

DEVELOPMENT MANAGEMENT COMMITTEE – 13 JULY 2022

Application Number	3/21/1248/FUL
Proposal	Erection of a three bed dwelling, to include 2 additional parking spaces and a refuse store (Part retrospective).
Location	19A Marlborough Close, Bishop's Stortford, Hertfordshire
Parish	Bishop's Stortford Town Council
Ward	Bishop's Stortford South

Date of Registration of Application	11/05/2021
Target Determination Date	06/07/2021
Reason for Committee Report	Referral by Ward Councillor
Case Officer	Nick Reed

RECOMMENDATION

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

That delegated Authority is granted to the Head of Planning and Building Control to finalise the detail of the conditions and to issue the permission.

1.0 Summary of Proposal and Main Issues

- 1.1 The application seeks retrospective planning permission for the erection of a three bedroom dwellinghouse, to include 2 parking spaces, a refuse store and associated landscaping works.
- 1.2 Planning permission was granted, subject to conditions, on 21st January 2020 under ref. 3/19/2409/FUL for the erection of a three bed dwelling, to include 2 additional parking spaces and a refuse store.
- 1.3 The previously approved dwelling has been largely completed, however, the previously approved development has not been

constructed in accordance with the approved plans. In particular due to a previous surveying error, the dwellinghouse has been erected 0.8m closer to the eastern boundary and a 1.5 m high retaining wall structure has also been erected adjacent to the western boundary.

1.4 The sustainability and climate change mitigation measures that are proposed include a heating system which utilises an Air Source Heat Pump (ASHP). Drawing ref. 1940 A-100 C, has been amended to show the location of the ASHP within the application site. Environmental Health has also been consulted on the suitability of this location with regards to noise impacts.

1.5 The main considerations for the proposal are:

- Principle of Development
- Design and Layout
- Neighbour amenity
- Living Conditions for Future Occupants
- Highways/Parking
- Landscape and Biodiversity
- Climate Change and Water use
- Waste

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

2.0 Site Description

2.1 The application site is located within the built up area of the main settlement of Bishop's Stortford. The application site comprises an area of residential garden land to the east of 19A Marlborough Close. The site is accessed from a private driveway at the southern end of Marlborough Close, which serves 19a. The site is now occupied by a two storey dwellinghouse (the subject of this

application) which is in the process of being constructed. There is a change in land levels across the site which falls from west to east. The eastern and southern boundaries are comprised of a mixture of trees, hedging and domestic fencing. The southern part of the application site is comprised of an area of lawn, while the northern part of the site is formed of landscaped garden and hardstanding.

3.0 Planning History

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

Application Number	Proposal	Decision	Date
3/19/2409/FUL	Erection of a three bed dwelling, to include 2 additional parking spaces and a refuse store.	Granted with conditions	22/01/2020
3/94/0983/FP	NEW DETACHED DWELLING.	Granted with conditions	07/09/1994

4.0 Main Policy Issues

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

Main Issue	NPPF	DP policy	NP policy
Principle of development	Section 5 and 11	INT 1, DPS2, BISH1	
Housing	Section 5 and 11	HOU2, HOU7	
Design, Layout and waste	Section 12	DES4, HOU7,	HDP2, HDP3

		EQ2	
Landscape and Biodiversity	Section 15	DES3, NE3	
Sustainable development, Climate Change and water use	Section 14	CC1, CC2, WAT4	
Highway impacts, parking and sustainable travel	Section 9	TRA1, TRA2, TRA3	TP8

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

5.0 Summary of Consultee Responses

- 5.1 HCC Highway Authority: HCC Highway Authority does not wish to restrict the grant of permission subject to a condition relating to dust emission and mud deposits.
- 5.2 EHDC Environmental Health: Environmental Health do not wish to restrict the grant of planning permission subject to conditions relating to external noise impacts, hours of construction, notification to neighbours of building works, Dust control, waste management and disposal, external lighting, gas boilers, Electric vehicle charging points. These conditions will be discussed below.
- 5.3 EHDC/North Herts Waste Services: Waste Service has not objected to the proposed waste storage and collection facilities. They have advised that kerbside collections are already completed in this area and that this property could be added with relative ease.
- 5.4 HCC Fire and Rescue: HCC Fire and Rescue do not wish to restrict the grant of permission. They have stated that while the travel distance would exceed the normally accepted in the Building Regulations Approved Document B, Vol 1, B5, they will accept the extended distance.

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

6.0 Town/Parish Council Representations

6.1 Bishop's Stortford Town Council object to the development:

- The development is an overdevelopment of the area.

7.0 Summary of Other Representations

7.1 The application has been advertised by neighbour consultation to local residents (16 in total) and site notice on 07/06/2021. At the time of writing this report a total of 17 contributors commented on the application.

7.2 16 responses have been received objecting to the proposals on the following grounds:

- Loss of privacy and overlooking of occupiers to the east in Nelson Road and the South on Thorley Hill.
- The design is out of keeping in the area.
- The building dominates views from neighbouring properties
- Harm the enjoyment of neighbouring gardens.
- Plans are inaccurate and boundary line is in the wrong place and the house is closer to the boundary than it appears.
- Previous approval was granted based on inaccurate information
- The house has been built differently to the scheme that was approved
- Loss of trees and hedging
- Negative effect on house prices
- Lack of consultation
- Easement for drainage to no.19 runs through the garden of 5 Nelson Road, no assessment of the impact on the drains has been carried out.
- Roof could be used as a terrace
- Additional bins will clutter up Marlborough Close

7.3 1 response has been received supporting the proposals on the following grounds:

- The house has been designed to avoid any issues of windows overlooking neighbours, car parking is fine and our shared drive can easily manage the extra cars.

8.0 Consideration of Issues

Principle of Development

- 8.1 Policy DPS2 identifies a hierarchy for sustainable development, whereby development should be first directed to brownfield sites; then to the urban areas; then urban extensions; and then to the District's villages. On the basis that the site is within the urban area of Bishop's Stortford, it would be considered compliant with the objectives of Policy DPS2 of the District Plan (2018).
- 8.2 This application and the proposed development of 1 dwelling will contribute towards the windfall allowance for the District as set out within District Plan Policy BISH1 criteria (h). Therefore the application contributes towards the overall housing growth and objectively assessed need for East Herts and the wider area.
- 8.3 Planning permission has previously been granted for a detached three bedroom dwellinghouse within the application site (3/19/2409/FUL), this permission remains extant and is a material consideration in the determination of this application and of significant weight.

Housing Density

- 8.4 Policy HOU2 seeks to ensure that housing development makes efficient use of land, informed by the character of the local area, whilst adhering to the design objectives of Policy DES4 (Design of Development). It is considered that the density of the development

would be acceptable relative to the size of the building, the site and the character of the surrounding area.

Design and Layout, including Waste

- 8.5 Policy DES4 of the East Herts District Plan (2018) states all development proposals, including extensions to existing buildings, must be of a high standard of design and layout to reflect and promote local distinctiveness. Proposals will be expected to:
- Make the best possible use of the available land by respecting or improving upon the character of the site and the surrounding area, in terms of its scale, height, massing (volume, shape), orientation, siting, layout, density, building materials (colour, texture), landscaping, environmental assets, and design features, having due regard to the design opportunities and constraints of a site.
- 8.6 The proposal is for a detached 3 bedroom dwelling, parking area, retaining wall, and refuse store.
- 8.7 Planning permission has previously been granted, subject to conditions, for a detached 2 storey dwellinghouse, parking area and refuse store under planning ref. 3/19/2409/FUL. The previously approved dwelling has been constructed in the correct location within the site, however, due to a surveying error the eastern boundary was inaccurately illustrated and as such the dwelling is actually closer to the boundary by approximately 800mm
- 8.8 The dwellinghouse as constructed is comprised of a two storey structure which is set into the naturally sloping land. The building itself is of a simple contemporary design with a two storey flat roofed section and single storey mono-pitched roofed front projection. The dwelling has been constructed in brick work while the roof finished in zinc cladding, as was previously agreed through the discharge of the materials condition of the previously approved scheme (ref. X/20/0357/CND). A modest sunken terrace is provided to the rear of the building and a retaining wall is located to the west

of the building which has allowed a side passage to be created. The dwelling is of the same height and dimensions as the dwellinghouse that was previously granted planning permission on the site under ref. 3/19/2409/FUL, and as such the design approach and scale of the dwelling is considered to be acceptable.

- 8.9 While the separation distance to the eastern boundary is reduced when compared to the previously approved scheme, it is quite clear that there is a marginal difference in site delineation between the two applications. However the difference is not so significant that it is unacceptable to grant planning permission for this single dwelling house.
- 8.10 Parking would be provided via a parking area for two vehicles to the north of the dwelling. No details have been provided with regards to materials and surface drainage, which can be secured by means of a condition.

Electric Vehicle charging:

- 8.11 An electric vehicle (EV) charging point is proposed and would be located adjacent to the parking area. A condition has been recommended by Environmental Health to secure this EV charging point by way of a condition. Subject to the recommended condition, this accords with the Local Transport Plan, Policy DES4 and Policy TRA3.

Waste:

- 8.12 Refuse storage for the dwelling would take place at the front of the site. Bins would be presented on Marlborough Close on collection days. Waste services have not objected to the waste storage and collection arrangements. The comments received regarding additional bins creating clutter within Marlborough Close are noted, however, given the scale of the development any impacts are considered acceptable.

Living accommodation for future occupiers:

- 8.13 The internal layout and room sizes of the dwelling are considered to be acceptable and meet the space standards outlined in the National Technical Housing standards 2015. Each of the main habitable rooms would be provided with appropriately sized windows which provide adequate levels of light and ventilation. A modest private garden is proposed and while modest in size is considered adequate for the future occupiers.

Noise and Environmental Health issues:

- 8.14 The Council's Environmental Health team make comments regarding noise impacts for future occupiers. Properties must be capable of providing comfortable living alongside amendable room standards for noise. A condition requiring a noise assessment to be submitted has been recommended by Environmental Health. Given that the location of the site in an established residential area and the fact the dwelling has already been constructed, a condition recommending a noise assessment be submitted and approved is not considered to be reasonable or necessary in this case and therefore would not meet the tests set out in the Planning Practice Guidance and the NPPF (2019). It is considered that the development would accord with the requirements of Policies DES4 and EQ2.
- 8.15 With regards to the provision of an Air Source Heat Pump (ASHP) within the application site, Environmental Health has not objected to this. A condition has been recommended requiring the noise levels of the ASHP to be no higher than the background noise levels, at a distance of 1 metre from the rear of the closest dwelling. In the interests of neighbour amenity, this condition is considered reasonable and necessary.
- 8.16 Environmental Health has recommended a condition restricting the hours of work and construction. The majority of the dwelling has been constructed and as such limited further construction work is

required, however, in the interests of neighbour amenity the recommended condition shall be imposed.

- 8.17 Environmental Health has recommended conditions relating to waste management and disposal, and the notification of neighbours of building works are noted, however, as this application is for retrospective planning permission and the main structural elements of the dwelling have already been constructed, these conditions are also considered unnecessary.
- 8.18 Environmental Health has also recommended a condition which limited the level of external domestic illumination. Light pollution has the potential to harm the amenity of neighbouring occupiers and given the predominantly residential nature of the locality the recommended condition is considered to be reasonable.

Residential Amenity:

- 8.19 The rear elevation of the dwelling is set level with that of no.19a, while the forward projection at the front of the dwelling would extend approximately 3.5 metres forward of the principal elevation of 19a. Given the approximate 2.0 metre separation between the two buildings it is considered that there would be no unacceptable loss of amenity to the occupiers of no.19a in terms of outlook, overshadowing or overbearing impacts. With regard to privacy and overlooking, the rear window openings of the dwelling face out over the rear gardens, however, they would not afford direct views over the private amenity areas directly to the rear of 19a. The window openings at first floor level in the western flank wall of the dwelling would serve bathrooms and there are no significant concerns regarding overlooking from these windows, however, a condition requiring them to be obscure glazed and retained in that condition is recommended.
- 8.20 The neighbouring properties to the east (Nelson Road) are set on land which is lower than the application site. The rear elevation of the closest of these properties is approximately 28m from the eastern site boundary, with a further separation between the

boundary of the site and the flank wall of the building of approximately 600mm, at its closest point. It is also noted that the eastern site boundary is set at a slight angle to the rear boundaries of the dwellings on Nelson road and as such the flank wall of the dwelling is not orientated perpendicular to the dwellings to the east.

- 8.21 It was apparent during the site visit to properties in Nelson Road that the dwelling is visible from the rear facing window openings and private garden areas of many of the dwellings that are located on plots immediately adjacent to the application site. While the dwelling is visible it was observed that there are existing trees and planting within the neighbouring plots which provide screening of the dwelling, although it is acknowledged the site visit was conducted in the summer and that the level of screening provided is likely to be reduced during the winter months. The dwelling is most visible from vantage points immediately to the east. While the land level changes to the east are acknowledged, given the height of the building (approximately 6.1m), and the generous (21m – 35m) separation distances involved, it is considered that the land levels to the east are not so much lower that the dwelling appears overbearing, results in an unacceptable loss of outlook, or significantly overshadow adjacent properties. Properties to the east of the application site will have oblique angles of the development. An outbuilding is located at the end of the garden to the west (no.6 Nelson Road) and is located approximately 1.7 metres from the dwelling. A further outbuilding is located to the rear of the garden of no.2 Nelson Road, to the north, and is approximately 3.1 metres from the front elevation of the dwelling.
- 8.22 With regard to the screening of the site, it was also observed that some of the hedging which extended along the eastern boundary had been removed in order to facilitate the construction of the building. The planning statement advises that 1.8 metre high boundary fencing would be used along the eastern boundary; such boundary fencing would provide some screening of the development and ground floor windows from the properties on Nelson Road. The boundary fencing shall be secured via condition with details on the location and height of the boundary treatments

required to be submitted prior to occupation of the dwelling. Furthermore, due to the loss of the previous boundary hedging it is recommended that new boundary planting (preferably native evergreen species) is secured through a landscape condition, which will help to provide further screening of the development.

- 8.23 When planning permission was granted for a new dwelling under application 3/19/2409/FUL, some concerns were raised regarding the first floor window opening in the eastern flank wall and the potential for overlooking. A condition was imposed requiring this window to have high obscurity glass and be non-opening below 1.7m in order to prevent overlooking. Having visited the site it was observed that the first floor window opening does have obscured glass and no views were possible from it. While a perception of being overlooked may occur, there is a significant separation between the dwelling and the dwellings to the east (Nelson Road) and as such the degree of harm to amenity is not considered sufficient to recommend refusal. The retention of the obscured glass shall be secured via a condition.
- 8.24 The first floor window on the northern elevation of the dwelling provides views over the ends of the adjacent gardens to the east (Nelson Road). While these views are acknowledged, it is noted that such views would be of the ends of the gardens and direct overlooking of the most intimate areas of the adjacent gardens would not be possible, nor would direct views towards habitable windows be possible. It is also observed that views over the ends of the gardens to the north east and north of the building are already possible from the gardens and parking areas to the north of the dwelling.
- 8.25 The ground floor kitchen window openings face east and also north. Views from these windows are toward the properties to the east on Nelson Road and the rear parts of the gardens of Nelson Road. During a site visit it was possible to experience the views possible from the ground floor window and it was observed that, these windows do not provide direct views over the most intimate parts of the adjacent gardens closest to the neighbouring properties, and

due to the separation distances of approximately 28 metres, nor are there direct views of the habitable rooms to the rear of the houses on Nelson Road. As previously discussed, the planning statement advises that boundary fencing would be installed on the eastern boundary. Such fencing would restrict views from the ground floor windows of the adjacent gardens and in the interest of amenity a condition shall be imposed requiring further details of boundary fencing to be submitted prior to occupation of the dwelling.

- 8.26 The properties to the rear of the site, on Thorley Hill, are separated from the rear of the proposed dwelling by approximately 45 metres, with intervening boundary fencing and trees/hedging. While it was observed that some boundary planting appears to have been removed and now allows some views towards the properties on Thorley Hill. Given the degree of separation and existing boundary treatments it is considered that there would be no unacceptable loss of amenity to the occupiers of the dwellings to the south. Landscape matters will be discussed later in this report, however, a landscape condition could be used to replace previously removed boundary planting.
- 8.27 With regards to the impact on the amenity of the adjacent occupiers in terms of noise emanating from the proposed Air Source Heat Pump (ASHP), it is noted that Environmental Health have not objected to this aspect of the scheme. The sound pressure levels of the proposed unit are relatively low and the distance to the closest properties within Nelson Road and Thorley Hill are such that harmful noise impacts as a result of the unit would be unlikely. The existing property at 19A Marlborough Close is in closer proximity and in the interest of amenity a condition has been recommended by Environmental Health to ensure noise levels do not exceed background levels.
- 8.28 As discussed above, the dwelling would be unlikely to result in an unacceptable degree of overlooking, loss of outlook, overshadowing or loss of privacy and overlooking, however, in the interests of amenity, a condition shall be imposed which requires the first floor flank windows to be obscure glazed and fixed shut below 1.7

metres. A condition requiring further details of boundary fencing is recommended and it is also recommended that the Part 1, Class A and Class B permitted development rights are removed in order to safeguard the amenity of the occupiers of the neighbouring properties. Subject to the conditions recommended being imposed, it is considered that the dwelling would not give rise to material adverse impact on the occupiers of the adjacent properties by reason of loss of light, overshadowing, overlooking or overbearing impact. The proposal therefore complies with Policy DES4.

Landscape and Biodiversity

- 8.29 The application is supported by an Arboricultural Impact Assessment (AIA) which has been prepared by OMC Associates (Ref.01572AIA/CJO/1010 – dated 11th October 2019). It is noted that the AIA is the same document that was submitted with the original planning application (ref. 3/19/2409/FUL). The AIA is technically out of date; however, it does indicate the trees that previously occupied the site and their quality. The trees shown in the AIA are those which were to be removed and have now been cleared from the site in order to facilitate the construction of the dwelling.
- 8.30 Concerns have been raised regarding the removal of trees and hedging across the site. The removal of the trees has previously been considered to be acceptable. It is noted that when planning permission for a dwelling was previously granted, a condition was imposed requiring only the trees identified for removal to be cut down and that any other trees or hedges within the site or on adjacent land that were damaged or removed during construction should be replaced.
- 8.31 It is apparent that a significant section of boundary hedging has been removed from the eastern boundary in order to construct the building. Given that the separation gap between the building and the eastern boundary has now been reduced it is considered unlikely that the hedge will be able to grow back to its original height without coming under pressure to be cut back, due to the location of the flank wall window openings. As such a 1.8 metre high

boundary fence has been proposed. Boundary fencing is considered acceptable, however, it is considered that additional native species planting is provided within the site to compensate for the loss of trees and hedging across the site. It is noted that the loss of the trees and hedging within the site has also resulted in a loss of biodiversity. Policy NE3 and paragraph 174(d) of the NPPF seek to achieve a net gain in biodiversity. The Environment Act 2021 gives greater impetus to the issue of biodiversity loss and seeks to ensure that a 10% biodiversity net gain is achieved.

- 8.32 A landscaping and biodiversity condition shall be imposed requiring a landscaping and biodiversity scheme to be submitted and agreed in writing, which includes a suitable amount of new native species planting. It is recommended that the approved landscape and biodiversity scheme is implemented prior to the first occupation of the dwelling.
- 8.33 With regard to trees and landscaping, the proposed development is considered to comply with District Plan policies DES3 and NE3 and the NPPF (2019).

Climate change and the efficient use of water

- 8.34 The East Herts District Plan Sustainability SPD (2021) supports the implementation of District Plan policies by providing technical guidance on sustainable design and construction to improve the environmental sustainability of new development.
- 8.35 Policies CC1 and CC2 of the East Herts District Plan 2018, state all new developments are expected to demonstrate measures that will be implemented at design, construction and operational level that will assist in minimising overheating in summer, reduce the need for heating in winter, integrate green infrastructure into the scheme and contribute to urban greening. In addition it should be demonstrated how carbon dioxide emissions will be minimised across the development and the efforts that will be made to exceed the requirements of the Building Regulations.

- 8.36 A SAP Report (Elmhurst Energy – August 2020) has been provided and the Council’s Sustainability Checklist has been completed.
- 8.37 These documents state that the dwelling will exceed the requirements of the Building Regulations and details how the design, materials, construction and operation of the development would minimise overheating in summer and reduce the need for heating in the winter and cooling in the summer months; and how carbon dioxide emissions will be minimised across the development site.
- 8.38 Measures detailed for improving sustainability include low energy lighting and fittings, the use of an air source heat pump, located to the rear of the dwelling, for the primary heating system, Solar PV panels would be installed on the roof, all windows are double glazed, mechanical ventilation which incorporates energy recovery would supplement the flow of air through the building provided by the windows to aid cooling in the summer and reduce energy efficiency. The southern aspect of the rear elevation of the building and large windows would help to exploit solar gain. The building is of a timber frame construction and has been sourced from a local sustainable supplier. An electric vehicle charging point is proposed. It is considered that the proposed development would accord with the aims of Policies CC1 and CC2 of the District Plan.
- 8.39 With regards to the efficient use of water, it is noted that the sustainability checklist advises that low flush toilets, low flow shower heads, water efficient white goods and rain water harvesting would be used to limit water usage. This is welcomed and a condition requiring the dwelling to meet a target of 110 litres or less, per head, shall be imposed. Subject to the above condition the development would accord with Policy WAT4.

Highways, parking and sustainable transport

- 8.40 Access to the site is from a narrow access road located at the southern end of Marlborough Close which currently serves as an access to 19a Marlborough Close.

- 8.41 The application site is located in a sustainable location with convenient access to public transportation options, local shops and amenities. An electric vehicle charging point is proposed as part of the application.
- 8.42 The Highway Authority has not raised a concern regarding the access arrangements and considers that acceptable visibility splays can be provided. It is noted that the Highway Authority has recommended a condition relating to dust and mud deposits on the public highway; such a condition is considered to be reasonable.
- 8.43 The Highway Authority has advised that emergency access and refuge distances are unlikely to be met. Hertfordshire Fire and Rescue have been asked for comment and have advised that in this case, while the distances have been exceeded, they will accept the increased distances in this case.
- 8.44 With regard to car parking, the application site is located within Accessibility Zone 4 where a 25% reduction on parking standards can be applied. Two parking spaces are to be provided for the dwelling which is lower than the maximum set out in the current parking standards. The site is located in a sustainable location within the built up area of Bishop's Stortford with convenient access to public transport options and nearby amenities and as such it is considered appropriate to apply the zone reduction. However, once the 25% reduction is applied the level of parking would accord with District Plan Policy TRA3.
- 8.45 Neighbourhood Plan Policy TP8 advises that a three bedroom dwelling should provide 2.25 parking spaces; this figure is lower than the maximum required by the most up to date parking standards. The proposed parking level of two spaces is below the level set out in Policy TP8, however, given the location of the site in a sustainable location and the level of accessibility to public transport options, services and facilities, the level of parking is considered to be compliant with Policy TP8.

8.46 Having regard to the above considerations it is considered that the development would accord with District Plan Policies TRA1, TRA2 and TRA3 and Neighbourhood Plan Policy TP8.

Other Matters

Response to third party representations:

8.47 Responses to the majority of the representations received have been addressed within the body of the report. With regard to the remaining points the following applies:

- With regards to the loss of privacy and the overlooking of occupiers in Nelson Road and Thorley Hill, it is noted that such matters have been discussed elsewhere in this report. It is not considered that an unacceptable degree of harm would occur and conditions shall be imposed to ensure that further screening is provided, permitted development rights are removed and first floor windows are required to have obscured glass and be non-opening below 1.7 metres. These conditions are considered necessary to ensure the amenity of the neighbouring occupiers is protected.

- With regard to the dwelling dominating views from the neighbouring residential properties, it is noted that the impact of the development on the outlook from the rear window openings and gardens of the adjacent properties has been discussed within the report. While the land level changes to the east are acknowledged, given the height of the building, and the separation distances involved. A site visit has been carried out and while it is acknowledged that the dwelling is visible from the adjacent plots and on elevated land, it is not considered that the dwelling appears overbearing or unacceptably harms the outlook from the neighbouring properties. Conditions have been recommended requiring additional landscaping and planting which would provide additional screening of the development.

- With regards to the concerns relating to the design of the dwelling, it is noted that the design of the building is largely the same as the dwelling that was granted planning permission under planning ref. 3/19/2409/FUL. While it is noted that the previously approved scheme was not constructed in accordance with the approved drawings, the design and layout is considered acceptable in principle.
- The loss of trees and hedging has been discussed elsewhere in this report. The loss of boundary hedging and trees is acknowledged and suitable replacement, native species, boundary hedging and trees will be secured via a condition.
- The use of the roof as a terrace or balcony has not been proposed and is considered to be unlikely. Any barriers or balustrade required to make such a use safe would require planning permission.
- With regards to the concerns relating to a lack of consultation, it is noted that The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) requires that a planning application of this type would require a neighbour notification letter to be sent to any adjoining neighbours or a site notice to be displayed, and the application to be viewable online. In this case the Local Planning Authority has displayed a site notice in Marlborough Close and Nelson Road, has sent notification letters to the adjoining land owners and displayed the application on the Council's website, and has therefore discharged the statutory requirements relating to the advertisement of the planning application.
- The comments received regarding the previous planning permission being approved based on false information and the current plans being incorrect, is acknowledged. It is the responsibility of the applicant and their agent to ensure that accurate information is provided. The Local Planning Authority is required to determine the application based on the information submitted. Issues relating to land ownership are

civil matters rather than planning matters. Notwithstanding, it is quite clear that there is a marginal difference in site delineation between the two applications. However the difference is not so significant that it is now inappropriate to grant planning for this single dwelling house.

- The concerns relating to the drainage easement on adjacent third party land and the impact of the development on house prices are not material planning considerations.

9.0 Planning Balance and Conclusion

- 9.1 The development is acceptable in principle and would provide one new dwelling in accordance with the Council's Development Strategy. The principle of development has been established by virtue of the previously approved development for one new dwellinghouse on the site.
- 9.2 The design and layout of the development is acceptable and would comply with the Policies of the District Plan and the Neighbourhood Plan.
- 9.3 The development would provide acceptable vehicular and pedestrian access to the development. An appropriate level of vehicle parking provision will be provided within the site. The site is sustainably located with convenient access to public transportation options, shops and amenities.
- 9.4 It has been demonstrated that the development will not adversely affect the general amenity of the occupants of neighbouring sites. Additional landscape improvements and the removal of permitted development rights will be secured by condition.
- 9.5 The development has been well designed including measures to maximise the sustainability credentials of the building with regard to reducing carbon emissions and efficiency of water consumption. Landscape improvements and Biodiversity net gain can be secured

through the soft planting proposals and compensatory measures secured by condition.

- 9.6 Overall, on the balance of considerations, the proposed development is considered to be a sustainable form of development that accords with the Development Plan when taken as a whole and the NPPF (2019).

RECOMMENDATION

That planning permission be **GRANTED** subject to the conditions/ reasons set out below:

Conditions

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

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

2. The development hereby approved shall be carried out in accordance with the approved plans listed at the end of this Decision Notice.

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

3. Prior to first occupation of the development hereby approved, details of landscaping and biodiversity enhancements shall be submitted to and approved in writing and shall include full details of both hard and soft landscape proposals, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable. The approved landscaping and biodiversity enhancement scheme shall thereafter be implemented in accordance with the approved details prior to the first occupation of the dwellinghouse.

Reason: To ensure the provision of amenity afforded by appropriate landscape design in accordance with Policies DES3 and DES4 of the East Herts District Plan 2018.

4. Prior to the first occupation or use of the development hereby approved, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall thereafter be implemented in accordance with the approved details and installed prior to the dwellinghouse being occupied.

Reason: In the interests of amenity and good design, in accordance with Policy DES4 of the East Herts District Plan 2018.

5. All existing trees and hedges shall be retained, unless detailed in the Arboricultural Impact Assessment (OMC Associates - Ref.01572AIA/CJO/1010 - dated 11th October 2019) as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.

Reason: To ensure the continuity of amenity afforded by existing trees and hedges, in accordance with Policy DES3 of the East Herts District Plan 2018.

6. All hard and soft landscape works shall be carried out in accordance with the approved details. 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 policies DES3 and DES4 of the East Herts District Plan 2018.

7. The proposed first floor window openings in the flank walls of the development shall be fitted with obscured glass to a minimum degree of obscurity level 4 and shall be fixed shut below 1.7m from the internal floor level and shall be permanently retained in that condition.

Reason: In the interests of neighbour amenity in accordance with Policy DES4 of the East Herts District Plan 2018.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, the enlargement, improvement or other alteration of any dwellinghouse or the construction of any buildings incidental to the enjoyment of the dwellinghouse as described in Schedule 2, Part 1, Class A, Class B and Class E of the Order shall not be undertaken without the prior written permission of the Local Planning Authority.

Reason: In order for the Local Planning Authority to retain control over future development within the site and in the interest of neighbour amenity and in accordance with Policy DES4 of the East Herts District Plan 2018.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), the erection, construction, maintenance, improvement or alteration of a gate, fence, wall 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: In order for the Local Planning Authority to retain control over future development within the site and in the interest of neighbour amenity and in accordance with Policy DES4 of the East Herts District Plan 2018.

10. In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.

Reason: To safeguard the amenity of residents of nearby properties from noise pollution in accordance with Policy EQ2 of the East Herts District Plan 2018.

11. Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway, in particular(but without prejudice to the foregoing) efficient means shall be installed prior to commencement of the development and thereafter maintained and employed at all times during construction of the development of cleaning the wheels of all lorries leaving the site.

Reason: In the interests of the amenity and to prevent the deposit of mud or other extraneous material on the highway during the construction period in accordance with policy TRA2 of the East Herts District Council 2018.

12. Prior to first occupation of the development hereby approved, an electric vehicle charging point for the dwelling hereby approved shall be provided and retained thereafter.

Reason: To ensure sustainable design in accordance with Policy DES4 and improved air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

13. The dwelling hereby approved shall be fitted out so that the potential consumption of wholesome water by persons occupying the dwelling will not exceed 110 litres per person per day as measured in accordance with a methodology approved by the Secretary of State. The dwelling shall not be occupied unless the notice of the potential consumption of wholesome water per person per day required by the Building Regulations 2010 has been given to the Local Planning Authority.

Reason: In order to set a higher limit on the consumption of water by occupiers as allowed by regulation 36 of the Building Regulations 2010 and thereby increase the sustainability of the development and minimise the use of mains water in accordance with Policy WAT4 of the East Herts District Plan 2018, the Sustainability SPD and guidance in the NPPF.

14. Any gas-fired boilers shall meet a minimum standard of <40 mgNO_x/kWh.

Reason: In order to ensure an adequate level of air quality for residents of the new dwelling in accordance with policy EQ4 Air Quality of the adopted East Herts District Plan 2018.

15. Any external artificial lighting at the development hereby approved shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals Guidance Note 9/19 '*Domestic exterior lighting: getting it right!*'. Lighting should be minimized and glare and sky glow should be prevented by correctly using, locating, aiming and shielding luminaires, in accordance with the Guidance Note.

Reason: In order to ensure an adequate level of amenity for the occupants of nearby properties in accordance with Policy EQ3 Light Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

16. The rating level of noise emitted from the air source heat pump (ASHPs) hereby approved shall not exceed the existing background noise level as measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurement and assessment shall be made according to BS 4142:2014+A1:2019 '*Methods for rating and assessing*

industrial and commercial sound' at the nearest and / or most affected noise sensitive premises, with the ASHPs operating at maximum capacity and be inclusive of any corrections for tonality, impulsivity, intermittency or other distinctive acoustic characteristics

Reason: In order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development in accordance with Policy EQ2 Noise Pollution of the adopted East Herts District Plan 2018.

Informatives

1. Other legislation (01OL1)
2. Justification – Grant (JG4)

Summary of Reasons for Decision

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

KEY DATA**Residential Development**

Residential density	1 units/Ha	
	Bed spaces	Number of units
Number of existing units demolished		0
Number of new flat units	1	
	2	
	3	
Number of new house units	1	
	2	
	3	1
	4+	
Total		1

Residential Vehicle Parking Provision

Parking Zone	Parking Zone 4	
Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.50	
2	2.00	
3	2.50	2.5
4+	3.00	
Total required		2.5
Accessibility reduction	25%	2
Resulting requirement		2
Proposed provision		2

Neighbourhood Plan Parking Standards

Parking Zone	Parking Zone 4
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Residential unit size (bed spaces)	Spaces per unit	Spaces required
1	1.25	
2	1.5	
3	2.25	2.25
4+	3.00	
Total required		2.25
Proposed provision		2