

DEVELOPMENT MANAGEMENT COMMITTEE – 17 JULY 2019

Application Number	3/18/2465/OUT
Proposal	Hybrid planning application comprising: Full planning permission for 375 residential dwellings (comprising 29 houses and 5 apartment buildings for 346 apartments), 420 sqm for a gymnasium (Class D2 floorspace), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of 2,220 square metres of employment floorspace (Use Class B1c), car parking, landscaping and associated works (all matters reserved except access).
Location	(HERT2) Land East Of Marshgate Drive, Hertford, Hertfordshire, SG13 7AQ
Parish	Hertford Town Council
Ward	Hertford Castle

Date of Registration of Application	28 November 2018
Target Determination Date	20 June 2019
Reason for Committee Report	Major Planning Application
Case Officer	Rachael Collard

RECOMMENDATION

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

1 Summary of Proposal and Main Issues

- 1.1 The site forms part of the development strategy in the East Herts District Plan 2018 as detailed in Policies DPS1, DPS2 and DPS3, and Hertford Policies HERT1 and HERT2. The site is allocated for a mixed use development of around 200 units and 3000m² of B1 or employment generating uses.
- 1.2 The application is for a hybrid planning application which proposes a full planning application for 375 residential dwellings (comprising 29 houses and 5 apartment buildings for 346 apartments), 420 sqm for a gymnasium (Class D2 floorspace), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector.
- 1.3 The application also seeks Outline planning permission for the construction of 2,220 square metres of employment floorspace (Use Class B1c), car parking, landscaping and associated works (all matters reserved except access).
- 1.4 The application submission follows from the decision of the Council on 19th December 2018 to endorse the Masterplan Framework submission for the site as a material consideration for development management purposes.
- 1.5 The main issues for consideration are:
 - Delivery of the District Plan housing strategy
 - Compatibility with the Masterplan Framework
 - Housing mix, density
 - Design and Layout
 - Employment uses
 - Highway impact mitigation and parking provision
 - Flood Risk
 - Contamination

- Infrastructure delivery

2 Site Description

- 2.1 The application site comprises two parcels of land located on the eastern side of Marshgate Drive. Together both parcels of land cover an area of 3.48ha. The application site is bisected by the timber yard site (not within the ownership of the developer) which does not form part of the application. Although the timber yard site is included within the HERT2 allocation.
- 2.2 The application site is a former gas works, used for the production and storage of town gas. A Pressure Reduction Station (PRS) was installed in the early 1960's and remains on site along the southern boundary of the northern parcel. The gasholders were dismantled approximately 10 years ago, with the site remaining vacant.
- 2.3 The northern boundary of the northern parcel of land abuts the River Lea, a public right of way on the tow path, which runs alongside the River leading to Hertford Town Centre and Hartham Common. Immediately to the west of the northern and southern parcels lie residential properties in the form of two storey terraced housing and the contemporary flatted development of Smeaton Court. The wider area to the east and south comprises a designated employment area containing a number of uses.
- 2.4 The site is also located within Flood Zone 2 and 3 and whilst the site lies outside of the Hertford Conservation area, a number of listed buildings are located relatively nearby and include the Hertford East train station and signal box.
- 2.5 Prior to the submission of this application, the details of the proposed development have been the subject of a request for a Screening Opinion under the Town and County Planning (Environmental Impact Assessment) Regulations 2017, to

determine whether or not the proposed development should be accompanied by an Environmental Impact Assessment (EIA).

- 2.6 The Local Planning Authority considered the request and determined that whilst the proposal amounts to an Urban Development Project where the development includes more than 150 dwellings within the Infrastructure Projects category 10(b) of Schedule 2 of the Town and Country Planning Environmental Impact Assessment, Regulations 2017. As such the proposal has been screened to determine whether significant effects are likely. It has been concluded that the proposals do not constitute EIA development. Accordingly, the application is not required to be accompanied by an Environmental Impact Assessment.
- 2.7 It should also be noted that during the course of the planning application the description of development has altered and amended plans and associated documents have been submitted to the Local Planning Authority for consideration. The Council have re-consulted consultees and neighbours in relation to these amendments.

3 Planning History

- 3.1 There is no relevant planning history for the site.

4 Main Policy Issues

- 4.1 These relate to the relevant policies in the East Herts District Plan and the National Planning Policy Framework 2018 (NPPF). There is no Neighbourhood Plan in place, or emerging, in relation to this site.

Key Issue	District Plan	NPPF
Principle of a mixed use development	INT1, DPS1, DPS2, DPS3, DPS4, HERT1, HERT2, HERT6, ED1, DEL1, DEL2, CC1,	Chapter 6 Chapter 4

	CC2	
Delivery of Housing	HERT2, HOU1, HOU2, HOU3, HOU6, HOU7, HOU8	Chapter 12 Chapter 11
Delivery of Employment	ED1	Chapter 12
Design Quality	HERT2, DES1, DES2, DES3, DES4, DES5, DES6, HA1, HA2, HA3, HA4, HA7	Chapter 12 Chapter 16
Impacts on neighbour amenity and occupiers	DES3, DES4, CFLR1, CFLR3	Chapter 12
Highway, parking and transport impacts	TRA1, TRA2, TRA3	Chapter 9
Flood risk and drainage	WAT3, WAT4, WAT5	Chapter 14
Viability and delivery of Infrastructure	DEL1, DEL2	

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

5 Summary of Consultee Responses

- 5.1 Consultees as set out below have provided feedback received in relation to the proposals as follows.
- 5.2 Hertfordshire County Council Highways – Objects to the planning application and recommends refusal.
- 5.3 Hertfordshire Constabulary – No objections raised.
- 5.4 Thames Water - The development is located within 15m of a strategic sewer. Thames Water have requested a condition

regarding piling on the site. Thames Water advise that with regard to waste water network and waste water process infrastructure capacity, they would not have any objection to the above application.

- 5.5 Affinity Water – No objections subject to conditions.
- 5.6 HCC Historic Environment Unit - advises that there is the potential for heritage assets of archaeological interest to be impacted. Therefore if planning permission is granted a condition requiring a field evaluation and monitoring is requested.
- 5.7 Cadent Gas – The developer is required to contact Cadent Gas prior to any works on the site.
- 5.8 NHS England – No objections subject to the requested monetary contributions.
- 5.9 Herts Fire and Rescue - Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit.
- 5.10 Natural England – No comments to make
- 5.11 Lead Local Flood Authority Confirm that there is no objection in principle on flood risk grounds and advise the LPA that the proposed development site can be adequately drained and mitigate any potential existing surface water flood risk if carried out in accordance with the overall drainage strategy. Conditions advised
- 5.12 HCC Minerals and Waste – No objections subject to removal of waste appropriately.
- 5.13 Environment Agency – No objections subject to conditions.

- 5.14 HCC Obligations – Recommends that a number of obligations are sought towards education, childcare, library and youth services.
- 5.15 EHDC Environmental Health – Object to the scheme on contamination grounds and recommends refusal.
- 5.16 EHDC Conservation and Urban Design – Object to the scheme and recommends refusal.
- 5.17 Canal and Rivers Trust – We are satisfied with the assessment of the impact on transient towpath users and the canal corridor more widely, we would remind the LPA that the moorings opposite the site may be occupied for extended periods of time.
- 5.18 EHDC Landscape Advisor – Objects to the scheme and recommends refusal.

6 Town Council Representations

- 6.1 Hertford Town Council - objects to the application. The committee opposes any development in the Mead Lane area which is likely to add to the road traffic numbers and therefore has a fundamental objection to this whole application unless provision is made for an additional access route other than by Mill Road.
- 6.2 The committee feels that 375 units would be gross overdevelopment of the land described in the district plan for mixed use development to include about 200 homes.
- 6.3 The proposal fails to demonstrate fully to the Town Council that road traffic access using Mead Lane rather than Claud Hamilton Way will not further compromise the free access to the industrial and business premises in Mead Lane and Dicker Mill.
- 6.4 The proposals fail to provide adequate infrastructure for local green space within the site and enhance biodiversity on the river,

including the concern that the height of the buildings and their proximity to the river will deprive the river of essential daylight.

- 6.5 It also fails to provide a clear green boundary between footpath and the new development. Overall, it is felt that it fails to provide a high standard of visual amenity to both within and beyond the site (The Meads). The application also fails to indicate how charging points will be made available for households without private off street parking adjacent to their homes. The committee would also like to see that pedestrians and cyclists along the river tow path have the ability to transit without conflict with one another. It is also felt there is a failure to indicate clearly where facilities for new residents will be provided (such as schools, doctors surgery, community places).
- 6.6 The committee saw no reference to the way in which the applicant might seek to enhance and protect the nearby heritage buildings such as Hertford East Railway Station and the Signal box.

7 Summary of Other Representations

- 7.1 The application has been advertised by neighbour consultation to local residents and businesses, by press and site notices. 236 responses have been received. The objections received can be summarised as:
- Difficulties running existing businesses due to highway issues;
 - Hertford has been overdeveloped in recent years with lack of infrastructure to support the vast number of new residents;
 - The developer should be required to improve the adjacent towpath, increase capacity, resurface and reduce the risk to users of the towpath of accident involving the canal;
 - No extra transport is available and the train line cannot cope with the amount of people using it;
 - Concerns over local businesses and where they will trade from. Lots of new homes and nowhere to work;

- If there is a major incident in any of the flats or houses on Mill Road or at the railway station, access to the road will be blocked;
- A reduction in scale of the development is required;
- No mention of road widening or improvement;
- There is a mention of a bus route through Marshgate Drive but you have already built a bus stop on Claud Hamilton Way which has been there months and is still not active;
- Lighting is not good;
- Facilities for pedestrians and cyclists are poor;
- Cycle paths should be provided with proper crossing points or signage giving cyclists priority on the Mill Road/Railway Street roundabout;
- Too many flats in the area;
- Most of our skyline will disappear, the effectiveness of our solar panels will be impacted;
- Natural light in particular the sunlight through the winter months to the river is totally blocked having a negative impact on the local wildlife;
- Overlooking of property;
- Development only has access via Mill Road and is very difficult to get out past the store from both the industrial units in the area and the apartment blocks already built;
- Access to Mead Lane and Marshgate Drive is already limited and heavily restricted. Concerned over the additional 400-600 Vehicles potentially added to the situation without provisions made for additional entry/exist points;
- No planned new road infrastructure;
- Lack of information regarding traffic calming measures;
- Hertford needs a bypass;
- What provision will be made for the construction traffic not to interfere with our business everyday;
- Regular queues along Mead Lane and Claude Hamilton Way are having an economic impact on businesses operating from Mead Lane as well as on air quality;
- Wear and Tear on existing roads;
- The main entrance should be on Mead Lane;

- 3-5 storey buildings will dominate the landscape;
- It will spoil one of the most beautiful parts of Hertford by the river;
- The area is losing its character, which Mead Lane and Marshgate have with their Victorian houses. The new builds don't look anything like Victorian;
- Scale of the development is unsustainable;
- The vernacular is generic and although the DAS makes a big point of making it seem tailored to the site it is not and does not take into account the proximity to the river and the heritage importance that area holds for Hertford;
- I will be directly overlooked by roughly 100 flats rendering my garden pretty much unusable;
- Extremely densely built upon. Buildings are too high;
- Dominate the surround area. Negatively and directly effecting the lock keepers cottage and permanently moored canal boats in terms of light, noise and intrusion due to close proximity;
- Lack of parking provision for the site;
- Removal of existing on street parking that residents use;
- Concerns the scheme will have on the existing residents parking scheme on Marshgate Drive and Spencer Street;
- Recent similar developments have averaged 1.25 parking spaces per dwelling which has resulted in severe parking problems in the surrounding streets and made access for emergency vehicles extremely difficult;
- Lose an incredible amount of man hours every week due to the traffic in Hertford and Mead Lane;
- Plans will see the removal of trees, which a number of wildlife currently love and should not be disturbed;

8 Consideration of Relevant Issues

Principle of Development

- 8.1 Whether or not the proposals are considered to be acceptable in principle is, to a large degree, dependent on a range of key issues

set out below. Insofar as the principle of the redevelopment of this site is concerned, the following discussion is most relevant.

- 8.2 The application site together with the timber yard site forms an allocated strategic site under policy HERT2 of the District Plan development strategy for housing growth in the District as detailed in policies DPS1, DPS2, DPS3 and HERT2. Policy HERT2 is allocated to provide 'around 200' homes by 2027, as part of a mixed-use development. In addition 3000m² of B1 employment floor space or other employment generating uses that would be compatible with a residential use would be sought.
- 8.3 Given the above details and the designation of the site for this form of development, it is considered that the principle of a mix of residential and commercial development is acceptable however, this is subject to the discussions that form part of this report. The bringing forward of the site, which has been vacant for a number of years must be seen as a significantly positive proposal in principle. In addition, bringing the site forward for development has the ability to deliver a number of new homes, both for the market and subsidised. The NPPF continues to place a requirement on the Council to identify sufficient land in this way.
- 8.4 The proposal seeks to provide 375 residential units comprising a mix of 1 and 2 bedroom flats and 3 and 4 bedroom houses. It is clear that the proposal is in excess of the 'around 200' units as stated within policy HERT2. In relation to part (c) of policy HERT2, 3,000m² of B1 employment floor space, or other employment generating uses that would be compatible with the uses on neighbouring land. The application seeks to provide 2,710m² of commercial floor space, (this is an increased offer from the original submission of 1,500m²). Unlike the original submission the amendment seeks a D2 gym (420m²), 70m² of residents co-working floor space and 2,220m of employment floor spaces (B1c).

- 8.5 In order to establish the principle of development it is considered necessary to provide a review and background of the Council's policy position and how the quantum of development contained within the HERT2 policy was reached.
- 8.6 The East Herts District Plan was adopted in October 2018 and sets out the ambitions of the Council in delivering development across the district and covers a period of 2011-2033. The policies seen at chapter 7 are specific to Hertford, of which the HERT2 policy is solely in relation to the development site, although it should be noted that there are a number of policy requirements that need to be taken into consideration as part of the current application.
- 8.7 The submitted scheme seeks 375 residential units and 2,710m² of employment floor space, although the majority of this floorspace would be for a B1(c) use and other employment generating uses, the residential numbers are approaching double the amount of dwellings allocated within the policy, whilst the amount of employment floor space is a shortfall of the amount required. As noted elsewhere within this report, the proposed development is located on two parcels of land whilst the timber yard site is omitted but forms part of the allocation. Therefore it is not unreasonable to assume that a separate planning application seeking additional dwellings on the timber yard site could be submitted, which would further increase the numbers of units at HERT2.
- 8.8 Policy HERT2 seeks the provision of 'around 200' homes and 3000m² of B1 or employment generating floor space, these amounts have been subject to detailed consideration and is based on technical work relating to both access and highway capacity issues.
- 8.9 The Council has sought to regenerate the Mead Lane area of Hertford for a number of years. However, a key constraint to the area is that it is served by a single point of access onto Mill Road, which for safety reasons by the mid to late 2000's had become a

constraint on further development in this location without the introduction of a second point of access coupled with the ability of the local road network to accommodate increased trips being an additional concern.

- 8.10 In order to understand if further development could take place in the area, a study was undertaken as part of the wider Hertford and Ware Urban Transport Plan, November 2010 (UTP), which was commissioned by Hertfordshire County Council. Appendix E of this document discusses the Mead Lane traffic modelling that was undertaken and the conclusions reached by the study in relation to the scope for additional development in this location. This study found that subject to suitable mitigation works and improved emergency access arrangements in the Mill Road/Hertford East Station area, a second point of access would no longer be an essential prerequisite. In addition the conclusions of the detailed traffic modelling were subject to the delivery of a sustainable transport strategy as part of any future scheme and therefore there was scope for development in the area.
- 8.11 Three options were presented in the UTP document:
- Either 300 residential flats plus 3000sqm B1 employment; or
 - 500 residential flats; or
 - 5000sqm B1 employment.
- 8.12 The Council considered this further and concluded that it was important that existing and future potential business operations in the currently functioning parts of the Mead Lane area should not be compromised by environmental impacts on any new residents in the area. Therefore the mixed use development option consisting of 300 residential flats plus 3,000sqm B1 employment was the approach chosen by the Council.
- 8.13 The Council worked to develop a document that could steer what form of development this location could take. The Mead Lane Urban Design Framework 2014 (MLUDF) is an adopted

Supplementary Planning Document (SPD) that sets out the Council's aspirations for the regeneration of the Mead Lane area. Predominantly focusing on long-vacant derelict areas, its aim is to facilitate the construction of an amount of residential development in the area, in addition to bringing forward increased employment provision and introducing improved sustainable transport initiatives. As set out above this document is informed by various evidence strands and in particular the work undertaken in connection with Paramics transport modelling, which underpins the recommendations of the Hertford and Ware Urban Transport Plan, 2010 (UTP).

- 8.14 Following this work a development has been completed north of the station with the construction of 120 units taking up a proportion of the chosen option of 300 units, this development also included the secondary access into the Mead Lane area (Claud Hamilton Way).
- 8.15 Congestion issues on the A414 through Hertford, causing air quality problems in the area (a declared AQMA), and has been identified as an impediment restricting growth beyond that proposed for Hertford within the District Plan. This has had the implication of limiting delivery of the strategic site at the North and East of Ware beyond 1,000 dwellings until suitable mitigation measures to identified constraints on the local and wider strategic road networks can be resolved (to allow for the total policy allowance of 1,500 dwellings to be delivered in that location) as a direct consequence of congestion on the A414. While a long-term strategic solution is currently being sought through the Hertfordshire Local Transport Plan 4 (LTP4) process, and its supporting draft A414 Corridor Strategy this has yet to result in any such scheme being fully identified and delivery timescales are unclear.
- 8.16 Throughout the District Plan's formulation, the Council had continued discussions with HCC in respect of access and overall highway capacity issues. During the public examination of the

District Plan, the Highway Authority's position did not change and maintained this stance in respect of the site in the context of both local and strategic issues. It is important to note that the highway Authority have been consulted and have raised an objection to the application, which will be explained in more detail elsewhere within this report.

- 8.17 The applicant has been aware of the Council's aspirations for the site and the issues surrounding the quantum of development. The applicant made representations during the District Plan examination in support of increasing unit numbers at the site, having appeared at hearing sessions. The Planning Inspector had the opportunity to consider increasing the unit numbers at this site but did not recommend any alteration to the HERT2 policy in this regard.
- 8.18 The Council accepts that some form of development on this site will be forthcoming and there is a need to make the best use of land, while ensuring a quality development in the context of its setting. However, the significant amount of work undertaken has highlighted that there are significant constraints in terms of the local and strategic highway network that have limited the number of dwellings that can be brought forward in this location.
- 8.19 The quantum of development proposed is significantly in excess of the policy requirement, which was informed by a number of SPD's and evidence to support the Council's position. The scheme which excludes a portion of the allocated site and proposes almost twice as many residential units is totally in conflict with the District Plan Policy position established in Policy HERT2 I.

Compatibility with the Masterplan Framework

- 8.20 Policy DES1 of the District Plan requires that all significant proposals will be required to prepare a Masterplan setting out the quantum and distribution of land uses, sustainable high quality design and layout principles, necessary infrastructure, the

relationship between the site and adjacent land uses, landscape and heritage assets and other relevant matters, The Masterplan will be prepared collaboratively with the Council, town and parish councils and other relevant stakeholders.

- 8.21 A Masterplan Framework for the site was developed in consultation with Officers through pre-application discussions. A Steering Group was set up and comprised Officers, local ward Members and representatives from Hertford Town Council and other relevant stakeholders.
- 8.22 The Masterplan Framework does not provide full details of all aspects of the design and layout nor does it provide a quantum of development. It sets out key masterplanning principles that the site as a whole will meet. The Masterplan Framework sets out the proposed areas for different land uses along with maximum building heights, it also addresses sustainable credentials and the pedestrian routes throughout the site.
- 8.23 Whilst the land uses are in compliance with the Masterplan Framework the application as submitted excludes part of the site and therefore this fails to comply with the vision of the Masterplan Framework and the ability for the development of the entirety of the HERT2 allocation in a holistic manner. As such it is considered that the proposed development fails to be in compliance with the Masterplan Framework and would be contrary to Policy DES1 of the East Herts District Plan 2018.

Design, layout and whether the proposal would sufficiently maintain or enhance the character and appearance of the application site and surrounding area

- 8.24 The National Planning Policy Framework (NPPF) sets out the view of the Government in respect of good design, indeed this is noted as forming a key aspect of sustainable development as it can contribute positively to making places better for people. In particular paragraph 124 of the NPPF sets out that, amongst other

things, *“Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.*

- 8.25 Policies DES2, DES3, DES4 and DES5 seek design quality that respects the constraints of a site and integrates landscaping into the design to minimise impacts on the landscape character. An assessment of the design and layout will be provided below.
- 8.26 Whilst the site has been vacant for a number of years it is important to get the design approach right due to its prominent riverside position. The site would be one of the first residential sites members of the public will encounter on their approach along the river towpath into Hertford Town centre.
- 8.27 With regards to the ‘detailed’ aspect of this application, the proposal seeks to provide five flatted blocks on the northern parcel of land and 29 dwelling houses on the southern parcel of land. As noted within the report the two parcels of land are separated by the timber yard. This has implications for the overall layout and delivery of a comprehensive scheme at HERT2.
- 8.28 The development on the northern parcel consists of three large ‘H’ shaped flatted blocks fronting the river and two flatted blocks to the rear of the site close to the boundary with the industrial estate. These blocks would be separated by the main spine road running through the site, providing access to the communal parking areas. Areas of soft landscaping are proposed on the southern side of the spine road as well as additional landscaping and areas of green between the flatted blocks and at the end of the spine road.
- 8.29 It is important to note that the land levels vary across the northern parcel of land and generally there is a fall from west to east with the north eastern corner some 2m lower than the existing tow path. As a result, changes to the levels across the site are proposed.

- 8.30 The three large flatted blocks (N1-N2, N3-N4 and N5-N6) fronting the river are similar in terms of their style and design, benefitting from undercroft car parking and access to communal podium gardens. Each block features two long flank elevations that are asymmetric as each of the block features one side that is shorter than the other and a section that is set back from the front and rear elevations that join the two sections. The blocks would feature large pitched roofed gables when viewed from the riverside and the internal road. The Design and Access statement discusses the design approach of the flatted blocks and states that it follows a mill vernacular. The buildings would be punctuated with fenestration, balcony detailing to help break up large expanses of wall and would feature a mix of materials such as brickwork, and cladding.
- 8.31 The Mead Lane Urban Design Framework sets out that the scale of buildings should reflect the broader character of Hertford as a market town and be generally low to medium rise with good street enclosure. The Masterplan Framework sets out that the development could be up to five storeys in scale. However, it is for the detailed planning application to demonstrate that such a scale is acceptable in the context of ensuring high quality design and a development that is in keeping with the character of the surrounding area and Hertford as a whole.
- 8.32 The overall scale, siting, design and layout of the three blocks fronting the river with their pitched roofed gable sections achieving an overall height of approximately 19m, combined with changes in land levels and steep banking along the tow path results in buildings appearing excessive and dominant, sitting uncomfortably close to the tow path. As a result they have a poor relationship with the riverside location and fail to respond positively. In addition, wider views of these buildings would be possible due to their overall scale and massing and they would fail to respond to the character of the street scene of Marshgate Drive and river frontage in which they are located. The buildings would

not reflect the character of the immediate area or Hertford. The Council's Urban Design Officer considers the roof forms to be repetitive and overbearing and this was reiterated by the members of the Design Review Panel (DRP) prior to submission. The overall ridge heights are far higher than a normal 5 storey building due to a combination of raised land levels and steep roof pitches, which would appear in various longer views from around Hertford. In addition, the flank elevations which would be clearly visible from the tow path due to the breaks between buildings would result in monotonous built form of excessive depths and limited setbacks to help break up this elevation. Whilst amendments have been made to the buildings, these changes do not overcome the serious concerns identified. As a result of the design of the buildings it results in long internal corridors on the upper floors most noticeable on blocks N1-N2 and N3 and N4 and are not considered to be designed appropriately and considering how these spaces will work which was raised as a concern at DRP.

- 8.33 As a result of the massing and scale of the buildings, concerns are raised regarding overshadowing of the buildings themselves and the areas in between the blocks. Development should aim to provide quality living environments and quality areas for residents and members of the public to enjoy. The submitted Daylight and Sunlight assessments shows overshadowing of the canal corridor and areas of the podium gardens would be in shadow for the most part of the day. In turn this would result in some of the apartments being in shadow for the majority of the day. It is considered that this is due to the overall scale and form that the buildings take and if a different design approach was taken and a reduction in the scale of the buildings these concerns could be resolved.
- 8.34 Each of the blocks would benefit from undercroft car parking, following amendments some areas of external car parking between two of the larger riverfront blocks have been removed. This allows for additional areas of soft landscaping helping to ensure permeability and create a greener setting. It is assumed

that this is in response to the Council's landscape Officer comments and the comments of the Highway Authority. However, it is still considered that some of these areas whilst providing some relief between buildings would be dominated by cars with limited landscaping.

- 8.35 Positive weight can be attributed to the enhancement of the canal side by widening the existing tow path to create a shared route and open up the site, however, the steepness of the banks particularly in relation to blocks N3-N4 and N5-N6 counteract this positive aim.
- 8.36 With respect to amenity space, the flats would have access to a communal podium garden and some of the flats would have their own private balcony. The Council do not have any standards in relation to private amenity for flatted buildings. However, it is expected that facilities and useable areas are provided for occupiers. No concerns are raised regarding this aspect of the development.
- 8.37 The Landscape Officer comments, raise objections to the scheme and states that the level change from the tow path to the development results in an 'unjustifiably steep landscape slope' creating a partition between the towpath and courtyards. No substantial changes have been made with regards to the design and appearance of the buildings to overcome the concerns raised, the applicant has altered the layout, removing external car parking spaces and enabling additional areas of green space in between blocks.
- 8.38 In relation to the two flatted blocks located to the south of the northern parcel of land (N7 and N8), these would be five storeys in scale reaching an overall height of approximately 18.5m, a depth of 25m and a width of 42m and would be mirror images of one another. They would utilise the same materials as seen on the blocks fronting the river. It is considered that, their overall appearance, siting and design would result in an incongruous

appearance, with various roof forms competing with one another, making for odd and awkward elevations. Furthermore, a block would be positioned at the edge of the communal amenity area and due to the scale would appear dominant on this area.

- 8.39 29 dwelling houses are proposed on the southern parcel of land, 15 of those units would be within three rows of terraces fronting onto Marshgate Drive, set back approximately 8m from the roadside. Three of the properties would benefit from off street car parking in the form of tandem spaces and additional parking spaces would be available for the remaining properties to the rear within a shared parking court. Six parallel spaces on the roadside provides public parking, however 2, of those spaces would be allocated to a car club. The remaining 14 units within two rows of terraces would face onto the internal access road and would be served by additional communal parking areas.
- 8.40 Following amendments to the scheme, the layout has altered and removes the bay parking immediately in front of the dwellings fronting Marshgate Drive. This is seen as a positive as this avoids unnecessary conflict with pedestrians and is viewed more positively by the Highway Authority. In addition an area which was originally amenity space, which would facilitate a green corridor that could potentially provide a connection into the timber yard (should a scheme be submitted) and the northern parcel in the future has been omitted. This would ensure permeability through the site and ensure green corridors can be established enhancing the area. The loss of this area would compromise the ability for a suitable connection should development come forward in the manner that was originally envisaged.
- 8.41 The properties would feature pitched roofs with their principle elevations consisting of gable features punctuated by fenestration and associated detailing with the use of Juliet balconies to provide interest to the dwellings. The choice of material consists of brickwork and metal panelling, should planning permission be granted a condition would be imposed requiring samples of

materials to be submitted to ensure the quality of the materials are acceptable. It is acknowledged that concerns have been raised by third parties regarding the style and design of the dwellings as they would not reflect the traditional character of the terraces opposite. Whilst the dwellings would appear modern in character, it is not considered necessary for the development to be a pastiche.

- 8.42 The dwellings fronting Marshgate Drive would be approximately 9.4m in overall height, appearing as two storey properties from the front elevation, however, due to the change in land levels within this part of the site from the rear they would appear as three storey dwellings. Whilst the rear of these properties would appear greater in scale, this is no different to the situation seen to the Victorian terraces opposite on Marshgate Drive and Spencer Street. With regards to the terraces to the rear, due to the lower land levels in this part of the site, the dwellings are presented as three storey town houses. Due to their location they are not considered to be prominent within the wider street scene of Marshgate Drive. However, it is noted that the street scene plans show the roof forms of the rear terraces are visible due to the pitched roof gable designs. Whilst it is acknowledged that views may be possible from certain angles, due to the separation distance maintained it is not considered that this would be readily visible when stood at street level on Marshgate Drive. Therefore the design approach in this part of the site is not objectionable and respects the domestic the lower scale buildings in this part of Marshgate Drive.
- 8.43 Each dwelling house would benefit from individual rear gardens. The Council have no adopted garden size standards, however, it is expected that gardens are commensurate to the size of the dwelling to which they belong. Whilst the widths of the gardens would be limited to the width of the house, the gardens achieve depths of approximately 10m and are acceptable. It is considered reasonable for the removal of permitted development rights for extensions to ensure that suitable amenity space is maintained.

- 8.44 Having regard to policy HOU8, developments of over 200 units are expected to provide 1% self-build units. It was not intended for this site to provide self-build plots, however as the scheme meets the threshold consideration needs to be made. The applicant suggests that the requirement is incompatible with development on an urban, brownfield contaminated site. In addition it would not be compatible with the apartments or terraced housing proposed, furthermore the site is subject to contamination. The Design and Access statement, states that as part of the sale contract the developer was required to enter into an Environmental Deed, taking responsibility for past, present and future liability for contamination. The Council acknowledges the severe contamination on the site and the Environmental Health Officer does not consider that it would be suitable to seek self-build units on the site due to the contamination risks. The Council is not seeking to pursue self-build on the site at this time.
- 8.45 Having regard to climate change adaptation and mitigation (Policies CC1 and CC2) and the building design requirements of Policy DES4, the application is supported by a Sustainability and Energy Statement. The Statement assesses the use of different renewable energy solutions. The applicant's preferred approach, and one that is in line with the Council's policy approach and energy hierarchy, is to employ what is known as a 'fabric-first' approach. This means that the design of new homes achieves consistently high energy efficiency in order to achieve low CO2 emission rates. This is achieved through the choice of construction materials, levels of insulation and internal design to reduce the need for mechanical heating and cooling, rather than relying on the use of bolt-on renewable energy technologies. This will result in building design specifications that exceed the requirements of Building Regulations.
- 8.46 The Sustainability and Energy Statement concludes that the development will achieve a reduction in CO2 emissions when compared to the target values set out in Building Regulations. This

is in accordance with District Plan Policies CC1 and CC2 and DES4 and carries positive weight. In addition, the application makes provision for broadband infrastructure to be installed, facilitating changing working patterns and reducing the need to travel and can be conditioned.

- 8.47 Overall, the proposed development represents a density of 107dph across the two land parcels. It is considered that the flatted element of the scheme would be of an inappropriate scale, form, siting and design resulting in buildings that are excessive, dominant and overbearing within the river corridor and the street scene. The proposal does not contribute positively or reflect the character of Hertford. Overall, it is considered that the proposal represents overdevelopment of the site which fails to respond to its market town and riverfront location appropriately.

Employment Use

- 8.48 The Outline aspect of the application is for some of the provision of the commercial element required as part of policy HERT2 (c) for the delivery of 3000m² of B1 or employment generating uses compatible with the uses on neighbouring land.
- 8.49 The application originally proposed the provision of 1,500m² of employment floor space, a significant shortfall of the policy requirement. Discussions with the developer sought further information to justify this position as at the time the developer did not consider that the site was appropriate or necessary for employment development as there was not enough demand in the area.
- 8.50 Amendments to the scheme revised the amount of employment floor space to 2,710m². The developer proposes a gym (420m²) and co-working floor space (70m²) which is to be considered under the detailed part of the submission. Whilst the largest portion of employment floor space 2,220m² (B1c) is being considered as part of the outline application. It is clear that whilst an increased offer has been presented, this is still short of the

policy requirement and no additional information has been submitted to justify the developers change in position or why there is still a shortfall. As such the proposal is not considered to be compliant with policy HERT2 (c) of the East Herts District Plan 2018.

- 8.51 With regards to the gym and residents co-working space, this would be accommodated at ground floor level within buildings N5-N6 and N7 on the northern parcel of land. They would be contained within the footprint of the existing buildings. It is considered that should planning permission be granted, details regarding noise mitigation will need to be submitted to ensure that disturbance to residents would be limited and acceptable.
- 8.52 With regards to the proposed B1(c) use this would be located on a piece of land (equating to an area of approximately 2,714m²) on the corner with Marshgate Drive and Mead Lane. The outline proposal seeks all matters to be reserved except for access and therefore design and layout are not being considered as part of this application and would form part of a future reserved matters application. Ordinarily the applicant may wish to submit indicative plans as part of the application, which would not necessarily form part of the permission but give the Local Planning Authority a steer in terms of what sort of building and scale could be accommodated on the site.
- 8.53 Whilst the discussion elsewhere in this report focuses on the amount of commercial floor space to be provided, there is a requirement for the Council to be satisfied that the employment provision on the land within the submitted plans, could be brought forward in the future and would not result in a building that would be out of character in terms of its overall size and scale, particularly as the employment provision would be adjacent to residential dwellings. The applicant is not seeking to provide floor space that is policy compliant. In addition the Council need to consider that the employment uses are split across the two parcels of land.

- 8.54 With regards to the area of land which would accommodate the majority of the proposed commercial floor space, the plans submitted show a footprint of a 'commercial building' when scaled from the plans, this equates to a footprint of approximately 1048m². In addition the applicant has provided an indicative image showing a two storey building. Whilst scale plans at this stage would not be required there are concerns that the overall scale and the proximity of the building to the highway (as shown within the submission) could make for a large and dominant building on a prominent corner location with limited set-backs and the inability to provide for substantial areas of soft landscaping. Given the concerns regarding the scale of buildings to the north of this part of the site, it is not considered unreasonable to believe that the scale of building could be excessive and may not be appropriate.
- 8.55 Whilst the site is located adjacent to an employment site, the site is also located on a prominent corner plot which would lie adjacent to two storey Victorian terraced properties opposite on Marshgate Drive, three storey town houses located on Claud Hamilton Way and the proposed dwelling houses forming part of the detailed proposals in this application. Therefore the Local Planning Authority need to be satisfied that a building or buildings that could come forward would not have a detrimental impact on the amenity of residential occupiers (existing or proposed).
- 8.56 Due to the uncertainty surrounding the employment provision and the amount that will come forward on this allocated site. Concerns are raised that should permission be granted, this would undermine the aspirations of the Council and the employment need identified. Furthermore, due to its sensitive position, there is insufficient information for the Council to determine that the land allocated as part of this outline application for employment provision would be acceptable and could provide suitable provision that is of a size, scale and design that would be compatible with the surrounding character of the

area and would deliver the amount of floorspace required. The proposal is therefore considered to fail to comply with policies HERT2 (c), DES3 and DES4.

Neighbour impact

- 8.57 Policy DES4 requires a high standard of design, avoiding significant detrimental impact on the amenity of neighbouring occupiers, ensuring their environments are not harmed by noise and disturbance, or by inadequate daylight, privacy and overlooking. Noise and light pollution are the subject of policies EQ2 and EQ3 respectively. Good relationship between new and existing development is one of the themes underlying the well-designed places guidance in the NPPF.
- 8.58 The proposed development is surrounded to the east and south by commercial premises. However it is important to assess the impact the proposed development would have in relation to the occupiers of Smeaton Court. Block N5-N6. The building would be located approximately 18m from Smeaton Court (at its closest point). The western elevation of this block would feature balconies, whilst a degree of overlooking would result it is not considered that this would warrant a reason for refusal.
- 8.59 Immediately opposite are the rear elevations of commercial premises of which no concerns are raised, however it is noted that there are a number of permanent moorings for house boats located in front of these buildings. Residents along the canal have raised concerns regarding the impact of the development and the potential to cause loss of light along the river. A plan was requested showing the distance between the proposed blocks and the canal boats. The separation distances seen are not considered insignificant. However, it is considered that the proximity of the buildings to the edge of the application site combined with land level changes, the size and scale of the buildings which would benefit from balconies would result in an

unacceptable and overbearing impact on the living environments of those occupiers.

- 8.60 In relation to the dwellinghouses located on the southern parcel of land, due to the separation distance maintained between the properties opposite, no objections are raised with regards to overlooking. Concerns are raised with regards to the impact the scale and form of the commercial building that is proposed immediately to the east would have on the private amenity areas of the dwellinghouses. Insufficient information has been submitted to assess this impact.

Impact on Heritage Assets and Archaeology

- 8.61 There are two Listed Building in relatively close proximity to the site. These are the Grade II listed buildings of Hertford East Station and the Signal Box. The relevant District Plan policies, HA1 and HA7 require that development proposals preserve and where appropriate enhance heritage assets. In addition policy HERT2 (n) requires development to protect or where appropriate enhance heritage assets and their settings. The NPPF requires *'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'*
- 8.62 The higher scale buildings are located furthest from the heritage assets with the scale of the development decreasing the closer to Mead Lane. It is not considered that the proposed development would have an impact on Hertford East Station due to its distance from the site and existing buildings disrupting views.
- 8.63 With regards to the signal box, this is located closer to the site, with views possible from Claud Hamilton Way. It is acknowledged that there are aspirations for a platform extension at the station and as a result the signal box will need to be relocated. However

at this point in time the signal box remains in situ. Due to the separation distance maintained and its railway setting remaining unchanged, it is not considered that the development would have an unacceptable impact on the heritage asset.

- 8.64 The application site is not located within an Area of Archaeological Significance itself but it abuts an Area of Archaeological Significance No.172, which denotes the historic core of the last Saxon and medieval town of Hertford. Hertfordshire County Council's Historic Environment advisor has been consulted on the application and states that given its location on the gravel terraces of the River Lea it has the potential to contain buried early prehistoric settlement and associated palaeo-environmental remains.
- 8.65 An archaeological desk-based assessment has been submitted concluding that the site has a 'generally low archaeological potential'. The County Historic Environment advisor agrees with this conclusion, however considers that the position of the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest. Therefore should planning permission be granted a pre-commencement condition would be appropriate.

Highway Impacts and parking

- 8.66 This section of the report will consider the impact of the proposals on the surrounding highway network, the proposed on and off site highway improvement works, proposed levels of car and cycle parking and public transport provision. It has already been established that the quantum of development for the site hinges on highway capacity issues and the cumulative impact of developments in the area putting increased pressure on the highway network.
- 8.67 Policy TRA1 relates to sustainable transport measures and sets out that development proposals should primarily be located in places which enable sustainable journeys to be made, ensuring that a range of sustainable options are available and ensure that

site layouts prioritise the provision of modes of transport other than the car. Policies TRA2 and TRA3 require proposals to ensure safe and suitable access and suitable parking provision.

- 8.68 The Highway Authority were consulted on the application and raised an objection to the scheme setting out a detailed response. Following amendments to the scheme the Highway Authority were re-consulted and continue to raise an objection to the application. Following discussions with the developer further amendments were made. As such two consultation responses from the highway authority are relevant and should be read in conjunction with one another. Whilst the Highway Authority is satisfied that many of the detail highway concerns originally raised have been successfully addressed. The issues surrounding highway capacity impact of the development on key parts of an already congested network remains a fundamental issue and refusal is recommended on this basis. In addition the level of parking proposed within the site is also of concern and is considered to be a key contributing factor to the capacity constraints that this development places on the highway network. These issues will be discussed in more detail below.
- 8.69 The proposed development shows 2 accesses off Marshgate Drive one for each parcel of land (northern and southern). Concerns were originally raised regarding the lack of pedestrian dropped kerbs, tactile paving and lack of detail around the new footway north of the accesses. The revised drawings have overcome those issues identified. In addition the amended plans remove the 24 perpendicular parking spaces and replaced with 6 parallel bays within the highway. Three individual dwelling crossovers will be retained but the highway authority does not consider these to cause a 'severe' impact in the context of the NPPF.
- 8.70 With regards to parking on site, due to the revised development mix and layout this has altered the parking provision from that originally submitted. In addition the most recent changes have resulted in a reduction in the on-site parking provision. In accordance with the adopted parking standards 704 spaces would

be required for the residential element, however as the site is located within Zone 4 a reduction of up to 25% can be applied, which equates to 528 spaces. The proposal seeks to provide 260 spaces for the apartments and 58 spaces for the dwellinghouses equating to 2 spaces per dwellinghouse. It is noted that the site is on the border with zone 3 (which allows up to 50% reduction).

- 8.71 With regards to the B1(c) element this equates to 62 spaces or 47 spaces if the zonal approach is taken. In this instance 47 spaces are proposed.
- 8.72 The D2 (gym) element of the scheme would require 28 spaces in accordance with the Council's parking standards, or 21 spaces should the zonal approach be taken. The proposal seeks to provide 14 spaces. This is an under provision. The co-working space is not considered to generate additional parking need as it would only be available to residents of the scheme.
- 8.73 The Highway Authority have commented on the level of on-site parking as it has implications on highway capacity and the proposed mitigation strategy which seeks to increase capacity and undermines the sustainability of the site. It is identified that the reduction in on-site parking provision alone does not overcome the concerns of the Highway Authority and exacerbates them. This is because it is likely that the majority of residents will own at least one car whether they have an allocated on site space or not and this will place additional pressure on the public highway to accommodate them.
- 8.74 The modelling undertaken shows significant impacts arising from the development on the free flow of traffic at Mill Road/Ware Road junction and the Bluecoats roundabout. It is clear from these outputs that even with a range of sustainable travel measures and lower parking levels proposed at this site, the surrounding highway network is not able to accommodate the additional vehicle traffic without there being a severe impact.
- 8.75 The applicant has provided a Response Note which presents revised LINSIG models based on the reduced vehicle trip rates

and continues to state that the proposed mitigation scheme will significantly improve junction capacity at the Mill Road/Ware Road junction. However the latest Response Note does not include LINSIG model outputs with 'no mitigation' and therefore the County are not able to assess the true impact of the development on the current network design for comparative purposes.

- 8.76 As outlined in the previous highway response, the appropriateness of using a LINSIG model at a junction of this nature is seriously questionable, and a VISSIM microsimulation model is more likely to show the real impact. As such the County do not consider that the latest model outputs, including the estimated changes to bus timings through the heavily congested junctions modelled, are not accurate.
- 8.77 Unlike the original submission additional tracking plans have been submitted showing larger vehicles including refuse vehicles can turn within the site

Sustainability credentials

- 8.78 The highway authority stress the importance of the site having '*excellent sustainable travel opportunities*'. The NPPF at Paragraph 108 states that developments should ensure that "safe and suitable access to the site can be achieved for all users", and that "appropriate opportunities to promote sustainable transport modes can be – or have been – taken up". Paragraph 110 goes on to states that "development should give priority first to pedestrian and cycle movements... create places that are safe, secure and attractive, which minimise the scope for conflicts between pedestrians, cyclists and vehicles". Hertfordshire Council Council's Local Transport Plan 4 (2018) places greater emphasis on the importance of sustainability/accessibility. In addition policy HERT2 of the District Plan places importance on sustainable transport measures.
- 8.79 The proposal seeks to provide a 3m wide segregated footway/cycleway towards the southern end of Marshgate Drive, around the eastern radius of the Mead Lane/Marshgate Drive

junction and for a short distance along Mead Lane to tie into the informal crossing point opposite Claud Hamilton Way. However, it is unfortunate that there is a lack of dedicated cycle facilities within the site. This undermines the sustainable travel credentials of the proposal.

- 8.80 A requirement of policy HERT2 (h) is to allow for the extension of bus routes into the area. The aim was to have a circulatory route as seen within the Mead Lane Urban Design Framework. Issues with land ownership have arisen and as such at this time this cannot be progressed. The developer has been encouraged to explore this further as the site falls outside of the recommended 400 metre distance from an active bus stop. If access to the closest bus stops is not improved, this undermines the sustainable travel credentials of the site. It is noted that a meeting with Arriva the largest bus service provider in the area was facilitated. It was concluded that extending a bus service into the site would not be financially viable in the long term. However, a pooled financial contribution from the development and the two proposed residential developments at HERT3 may enable services to be extended to Claud Hamilton Way or the site itself. The estimated cost would result in the need for the three developments to each pay £570,000 over a 3 year period, which the applicant strongly objected to. Following this the applicant has had ongoing discussions with HCC Passenger Transport Unit, and since the Response Note has been submitted, agreement on the figures and triggers has been reached. The Highway Authority has agreed a proportional split over 5 years of which the development would be required to contribute £397,800. This would be payable prior to first occupation to ensure the service can operate from day one to establish sustainable travel habits and visibility of the bus service and would ensure the sustainability credentials of the site.
- 8.81 With regards to other aspects it is expected that the developer pays towards pooled contributions for various schemes which are expected to equal £462,125. Those schemes identified by the Highway Authority are as follows:

- **An improvement scheme to the level crossing on Mead Lane.**

Identified in the Hertford and Ware Urban Transport Plan 2010 as scheme number MDL5 and was estimated at £15,000 at the time. Revised costings would be provided when this scheme is taken forward for further consideration. It is considered necessary as it forms part of HERT2 policy and will improve pedestrian access to the east of the town and Ware.

- **A public realm scheme outside Hertford East Station.**

A recently commissioned scheme being led by the Major Projects team and will improve the pedestrian environment along Mill Road and Railway Street outside the rail station. It is considered necessary as it incorporates an emergency vehicle access lane, which forms part of HERT2 policy. In addition without the improved crossings which form part of the scheme, users of the site with sight problems will not be suitably accommodated.

- **Upgrade works to the Hertford to Ware towpath.**

This is a scheme being led on by the Canal and River Trust and includes measures such as improved signage, surfacing, railings, and access to road levels. It is considered necessary to improve pedestrian access to the town centre and Ware, providing greater travel choice for users of the site.

8.82 In addition a number of other sustainable travel related works and initiatives are proposed by the applicant:

- The provision of a new footway and shared footway/cycleway (at the southern end) along the eastern side of Marshgate Drive. Residential and Employment Travel Plans, which are both subject to their own evaluation and support contributions, each at £6000 (payable to the County Council before occupation and subject to CPI indexation from the date planning permission is granted).

- Vouchers to encourage bus and rail use.
- The provision of six car club spaces within the proposed scheme
- The provision of 10% EV charging spaces and the infrastructure to allow a further 10% spaces to be EV charging spaces in the future.
- Cycle parking
- Infrastructure for a potential future bus route connection through the site.

8.83 It is acknowledged that many of the detailed highway aspects have been successfully addressed. However the additional modelling has demonstrated that the development will have a severe capacity impact on the surrounding highway network, adversely affecting existing bus services, undermining the sustainability of the site. The level of on-site parking will encourage residents to own and use a car contributing towards the severe capacity impact on the network. Therefore the scheme fails to comply with policies HERT2, TRA1, TRA2 and TRA3 and fails to comply with the aims of Policy 2 of Hertfordshire County Council's new Local Transport Plan 4 (2018).

8.84 A total of 408 cycle parking spaces will be provided within the development. Secure cycle spaces will be provided for the flatted units in secured storage within the buildings with access located directly from the undercroft car parks, to provide added security and is in the most convenient and secure location for residents to access. The Design and Access statement states that for all internal stores, two-tier cycle parking racks will be used. In addition external visitor cycle parking will be provided next to the main entrances for each block. Should permission be granted it is considered reasonable for details and location of the cycle parking to be submitted.

8.85 With regards to the dwelling houses, each property will have a shed in the rear garden together with independent access in

order for bicycles to be stored in the rear gardens. The total numbers of cycle parking provision is considered to be in excess of the Council's parking standards and is therefore acceptable.

Other Planning Considerations

Contaminated Land, Air Quality, Noise impacts

- 8.86 The application site is a vacant brownfield piece of land and as discussed above was used for the production of town gas. In accordance with part (k) of policy HERT2 remediation of land contamination resulting from former uses is a requirement. Policy EQ1 encourages the remediation of contaminated land to ensure that land is brought back into use. Part II of this policy requires evidence to show that unacceptable risks from contamination and land instability will be successfully addressed through remediation.
- 8.87 A ground investigation report has been submitted and alongside the amendments to the scheme an additional 'Options Appraisal and Remediation Strategy' report was submitted. It should be noted that there has been some historic remediation on the site following the previous gas works use, however the site presents complex challenges.
- 8.88 Environmental Health have been notified of the application and raise an objection in relation to ground contamination, stating that the current state of the site is 'highly contaminated' and poses a risk of significant harm to future occupants. As such the Environmental Health Officer has not been satisfied that the current site conditions have been adequately assessed or adequate mitigation provision has been proposed to demonstrate that the risk of harm can be appropriately managed to protect public health of future occupants. The gas monitoring carried out on site is insufficient and does not comply with CIRIA C665 or NHBC guidance. The gas and soil sampling carried out are insufficient and fail to specifically cover all potential on site sources. The remediation reports are lacking in detail and the

proposals within them are deemed inadequate to deal with the severity of the contamination on site. Until additional information is submitted demonstrating that the developer has assessed the contamination risks appropriately and robustly, the Council cannot be satisfied that the contaminated land issues will be adequately resolved. Therefore the proposed development fails to comply with policy EQ1 and HERT2 (k) of the East Herts District Plan 2018.

- 8.89 Policy EQ4 requires all applications to take account of the Council's Air Quality Planning Guidance Document. Environmental Health have commented on air quality and noted that this is a large scale development that will lead to increased traffic movements in the locality in proximity to the existing AQMA. An appropriate strategy to ensure that the development is sustainable in the long term and to prevent any adverse impact on air quality in the area is required. A condition has been requested should planning permission be granted requiring a scheme for protecting and enhancing the air quality of future occupiers to be submitted.
- 8.90 As noted above, the site is located adjacent to the designated Mead Lane Employment Area as specified in Policy HERT6. A noise assessment was submitted in support of the application. Environmental Health were notified of the application and raised an objection to the application commenting that the assessment fails to complete the noise assessment for adjacent commercial noise sources in accordance with the provisions of BS4142:2014. Therefore the assessment has not fully considered or reported the significant noise impacts that the monitoring results suggest are likely to arise from the adjacent industrial estate, both during the day and during the night.
- 8.91 Following amendments to the scheme the developer submitted an updated and amended noise impact assessment following further noise modelling work undertaken. The results show that there remains a residual element of risk with part of the site in terms of potential noise impacts. Although the available evidence

suggests these may only be occasional and intermittent. The Environmental Health Officer acknowledges the site is allocated for a mixed use development and considers that a more robust and practicable mitigation scheme for the layout proposed has been put forward. It is concluded that in relation to the residential aspect of the scheme future residents should be able to have an acceptable internal acoustic environment with the specified mitigation measures in place. However it is advised that should planning permission be granted a condition would need to be added requiring post-completion testing to verify the mitigation scheme works have been undertaken.

- 8.92 With regards to the commercial element of the scheme, as all matters are reserved the Environmental Health Officer does not wish to raise an objection but requests a condition is added to any consent to ensure that commercial plant, machinery or equipment does not exceed the background level that would have an impact on the living conditions of residents.

Flood risk management, including climate change, water efficiency and quality

- 8.93 It is noted that the site lies adjacent to the River Lea Navigation Channel and the south eastern part of the northern parcel lies within Flood Risk Zone 2. Due to the scale of the development and the site at risk of flooding. A Flood Risk Assessment (FRA) has been submitted. The Lead Local Flood Authority (LLFA) has been consulted on the application and do not raise an objection to the proposal. They note that the northern site proposes to discharge into the River Lea Navigation Channel which flows adjacent to the northern boundary. Due to site levels it is proposed to pump at 5l/s to the Navigation Channel. With regards to the southern site due to land levels the same method would not be possible and therefore it is proposed to discharge the southern site to the existing Thames Water network at 5l/s. The LLFA note that both Thames Water and the Canal and Rivers Trust have been contacted and do not have any objections in principle to the proposals.

- 8.94 In addition the Environment Agency (EA) has been consulted and removes their original objection to the application, subject to conditions being imposed on any planning permission granted. The conditions sought are for the implementation of the Flood Risk Assessment, Landscape and Ecological Management Plan, a remediation strategy, verification report and unsuspected contamination, piling and SuDS. All of which are considered reasonable and necessary in order for the proposed development to be acceptable. It is noted that there is an element of crossover in relation to the conditions relating to contaminated land. The EA has a different remit to the Council's Environmental Health Officer as the EA are concerned with groundwater contamination. The submitted assessments and drainage strategy are considered to meet the requirements of Policies WAT1 and WAT3.
- 8.95 In terms of water efficiency, Policy WAT4 requires that developments achieve a target consumption rate of 110 litres per person per day. Water policies in the Plan seek to ensure the efficient use of water resources and the most sustainable form of drainage system. There is limited information within the submission, however the applicant has stated that the Berkeley Group aim to achieve water use of 105 litres per day per person. It is considered reasonable for a condition to be placed on any grant of consent which would require further information to be provided to demonstrate the water efficiency measures.

Ecology

- 8.96 Policy NE2 requires all proposals to achieve a net gain in biodiversity. Policy NE3 requires that a development should always seek to enhance biodiversity and to create opportunities for wildlife. This is stipulated within the Policy HERT2 (e) which requires quality local green infrastructure including maximising opportunities for linking into and improving existing assets and enhancing biodiversity, especially along the river corridor.

8.97 A Phase 1 Preliminary Ecological Appraisal has been submitted. The site is not subject to any statutory or non-statutory nature conservation designations. The majority of the site comprises hard standing associated with the former use and therefore holds limited intrinsic ecological value. The assessment states that the site is not of particularly high intrinsic value from an ecology and nature conservation perspective. The loss of existing vegetation would be more than off-set through the provision of new landscape planting within the development. It highlights that appropriate mitigation and enhancement measures have been proposed including measures to safeguard nesting birds, and foraging and commuting bats. Natural England has been consulted on the application and do not wish to raise an objection.

9 Viability, Infrastructure Planning Obligations

9.1 This section of the report will consider issues associated with the financial viability of the scheme, the planning obligations heads of terms for the Section 106 Agreement and other planning gain from the development. Policies DEL1 and DEL2 are relevant and require developers to demonstrate adequate infrastructure capacity can be provided both on and off site to enable the delivery of sustainable development.

9.2 It should be noted that the Council and the developer are still negotiating and as such the Heads of Terms have not been agreed.

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

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and

- Fairly and reasonably related in scale and kind to the development
- 9.4 With regard to development viability, developers will normally be expected to pay all of the planning obligations identified as being required and meeting these three tests, and to deliver a policy compliant proportion of affordable housing, in this case 40%.
- 9.5 The NPPG advises that: “in making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability”
- 9.6 The applicant submitted a financial viability appraisal which has been assessed by the Council’s viability consultant. Whilst the assessment is based on 100% market housing, the developer proposes the provision of 57 shared ownership apartments (15%) *‘to respond positively to the newly adopted District Plan’*. It should also be noted that the assessment is based on a financial contribution figure that is not based on the actual sums required in order to make the scheme acceptable. The Council’s viability consultant has concluded that based on the information to date, affordable housing over the 15% can be achieved. However the Council’s viability consultant recommended that a cost plan was undertaken and the Council have commissioned this work, which at the time of writing this report remain outstanding.
- 9.7 Due to amendments to the scheme which included the reduction in the number of residential units, an increase in the amount of commercial floor space and a significant increase in the financial contributions sought, at the time of writing this report the viability issues are outstanding and have not been concluded. In addition an updated viability assessment reflecting the amended scheme

has not been received. There is insufficient information to justify the developer's position in relation to the affordable housing provision on the site. Particularly as the viability assessment currently would demonstrate that the scheme could provide more affordable housing than the 15% offer of shared ownership units. Therefore the proposed development would fail to comply with Policy HOU3.

9.8 HCC request financial contributions towards, nursery education, childcare, primary education, secondary education, youth provision, library provision and the provision of fire hydrants:

• Primary Education	£309,492.00
• Secondary Education	£172,329.00
• Nursery Education	£58,202.00
• Childcare Service	£18,691.00
• Library Service	£38,088.00
• Youth Service	£4,201.00

9.9 The Highway Authority have identified the following projects:

- Improvement scheme to the level crossing on Mead Lane
- A public realm scheme outside Hertford East Station
- Upgrade works to the Hertford and Ware towpath

9.10 Based on HCC Planning Obligations Toolkit a total of £462,125, would be sought. SPONS indexation would continue to be applied from January 2019 until the date of payment, unless revised figures are calculated.

9.11 In addition a contribution towards residential and employment travel plans is required at a cost of £6,000.

9.12 The other sustainable travel related works and initiatives proposed by the applicant and accepted by the Highway Authority include:

- Provision of a new footway and shared footway/cycleway (at the southern end) along the eastern side of Marshgate Drive
- Vouchers to encourage bus and rail use.

- Provision of six car club spaces.
- Provision of 10% EV charging spaces and infrastructure to allow a further 10% spaces to be EV charging spaces in the future.
- Cycle parking.
- Infrastructure for a potential future bus route.

9.13 These are all seen as key factors in ensuring the scheme can be as sustainable as possible and change resident's behaviours at the outset.

9.14 In addition the Highway Authority seeks a financial contribution towards the provision of extending the bus service that would serve the application site and the two HERT3 sites. Provisional costings from Hertfordshire County Council's Network and Travel Planning team are based on 2 additional vehicles. The estimated cost was £340,000 per year over a 5 year period resulting in each development to contribute £570,000. It is noted that the applicant has strongly objected to this and has been in discussion with the highway authority. As such HCC have suggested a proportional split of this amount per annum over 5 years, which needs to be attributed to the three sites across Hertford to achieve the necessary level of pooled contributions. This would be split as follows: Archers Spring site: 342 units (35%), Thieves Lane: 254 units (26%), Marshgate Drive: 383 units (39%).

9.15 Therefore for the Marshgate Drive development a revised headline figure of £397,800 would be required to be paid in five instalments with the first being prior to occupation.

9.16 The cost of any off-site highway works will be delivered by planning condition (via a Section 278 agreement). The following works, which the applicant has agreed to, would fall into this category:

- Tactile paving to be installed either side of Marshgate Drive/Mead Lane junction and the Mitre Close/Railway Street junction.

- 9.17 The NHS have responded to the consultation regarding the amended scheme and are requesting financial contributions towards General Medical Services (GP Provision) of £265,426.20, Mental Health Costs £72,922 and Community Health Care costs £68,261, which are all considered to meet the CIL tests. Whilst an additional contribution was requested in relation to Acute costs amounting to £830,422, it is not considered that there is sufficient justification to meet the CIL tests.
- 9.18 The Local Plan Planning Obligations SPD dates from 2008. A replacement Open Space, Sport and Recreation SPD is currently being prepared now that the District Plan has been adopted. In respect of this application, in recommending financial planning obligations, Officers have had regard to the categories of provision that are likely to form the basis of the new SPD. Obligations are to be sought in respect of Parks and Public Gardens, Outdoor sports, children and young peoples and recycling, subject to the identification of projects and compliance with the CIL Regulations, estimated as follows:

• Parks and Public Gardens	£93,255.47
• Outdoor Sports	£258,272.84
• Children and Young Peoples	£38,145.99
• Recycling	£27,000.00
• Community Centres	£68,872.00

10 Conclusion

- 10.1 The proposal would result in the redevelopment of this vacant brownfield site, however it fails to accord with the relevant District policies of the East Herts District Plan and is therefore recommended for refusal.

RECOMMENDATION

That planning permission in relation to the detailed planning application be **REFUSED** for the following reasons:

1. The proposed development would fail to provide the quantum of B1 or other employment generating uses required on the site, failing to accord with policies HERT1 and HERT2 III (c) of the East Herts District Plan 2018.
2. The application site comprises two disconnected parcels of land on the HERT2 site, excluding the timber yard which is located between the two parcels. This prejudices the ability for the HERT2 site to be delivered holistically and to achieve regeneration of that area. The proposal would fail to be in accordance with the approved Masterplan Framework for the site which seeks to ensure that the site is delivered comprehensively. The proposal therefore fails to be in accordance with policies HERT2 and DES1 of the East Herts District Plan 2018.
3. The development proposed, by reason of the excessive scale in relation to the proposed number of dwellings, density and massing, and taking into account East Herts District Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary and undesirable development that would prejudice a more balanced distribution of housing growth planned for the whole of HERT2 site and other allocated site in the East Herts District Plan (2018). Consequently the proposal is unacceptable in principle and contrary to Policies DPS1, DPS2, DPS3, HERT2, DES1 and DES4 of the East Herts District Plan (2018) and the guidance contained within the National Planning Policy Framework and the provisions of the Mead Lane Urban Design Framework (2014).
4. The proposed flatted blocks, by reason of their size, scale, form siting, orientation and design fail to represent good quality design. The flatted blocks would fail to respond appropriately to its river side location resulting in an overbearing and dominant form. The rear flatted blocks would have roof forms that would appear incongruous and overall would relate poorly to the site. The development does not contribute to the sense of place and fails to draw on positive qualities of the site, surrounding area, landscape character across the river and the existing Public Rights of Way.

Overall the proposed development would not be in keeping with the character of area or Hertford. The proposal is therefore contrary to Policies HERT2, DES1 and DES4 of the East Herts District Plan (2018) and guidance contained within the National Planning Policy Framework (2019) and the provisions of the Mead Lane Urban Design Framework (2014).

5. The proposed development by reason of its overall scale, siting, design and layout would result in a development that would have a dominant and overbearing impact on the canal boat residents of the permanent moorings located opposite the site. This impact is made worse by the changes in land levels, the podium garden areas and the steep banking. As such the proposal would lead to the loss of light, overlooking and loss of privacy and overbearing impact. In addition insufficient information has been provided to demonstrate that the proposed dwellinghouses would not be adversely impacted by the commercial element and therefore fails to comply with policy DES4 of the East Herts District Plan 2018.
6. The proposed development would significantly increase the numbers of residential properties beyond 'around 200 homes' which is identified in HERT2 I. The amount of development proposed will have a severe capacity impact on the public highway, adversely affecting the free flow of traffic on the approach routes to, and at, the key strategic junctions of Mill Road / Ware Road and the Bluecoats roundabout. This is contrary to Policy TRA2 of the East Herts District Plan 2018, Paragraph 109 of the National Planning Policy Framework (2019) and Policy 5d of Hertfordshire County Council's Local Transport Plan 4 2018.
7. The severe capacity impact on the public highway as outlined in reason 6 above will adversely affect the reliability of existing bus services and rail replacement bus services in the area, further undermining the sustainable travel credentials of the site. This is contrary to paragraphs 108, 109 and 110 of the NPPF 2019, policies 1, 2, 4, 5, 6, 9 and 12 of Hertfordshire County Council's Local

Transport Plan 4 (2018), and Policy HERT2 and TRA1 of East Herts District Plan 2018.

8. The proposed development would significantly increase the numbers of residential properties beyond 'around 200 homes' which is identified in HERT2 I, as an appropriate amount of residential development. As a result the level of on-site parking proposed encourages at least one occupier of each dwelling to own a car, contributing to the severe capacity impact outlined in reason 6 above. This is contrary to paragraphs 108, 109 and 110 of the NPPF (2019), policies 1, 2, 4, 5, 6, 9 and 12 of Hertfordshire County Council's Local Transport Plan 4 2018 and Policy TRA2 of East Herts District Plan 2018.
9. Insufficient information has been submitted to demonstrate to the satisfaction of the Local Planning Authority that the B1(c) commercial floor space can be delivered in an appropriate manner on the land that is allocated for such a use. The lack of clarity surrounding the scale and siting of the building does not enable the Local Planning Authority to fully understand if the floorspace proposed could be delivered in the future as such this would be contrary to policies DES4 and HERT2 (c) of the East Herts District Plan 2018.
10. The proposed development fails to demonstrate that the contaminated land issues on the site have been adequately assessed. Nor has adequate mitigation been proposed to demonstrate that the risk of harm can be appropriately managed to protect public health of future occupants. As such the proposal would fail to provide a satisfactory living condition for the future occupiers contrary to policies HERT2 (k) and EQ1 of the East Herts District Plan 2018 and paragraph 178 of the National Planning Policy Framework.
11. Insufficient information has been submitted in the form of a financial viability assessment to demonstrate and justify the failure to deliver a policy compliant level of affordable housing in

accordance with policies HOU3 and HERT2 (b) of the East Herts District Plan 2018.

12. The applicant has failed to satisfy the aims of the plan to secure the proper planning of the area by failing to ensure that the development proposed would provide suitable mitigation against likely impacts on infrastructure and services, which are necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the above contributions. The Local Planning Authority considers that it would be inappropriate to secure the financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policies DEL1 and DEL2 of the East Herts District Plan 2018.

Summary of Reasons for Decision

East Herts Council has considered the applicant's proposal in a positive and proactive manner and whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to accord with the Development Plan.

KEY DATA**Residential Development**

	Bed spaces	Number of units
Number of existing units demolished		
Number of new flat units	1	136
	2	210
	3	
Number of new house units	1	
	2	
	3	14
	4	15
Total		375

Residential Vehicle Parking Provision

Current Parking Policy Maximum Standards (EHDC 2007 Local Plan)

Parking Zone	4	
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	170
2	1.50	315
3	2.25	31.5
4+	3.00	45
Total required		561.5
Proposed provision		338

Updated Parking Standards (endorsed at District Plan Panel 19 March 2015)

Parking Zone		
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	204
2	2.00	420
3	2.50	35
4+	3.00	45
Total required		704
Accessibility reduction	25%	176
Resulting requirement		528
Proposed provision		338

Legal Agreement - financial obligations

This table sets out the financial obligations that could potentially be sought from the proposed development in accordance with the East Herts Planning Obligations SPD 2008; sets out what financial obligations have actually been recommended in this case, and explains the reasons for any deviation from the SPD standard.

Obligation	Amount sought by EH Planning obligations SPD	Amount recommended in this case	Reason for difference (if any)
Affordable Housing	Not agreed	Not agreed	
Parks and Public Gardens	£93,255.47	£93,255.47	
Outdoor Sports facilities	£258,272.84	£258,272.84	
Children and Young People	£38,145.99	£38,145.99	
Recycling	£27,000.00	£27,000.00	

Community Centres	£68,872.00	£68,872.00	
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Obligation	Amount sought by Hertfordshire County Council	Amount recommended in this case	Reason for difference (if any)
Primary Education	£309,492.00	£309,492.00	
Secondary Education	£172,329.00	£172,329.00	
Nursery Education	£58,202.00	£58,202.00	
Childcare Service	£18,691.00	£18,691.00	
Library Service	£38,088.00	£38,088.00	
YC Hertfordshire	£4,201.00	£4,201.00	
Highway Works	£462,125	£462,125	
Bus Contribution	£397,800	£397,800	
Monitoring	£6,000	£6,000	

Obligation	Amount sought by NHS England	Amount recommended in this case	Reason for difference (if any)
General Medical Services (GP Provision)	£265,426.20	£265,426.20	
Mental Health	£72,922	£72,922	
Community Health Care costs	£68,261	£68,261	