed ecology surveys prior to the commencement of development as well as details of any necessary mitigation, the proposal can be renewed. Herts and Middlesex Wildlife Trust are also satisfied that with appropriate management the proposal would not adversely impact upon the ecological interests of the site.
- 7.20 As with the previous proposals, the benefits that will be gained from the landscape management plans and the measures put into place to ensure the long term integrity of the Wildlife Site remain a material consideration contributing towards the very special circumstances of the case.

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7.21 Having had regard to the very special circumstances identified by the Secretary of State and the relevant policy changes and local circumstances affecting them, Officers are satisfied that very special circumstances still exist which clearly outweigh the presumption against development and that the benefits derived from the scheme continue to override the site's Green Belt designation.

#### Highways and Traffic

7.22 A key objective of the NPPF is to promote sustainable transport and reduce greenhouse gas emissions and congestion. Paragraph 32 seeks to ensure that proposals: offer opportunities for sustainable transport modes, provide safe and suitable access and that any improvements to the highway network effectively limit the significant impacts of the development. It seeks to prevent or refuse development where the cumulative transport impacts are severe.

7.23 The application is supported by an updated Transport Assessment which has been prepared due to the previous Transport Assessment being carried out in 2000. The 2000 Transport Assessment addressed the impact of the proposals on the surrounding highway network in terms of capacity and concluded that that the local highway network can safely accommodate the predicted development traffic and the provision of footpaths and cycleways will ensure that there is direct access to public transport links and the Sele Farm residential estate. In addition it considered that the level of parking proposed is sufficient to meet demand.

7.24 The updated Transport Assessment uses the same trip generation as before, but the assessment of background growth to future years will be carried out. Modelling was carried out on 3 off site junctions (Welwyn Road/Thieves Lane, Welwyn Road/Windsor Road and Welwyn Road/North Road) as well as the site access using the new traffic data as a basis for scenarios both with and without the development. County Highways comment that, if the development were to go ahead, the updated assessment demonstrates that the junctions would operate with ample spare capacity.

7.25 County Highways have advised that in highways terms, the principle of the development, the level of parking and the access arrangements remain acceptable. There does however, remain a need for off site improvements to the pedestrian linkages to the site and bus stop improvements. In addition a financial contribution is sought toward sustainable transport initiatives. In line with these comments I consider that the amount of traffic being generated from the development would

not adversely impact on the surrounding highway network and that the amount of parking proposed is sufficient and in this respect the proposal is acceptable. Subject to the Section 106 obligations as detailed above the proposal remains acceptable in this regard.

### Planning Obligations

7.26 Since the previous approval in 2010, the NPPF has replaced Circular 05/2005 in respect of Planning Obligations. The NPPF advises that planning obligations should only be used where it is not possible to address unacceptable impacts through planning conditions and that they meet the following tests:

- Necessary to make the development acceptable;
- Directly related to the development;
- Fairly and reasonably related in scale and kind.

7.27 The NPPF also advises that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and be sufficiently flexible to prevent development being stalled.

7.28 The obligations mirror those previously imposed on a development of an identical nature and therefore can reasonably be adjudged to meet the three tests above. There is no evidence before Officers to demonstrate that the market conditions in which the applicant is operating at the current time are substantially different from when the Section 106 agreement was previously engrossed on 6<sup>th</sup> September 2010. Accordingly, Officers consider that a deed of variation to the previous Section 106 should be engrossed on the same terms as before.

### Other matters

7.29 With regard to the visual impact of the development, Officers recognise that the building has been specifically designed for its purpose and that the visual impact of the overall development would be substantial. The development would be identical to that previously approved and, if the principle of the development remains acceptable, it must be assumed that there will be a visual impact. As before, the degree of impact would be significantly mitigated by the landscaping measures proposed and the slab level being set 1 metre below ground level. On the basis that the physical condition of the site has remained unchanged since the previous grant of permission in 2010, Officers consider that the visual

impact of the development remains acceptable.

7.30 In terms of neighbour amenity, Officers note the submission of 5 letters of representation, including 2 letters of support for the proposal. As before, the nearest neighbours to the new building would be the residents on Bentley Road to the east. The car park and building would however be separated from these properties by a 75 metre wide area of public open space and consequently I do not consider that the proposal would have a direct harmful impact on their living conditions.

Furthermore whilst the proposals do include some external lighting this is limited to the car parks, tennis courts and driving range, all of which are a considerable distance from neighbouring residential properties. Finally the applicant's noise impact assessment concludes that noise from both the activities themselves and any plant equipment would not affect the ambient noise profile of the area. In summary I am satisfied that the development would not have an undue impact on the amenities of residents in the area.

7.31 In terms of groundwater contamination, both the Council's Environmental Health Department and the Environment Agency have recommended further controls relating to the remediation of the site. The application includes a Remediation Strategy although this was carried out in 2002. As such, in light of the time passed, and in accordance with the recommendations of the Council's Environmental Health Department and the Environment Agency, condition 37 has been amended to include a requirement for new scheme to be submitted and agreed by the local planning authority to deal with any unsuspected contamination of land and groundwater.

7.32 In terms of flooding and drainage, the NPPF seeks to direct development away from areas at risk of flooding. The development site is located within Flood Zone 1 and is therefore outside of areas at risk. Nevertheless, a condition, as previously applied and reflecting the agreed Flood Risk Assessment, to provide a detailed surface water drainage scheme as recommended by the Environment Agency, the Council's Engineer and Thames Water, has been included in the recommendation.

## **8.0 Conclusion:**

8.1 The development remains identical to that approved in 2010. Having regard to the above considerations, it is considered that there have not been any significant changes in circumstance or in planning policy that warrant a different conclusion or decision to that made in 2010 or to that originally made by the Secretary of State in 2001. Those very special

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circumstances still exist to warrant a departure from the local plan. It is therefore recommended that subject to the applicant entering into a Section 106 obligation with the Council under the terms detailed above, planning permission can be renewed.

- 8.2 In light of the previous decision it is not considered necessary for this application to be referred to the Secretary of State.