

5a (a) 3/10/2047/FO - Variation of Condition 39 of planning permission 3/08/1528/FP to allow for alterations to the café area, interpretation centre to compensate for the theft of the copper hop back, associated elevational changes to Hartham Lane, minor alterations to other elevations, alterations to roof lights and changes to service yard, and

(b) 3/10/2048/LB - Alterations, refurbishment and repairs to listed building to accommodate ancillary elements of the proposed foodstore, business/office space and community space, including an interpretation centre at McMullens Brewery Site, Hartham Lane, Hertford SG14 1QN for Sainsbury's Supermarkets Ltd

---

Date of Receipt: (a) 19.11.2010  
(b) 19.11.2010

Type: (a) Variation of condition - Major  
(b) Listed Building

Parish: HERTFORD

Ward: HERTFORD - BENGEO

**RECOMMENDATION:**

(a) That in respect of application 3/10/2047/FO, subject to the agreement of a S106 obligation which ties the S106 obligations of the originally approved permission (3/08/1528/FP) to the new planning permission (3/10/2047/FO) that planning permission be **GRANTED** subject to the following conditions:

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

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

2. Prior to any above ground building works being commenced, samples of the external materials of construction, including rainwater goods for the building hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The building works shall be carried out in accordance with the approved samples.

Reason: In the interests of the appearance of the development, and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

3. Prior to the commencement of bricklaying, a sample panel of the

brickwork shall be provided on the site and shall be formally approved in writing by the Local Planning Authority. The panel shall be retained as a reference for all external brickwork within the development. The development shall be carried out in accordance with the approved sample.

Reason: In the interest of achieving a high quality of design and finish for the development in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007 and national guidance in PPS1.

4. The development shall be carried out in accordance with the submitted details in the Smart Waste Plan which identified measures for the minimizing of waste, recycling of materials as approved by letter 5 November 2010.

Reason: To accord with Hertfordshire Waste Local Plan policies 7 and 8.

5. Prior to the first occupation of the store details of cycle parking facilities shall be submitted to and approved by the local planning authority. The cycle parking facilities shall be provided and retained in accordance with the approved details prior to the first occupation of the store.

Reason: To encourage the use of cycles as means of transport, in accordance with policies TR13 and TR14 and Appendix II of the East Herts Local Plan Second Review April 2007.

6. The applicant shall secure the implementation of the programme of archaeological work in accordance with the Archaeological Solutions written scheme of investigation approved by The County Archaeologist on 23<sup>rd</sup> August 2010.

Reason: To secure the protection of and proper provision for any archaeological remains, in accordance with Government advice set out in PPG16 'Archaeology and Planning' and in accordance with policy BH2 of the East Herts Local Plan Second Review April 2007.

7. Prior to the commencement of above ground works, detailed drawings of new doors, windows, roof eaves, shopfront and canopy at a scale of not less than 1:20 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of appearance of the proposed development and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

8. Prior to the occupation of the store, or within such timetable as may otherwise be agreed in writing with the Local Planning Authority, the repairs and refurbishment of the listed brewery shall be implemented in accordance with a programme of works to be submitted and approved in writing by the Local Planning Authority.

Reason: To ensure the repair and enhancement of the listed brewery, to make it ready for occupation for office, community and arts spaces, and in the interests of the Conservation Area and in accordance with Policy BH6 of the East Herts Local Plan Adopted Second Review April 2007 and with the policies contained in PPS5.

9. Details of refuse facilities shall be provided as approved by the Local Planning Authority in letter dated 13<sup>th</sup> January 2011 prior to the occupation of the store.

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

10. Prior to the first occupation of the development hereby permitted, 232 spaces shall be provided within the application site for the parking of cars and such spaces shall be retained at all times for use in connection with the development hereby permitted. The car park shall include a designated taxi rank as indicated on plan 2500 SK1008D.

Reason: To ensure adequate off street parking provision for the development, in the interests of highways safety, in accordance with policy TR7 and Appendix II of the East Herts Local Plan Second Review April 2007.

11. No above ground works or development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate: (a) Means of enclosure (b) Hard surfacing materials (c) Planting plans (d) Schedule of plants, noting species, planting sizes and proposed numbers/densities where appropriate. The details shall extend to the landscaping of areas of Hartham Common, within the District Councils ownership, to the north of the site, including the enhancement of the recycling bins provision and the

implementation of off-site works in plan 06055/32A.

Reason: To ensure the provision of amenity afforded by appropriate landscape design, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

12. All hard and soft landscape work shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards or other recognised Codes of Good Practice. The works shall be carried out prior to the first occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with Policy ENV2 of the East Herts Local Plan Second Review April 2007.

13. Prior to the first occupation of the development hereby permitted, a schedule of landscape maintenance for a minimum of five years shall be submitted to and approved by the Local Planning Authority and shall include details of the arrangements for its implementation.

Reason: To ensure the provision of amenity afforded by the proper maintenance of existing and/or new landscape features, in accordance with policy ENV2 of the East Herts Local Plan Second Review April 2007.

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

Reason: To ensure the continuity of amenity value afforded by the approved landscaping, in accordance with policy ENV2 of the East

Herts Local Plan Second Review April 2007.

15. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended), the erection or construction of gates, fences, walls or other means of enclosure as described in Schedule 2, Part 2, Class A of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: To ensure the Local Planning Authority retains control over any future development as specified in the condition in interests of amenity and in accordance with policy ENV9 of the East Herts Local Plan Second Review April 2007.

16. The retail store hereby permitted shall only be open for customers between the 07:00 and 22:00 hours Mondays to Saturdays and for no more than six hours between 07:00 and 22:00 hours on Sundays and Bank Holidays.

Reason: Having regard to the amenities of nearby residents and in accordance with policy ENV24 of the East Herts Local Plan Second Review April 2007.

17. The use of the retail store hereby permitted shall be solely for Class A1 planning use with ancillary A3 Café use. The net retail sales floor area shall not exceed 2328sqm.

Reason: Having regard to the retail needs tests of the development and to ensure the scale of the use is appropriate to the site, its provisions for car parking and its retail impacts on the town centre in the interest of the appearance of the Conservation Area and in accordance with Policies ENV1 and STC1 of the East Herts Local Plan Adopted Second Review April 2007 and national guidance in PPS4.

18. Prior to the first use of the store, precise details shall be submitted of the internal ground floor layout of the store for areas within 10m of glazed sections of the north and east elevations. Such details shall indicate open areas behind the proposed shop windows within the north and east elevations of the building. No posters, boards, display equipment or other obstructions shall be placed within the identified shop window areas. The development shall thereafter be laid out in and retained in accordance with the approved details

Reason: To ensure that the main building frontages and shop

window areas for the new building are attractive and retain transparency in the interest of the appearance of the development in the Conservation Area and in accordance with Policies ENV1, BH6 and STC1 of the East Herts Local Plan Adopted Second Review April 2007.

19. Prior to the commencement of above ground works, details of a phasing programme for the development of the site; methods for accessing the site and provisions for construction traffic access; wheel washing facilities; associated parking areas and storage of materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter proceed in accordance with the approved details.

Reason: To ensure that adequate access for existing users and businesses is maintained at all times and ensure the development proceeds without undue interference to the safe and convenient use of the public highway.

20. No plant or machinery to be used in connection with any site demolition, site preparation or construction works shall be operated on the premises before 0730hrs on Monday to Saturday, nor at any time on Sundays or bank holidays.

Reason: To safeguard the amenity of residents of nearby properties in accordance with policy ENV24 of the East Herts Local plan Second Review April 2007.

21. Prior to the first occupation of the development, all highway works, including those specified below, shall be completed in accordance with the approved plans unless as otherwise agreed in writing by the Local Planning Authority
  - (a) All access roads, parking areas, and pedestrian links, as shown on the approved plan Dwg No. 2500 SK 1008 Rev A.
  - (b) Amendments to the Hartham Lane / Cowbridge junction as shown on the approved plan Dwg No.62422/A/19 Rev B.
  - (c) Realigned Hartham Lane, including new footways.
  - (d) Pedestrian / cycle link and bridge to Folly Island as shown on the approved plan Dwg No. 06055/28 Rev D.
  - (e) Loading facilities for the listed building as indicated on Dwgs No.62422/AR/W1 or No.62422/AA/1.

Reason: To ensure the development makes adequate provision for off street parking and manoeuvring of vehicles associated with its

use and to assist with increasing the linkage of the site to the town centre and its surroundings and in accordance with policies TR1 and STC1 of the East Herts Local Plan Second Review April 2007.

22. Prior to the first occupation of the development hereby permitted, the existing vehicular access shall be permanently closed and the kerbs and (footway/verge) reinstated to the satisfaction of the Local planning Authority.

Reason: In the interests of highway safety and amenity.

23. Prior to the first occupation of the development hereby permitted the following visibility splays shall be provided and permanently maintained within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level:

- (a) Dwg No. 62422/A55 – 25m forward visibility at service yard corner.
- (b) Dwg No. 62422/SK01 – 25m forward visibility at service yard exit.
- (c) Dwg No. 62422/A/25 Rev A – Visibility splays from existing business access.
- (d) Dwg No. 62422/A/21 – Visibility splays from revised McMullen access.
- (e) New store access with realigned Hartham Lane, 2.4m x 43m.

Reason: To ensure adequate visibility for drivers entering and leaving the site and in accordance with policy TR2 of the East Herts Local Plan Second Review April 2007.

24. No external loudspeaker systems shall be installed.

Reason: In the interests of amenity of the residents of nearby properties, and in accordance with Policy ENV24 of the East Herts Local Plan Second Review April 2007.

25. No deliveries to the site shall take place by vehicles longer than 13.5m. A written record of the time and date of deliveries and vehicle details shall be kept for inspection by the local planning authority on request.

Reason: To mitigate the impacts of deliveries on the environment and in the interests of highway safety.

26. Prior to the commencement of any piling works, details of the

method for piling for construction works, including a method statement and noise emissions, shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the approved details.

Reason: In the interests of the amenities of residents of neighbouring properties and in accordance with Policy ENV1 of the East Herts Local Plan Second Review April 2007.

27. Prior to the first occupation of the store, fire hydrants shall be installed at the site in accordance with details to be previously approved in writing by the Local Planning Authority.

Reason: To ensure the appropriate provision of hydrants for emergency vehicles.

28. Measures for the protection of bats, their roosts and access points, shall be implemented as approved by the local planning authority in its letter dated 13<sup>th</sup> January 2011.

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

29. Site clearance and removal of buildings, trees and shrub removal should not take place in the breeding season from 1<sup>st</sup> March to 30<sup>th</sup> August.

Reason: To avoid unnecessary disturbance to breeding birds in accordance with policy ENV16 of the adopted East Herts Local Plan Second Review April 2007.

30. Floor levels for the building shall be set at least 300mm above the 1 in 100 year level plus climate change flood level of 37.57m above Ordnance Datum.

Reason: To reduce the risk of flooding on the proposed development and future occupants/customers in accordance with policy ENV19 of the adopted East Herts Local Plan Second Review April 2007.

31. Within 2 weeks of the date of this permission details of works for the disposal of surface and foul water shall have been submitted to and provided on site in accordance with details first submitted to



and as approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the store.

Reason: In the interests of securing the sustainable and satisfactory drainage of the site and reduce the risks of flooding, in accordance with policies ENV18 and ENV19 of the East Herts Local Plan Second Review April 2007.

32. Prior to the commencement of the use of the store, directional signage at the site and interpretation boards at the riverside shall be erected in accordance with details to have been previously submitted to and approved in writing by the Local Planning Authority.

Reason: To assist with increasing the linkage of the site to the town centre and its surroundings and to increase awareness of the history and ecology of the local rivers, and in accordance with Policies ENV1 and BH6 of the East Herts Local Plan Second Review April 2007.

33. The development shall be operated incorporating the provisions of the renewable energy systems as detailed within the submitted Energy Statement, and the use of locally sourced supplies (within 10 miles of the site) for the biomass boiler, or by the use of other renewable technologies as otherwise may be agreed in writing with the Local Planning Authority.

Reason: To ensure the energy efficiency of the building and sustainable design within the development in accordance with policies SD1 and ENV1 of the East Herts Local Plan Second Review April 2007 and policy ENG1 of the East of England Plan.

34. No more than 20% of the net retail sales area shall be used for the sale of comparison goods.

Reason: To ensure that the impact of the development on the town centre is minimised in accordance with national guidance in PPS4, and policy STC1 of the East Herts Local Plan Second Review April 2007.

35. Prior to the commencement of above ground works, details of the amended entrance to the servicing area, including landscaping and revised boundary wall, shall be submitted to and approved in writing by the Local Planning Authority. The details will ensure that

the vehicle movements within the development comply with the tracking plans- Dwgs No.62422/AR/Z07 and Nos.62422/AR/Z08 and ensure visibility will comply with Dwgs Nos.62422/A/55 and Nos.62422/SK01. The development shall be carried out in accordance with the approved plans.

Reason: In the interests of highway safety and appearance of the development and in accordance with policies ENV1 and TR2 of the East Herts Local Plan Second Review April 2007.

36. Details of an additional pedestrian access point to the riverside walk to be provided in the south eastern corner of the car park shall be provided as approved in writing on 5<sup>th</sup> November 2010 by the local planning authority. The access shall be provided in accordance with the approved details.

Reason: To assist with increasing the linkage of the site to the town centre and its surroundings and in accordance with policies STC1 and TR1 of the East Herts Local Plan Second Review April 2007.

37. Full details of the exhibition within the Interpretation Centre shall be submitted for the approval in writing of the local planning authority prior to the first occupation of the new store. The Centre shall be retained open for public access between the hours of 8am and 6pm on Monday to Saturday and for at least 6 hours on Sundays and Bank Holidays.

Reason : To ensure public access to and appreciation of the heritage asset of the listed brewery having regard to the local and national policy provision of ENV1 and PPS5 and the balanced judgment taken by the Secretary of State in approving the application.

38. The development shall not be brought into use until an external lighting scheme, in accordance with the Institute of Lighting Engineers 2005 Guidance Notes for the Reduction of Obtrusive Light has been submitted to and approved in writing by the local planning authority. External lighting shall only be installed in accordance with the approved scheme.

Reason: In the interests of amenity of the residents of nearby properties, and in accordance with Policy ENV24 of the East Herts Local Plan Second Review April 2007.

39. Development other than that required to be carried out as part of

an approved scheme of remediation must not commence until items 1 to 4 below have been complied with. If unexpected contamination is found after the development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until item 4 has been complied with in relation to that contamination.

**1. Site Characterisation:**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service waters, ecological systems, archaeological sites and ancient monuments; (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'.

**2. Submission of Remediation Scheme.**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation of the intended use of the land after remediation.

**3. Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The

local planning authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

#### 4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of item 1 above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of item 2 above and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared and approved in writing by the local planning authority in accordance with item 3.

#### 5. Long term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation, and the provision of reports on the same must be prepared and approved in writing by the local planning authority prior to the first occupation of the store hereby permitted. Following completion of the measures identified in that scheme and when remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 111'.

Reason: To minimise and prevent pollution of the land and the water environment in accordance with national guidance in PPS23 and Policy ENV24 of the East Herts Local Plan Second Review April 2007.

40. The development hereby permitted shall be carried out in accordance with the following approved plans: Chetwoods drawings nos: 2500 PL (2) 000A, 2500 PL 100A, 2500 PL 427B, 2500 PL 500B, 2500 PL 614C, 2500 SK 1005D, 2500 SK 100, 2500 SK 1006A, 2500 SK 1008D, Henry Riley drawing 35406, TLP

### 3/10/2047/FO, 3/10/2048/LB

drawings nos 06055/26D, 06055/27D, 06055/28D, 06055/29C, 06055/30K, 06055/31B, 06055/32A, GGA drawings nos 19391 SK 102 P6, SKi 04 P3, Acanthus drawings nos 3912 41, 3912 42, 3912 43, 3912 63A, 3912 64, 3912 67A, 3912 71C, 3912 72F, 3912 73C, 3912 74A, 3912 75A, 3912 76B, 3912 82A, 3912 83AB, 3912 84A, 3912 85A, 3912 86A, 3912 87A, 3912 101, 3912 102, 3912 103, 3912 104, 3912 105, 3912 106, 3912 121H, 3912 122B, 3912 123, 3912 124, 3912 125, 3912 126, 3912 127, 3912 128, 3912 129, 3912 130, 3912 131, 3912 132, 3912 133, 3912 134, 3912 135, 3912 136, 3912 233A, 3912 240.

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

#### Directives:

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body eg. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
2. This permission should be read in conjunction with the specifications and conditions attached to the listed building consent granted under LPA ref: 3/08/1529/LB.
3. The granting of this permission does not convey or imply any consent to build upon land not within the ownership of the applicant, without the approval of the landowner.
4. You are advised to contact Hertfordshire Highways at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts SG7 3SP, tel: 01992 356343, with regard to the carrying out of any works on any footway, carriageway, verge or other land forming part of the highway.
5. The applicant is advised to liaise with the Council's Environmental Health section to ensure the proper legal disposal of asbestos at the site.

Summary of Reasons for Decision

The proposal has been considered with regard to the policies of the Development Plan (East of England Plan May 2008, Hertfordshire County Structure Plan, Minerals Local Plan, Waste Local Plan and the saved policies of the East Herts Local Plan Second Review April 2007), and in particular policies ENV1; ENV2; BH2; BH6; TR2; TR7; TR13; TR14; STC1; ENV24; ENV9; ENV16 and PPS5. The balance of the considerations having regard to those policies and the considerations of the Secretary of State's decision letter in January 2009 is that permission should be granted.

(b) That in respect of application 3/10/2048/LB, listed building consent be **GRANTED** subject to the following conditions:

1. 3 year time limit (1T12)
2. Samples of materials (2E12)
3. New Rainwater Goods (8L09)
4. Making Good (8L10)
5. Subject to the Conservation Officers referral on the precise method for cleaning of brickwork and the repair and replacement of floor boarding in the brewery, the submitted schedule of works and repairs is approved and shall be implemented unless as otherwise agreed in writing by the local planning authority.

Reason: In the interests of the special historic and architectural interest of this listed building having regard to the provisions of national guidance in PPS5.

Directives:

1. Materials already approved under listed building consent 3/08/1529/LB are approved for the purposes of Condition 2.

(c) That authority be delegated to the Director of Planning in consultation with the Chairman of the Development Control Committee, to make such subsequent amendments of the planning conditions as may become necessary to ensure they are clear, concise and otherwise comply with the provisions of Circular 11/95.

**1.0 Background:**

- 1.1 The application site is shown on the attached OS extract. Planning permission was granted for a mixed use development including a 2601sqm (net) Sainsbury's foodstore at this site in January last year by the Secretary of State following a Call In Planning Inquiry. The permission is subject to a number of planning conditions and S106 planning obligations.
- 1.2 The Secretary of State's decision to approve the scheme was a balanced decision which acknowledged the additional traffic congestion likely to result from the store but gave considerable weight to other benefits not least the retention, repair and re-use of the Grade II listed brewery building.
- 1.3 Since the approval was given, the applicant has been preparing and has made submissions to discharge a number of the planning conditions. They have made a commencement at site and consequently the current listed building application includes extensive plan submissions (over 160) to enable approval of details thereby avoiding the need for further conditions to any new listed building consent (Ref: 3/08/1529/LB , granted in Jan 2009 by East Herts Council).
- 1.4 The approved plans for the foodstore included links to the repaired listed brewery. Most regrettably, a large theft of copper and metals from the brewery building took place earlier last year. This was subject of a police investigation and a copy of the police report has been obtained by the applicant and is submitted with the applications. The main loss to the building was a copper hopback that had been intended to provide a feature within the new café for the store, its installation was part of the design strategy of providing a strong link between the old brewery and new store. As a result of this, discussions have taken place with your officers as to how to best address and compensate for the damage resulting from the theft (which itself constitutes an unauthorised alteration of the listed building).
- 1.5 The planning proposal submitted amends the café provision by placing it within the new store and solely on the ground floor rather than over two floors within the listed building. The applicant has realised that operating over two floors would not be ideal and complicated by providing full disabled access. The changes will result in a slightly larger cafe of 188sqm, compared to approximately 148 sqm café floor area in the approved scheme, and additional windows will be introduced to the

Hartham Lane elevation and glazed roof areas that link the store to the historic brewery. To enable a continuing link between the new store and the historic brewery, following amendments of plans, the Interpretation / Exhibition Centre for the brewery is to be moved adjacent to the café but remaining within the older brewery buildings with a direct link between the two. The location of the interpretation centre was at the Conservation Officer's request, also agreed is the retention of a smaller fermenting vessel within the interpretation centre although no space is available for a vessel within the café area.

1.6 The other planning changes are to the building elevations on the service yard side which are slightly redesigned and one of the vertical towers is omitted.

1.7 Members may be aware of recent reports about the damage to protected trees at Hartham Common as a result of indiscriminate and unauthorised excavations. This is a matter that is being investigated with regards to the potential prosecution of the offence related to the damage to these protected trees. The matter is subject of due process under the existing regulations but is not considered of relevance to the determination of the proposed changes within these submitted applications which do not relate to that part of the application site.

## **2.0 Site History:**

2.1 The main relevant planning history for the site is as follows:

- 3/08/0098/FP. Mixed use redevelopment of part of the McMullen's Brewery site, comprising a food store and conversion of the former brewery building to provide elements of the food store including the cafe, offices and commercial space, community space, associated car parking and landscaping, wind turbine, riverside walk, bridge link to town centre, rerouting of Hartham Lane and associated provision of new access and servicing points. Withdrawn April 2008.
- 3/08/0099/LB. Alterations to listed building to accommodate ancillary elements of the proposed foodstore, offices, community space, artisan studios and gallery space, as well as open air community courtyard. Withdrawn April 2008.
- 3/08/1528/FP. Mixed use redevelopment of part of the McMullen's Brewery site, comprising a foodstore and conversion of the former brewery building to provide elements of the foodstore, including the



## **3/10/2047/FO, 3/10/2048/LB**

cafe, offices and commercial space, community space, associated car parking and landscaping, riverside walk, re-naturalisation of river bank, bridge link to town centre, re-routing of Hartham Lane and associated provision of new access and servicing points. Revised details - Additional retail statement and energy calculations. Approved with conditions. Jan 2010

- 3/08/1529/LB. Alterations to listed building to accommodate ancillary elements of the proposed foodstore, business/office space and community space, including an interpretation centre. Approved with conditions Jan 2009.
- 3/08/1530/LC. Demolition of buildings including larger building, former derelict public house and former derelict cottages and truncation of warehouse in Conservation Area to allow for comprehensive redevelopment of former McMullen's Brewery Site. Approved with conditions. Jan 2009.

### **3.0 Consultation Responses:**

- 3.1 English Heritage have advised that in relation to the listed building application, 3/10/2048/LB, this should be determined in accordance with local and national policies and on the basis of expert conservation advice.
- 3.2 The Conservation Officer commented that she regrets the loss of heritage assets by the theft and also the link corridor between the south brewery and the store. She recommended measures to compensate for the loss of the copper hopback such as the relocation of the historic interpretation centre to the originally located café (now included in the amended plans) and the inclusion of a miniature replica of the hopback (to be secured by a proposed planning condition).
- 3.3 The amendments to the café and wider glazed link will enable a fuller appreciation of the brewery building from within the new store.
- 3.4 The service yard gates need to be designed as a more artistic rather than the indicated utilitarian feature as originally proposed (this is now included in plan amendments).
- 3.5 With regards to the details of the listed building application 3/10/2048/LB
- The rationale for the removal of basement tanks is accepted

### 3/10/2047/FO, 3/10/2048/LB

- The removal and reuse of some of the window and door openings is accepted
- The larger windows to Station Approach reflect the previous insertion of delivery doors and tell the story of the building's history.
- The introduction of more rooflights is accepted to provide light for new businesses
- The use of concrete copings, rather than natural stone, has been accepted for the copings based on its original use within the building.
- The replacement of lead with terne-coated steel is agreed,
- Cleaning of brick work areas should be subject of a test patch
- While a full view of the brewery from within the store would be preferred the provisions of back of house areas and fire regulations mean this is not possible.

3.6 County Highways requested a vehicle tracking plan to show the variations to the service yard do not restrict its use, rather than a simple turning circle. This plan has been submitted showing the approved 13.5m maximum HGV vehicle lengths and Highways are content with the plan and have no further comment.

#### **4.0 Hertford Town Council Representations:**

4.1 Hertford Town Council has a number of concerns with the application as originally proposed (any further comments on the later amended plans will be referred back to the committee).

4.2 Firstly, with respect to the planning application 3/10/2047/FO, they feel the application doesn't clearly demonstrate the new café and were unable to determine whether the café is being increased in size; noting that a large comparison shopping provision will already be included in the store the concern is that a large café will discourage visitors to the town centre and damage the viability and vitality of the town centre. While the hopback was to be a centre piece of the café its theft does not preclude this as a replica could have been introduced.

4.3 The reasons cited in relation to disability and access for a two storey

### **3/10/2047/FO, 3/10/2048/LB**

café and servicing issues would have been known at the application stage. They are concerned that by moving the café the important brewery building will not benefit from the level of public access anticipated under the original scheme. Should permission be granted for merging the four lettable units into one then a condition is requested to prevent the area being used for the sale of comparison goods.

- 4.4 With respect to the listed building consent application 3/10/2048/LB, members were concerned that due to the volume of plans submitted important details could be lost. Members of the public would not have the time to consider such a high volume of plans and it would have been helpful to have had a schedule outlining the subject of each plan.
- 4.5 The Town Council's overriding interest is that the iconic building of the brewery be safeguarded. Will the flag still fly and will the clock start again to tell the time? Is the setting compromised and will the interior dimensions continue to reflect the industrial past? The present plans have taken away much where the approved plans were accepted due to public access.
- 4.6 Some detailed objections to drawings are:
- WG47 and WG48 on drawing number 3912/122 and 3912/233 are completely out of keeping by their size and shape, currently roller shutter doors.
  - The double and manifest glazed units would sit uncomfortably with the uniform formation of small panes and metal frames of adjoining windows.
  - The north east elevation is harmed by the blocking of so many window and door openings at ground and basement level.

### **5.0 Other Representations:**

- 5.1 The applications have been advertised by way of press notice, site notice and neighbour notification letters.
- 5.2 No letters of representation have been received.

### **6.0 Policy:**

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

ENV1	Design and Environmental Quality
ENV2	Landscaping
BH6	New Developments in Conservation Areas

6.2 In addition, the following National policy guidance is relevant:

- Planning Policy Guidance 1, Delivering Sustainable Development,
- Planning Policy Statement 4: Planning for Sustainable Economic Growth
- Planning Policy Statement 5: Planning for the Historic Environment

## **7.0 Considerations:**

- 7.1 The principle of converting the listed brewery for business and community uses and its integration with the new food store are all established by the extant permission which is now being implemented.
- 7.2 The main issues to consider within the ‘minor material amendment’ planning application are the detailed matters of design and impact on the listed building, its setting and the conservation area.
- 7.3 The key issues to consider in the listed building application are the detailed impacts on the special architectural and historic interest of the brewery.
- 7.4 The minor material amendment is a response to the loss of the copper hop back. Overall, although the stolen hopback cannot be replaced, the changes as negotiated are considered to have positive implications for the design of the scheme both in its external appearance and its internal use. The provision of the café fully within the Hartham Lane frontage will provide liveliness and interest in this part of the long elevation of the new building more so than would have been evident if the café had been placed on the two floors of the historic brewery.
- 7.5 The concern of the Town Council, that the new store becomes isolated from the old brewery, and the brewery itself is lost to view is a legitimate one and was shared by the Conservation Officer. The applicant has therefore amended the proposed layout to bring the interpretation centre into the north building where it will be accessible from the store café and benefit from the higher footfall of the store. It will still potentially be accessible at times from a separate entrance on its north side. This fulfils the original design aspiration of the scheme to integrate the new store with the use of the listed building; it also meets the requirements

**3/10/2047/FO, 3/10/2048/LB**

of national guidance in PPS5 that the development assist in increasing awareness of significance of existing heritage assets.

- 7.6 The variations to the service yard elevations will not compromise the appearance of this aspect of the store. While inevitably of more functional appearance and limited attractiveness, the elevation has still been designed to retain the elements of landscaping, individually designed gates and good quality brick walling that will provide a reasonable frontage for the new road link and approach into Hartham Common. The County Highways officer is satisfied that the plans do not compromise the ability of vehicles to turn and use the yard.
- 7.7 The relocation of the café results in a café of a larger size (27% increase) to that approved in the original application but an additional 40 sqm would not in my view result in a material change to the retail impact of the store and its café on the town centre, albeit a concern raised by the Town Council. This was a matter fully assessed during the planning Inquiry and the retail considerations were viewed as a positive benefit of the scheme by the Inspector and the Secretary of State as well as this Council.
- 7.8 The Town Council was concerned about an additional retail unit within the old courtyard. The amended plans omit this and clarify that all of the courtyard space is either for community uses or for business use and overall a larger space is now available for community use as a result of the plan amendments. It is anticipated that one of the ground floor business units (Unit 3) be used for a teaching / learning unit. These businesses provide extra tuition and the format is one that has been used successfully elsewhere by Sainsbury's at their other stores as parents can leave children to study while they do their shopping.
- 7.9 The more detailed aspects of the alterations in the revised listed building application have been amended and are accepted by the Conservation Officer subject to conditions as set out. The Town Councils specific concerns about some of the larger windows are understood but the applicant's justification that the building needs to reveal its development over the years is also compelling and justifies retaining larger window openings in the more recent service bays.
- 7.10 Your officers are confident that the proposal with additional details will secure a well designed outcome and future for the listed brewery which the Town Council rightly identifies as a local landmark within the town.
- 7.11 The listed building consent approves details of matters that were previously subject of planning conditions. The amendment makes no

changes to the general provisions of planning conditions and S106 obligations for the development which will still continue to apply.

**8.0 Conclusion:**

- 8.1 The applications have been considered and details amended to address some specific concerns of your officers, which have also been raised by the Town Council, in particular to retain the linkage between the new store and the historic brewery. This will now be provided by placing the Interpretation Centre alongside the store café enabling a direct physical and visual link between the store and the centre. This also can improve the management of the centre as it is to be integral to the new store.
- 8.2 The plan amendment and the other details of the listed building consent are considered to provide some compensation for the loss of the copper hopback at the brewery by securing a better location for the historic interpretation centre, retention of additional features in the two fermenting vessels and a more attractive arrangement for the store café.
- 8.3 The glazed roof link to the brewery will increase the internal views of the north brewery façade from within the store café. In general this will raise awareness of the listed brewery in relation to the new foodstore.
- 8.4 The submitted details of the listed building works are comprehensive and to a high standard. The loss of building fabric is limited and where it occurs is justified by the need to replace material that cannot be repaired. The proposals will in my view safeguard the future of the brewery for the town without compromising the quality of the scheme; this was a key factor weighing in the decision of the planning inspector to approve the store. The effect of this minor material amendment is to issue a fresh planning permission and all the previous conditions are required to be imposed (unless discharged). It also requires that a S106 deed is agreed to ensure that the S106 obligations will continue to apply to the new permission.
- 8.5 The applications are therefore recommended for approval subject to the conditions and S106 variation as set out.