

DEVELOPMENT MANAGEMENT COMMITTEE – 20 SEPTEMBER 2023

Application Number	3/21/1756/FUL
Proposal	Demolition of all existing buildings. Erection of a Class E retail food store, with associated car parking, reconfigured site access, servicing, landscaping, swale, and installation of plant equipment
Location	Gates of Stortford, 295-297 Stansted Road, Bishop's Stortford, Hertfordshire, CM23 2BT
Parish	Bishops Stortford Town Council
Ward	Bishops Stortford Parsonage

Date of Registration of Application	20.07.2021
Target Determination Date	19.10.2021
Reason for Committee Report	Major application
Case Officer	Neil Button

RECOMMENDATION

That planning permission is **GRANTED**, subject the conditions set out at the end of this report and subject to a S106 legal agreement.

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

1.0 Summary of Proposal and Main Considerations

- 1.1 Officers are seeking a further resolution from the Planning Committee to grant full planning permission for the proposed development (subject to application ref: 3/21/1756/FUL) subject to conditions and s106 legal agreement, following the previous resolution of the East Herts District Council's Planning Committee which resolved to approve the planning application subject to conditions/s106 agreement dated 7th December 2022.

- 1.2 The three-month deadline for the planning permission to be issued with a completed s106 agreement has expired. Therefore, it is necessary to request an extension to the period of time (from the planning committee) to allow for the s106 to be completed to the satisfaction of the local planning authority. The s106 agreement is in an advanced stage and with the obligations securing Travel Plan Contributions, a Travel Plan and a Local Employment and Skills Plan being substantially drafted and agreed between the parties. Officers consider it would not have been reasonable to refuse the application on the grounds sited in the original committee report, as these matters were agreed in principle at the time of the committee, and it is not unusual for 106 negotiations to extend beyond a 3 month period for a major planning application. The authority conveyed to the Head of Planning and Building Control to finalise the detail of the Legal Agreement and conditions is set out in the Council's Constitution including the authority to refuse the application. The recommendation has been amended accordingly to be consistent with the Constitution.
- 1.3 In addition, after the Development Management Committee (DMC) in December 2022, additional representations have been received from UKPN in respect of the electricity sub-station adjacent to the site. The representations raise potential new planning issues, which the previous planning committee did not have an opportunity to consider. The representations have resulted in the need for further clarifications to the technical information submitted in support of the planning application.
- 1.4 Thirdly, officers have reviewed the minutes of the previous planning committee whereby verbal representations were made by an adjoining resident in connection with the development and the highway safety impact on the existing occupier (a disabled person with a requirement for a wheelchair). It is considered appropriate to expand upon the consideration of these impacts, taking account of the Public Sector Equality Duties under the Equality Act 2010 and of the relevant planning policies with regards to accessibility, noise and highway safety. This report includes an explanation of the processes which officers have been through in comprehensively considering

these comments to assist members in coming to a view on the proposals.

- 1.5 Finally, given the previous recommendation was presented to members of the planning committee in December 2022, officers consider it is appropriate to consider whether there have been any material changes in circumstances which would give rise to any new planning issues to ensure a robust decision can be made on the proposed application. This includes updating the assessment of retail impact to ascertain whether the proposed development would still pass the sequential test (in terms of whether there are any more sequentially preferable sites in retail/town centre shopping planning policy terms) and whether the forecasted impacts have changed. The Retail Assessment has been updated and a summary of results has been presented by the Applicant which is reviewed in this report. It must be noted that there have been no changes in the relevant planning policies and guidance since December 2022.
- 1.6 The purpose of this update report is to address the above highlighted issues, which should be read alongside the original committee report which is appended to this report. The Planning History, Planning Policy Background, Consultee Comments, Neighbour, Member, Local Groups and Stakeholder comments and Main Issues are set out in the original officer report and do not need to be repeated in this report. Where relevant and as set out in paras 1.2-1.4, this report will include further clarifications in respect of:
- Current Site Description
 - Additional Representations
 - Equalities Considerations
 - Retail Assessment update
 - Other material changes in circumstances relevant to the determination of the application

Development Description

- 1.7 This is a full planning application; seeking planning permission for the demolition of all buildings and comprehensive redevelopment

of the site to provide a retail food store (Class E) providing 2368 sq. metres of retail floorspace (gross), the provision of car parking for 137 No vehicles; together with a reconfigured site access, landscaping works including the provision of a swale and the installation of plant equipment.

- 1.8 The proposed store is intended to be occupied by Lidl Stores. It would have a gross internal area of 2,275 sq. metres which would incorporate freezer, shop warehouse and ancillary staff facilities. The proposed store would have a net sales area of 1411 sq. metres with approximately 80% (1,128 sq. metres) devoted to the sale of convenience goods.
- 1.9 The retail food store would be positioned in the north-western section of the site. It would be a single storey building with a height of 7.1 metres and be of a modern design that features a combination of aluminium cladding panels, grey render and aluminium framed glazing (windows). Photovoltaic panels are proposed at roof level.
- 1.10 Lidl is not considered to be a traditional supermarket, but instead a limited assortment discount retailer due to the limited range of goods that it sells, which does not include specialist butchers, delicatessen, fishmongers, or a chemist. However, it does sell a limited range of homeware. Limited assortment discount retailers are considered to be weekly destination supermarkets.

Material Considerations

- 1.11 Notwithstanding the additional comments, the main considerations in the determination of the application remain as presented in the original planning committee report as follows:
 - Whether the principle of the proposed development is acceptable within a designated employment area.
 - Whether the development has an acceptable impact on the

continued vitality of Bishops Stortford town centre and other local retail centres.

- Whether the proposed development will provide satisfactory arrangements for pedestrians (comprising all users, including people of impaired mobility) and bus access, a satisfactory level of car and cycle parking and has an acceptable impact on the local highway network.
- Whether the proposed development will provide an appropriate layout (which adequately addresses climate change), scale and appearance (including landscaping) and satisfactorily addresses flood risk and biodiversity net gain requirements.
- Whether the proposed development would have an acceptable impact on neighbouring amenity.
- Whether overall, this is a sustainable form of development that is appropriate at this site; having regard to policies in the East Herts District Plan 2018, the adopted Neighbourhood Plan for Bishops Stortford, Silverleys and Meads and the National Planning Policy Framework 2021.

1.12 The above considerations were explained in detail in the officer report and the issues were comprehensively debated at the DMC on 7th December 2022 when arriving at original resolution. This update reports seeks to highlight the following new material relating to the planning application that has been raised subsequently:

- Whether the conclusions in the Retail Assessment are still relevant or whether there have been any changes to the sequential assessment of sites or any change to the retail impact on other nearby town centres.
- Whether the development ensures satisfactory access/egress to the UKPN substation for appropriately sized vehicles.
- Whether the local planning authority has demonstrated its Public Sector Equality Duty (PSED) in considering the needs of

individuals of protected characteristics as defined in the Equality Act 2010, including any identified needs in respect of the representations made by the legal representative acting on behalf of the immediately adjoining residents, who include an individual with identified protected characteristics (disability).

- 1.13 The purpose of this report is to address the above issues which have subsequently come to light, and this report should be read alongside the previous report which addresses the substantive planning considerations raised in para 1.11 of this report. It is recommended that significant material weight needs to be given to the resolution of the previous planning committee on the key planning issues, and of the recommended planning conditions and obligations which remain as agreed under the previous DMC.

2.0 Site Description

- 2.1 The application site comprises brownfield land of approximately 1.15 hectares in area. The site is located within the Stanstead Road Designated Employment Area which is situated on the western side of the road with the same name. The application site comprises the southern – most section of the employment area; featuring the two medium height buildings associated with the former Gates of Stortford car dealership; together with its associated forecourt car park. It is noted that at the time of writing this updated report, the site is currently vacant with the former occupier vacating earlier in 2023.
- 2.2 The site is bordered to the south by residential properties on Stanstead Road and Denny Court. To the east of the site is Stanstead Road. To the west of the site is the Cambridge – London railway line; beyond which is the River Stort and open land.
- 2.3 Birchanger Brook is situated to the north of the site; after which lies commercial properties that form the remaining part of the Stanstead Road Designated Employment Area.

2.4 The site is not located in a Conservation Area or an Area of Archaeological Significance. There are no statutory listed buildings on, or near to the site. There are no trees on the site that are protected by a Tree Preservation Order.

3.0 Main Policy Issues

3.1 The Development Plan remains the East Herts District Plan 2018, the Hertfordshire Minerals Local Plan 2007, the Hertfordshire Waste Development Framework and the Bishop's Stortford Town Council Neighbourhood Plan for Silverleys and Meads Wards. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the Development Plan unless there are material considerations which indicate otherwise.

3.2 A number of other policy documents and guidance are relevant material considerations including the National Planning Policy Framework, the Planning Practice Guidance and Supplementary Planning Documents including the adopted Sustainability SPD 2021 and the adopted Vehicle Parking Provision at New Development SPD 2008.

3.3 The main policy issues relate to the relevant planning policies in the East Herts District Plan 2018, the Neighbourhood Plan and the National Planning Policy Framework (NPPF) 2021 and 2023.

3.4 There have been no changes to the relevant planning policies in the East Herts District Plan 2018, Neighbourhood Plan or Planning Guidance since the previous DMC in December 2022.

Equality Act 2010

3.5 Section 149 of the Equality Act (2010) confirms that a Public Sector Equality Duty (PSED) came into force in April 2011 and requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equalities considerations are factored into the planning process at various

stages. The first stage relates to the adoption of planning policies (national, strategic and local) and any relevant supplementary guidance. The policies and guidance referenced in the committee report and this updated report have all been subject to an equalities impact assessment (EqIA) therefore, the planning policy framework is considered to meet the first stage in the process. Officers have duly considered the equalities impacts on protected groups in the context of the development proposals, subject to this planning application which is set out in Section 10 of this report.

4.0 Additional Representations received Post DMC

- 4.1 27 neighbouring properties have been consulted by letter. The application has been publicised by site notice and press advert. 251 letters have been received in response; 91 objecting, 150 in support and 10 neutral. A summary of the original representations, consultee responses, Member comments, Town and Parish Council and other local stakeholder comments are included in the previous DMC officer report.
- 4.2 No further public consultation has been carried out as there have been no changes proposed to the development following the previous DMC.
- 4.3 Notwithstanding this, the two following additional representations (from adjoining landowners) have been received following the previous DMC.

UKPN has submitted representations in its capacity as an adjoining occupier (ie: as a non-statutory consultee). The following points are summarised:

- Development which prevents HGV Low Loaders to the site (the adjacent sub-station) would be unacceptable to UKPN (which requires 24-hour access to the facility).
- This development 'may' prevent access to the sub-station.
- No tracking for a 90-degree left hand turn into the sub-station has been provided to demonstrate 24/7 access for HGVs.

- Ramp shown on application drawings is 1:8 gradient. HSE requires 1:12 gradient (max) for roadways within industrial sites.
- Gradient of ramp may not be safe for low loader vehicles with replacement transformers (which may topple over due to the turn).
- Applicant has not demonstrated that the revised access to the existing and operational substation meets UKPN access requirements.

NB: Officer comment. No changes to the existing ramp or access to the substation are proposed under the current application (with the present arrangements maintained). Therefore, the development does not materially constrain access to the adjacent site.

The following issues which have been highlighted by a legal representative acting on behalf of the **occupier of 289 Stanstead Road**. The most recent legal correspondence was submitted alongside 4 representations from the occupier, a letter from the social worker from Adult Disability Services and Group Manager from the transportation service. The headline issues were raised at the committee which followed written representations which were noted in the previous report:

- The proposed main road site access for the Lidl store would be 2.4 meters from the dropped curb of the driveway of 289 Stanstead Road. It is already challenging for the wheelchair adapted vehicles which the disabled occupier relies on for transportation to access the property, given the amount of traffic on Stanstead Road. Allowing the Lidl access to be on Stanstead Road, and so close to the home, this will exacerbate this situation and put the occupier's safety at risk. Requests have been made to move the site access to a different part of the application site but have been ignored. In case of previous development proposals for the site, DMC members noted with concern the proximity of the site access to 289 Stanstead Road and requested that it be moved away from the property, requiring a reconsideration of applications by the DMC1.

- Because the development will involve a change of use to a Lidl store, with extended operating times, there will be additional traffic at the application site than currently. The increased traffic which the proposed development would entail would cause increased noise, disturbance and loss of privacy to which the disabled occupier is particularly sensitive as a result of her disabilities. Previous development proposals for the application site have involved additional planting along the site boundary with 289 Stansted Road in order to ameliorate these impacts to some extent, but the form of mitigation currently proposed is not sufficient. Only 1.5m of landscape buffer is proposed at the front of the site, widening to 2.5m at its widest point.
- The council cannot lawfully issue a planning decision without having addressed the PSED, and the suggested legal error cannot be corrected until the application is returned to the planning committee.

NB: Officer comment: The above planning and highways issues were largely addressed in the previous officer report and at the committee meeting (following verbal representations from the objector), with the exception of the specific consideration of the disabled occupier, and whether further or tailored mitigation was required to address their particular needs. Under the Local Authority's Public Sector Equality Duty, it is considered necessary to address these matters which are set out in part 6 of this update report.

5.0 Consultee Responses to Additional Representations

- 5.1 This section sets out the response from Hertfordshire County Council (HCC) acting as the Local Highways Authority who have been consulted on the new matters raised post DMC resolution. It was not necessary to reconsult more widely as all other planning issues were set out and addressed in the previous officer report.
- 5.2 HCC Highway Authority: The Highways Authority continue to raise no objection, subject to conditions and S106 Agreement for a Travel Plan. The following additional comments have been provided:

- The concerns raised by the adjoining resident are in relation to perceived impact on privacy, noise and disturbance as a result of increased traffic routing through the Lidl access – none of which are within the HCC highway remit. No new highway safety, capacity, or sustainability/accessibility concerns have been raised and therefore, no further conditions or mitigation above those referenced in the previous report are required.
- The UKPN concern is internal to the site and doesn't relate to any aspect of the public highway.

NB: Officer Comment; The UKPN access to the sub-station has not been altered as a result of the proposals therefore, it is considered that the proposed development does not materially change how the access will function. Notwithstanding this, a swept path/tracking analysis has been submitted to indicate how access is provided for an appropriate sized HGV. HCC Highways provides no further comments on this.

6.0 Consideration of Issues

- 6.1 It should be noted that the previous resolution of the planning committee (to approve subject to s106/conditions) remains a relevant material consideration in the determination of this planning application. Officers consider therefore, that in absence of changes to the scheme, planning policy framework and the baseline in 2022 that the majority of the previous conclusions in the former report are applicable and need not be repeated in this report update. There are no changes to the conclusions or policy compliance with regards to the following topics: design, transport, air quality, neighbour amenity, ground contamination, climate change and sustainability, flood risk and drainage, trees, ecology and landscape, or noise.
- 6.2 Instead, this report focuses on the elements of the baseline (the existing environmental/economic and social condition of the site and surrounding context) which may have changed post December 2022 and the elements of the policy framework which were not specifically referenced in the previous report, namely a more

detailed demonstration of the equalities considerations in light of the Council's Public Sector Equality Duty.

6.3 The Main Planning Issues which the updated report addresses are as follows:

- **Principle of Development** (Retail Use and Change of Employment Type)
- **Transport and Highways Impacts** (the impact on UKPN access to substation)
- **Equalities Considerations** (impact on individuals with protected characteristics as set out in the Equality Act 2010, including the disabled occupied in 289 Stanstead Road) subject to the PSED.

Principle of Development

Retail Update Post December 2022

6.4 An updated Retail Assessment has been submitted by the Applicant which considers whether there have been any changes in the local retail context, since the application was last discussed at Committee in December 2022. In order to ensure that a robust decision can be taken, the applicant has reviewed whether the previously submitted retail sequential assessment and retail impact assessment remains up to date. There have been no new retail studies or retail evidence documents have been produced by the Council to inform the updated assessment.

Sequential Assessment of Sites

6.5 EHDC Planning Officers and our retail advisors considered in December 2022 that there were no other more centrally located sites that were suitable and available for the proposed development, within the catchment area of the proposed store. As the site is located outside of the Town Centre, a Sequential Assessment of more suitable sites has been carried out in accordance with policy RTC1 and the NPPF.

6.6 The following sites were considered as part of the original planning submission and they have been reviewed by the applicant in August 2023 to see if there have been any pertinent changes of circumstance since December (ie: whether any of these sites are now viable (in terms of size/location and type or available).

Site	Reason for decline
South Street/Station Road	Floorspace is too small at 665 sq. metres; site has limited car parking and does not have suitable services for a food store operator. <i>No change to previous position.</i>
Old River Lane	The site is planned for mixed use development which involves community use but small scale retail uses. This is subject to the preparation of a Supplementary Document and an outline planning application. <i>No change to previous position.</i>
Goods Yard	Proposal includes a number of small retail units which total 1,001 sq. metres. (this is significantly smaller than what has been applied for) The retail units have limited access to bespoke car parking and limited servicing. <i>No change to previous position.</i>
The Mill Site	The site is currently in use and does not represent an available redevelopment opportunity. <i>No change to previous position.</i>
Jackson Square	Although this unit is reasonably large at 1,599 sq. metres – it is smaller than current application

	<p>for 2368sq metres. Notwithstanding terms have been agreed with TK Maxx and as such the unit is not available. <i>No change to previous position.</i></p>
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- 6.7 In addition to the above, existing local centres at Bishops Park and Stanstead Mountfitchet have been reviewed; no vacant land or units have been identified as of August 2023 that can accommodate the proposed use.
- 6.8 Proposed local centres at Bishops Stortford North and South have also been reviewed in August 2023. However, neither of these sites will provide unit sizes that are comparable to the floor space size applied for. Bishops Stortford North has planning conditions that restrict individual unit size to 200 sq. metres and the total retail to floorspace in the development to 600 sq. metres (Eastern Neighbourhood Centre) and 200sq.metres (Western Neighbourhood Centre). Bishops Stortford South permits 1,000 sq metres of retail floor space; less than half that which is the subject of this application. It is considered appropriate to retain the restrictions on the amount of retail in these locations.
- 6.9 It is relevant to note that it has been established in the Supreme Court 2021 (Tesco Stores v Dundee City Council) that in assessing whether the sequential test has been met, the issue is, whether the applicant has responded to the question as to *'whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.'* Officers have reviewed the previous and updated information submitted by the applicant, which was prepared following officers' advice as to which locations should be assessed. Officers are satisfied that the correct alternative locations have been assessed and that the reasons for discounting sequential preferable locations set out above are satisfactory (as of September 2023), as they were back in December 2022.

6.10 In determining this application in December 2022, the Case Officer's report to Committee concluded that:

"It is considered that no available suitable sequentially preferable sites have been identified within the geographical area agreed with the Planning Service, and the sequential test has been met".

Officers have reviewed the sites again, as set out in the updated Retail Statement and have found that there have been no material changes to the circumstances of the identified sites, and no new sites have become available. As such, the conclusions of the previous Committee Report are relevant and still stand.

Retail Impact on Town Centre Vitality and Viability

6.11 Neither the NPPF nor the District Plan outlines that there is a policy requirement to demonstrate the 'need' for a retail development in a development management context. Instead, paragraph 90 of the NPPF outlines that planning applications for retail and leisure development outside town centres, which are not in accordance with an up to date plan should be the subject of an impact assessment if the development exceeds a proportionate locally set floorspace. This should include an assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investments in a centre or centre in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

6.12 Policy RTC1 has outlined that in Bishops Stortford the threshold for analysis has been set at 1,500 sq. metres and information is expected to measure a period up to 5 years from the time the application was made.

- 6.13 Paragraph 91 of the NPPF advises that where an application is likely to have a significant adverse impact on one or more of the above factors, it should be refused.
- 6.14 The applicants previous undertook an assessment of the likely impact of the proposed development on both existing and proposed development in Bishops Stortford town centre (including its direct supermarket competitors within that area). An assessment has also been made on future planned development on other sites within the vicinity of the site including the local retail centre at Snowley Parade.
- 6.15 The Applicant's full assessment was prepared and submitted to the Council in November 2021. Whilst this is 2 years' old, officers consider this is sufficiently up-to-date in retail planning policy terms, and provides a recent assessment of local shopping patterns, undertaken post COVID-19. The report remains suitable for considering the retail impacts of the scheme.
- 6.16 Notwithstanding this, a 'sensitivity test' has been provided by the Applicant which considers the latest retail data sources to see what effect this has on the previous overall findings. A similar sensitivity test was undertaken in November 2022, just before the application was previously considered at Committee. The latest sensitivity test (August 2023) is based upon the assumptions set out within Experian's Retail Planner Briefing Note 20, which was published in February 2023. The assumptions with regards to expenditure growth rates, proportion of spending on special forms of trading, and growth in rates of floorspace efficiency. Overall, this has had a minimal effect on the results, according to the Applicant's forecasts.
- 6.17 The updated sensitivity testing forecasts trade impact on Bishop's Stortford Town Centre is still around the 5% mark which is not near a level that would be considered to be 'significant' in retail impact terms (in terms of drawing significant trade from the town centre). The level of impact is lower than that forecast by the previous November 2022 sensitivity test, which was considered by the Committee in December.

6.18 As such, the applicant considers that the conclusions set out within the previously submitted reports – in relation to the implications of the trade impact on both Bishop’s Stortford and other nearby centres remain relevant, with no material change. The sensitivity test has been updated and re-run for completeness, based on the latest retail data available, and the results appear to corroborate the previously submitted analysis.

6.19 The table below summarises the change in forecast convenience trade impact, based on the new sensitivity test:

Centre	WP Nov 2021 RIA	WP Nov 2022 Sensitivity Test	WP August 2023 Sensitivity Test
Bishop’s Stortford Town Centre	4.7%	5.5%	5.2%
Thorley District Centre	2.6%	3.0%	2.8%
Bishop’s Park Neighbourhood Centre	4.6%	5.3%	5.1%
Snowley Local Parade	2.2%	2.6%	2.5%
Havers Lane Local Parade	3.1%	3.6%	3.4%

6.20 The December 2022 Committee Report concluded on retail impact that:

“Having considered the matter carefully, officers are satisfied that the Assessment overall is robust and that the impact on the vitality and viability of the centres is acceptable and not significantly adverse and so accords with the NPPF, Policy RTC1 of the East Herts District Plan and Policy BP2 of the Neighbourhood Plan”.

6.21 The forecasted results set out in the updated sensitivity test suggest that this conclusion remains relevant and sound. Officers have duly taken account of the latest published retail data and trends in coming to a conclusion that the retail impacts ostensibly the same as previously assessed.

6.22 The previous conclusion was reached, in part, based on the analysis of trade diversion which was anticipated to occur from a store operating as a “Limited Assortment Discount Retailer”; that is an operator offering a limited number of products, at a discount. In

order to ensure that a different retail impact does not occur, it is recommended that a condition is secured which limits occupation to such a retailer, and to limit the net sales area and percentage of that which can be used for the sale of convenience goods. This condition was recommended previously, and officers consider it remains necessary and justified in retail planning terms.

Transport and Highways Impact

- 6.23 Although there are no general changes to the development, planning policy framework or baseline condition of the site and context in transport and highways terms, a new representation has been submitted by UK Power Networks (UKPN) on 21st June 2023 raising concern about the vehicular access to the existing substation which UKPN operates to the south of the application site.
- 6.24 UKPN is keen to ensure that access through the application site to the sub-station can still be achieved, with the new Lidl foodstore development in place. The sub-station access ramp is adjacent to the Lidl delivery bay.
- 6.25 As part of the application submission, detailed tracking/swept path plans have been submitted that demonstrate that HGVs can safely enter and exit the site. The Applicant has been in liaison with UKPN directly to resolve this matter, but officers note that the vehicle tracking, which shows that access to the sub-station is retained (with the same level of service access as at present) will not be compromised by the site's redevelopment.
- 6.26 The Highways Officer raises no further comments or objections to this matter and therefore, it is concluded that the proposals do not give rise to additional highways safety risk as a result of vehicles accessing the UKPN substation.

Impact on Access/Egress arrangement for Occupiers of 289 Stanstead Road

- 6.27 The Entrance into the application site is from a singular access point that abuts the neighbouring residential property at 289 Stanstead Road. The proposals will involve a widening of this access point from 6.5m to 9 metres; this would enable vehicles to enter and exit the application site without conflict. Deliveries to the site would also be made from this access point. There is no objection to this proposed modification to the site layout as it will ensure that queuing into and out of the site is minimised. The access is adequate to allow for suitable visibility for manoeuvring vehicles, including service vehicles, and conditions are recommended to secure details.
- 6.28 It is noted that the occupier of 289 Stansted Road has indicated that the proposed development (comprising the boundary 2.0m fence with landscaping) and access arrangement (close proximity to a private driveway) will affect their ability to access their property using a car as there would be more vehicles queuing on the highway due to close proximity of the adjacent access. It has been highlighted in the written correspondence that the occupier has a disabled daughter (who requires a wheelchair) and therefore, this must be taken into consideration when considering the impact of the development and the need for any special mitigation measures to minimise any harm occurred.
- 6.29 Whilst some queuing on the highway may occur, given the local highway authority's conclusions concerning trip generation, it is not considered that the level of impact (including on the access/egress to the neighbouring private drive) would be unacceptable subject to detailed drawings being submitted for approval for the amended vehicular access (conditions 16 and 17) and landscaping and boundary treatment (condition 35 and 3) to secure adequate visibility is preserved.
- 6.30 Trip generation, car parking provisions, access, servicing and deliveries including refuse vehicle movements were all addressed in the previous committee report. Therefore, it is not necessary to represent these considerations in this update report where the conclusions remain the same. In summary, the previous report

concluded that there were no adverse impacts on the neighbouring property in terms of obstructing or constraining access or egress to the private drive, or any other nearby property. The Highways Authority considers the development to be safe in highways safety terms and continue to raise no objection to the proposed development. No new technical highways issues are specifically raised with regards to the impact on 289 Stanstead Road.

Equalities Considerations

- 6.31 The Council has a Public Sector Equality Duty under section 149 of the Equality Act 2010, which (amongst other things) requires the Council to have due regard to the need to eliminate discrimination/harassment/victimisation, advance equality of opportunity between people who share (and do not share) a protected characteristic and foster good relations between people who share (and do not share) a protected characteristic.
- 6.32 Having due regard to the need to advance equality of opportunity between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to:
- (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
 - (iii) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 6.33 Having due regard to the need to foster good relations between persons who share (and do not share) a relevant protected characteristic involves having due regard, in particular, to the need to: (i) tackle prejudice; and (ii) promote understanding.

- 6.34 The protected characteristics referred to in the Act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The PSED is a continuing duty to have regard to the objectives identified in the Act as opposed to requiring the Council to achieve any particular outcome.
- 6.35 Due regard has been had to the needs of individuals with these protected characteristics, as required by the Act in order to understand the likely impact of the development proposal on them. Given that the duty is an ongoing one the Council will continue to have regard to it throughout the implementation of the development proposal, by virtue of the consideration of the discharge of planning conditions and planning obligations.
- 6.36 The application has been publicised in the local newspaper and a number of site notices were placed with individual consultation letters sent, inviting representations. Following a review of the consultation process, the majority of the matters raised have been addressed within the relevant sections of the previous report and have been taken into consideration as part of the decision-making process.
- 6.37 The consultation response confirms that there is an individual living in the neighbouring property at 289 Stanstead Road with disabilities. The occupier has a requirement for a wheelchair and has been identified as being sensitive to prolonged periods of noise. As such, officers have reviewed the potential impacts (from the development) on this occupier and any other user of the development, or pedestrian or highways user (with protected characteristics) in detail in order to identify whether there are an appropriate range of mitigation measures necessary which might minimise the perceived adverse impacts of the development or whether further measures are required in addition to the recommended conditions and planning obligations.
- In terms of the impact from increased traffic, the Highways Officer has previously advised that the additional impact from

the development is anticipated to be minor and negligible in terms of causing unsafe access/egress movements onto the neighbouring site. **Condition 16** is required which requires additional plans to be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed design and construction of the vehicle access serving the development. These plans would need to be designed to enable the amended vehicular access to be safe and not to unduly prevent access/egress at the neighbouring property including the driveway which provides capability to support mobility vans which have wheelchair hoists/lifts. Highways Officer advice to date on this matter, concludes that the principle of the proposed site access is acceptable and does not affect the access/egress to the neighbouring front parking area at 289.

- The adjoining neighbour has queried whether the junction could be relocated or moved further north and additional landscape buffering to be included. As the improved junction was considered safe in highways terms, following due consideration by the Highways Authority, it was not appropriate to consider relocating. Notwithstanding this, the applicant has agreed to a range of conditions which would enable the detailed landscape treatment and detailed access design to be submitted and approved to the satisfaction of the Highways Authority in accordance with best practice and to minimise danger to highways users. It is considered that the clarification from the highways officer that the location of the site access is safe (from a highways perspective) in addition to the provision of planning conditions that seek to secure an acceptable and safe detailed design, will provide sufficient demonstration of how the LPA has carried out its PSED in this regard.
- It is noted that there would be noise from additional traffic created from other uses and (emerging/existing) developments in Bishop Stortford and so, it would not be possible to quantify this harm in terms of noise. Noise from additional traffic on Stanstead Road is not considered to be unduly harmful to the

neighbouring occupier or occupiers in the vicinity of the site (as a result of this development).

- Planning **Condition 3** is recommended which requires full details (including sections confirming land levels) of the landscape buffer/hedge to be implemented within the site on the northern boundary of No. 289 Stanstead Road and any approved details shall be implemented in full prior to the first occupation of the development and maintained as such in perpetuity. It is considered these details will need to give further consideration to the needs of the occupier in coming to a satisfactory outcome which minimise noise disturbance (to reduce exposure to the noise in the form of an appropriate buffer) and ensures safe access and egress is retained at the neighbouring property. The condition itself is a direct response to the protected needs of the adjoining occupier (disability).
- Other planning conditions are recommended which require cycle parking (**condition 3 and 23**) and EV charging car parking spaces (**condition 14**) and a Travel Plan is secured under a **planning obligation** which seek to reduce car trips and promote more sustainable forms of travel. These controls further counteract the potential for additional car bound trips as a result of the development.
- In terms of exposure to noise, given the sensitive needs of the disabled occupier in 289 and other potential occupiers nearby (with protected characteristics including age, pregnancy and disability), **condition 5** is recommended to ensure construction works and operations are carried out within standard work times, and not too early or late at night.
- **Condition 6** (construction traffic management plan) and **condition 7** (construction environmental management plan) are required to ensure construction traffic is controlled and construction practices are considerate of neighbours, including those of the occupier and other nearby occupiers with protected characteristics (age, pregnancy and disability).

- Planning **condition 17** is recommended which requires additional plans showing the following details to be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority:
 - The detailed design and construction of the new puffin crossing and new southbound bus stop along Stansted Road, as shown indicatively on drawing number 200427 PL-03 Rev J. This shall include Kassel kerbing, a shelter, and a Real Time Information display at the new bus stop.
 - Upgrade works to the existing northbound bus stop to the north of the site, to include Kassel kerbing, a shelter, and a Real Time Information display.
 - Detailed design and construction of pedestrian dropped kerbs and tactile paving at the junctions off Stansted Road as shown indicatively on drawing number SCP/200702/D14 rev C of Technical Note 4. This includes:
 - 1. Oaklands Park
 - 2. Aynsworth Ave
 - 3. Collins Cross
 - 4. Cannons Mill Lane
 - 5. Cannons Close
 - 6. Orchard Road
 - 7. Legions Way
 - 8. Entrance to Stort Valley Industrial Estate
 - 9. Barons car dealership site
 - 10. Goodliffe Park
- The above provisions in **condition 17** are required in order that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, and generally in the interest of sustainable travel options which accommodates all users, including those individuals with protected characteristics as defined in the Equality Act 2010.

- **Condition 22** is required to prevent the development from being brought into use until all on-site pedestrian and vehicular areas have been made accessible, surfaced and marked in a manner to the Local Planning Authority's approval in order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises, and to ensure sustainable access by pedestrians. This condition is anticipated to provide mitigation to ensure the needs of individuals with protected characteristics such as mobility, age and pregnancy/maternity) are factored into the detailed design of the external environment.

- **Condition 25** is required to ensure that the rating level of noise emitted from all external fixed plant and equipment shall not exceed LAeqT = 30dB(A) when measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The condition stipulates that the measurements 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 all plant / equipment operating together at maximum capacity and inclusive of any penalty for tonal, impulsive or other distinctive acoustic characteristics. The condition is required in order to ensure an adequate level of amenity for occupiers in the vicinity of the proposed development, noting the disabled occupier in no.289 is sensitive to noise. The Environmental Health Officers have recommended this condition in light of the information provided in the planning application.

- **Condition 30** is recommended to ensure the food store operates to appropriate opening hours to ensure noise disturbances are minimised and acknowledging the proximity of residential occupiers nearby.

- **Condition 31** includes a restriction on the delivery and refuse collection times to ensure these are not carried out at antisocial times and to protect amenities of nearby occupiers.
- It is considered that conditions 30 and 31 contain satisfactory controls appropriate to the proposed land use and which will not be unduly harmful to nearby residential occupiers, including the occupier in 289 with specified disabilities.

6.38 It is also important to consider the existing authorised uses on the site and surrounding context, which comprises a former car dealership in an industrial centre. These uses, including other industrial uses could occupy the industrial area without the need for planning permission and could likely cause noise, disturbances and traffic movements which are typical of industrial areas. It is considered a retail food-store could be more compatible with the residential uses in the area than an industrial use, or as a car showroom.

6.39 Notwithstanding the above, it is considered that there will be temporary (but limited) adverse impacts whilst the development is under construction. People with the following characteristics have the potential to be disadvantaged as a result of the construction works associated with the development eg: people with disabilities, maternity and pregnancy and younger children, older children and elderly residents/visitors. However, measures can be incorporated into the demolition method statement and construction management plan to mitigate the impact and minimise the extent of the effects.

6.40 There will be the loss of the existing car showroom which could impact on existing employees (although the showroom is now vacant, so this has occurred already).

6.41 It is anticipated that there will be some permanent adverse impact on the closest residential dwellings, as a result of the development in terms of noise from the comings and goings from the food store, including servicing and deliveries, customer car parking and refuse collection. The recommended conditions will minimise the on-going

environmental impacts to ensure the amenities of the occupiers are protected, including the specific impacts on individuals of protected characteristics as defined in the Equality Act 2010. Specified conditions are identified in order to address the particular needs of the disabled resident in the immediately adjoining property as stated in the above section of this report.

- 6.42 The recommendation, as revised and updated in this report includes satisfactory demonstration of how the LPA has considered the detailed impacts of the development on protected groups under the Equality Act, including those of the occupier in 289 Stanstead Road. In conclusion, it is considered that the needs of individuals with protected characteristics have been considered by the Local Planning Authority to appropriate level at this stage in the planning process, exercising its PSED in accordance with the 2010 Equality Act.

7.0 Legal Agreement

- 7.1 As with the previous report, the following planning obligations are sought to support/mitigate the impacts of the development proposed:

- Approved Travel Plan with Travel Plan financial contribution - £6,000.00 evaluation and support contribution and travel plan remedial measures notice.
- Local Employment and Skills Plan to secure a package of measures for both construction phase and operation phase of the development to facilitate the employment of local labour and provision of training opportunities.

- 7.2 The reasons for these requirements are set out in the relevant sections of the previous committee report and it is confirmed that they meet the statutory requirements set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

8.0 Planning Balance/Conclusion

- 8.1 A key objective of the planning system is to bring forward development that is appropriate and in the right place. This is made clear in the National Planning Policy Framework (NPPF), which states that there should be a presumption in favour of sustainable development.
- 8.2 The proposal will result in the loss of an existing employment generating sui- generis use within a designated employment area and the introduction of a retail food store Class E. The site has not been marketed for an alternative use that complies with the requirements of Policy ED1 of the District Plan, nor has it been demonstrated that a partial change of use or alterations to the site could not facilitate the retention of a use protected by Policy ED1 and as such the proposal is a departure from the local plan in this regard and significant negative weight should be attached to this.
- 8.3 Balanced against this is that the proposal would result in similar levels of employment, that local recruitment can be secured and that there are employment and economic benefits to the scheme.
- 8.4 The proposals will also provide for further retail choice and convenience for local residents. Whilst there will be some impact on current convenience operators in the town, the impact on the wider range of retail uses in the town centre and local centres is considered to remain marginal at this time (September 2023) having regard to the updated forecasts.
- 8.5 The proposed use will result in an increase in vehicle numbers and movements at the site when compared to its previous use as a car dealership as the number of vehicle parking spaces will increase and the frequency with which the site is accessed will also increase. The increase in vehicular movements at and around the site has been assessed and considered acceptable and with an acceptable impact on highway safety. The increased vehicular activity will not, subject to the imposition of conditions, adversely affect the amenity of the occupants of neighbouring buildings, including the resident (with Protected Characteristics (Mobility/Disability) as defined under the Equality Act 2010) in the immediately adjoining property on

Stanstead Road who has specific mobility requirements including wheelchair access.

- 8.6 The location and nature of the proposal may lead to some reduction in vehicular trips to the town centre, given the locational circumstances of the site; but this is difficult to quantify without detailed analysis. Nevertheless, the additional choice and convenience and lack of impact in relation to vitality and viability of the town and local centres is given positive weight.
- 8.7 The proposal will also include measures to secure improvements to the walking and public transport infrastructure in the local area which is also given significant positive weight.
- 8.8 In relation to other matters the proposal is not considered to adversely affect residential amenity, will adequately deal with climate change in the design aspects of the scheme and will result in ecological and landscape enhancements and will not increase the risk of flooding.
- 8.9 In conclusion it is considered that the development complies with the development plan save in respect of policy ED1. However, there are relevant material considerations which need to be taken into consideration when assessing the proposal and these have been set out in the report above. On balance, these are considered to justify the grant of planning permission subject to conditions and the completion of a section 106 agreement notwithstanding the conflict with ED1.
- 8.10 The issues raised in this updated report address the additional comments received and ensure the assessment and conclusions are up to date and robust at the time of the further resolution of the planning committee.
- 8.11 The previous committee resolution is considered to comprise an important material consideration in forming a view on these proposals. Significant weight should therefore be afforded this, in addition to the above material considerations raised in this update

report which reinforce the original decision reached under the previous resolution.

- 8.12 On balance it is considered that the proposals represent a sustainable form of development and that planning permission should be granted.

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 and documents listed at the end of this Decision Notice.

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

3. Notwithstanding the details shown on the plans hereby approved the following modifications shall be made to the development and shall be submitted and approved by the Local Planning Authority prior to the commencement of the development:

- Details confirming the location of 7 additional cycle parking spaces within the site;
- Details (including sections confirming land levels) of the landscape buffer/hedge to be implemented within the site on the northern boundary of No. 289 Stanstead Road.

The approved details shall be implemented in full prior to the first occupation of the development and maintained as such in perpetuity to the satisfaction of the Local Planning Authority.

Reason: To provide an acceptable form of development that complies with the development management policies in the East Herts District Plan 2018.

4. No demolition works shall commence until a destructive asbestos survey of the building to be demolished has been undertaken by a specialist asbestos contractor and the details submitted to and approved in writing by the Local Planning Authority.

Demolition shall not be carried out other than in accordance with the approved details.

Reason: To ensure that risks from asbestos to the environment, future users of the land and neighbouring land are minimized, and to ensure that the development can be carried out safely without unacceptable risks to human health and other off - site receptors in accordance with Policy EQ4 Air Quality of the East Herts District Plan 2018.

5. In connection with all site preparation, demolition, construction and ancillary activities, working hours shall be restricted to 08:00 – 18:00 hours on Monday to Friday, 08:00 – 13:00 hours on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.

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

6. No development shall commence until a 'Construction Traffic Management Plan' has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The 'Construction Traffic Management Plan' shall identify details of:

- the phasing of construction and proposed construction programme.

- the methods for accessing the site, including wider construction vehicle routing.
- the numbers of daily construction vehicles including details of their sizes, at each phase of the development.
- the hours of operation and construction vehicle movements.
- details of any highway works necessary to enable construction to take place.
- details of construction vehicle parking, turning and loading/unloading arrangements clear of the public highway.
- details of any hoardings.
- details of how the safety of existing public highway users and existing public right of way users will be maintained.
- management of traffic to reduce congestion.
- control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
- the provision for addressing any abnormal wear and tear to the highway.
- the details of consultation with local businesses or neighbours.
- the details of any other Construction Sites in the local area.
- waste management proposals.
- signage

Thereafter the construction of the development shall only be carried out in accordance with the approved Plan.

Reason: In order to protect highway safety and the amenity of other users of the public highway in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018) and Policy TRA2 of the East Herts District Plan 2018 and to ensure an adequate level of amenity for the occupiers of surrounding properties in accordance with Policy EQ2 of the East Herts District Plan 2018.

7. No development shall commence until a detailed Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority in

consultation with the Environmental Health Service, and the plan shall include the following:

- a) The construction programme and phasing
- b) Hours of operation, delivery and storage of materials
- c) Details of any highway works necessary to enable construction to take place
- d) Parking and loading arrangements
- e) Details of hoarding
- f) Management of traffic to reduce congestion
- g) Control of dust and dirt on the public highway
- h) Details of consultation and complaint management with local businesses and neighbours
- i) Waste management proposals
- j) Mechanisms to deal with environmental impacts such as noise and vibration, air quality and dust, light and odour.
- k) Details of any proposed piling operations, including justification for the proposed piling strategy, a vibration impact assessment and proposed control and mitigation measures.

Thereafter the construction of the development shall only be carried out in accordance with the approved Plan

Reason: In order to control the environmental impacts associated with the construction of the development in accordance with Policies DES4, EQ2 and EQ4 of East Herts District Plan 2018.

8. No development shall commence until written details of a Site Waste Management Plan (SWMP) have been submitted to, and approved in writing by, the Local Planning Authority in conjunction with the Waste Planning Authority.

As a minimum, the SWMP shall include the following:

Project and People -

- Identification of the client
- Identification of the Principal Contractor
- Identification of the person who drafted the SWMP

- Location of the site
- An estimated cost of the project
- Declaration that the client and contractor will comply with the requirements of Duty of care that materials will be handled efficiently and waste managed appropriately (Section 34 of Environmental Protection Act 1990 and Environmental Protection (Duty of Care) Regs 1991)

Estimating Waste -

- A description of the types of waste that are expected to arise on site (recorded through the use of 6-digit European Waste Catalogue codes) and an estimated quantity for each of the types (in tonnes)
- Waste management actions for each of the types of waste (i.e. will it be re-used, recycled, recovered or disposed of)

Space for Later Recordings -

- Space for the recording of actual figures against those that are estimated at the start
- Space that will allow for the recording and Identification of those responsible for removing the waste from site and details of the sites they will be taking it too
- Space for recording of explanations that set out the reasons for any deviations from what has been set out in the SWMP, including explanations for differences in waste arising compared to those set out in the initial estimations.

Thereafter, the details of the SWMP shall be implemented and adhered to throughout the course of the development; in accordance with the details approved.

Reason: In order to ensure the development proceeds in accordance with the requirements of Policies 1, 2 and 12 of the adopted Hertfordshire Waste Local Plan.

9. No development (including any demolition works) shall commence until an Air Quality Assessment (AQA), has been prepared in

accordance with best practice guidance and submitted to and approved in writing by the local planning authority. Thereafter the development shall be undertaken in accordance with the approved details.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

10. No development (including any demolition works) shall commence until a Dust Management Plan (DMP), based on an AQDRA (Air Quality and Dust Risk Assessment), has been submitted to and approved, in writing, by the local planning authority. The DMP shall be in accordance with the Institute of Air Quality Management (IAQM) guidance for Control of Dust and Emissions during Construction and Demolition. The DMP will need to detail the measures to reduce the impacts during the construction phase. The development shall be undertaken in accordance with the approved plan.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

11. No development shall commence until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing:
1. A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation shall be stated, and how this will be validated. Any ongoing monitoring shall also be determined.
 2. If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme

which shall be submitted to and approved in writing by the local planning authority.

3. A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted prior to [first occupation of the development/the development being brought into use]. Details of any post-remedial gas protection measures to demonstrate that the site has achieved the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.

Thereafter the development shall be undertaken in accordance with the approved details.

Reason: Details are required prior to the commencement of the development to minimise and prevent pollution of the land and the water environment in accordance with Policy EQ1 of the East Herts District Plan 2018.

12. No development shall commence until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
 1. Confirmation of all relevant permissions for the discharge into a main river.
 2. Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe

runs.

3. Final discharge restricted to greenfield runoff rates.
4. Evidence to confirm that the outfall to Birchanger Brook will be available during all storm events up to and including the 1 in 100 year + 40% event.
5. Full exploration of the SuDS hierarchy including above-ground features such as permeable paving. Detailed technical justification should be provided if it is not feasible to implement further above-ground features.
6. Confirmation of groundwater levels on site including at the location of any below-ground attenuation features.
7. Provision of robust SuDS management and treatment for runoff generated on site.
8. Final detailed post-development network calculations for all storm events up to and including the 1 in 100 year + 40% climate change storm with half drain down times no greater than 24 hours.
9. Exceedance flow routes for storm events greater than the 1 in 100 year + 40% climate change storm.
10. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site and to accord with Policy WAT1 of the East Herts District Plan 2018.

13. No development shall commence until such time as a scheme to provide access to, and management of, the main river has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme should consider the following:

- Removing the boundary fence to open full access to the watercourse and connectivity with the new landscaped areas.
- If adequate justification can be provided stating why this isn't possible, then the provision of a single pedestrian access gate should be considered, with safe access to the channel profile for emergency access and maintenance.
- Access to any gate should consider the need for vehicles/heavy duty materials and potential material storage.
- The provision of a maintenance and management plan for the river channel for the lifetime of the development, in line with your responsibilities as riparian owners.

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority. The scheme shall be subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: In order to provide emergency access, allow the connection areas of biodiversity and the future maintenance of the area in accordance with policies WAT3 and NE4 of the East Herts District Plan 2018.

14. No development shall commence until a scheme comprising of 10% of parking spaces being provided with Electric Vehicle Charging Points (a phased provision with an agreed delivery programme may also be considered) has been submitted to and approved in writing by the Local Planning Authority.

The approved scheme shall be implemented either in its entirety (or in accordance with the agreed timetable) in accordance with details approved under this condition before any of the development is first occupied or the use commences and shall be retained as such thereafter.

Reason: In order to minimise the environmental impact of the development on air quality in accordance with Policy EQ4 of the East Herts District Plan 2018.

15. No development above slab level shall commence until the external materials of construction for the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

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

16. No development shall commence on the highway works until, additional plans have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the detailed design and construction of the vehicle access serving the development, as shown indicatively on drawing numbers 200427 PL-03 Rev J and SCP/200702/D16.

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority.

Reason: To ensure the provision of an access appropriate for the development in the interests of highway safety and convenience and to accord with Policy TRA2 of the East Herts District Plan 2018.

17. No development shall commence on the highway works until additional plans showing the following details have been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority:

- (a) The detailed design and construction of the new puffin crossing and new southbound bus stop along Stansted Road, as shown indicatively on drawing number 200427 PL-03 Rev J. This shall include Kassel kerbing, a shelter, and a Real Time Information display at the new bus stop.

- (b) Upgrade works to the existing northbound bus stop to the north of the site, to include Kassel kerbing, a shelter, and a Real Time Information display.
- (c) Detailed design and construction of pedestrian dropped kerbs and tactile paving at the junctions off Stansted Road as shown indicatively on drawing number SCP/200702/D14 rev C of Technical Note 4. This includes:
 - 1. Oaklands Park
 - 2. Aynsworth Ave
 - 3. Collins Cross
 - 4. Cannons Mill Lane
 - 5. Cannons Close
 - 6. Orchard Road
 - 7. Legions Way
 - 8. Entrance to Stort Valley Industrial Estate
 - 9. Barons car dealership site
 - 10. Goodliffe Park

Thereafter the development shall not be brought into use until this work has been fully completed to the satisfaction of the Local Planning Authority.

Reason: So that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, in compliance with paragraphs 110 to 112 of the NPPF, Policy TRA1 of the East Herts District Plan 2018 and Policy 1 of Hertfordshire County Council's Local Transport Plan 4, and generally in the interest of sustainable travel options which accommodates all users.

- 18. No on-site works above slab level shall commence until details of the measures required to facilitate the adequate provision of fire hydrants at the site shall be submitted to and approved in writing by the Local Planning Authority; in consultation with Hertfordshire Fire and Rescue Service. Thereafter, no part of the development

shall be occupied until all of the fire hydrants have been provided, installed and permanently maintained/retained by the developer at their own expense, in accordance with the approved details.

Reason: To ensure the site provides appropriate infrastructure to support sustainable development in accordance with Policy DEL1 of the East Herts District Plan 2018.

19. No on-site works above slab level shall commence until, details of 1 wall integrated/insulated bat cavity box and 1 integrated nest box have been submitted to and approved in writing by the local planning authority. The location and model of the boxes should be supplied and marked on plans which reflect the proposed development. The approved measures shall be incorporated into the scheme, be fully constructed prior to occupation of the approved development, shall not be illuminated by external lighting and shall be retained as such thereafter.

Reason: In order to enhance biodiversity and comply with Policy NE3 of the East Herts District Plan 2018

20. The development permitted by this planning permission shall be carried out in accordance with the approved Drainage Strategy Plan prepared by Baynham Meikle project number 13091 Revision 0C dated September 2021 and the following mitigation measures detailed within the Flood Risk Assessment:
1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the greenfield runoff rate for all events up to and including the 1 in 100 year event plus 40% climate change event.
 2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a minimum of 350 m³ (or such storage volume agreed with the LLFA) of total storage volume in cellular storage and swale.

3. Discharge of surface water from the private drain into the Main River Birchanger Brook.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and reduce the risk of flooding to the proposed development and future occupants and to accord with Policies WAT1 and WAT5 of the East Herts District Plan 2018.

21. Upon completion of the drainage works for the site in accordance with the timing, phasing arrangements; prior to the occupation of the development hereby approved, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 1. Provision of complete set of as built drawings for site drainage.
 2. Maintenance and operational activities.
 3. Arrangements for adoption and any other measures to secure the operations of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site and to accord with Policy WAT1 of the East Herts District Plan 2018.

22. The development shall not be brought into use until all on site pedestrian and vehicular areas have been made accessible, surfaced and marked in a manner to the Local Planning Authority's approval.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises, and to ensure sustainable access by pedestrians.

23. Prior to the commencement of the use, details of the design, location and layout of the proposed cycle storage shall be submitted to and agreed in writing with the Council as Local Planning Authority.

Reason: So that local residents and visitors can conveniently, safely and sustainably access the development by modes other than the private motorcar, in compliance with paragraphs 110 to 112 of the NPPF, Policy 1 of HCC's Local Transport Plan 4, and to accord with Policy TRA1 of the East Herts District Plan 2018.

24. The development hereby approved shall be constructed and fitted out so that the potential consumption of wholesome water meets 'BREEAM excellent' when measured in accordance with a methodology approved by the Secretary of State. The development shall not be occupied unless the BREEAM notice has been submitted to the Local Planning Authority for their written approval.

Reason: To 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.

25. The rating level of noise emitted from all external fixed plant and equipment shall not exceed LAeqT = 30dB(A) when measured or calculated at 1 metre from the façade of the nearest noise sensitive property. The measurements 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 all plant / equipment operating together at maximum capacity and inclusive of any penalty for tonal, impulsive 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.

26. No external lighting shall be installed until written details of any lighting strategy for the development site, setting out the general distribution and design guidelines for all installations in the development and its public realm areas have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be carried out otherwise than in accordance with the details thus approved.

Reason: To ensure that the external appearance and the lighting associated with the development is satisfactory and does not detract from the character and visual amenity of the area or affect the residential amenity of nearby occupiers.

27. 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 01/20 'Guidance notes for the reduction of obtrusive light'. 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.

28. Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re - enacting that Order with or without modification), the commercial premises hereby approved

shall only be used for Class E(a) as a Limited Assortment Discounter and for no other purposes whatsoever.

Reason: In order to protect the vitality and viability of retail centres and in accordance with policy RTC1 of the East Herts District Plan 2018.

29. No more than 1,414m² of floor area shall be used as net sales area and of this, no more than 80% (1,131m²) shall be used for the display of convenience goods.

Reason: In order to protect the vitality and viability of retail centres and in accordance with policy RTC1 of the East Herts District Plan 2018.

30. The (Class E) retail unit hereby permitted shall not be open to customers outside of the hours 07:00 to 22:00 on Mondays to Saturdays and 10:00 to 18:00 on Sundays.

Reason: To protect the amenity of the occupants of residential properties within the vicinity of the site in accordance with Policies EQ2 Noise Pollution and DES4 Design of Development of the adopted East Herts District Plan 2018.

31. No goods or other deliveries or refuse / recycling or other collections shall be taken at or despatched from the site outside the hours of 07:00 to 22:00 hours Mondays to Saturdays and 10:00 to 18:00 hours on Sundays or Bank / Public Holidays.

Reason: To protect the amenity of the occupants of residential properties within the vicinity of the site in accordance with Policies EQ2 Noise Pollution and DES4 Design of Development of the East Herts District Plan 2018.

32. No home delivery service shall be carried out from the development hereby approved without the prior written consent of the Local Planning Authority.

Reason: In order to protect the amenity of the occupiers of surrounding properties in accordance with Policy DES4 of the East Herts District Plan 2018 and ensure a satisfactory impact on the highway network in accordance with policy TRA02 of the East Herts District Plan 2018

33. The development shall not be brought into use until any external plant / equipment associated with the development hereby approved has been mounted with proprietary anti-vibration isolators and fan motors have been vibration isolated from the casing and adequately silenced and maintained as such thereafter.

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.

34. The development shall not be brought into use until written details have been provided to the Local Planning Authority for their written approval which indicate how the site and the surrounding car park will be secured when not in use. Thereafter the development shall not be operated otherwise than in accordance with the details thus approved.

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.

35. Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.

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.

Plans

Plan Ref	Version	Received
SCP/200702/TP/00	JUNE 2021	02 Jul 2021
PL -02 REV A		20 Jul 2021
PL07 REV C		05 Jul 2022
13091_SK101		24 Dec 2021
200427 PL-04 REV B		24 Dec 2021
200427 PL-05 REV B		24 Dec 2021
200427 PL-06 REV B		24 Dec 2021
LAS 256 04C		24 Dec 2021
13074_120_C		14 Sep 2021
200427 PL-03J		02 Feb 2022
SCP/200702/D04		

Informatives

1. Justification – Grant (JG4)
2. Other legislation (01OL1)
3. Environmental pollution (Dust, noise etc.) on operational railway.
The applicant is advised that the design and siting of installations should take into account possible effects of noise, vibration and generation of airborne dust in regard to the operational railway. Contractors are expected to use the 'best practical means' for controlling pollution and environmental nuisance complying with all current standards and regulations. The design and construction methodologies should consider mitigation measures to minimise the generation of airborne dust, noise and vibration in regard to the operational railway. Demolition work shall be carried out behind

hoardings and dust suppression systems are to be employed to avoid risk to the operational line.

4. Potential impact on the adjacent railway infrastructure from construction activities

The outside party shall provide all construction methodologies relating to the works that may import risks onto the operational railway and potential disruption to railway services, the assets and the infrastructure for acceptance prior to commencing the works. All works must also be risk assessed to avoid disruptions to the operational railway. Existing railway infrastructures including embankment and bridges should not be loaded with additional surcharge from the proposed development unless the agreement is reached with Network Rail. Increased surcharge on railway embankment imports a risk of instability of the ground which can cause the settlement on Network Rail infrastructure (Overhead Line Equipment/ gantries, track, embankment, boundary fence, etc.). All works, both temporary and permanent, should be designed and constructed, so that they will have no influence on the stability of Network Rail's existing infrastructure.

5. Proximity of the development to the Network Rail infrastructure and boundary fence and adequate space for future maintenance of the development

It is recommended that all works be situated at least 3 metres from Network Rail's boundary fence, to allow construction and any future maintenance work to be carried out without involving entry or encroachment onto Network Rail's land. Where trees exist on Network Rail land, design of any foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

6. Encroachment on the boundary fence, interference with sensitive equipment, space for inspection and maintenance of the railway infrastructure

The developer / designer must ensure that the development line is set back from the Network Rail fence line to achieve a sufficient gap / space to inspect and maintain Network Rail fence line and provide an access for inspection and maintenance of the proposed development or other assets in the future without imposing any risks to the operational railway. This would normally be 2-5m from the boundary fence depending on the adjacent Network Rail assets or boundary fence.

7. Collapse of structural temporary works elements on to Network Rail assets and property

Where, in the temporary condition, structural collapse of any temporary works which may be constructed which would include scaffolding and access towers could result in any element falling within 3m of the railway boundary or a Network Rail asset.

8. Collapse of lifting equipment adjacent to the boundary fence/line

Operation of mobile cranes should comply with CPA Good Practice Guide 'Requirements for Mobile Cranes alongside Railways Controlled by Network Rail'. Operation of a Tower Crane should also comply with CPA Good Practice Guide 'Requirements for Tower Cranes alongside Railways Controlled by Network Rail'. Operation of Piling Rig should comply with Network Rail standard 'NR-L3-INI-CP0063 - Piling adjacent to the running line'. Collapse radius of the cranes should not fall within 4m from the railway boundary unless possession and isolation on Network Rail lines have been arranged or agreed with Network Rail.

9. Piling adjacent to the railway infrastructure. Issues with ground movement affecting the track geometry and surrounding ground and structure stability

The developer must ensure that any piling work near or adjacent to the railway does not cause an operational hazard to Network Rail's infrastructure. Impact/Driven piling scheme for a development near or adjacent to Network Rail's operational infrastructure needs to be

avoided, due to the risk of a major track fault occurring. No vibro-compaction/displacement piling plant shall be used in development.

10. Effects of development on Biodiversity

The outside party shall consider the effects of their proposed works on the environment in close proximity to Network Rail land, such as effects on protected birds, invasive plants and protected trees.

11. Structural stability and movement of Network Rail Assets which will affect the Track Support Zone

Please also note that the 'track support zone' is defined in Network Rail standard 'NR/L2/CIV/177. Monitoring track over or adjacent to building or civil engineering works 'and any proposal which may require works to be conducted within this zone must be identified by the outside party and subsequent consultation with Network Rail must take place. Should criteria be met within this standard, a track monitoring plan will have to be agreed with Network Rail to ensure that movement, settlement, can't, twist, vibration etc. are mitigated the risk to the operational railway.

12. Contact Asset Protection

Network Rail strongly recommends the developer contacts the Asset Protection Team on AngliaASPROLandClearances@networkrail.co.uk prior to any works commencing on site, and also to agree an Asset Protection Agreement with us to enable approval of detailed works. More information can also be obtained from <https://www.networkrail.co.uk/running.the.railway/looking.after.the.railway/asset.protection.and.optimisation/>

13. Flood Risk Activity Permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)

- on or within 8 metres of a flood defence structure or culvert (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission.

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422549. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

14. Storage of materials

The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence.

Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>.

15. Obstruction of public highway land:

It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their

permission and requirements before construction works commence. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>.

16. Road Deposits:

It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx>.

17. Construction standards for works within the highway

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements.

Further information is available via the website:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

18. Section 106 Agreement - Travel Plan:

i) An approved Travel Plan at least 2 months before first use of the development, consisting of a written agreement with the County Council which sets out a scheme to encourage, regulate, and promote sustainable travel measures for owners, occupiers, customers, staff and other visitors to the Development in accordance with the provisions of the County Council's 'Travel Plan Guidance for Business and Residential Development'.

ii) The Travel Plan is subject to an 'evaluation and support contribution' totalling £6,000 (index linked by RPI from March 2014), payable before first occupation of the development. This contribution is to cover the County Council's costs of administering and monitoring the objectives of the Travel Plan and engaging in any Travel Plan Review. The applicant's attention is drawn to Hertfordshire County Council's guidance on residential/commercial Travel Plans.

iii) A Travel Plan Remedial Measures Notice clause with the Legal Agreement, enabling the County Council to serve notice in writing on the Owner via the Travel Plan Co-ordinator where the Owner has failed to meet one or more of the targets identified in the Travel Plan, and specifying the remedial measures and/or actions required to be taken by the Owner to remedy the failed implementation towards the agreed targets with a reasonable time provision.

iv) Local Employment and Training Strategy

19. Adverts

This permission and the content of the approved plans does not convey any consent which may be required under Town and Country Planning (Control of Advertisements) (England) Regulations

2007. Any advertisement will require separate advertisement consent.

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.

Background Papers

The application submission and all relevant papers are published on the Council's website and can be made available by arrangement at the Council's offices in Hertford.