

DEVELOPMENT MANAGEMENT COMMITTEE – 13 AUGUST 2025

Application Number	3/24/2147/VAR
Proposal	Variation of Condition 53 (Approved Plans) of planning permission: 3/23/2034/VAR (Dated: 15/10/2024), as amended by planning reference: 3/23/1863/NMA, for a hybrid planning application comprising: Full planning permission for residential dwellings, up to 420 sqm for a gymnasium (Class E(d)), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of employment floorspace (Use Class E(g)(iii)), car parking, landscaping and associated works (all matters reserved except access). Proposed amendments to include: creation of 65 additional dwellings through utilising and extending roof spaces across all apartment buildings, relocation of residents gym from Building G to Building B, creation of 2 additional dwellings in Building G, loss of 1 dwelling in Building B, changes to internal layouts of apartment buildings, external elevation alterations to apartment buildings, amendments to landscaping and amendments to parking layout
Location	Land East Of Marshgate Drive (HERT2), Hertford, SG13 7AQ
Parish	Hertford
Ward	Hertford Kingsmead

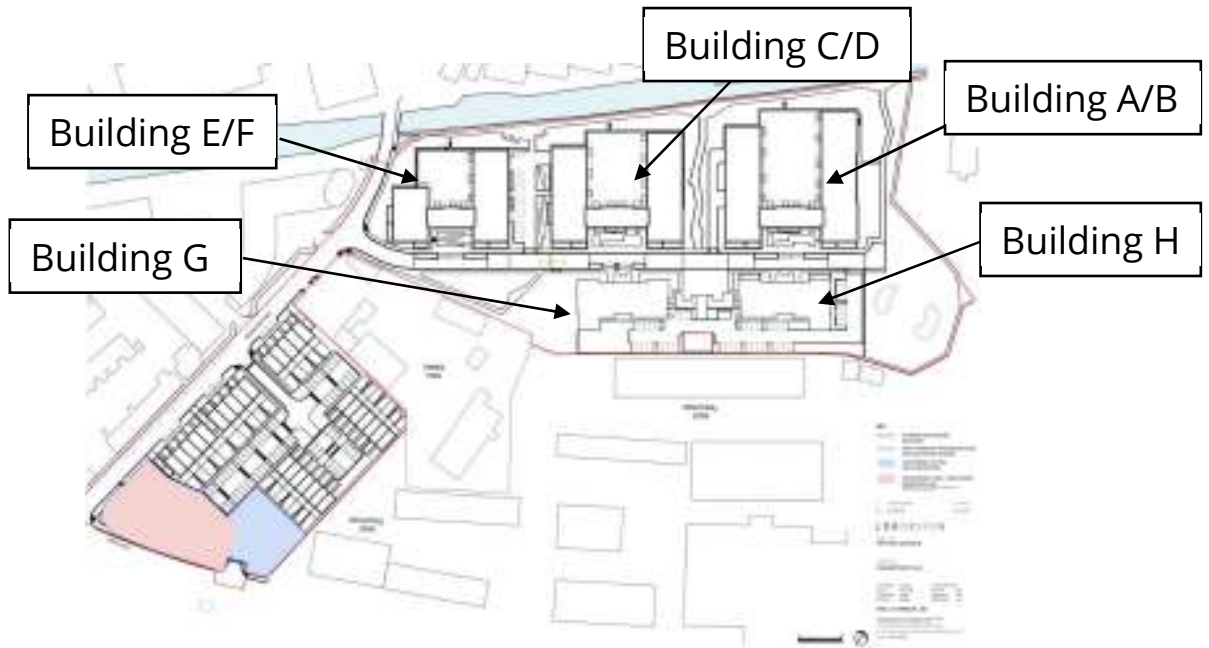
Date of Registration of Application	3 December 2024
Target Determination Date	4 March 2025
Reason for Committee Report	Application has been called in by Councillor Carl Brittain, as the scheme includes a significant uplift in the number of proposed dwellings.
Case Officer	James Mead

RECOMMENDATION

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

1.0 Summary of Proposal and Main Issues

- 1.1 This application is made under Section 73 of the Town and Country Planning Act (1990) (as amended) (the Act) and proposes to amend an existing planning permission for redevelopment of Land East of Marshgate Drive (HERT2).
- 1.2 Planning permission for the erection of 375 dwellings and the provision of 2,200 square metres of employment space was granted on the application site at appeal in 2020 (LPA reference: 3/18/2465/OUT) (appeal reference: APP/J1915/W/19/3234842). This was a hybrid planning application, with full planning permission granted for the residential element of the scheme and outline planning permission granted for the employment space. The Parameter Plan for that application is provided below. From this plan, it is evident that 5 x apartment blocks were intended to be constructed on the northern part of the site, with houses proposed on the southern parcel. The employment floor space was intended to be supplied along the southern boundary in the areas highlighted in the pink and blue colours.



- 1.3 The original scheme was subsequently amended in 2024 through a Section 73 application, with a new planning permission granted (reference: 3/23/2034/VAR). This 2023 variation application allowed the creation of an additional 5 dwellings and also included other alterations to the design and layout of the scheme. Further details of the original application and the 2023 variation application can be found in Section 3 of this report (Planning History).
- 1.4 This current application is the second Section 73 submission on the site that proposes to amend the scheme. Applications under Section 73 of the Act can be used to make a material amendment to an existing planning permission by varying the wording of planning conditions, or by removing planning conditions. Any consent granted under Section 73 of the Act takes the form of a new, updated planning permission, which sits alongside the original planning permission. In this current case, the application seeks to vary condition 53 (approved plans) of reference: 3/23/2034/VAR, so to enable changes to the approved plans of this most recent planning permission. Changes are only proposed to the northern part of the site, where the apartment blocks are intended to be delivered. The changes proposed include:

- Extension, conversion and alteration to the roofs of all the apartment buildings, so to enable the creation of 65 additional dwellings.
- Re-location of residents gym to Building A/B.
- Creation of 2 additional dwellings in Building G.
- Loss of 1 dwelling in Building A/B.
- Internal reconfiguration and alterations to all buildings.
- External alterations to all buildings, including addition of new balconies, changes to fenestration, re-location of parking entrances and amendments to podiums.
- Amendments to landscaping, including re-location of play provision, changes to hard landscaping and alterations to soft landscaping.
- Amendments to parking layout and increased parking provision.

1.5 These proposed amendments would increase the total housing delivery on the site to 446 dwellings. The applicant has prepared this application to increase the quantum of development on the site, in order to make the development more deliverable, noting that the former approval is no longer a viable development. Further amendments to the scheme have been proposed to rationalise the internal ground floor layouts, parking areas and public realm, whilst maintaining the overall high level of landscaping and similar design of the buildings.

1.6 The table below identifies the number of dwellings provided through the three separate applications.

LPA Reference	No. of Dwellings
3/18/2465/OUT	375
3/23/2034/VAR	5
3/24/2147/VAR (current application)	66
Total	446

1.7 The 66 dwellings proposed through this current application would be provided as one-bedroom and two-bedroom flats. The scheme

would deliver an additional 42 one-bedroom flats and 24 two-bedroom flats. The table below shows the overall housing mix that would be supplied through the full development. It is clear from this table that the amended scheme would continue to deliver a high proportion of one-bedroom and two-bedroom flats.

Property Type	No. of Units
One-Bedroom Flat	178
Two-Bedroom Flat	239
Three-Bedroom House	14
Four-Bedroom House	15

- 1.8 It is not proposed to deliver an uplift in affordable housing on the site, due to viability constraints, as discussed later in this report. Therefore, the applicant intends that in total the development would continue to provide 56 affordable dwellings. This equates to 13% affordable housing.
- 1.9 The application documents and plans submitted for approval are listed below. All of which have been considered in the preparation of this report.

Drawing Title	Drawing Number
Parameters Plan	W408-LDA-PR-XX-GA-010-102 Revision P2
Illustrative Landscape Masterplan	W408-LDA-PR-XX-GA-010-000 Revision P14
Illustrative Landscape Masterplan – Ground Floor	W408-LDA-PR-XX-GA-010-1000 Revision P6
Illustrative Landscape Masterplan – First Floor	W408-LDA-PR-XX-GA-010-1001 Revision P5
Site Wide General Arrangements Master Key	W408-LDA-PR-XX-GA-020-101 Revision P6
Building A-B L00 – Ground Floor Plan	W408-INT-A-00-DR-K-880-100 Revision P-01
Building A-B L01 – First Floor Plan	W408-INT-A-01-DR-K-880-101 Revision P-01
Building A-B	W408-INT-A-02-DR-K-880-102

L02 – Second Floor Plan	Revision P-01
Building A-B L03 – Third Floor Plan	W408-INT-A-03-DR-K-880-103 Revision P-01
Building A-B L04 – Fourth Floor Plan	W408-INT-A-04-DR-K-880-104 Revision P-01
Building A-B L05 – Fifth Floor Plan	W408-INT-A-05-DR-K-880-105 Revision P-03
Building A-B Roof Plan	W408-INT-A-06-DR-K-880-106 Revision P-03
Building C-D L00 – Ground Floor Plan	W408-INT-C-00-DR-K-880-107 Revision P-01
Building C-D L01 – First Floor Plan	W408-INT-C-01-DR-K-880-108 Revision P-01
Building C-D L02 – Second Floor Plan	W408-INT-C-02-DR-K-880-109 Revision P-01
Building C-D L03 – Third Floor Plan	W408-INT-C-03-DR-K-880-110 Revision P-01
Building C-D L04 – Fourth Floor Plan	W408-INT-C-04-DR-K-880-111 Revision P-01
Building C-D L05 – Fifth Floor Plan	W408-INT-C-05-DR-K-880-112 Revision P-03
Building C-D Roof Plan	W408-INT-C-05-DR-K-880-113 Revision P-02
Building E-F L00 – Ground Floor Plan	W408-INT-C-00-DR-K-880-114 Revision P-02
Building E-F L01 – First Floor Plan	W408-INT-C-01-DR-K-880-115 Revision P-01
Building E-F L02 – Second Floor Plan	W408-INT-C-02-DR-K-880-116 Revision P-01
Building E-F L03 – Third Floor Plan	W408-INT-C-03-DR-K-880-117 Revision P-01
Building E-F L04 – Fourth Floor Plan	W408-INT-C-04-DR-K-880-118 Revision P-01
Building E-F L05 – Fifth Floor Plan	W408-INT-C-05-DR-K-880-119 Revision P-03
Building E-F Roof Plan	W408-INT-E-05-DR-K-880-120 Revision P-04
Building G-H	W408-INT-G-00-DR-K-880-121

L00 – Ground Floor Plan	Revision P-01
Building G-H L01 – First Floor Plan	W408-INT-G-01-DR-K-880-122 Revision P-01
Building G-H L02 – Second Floor Plan	W408-INT-G-02-DR-K-880-123 Revision P-01
Building G-H L03 – Third Floor Plan	W408-INT-G-03-DR-K-880-124 Revision P-01
Building G-H L04 – Fourth Floor Plan	W408-INT-G-04-DR-K-880-125 Revision P-02
Building G-H Roof Plan	W408-INT-G-05-DR-K-880-126 Revision P-03
Building A-B Street Elevation Canal Elevation	W408-INT-A-XX-DR-K-880-200 Revision P-02
Building A-B East Elevation West Elevation	W408-INT-A-XX-DR-K-880-201 Revision P-03
Building A-B Internal Elevations	W408-INT-A-XX-DR-K-880-202 Revision P-03
Building C-D Street Elevation Canal Elevation	W408-INT-A-XX-DR-K-880-203 Revision P-03
Building C-D East Elevation West Elevation	W408-INT-A-XX-DR-K-880-204 Revision P-03
Building C-D Internal Elevations	W408-INT-A-XX-DR-K-880-205 Revision P-04
Building E-F Street Elevation Canal Elevation	W408-INT-A-XX-DR-K-880-206 Revision P-03
Building E-F East Elevation West Elevation	W408-INT-A-XX-DR-K-880-207 Revision P-03
Building E-F Internal Elevations	W408-INT-A-XX-DR-K-880-208 Revision P-03
Building G Front and Rear Elevations	W408-INT-A-XX-DR-K-880-209 Revision P-01
Building G Side Elevations	W408-INT-A-XX-DR-K-880-210 Revision P-03
Building H Front and Rear Elevations	W408-INT-H-XX-DR-K-880-211 Revision P-04

Building H Side Elevations	W408-INT-A-XX-DR-K-880-212 Revision P-02
3 Bedroom House 4 Bedroom House	2017.00485_PL_510 Revision A
Southern Parcel 4 Bedroom Houses Elevations	2017.00485_PL_230 Revision A
Southern Parcel 3 Bedroom Houses Elevations	2017.00485_PL_231 Revision A
Southern Parcel Houses Entrance Floor Plan	2017.00485_PL_104.0
Building A-F Site Sections	W408-INT-ZZ-XX-DR-K-880-1000 Revision P-03
Building G-H Site Sections Cross Sections	W408-INT-ZZ-XX-DR-K-880-1001 Revision P-03
Site Sections Cross Sections With Canal	W408-INT-ZZ-XX-DR-K-880-1002 Revision P-03
Tree Planting Strategy – Main Site Sheet 3 of 7	W408-LDA-PR-XX-DR-010-504 Revision P7
Tree Planting Strategy – Main Site Sheet 4 of 7	W408-LDA-PR-XX-DR-010-505 Revision P8
Proposed Site Plan and Mooring Distances	2017.00485_PL_016
Balcony Strategy	2017.00485_PL_506 Revision A

- 1.10 The documents provided in support of the application are listed below. All of which have been considered in the preparation of this report.

Document
Approved Document O Overheating Assessment Revision B/P02 (Prepared by: Vector Design, Dated: 4 April 2025)
Design and Access Statement Addendum REV B (Prepared by: St Joseph Homes Ltd, Dated: 14 May 2025)
Draft Residential Travel Plan (Prepared by: SLR, Dated: 15 November 2024)
Drainage Strategy Report Rev P04 (Prepared by: Davies Maguire, Dated: 29 April 2025)

FRA Addendum Technical Note (Prepared by: JNP Group, Dated: 1 May 2025)
FRA Technical Note (Prepared by: JNP Group, Dated: 6 June 2025)
Internal Daylight and Sunlight Report (Prepared by: GIA, Dated: 13 March 2025)
Planning Statement (Prepared by: St Joseph Homes Limited, Dated: November 2024)
Stage 2 Fire Strategy (Prepared by: Rider Levett Bucknall, Dated: 15 November 2024)
Sustainability Checklist (Prepared by: Synergie Environ Ltd)
Sustainability Statement (Prepared by: Synergie Environ, Dated: November 2024)
Transport Assessment (Prepared by: SLR, Dated: 25 July 2025)
Viability Report (Prepared by: St Joseph Homes, Dated: December 2024)

1.11 The main issues for consideration relate to the principal changes to the development, with the overall principle of the development being established previously. The key issues are:

- Principle of Amending the 'Extant Planning Permission';
- Amended Housing Mix, Site Wide Affordable Housing and Viability;
- Amended Scheme Design, Layout and Scale;
- Impact on Heritage Assets;
- Neighbouring Amenity;
- Transport, Highways and Parking;
- Flooding and Drainage;
- Biodiversity and Ecology;
- Energy Efficiency and Climate Change;
- Infrastructure Requirements; and
- Other Matters

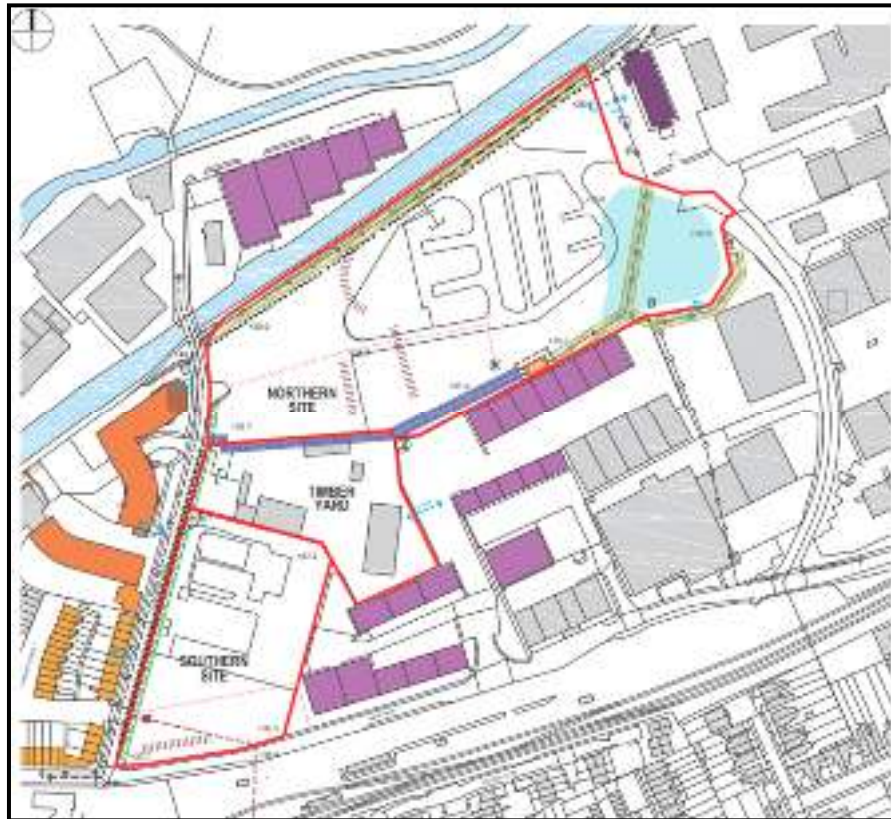
2.0 Site Description

2.1 The application site encompasses two parcels of vacant brownfield land measuring approximately 3.48 hectares in area, together with part of the carriageway of Marshgate Drive. This vacant land was a

former gas works site, however was cleared a number of years ago and remains disused. Between the two parcels of land there is an operational timber yard, which is outside the current application site boundary.

- 2.2 This land sits on the eastern side of Marshgate Drive and to the north of Mead Lane. There are historic accesses into the site from Marshgate Drive. The immediate setting is mixed in character, with modern apartment blocks at Smeaton Court and more traditional terraced properties on Marshgate Drive and Spencer Street neighbouring to the west. Whereas, to the east and south-east there is a designated employment area at Mead Lane, which is predominantly made up of a mix of industrial and commercial uses.
- 2.3 The site is located close to the centre of Hertford. To the south-west is the Hertford Town Centre, where there is a range of services, facilities and amenities. There is also a Tesco Superstore present a short distance to the south of the site. In addition, Hertford East Railway Station is situated to the south-west and offers train services to London. Bus stops are available on Mill Road and Claud Hamilton Way, which are again to the south-west, and these provide access to bus services. The Hertford Bus Station is found within the Hertford Town Centre and is accessible by foot or cycling.
- 2.4 Directly beyond the northern site boundary is the River Lee Navigation and the towpath that runs alongside the river. On the opposite side of the river there are permanent houseboat moorings, as well as industrial and commercial uses. The towpath runs in a south-westward and north-eastward direction along the northern site boundary. To the west and south-west the towpath connects to Hertford Town Centre, as well as Hartham Common. Whereas, to the north-east the towpath provides access to the playing fields and open space at the Meads, while also offering a cycling route to Ware.

- 2.5 Flood Zones 2 and 3 extend over the eastern side of the northern parcel of the HERT2 site, while a small part of the southern parcel is also within these flood zones. The Hertford Conservation Area is situated a short distance to the south and west, however the site is outside the boundary of this designated heritage asset. There are some listed buildings and structures in the vicinity, including the grade II listed Hertford East Railway Station and the associated grade II listed buffer lights.
- 2.6 The application site, together with the adjacent timber yard, form a site allocation in the East Herts District Plan (2018) known as HERT2 'Mead Lane Area'. The District Plan allocates the full HERT2 site for the provision of around 200 homes, as part of a mixed-use development. A Masterplan Framework was prepared for HERT2, in order to guide any redevelopment proposals of the site. This Masterplan Framework was approved as a material consideration for development management purposes in late 2018. The image on the following page is from the Masterplan and shows the northern and southern parcels, as well as the timber yard.



3.0 Planning History

3.1 The following planning history on the application site is of relevance to this proposal:

Application Number	Proposal	Decision	Date
3/23/2034/VAR	Variation of Condition 53 (approved plans) of planning permission: 3/18/2465/OUT, allowed on appeal APP/J1915/W/19/3234 842 as amended by planning ref: 3/23/1863/NMA for Hybrid planning	Granted with conditions.	15 October 2024

	<p>application comprising: Full planning permission for residential dwellings, up to 420 sqm for a gymnasium (Class E(d)), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of employment floorspace (Use Class E(g)(iii)), car parking, landscaping and associated works (all matters reserved except access). - Proposed amendments to comprise reduction in gym floorspace from 420 square metres to 123 square metres and creation of 5 no. additional flats (use class C3). Improvements to proposed Green</p>		
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	Infrastructure comprising revisions to landscaping scheme to include additional terraces, alterations to hard/soft landscaping and addition of new trees, replacement of gas boilers with Air Source Heat Pumps, increase in the number of EV charging points by 10% and updates to the Active Travel Strategy.		
3/23/1863/NMA	A non-material amendment to 3/18/2465/OUT (allowed on Appeal (with conditions): APP/J1915/W/19/3234 842): To amend description of development, omitting reference to the number of residential dwellings; to amend the commercial floor space size and to update commercial use classes.	Granted.	7 November 2023
3/18/2465/OUT	Hybrid planning application comprising: Full planning permission	Refused	

	<p>for 375 residential dwellings (comprising 29 houses and 5 apartment buildings for 346 apartments), 420 sqm for a gymnasium (Class D2 floorspace), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of 2,220 square metres of employment floorspace (Use Class B1c), car parking, landscaping and associated works (all matters reserved except access).</p>	<p>Appeal allowed with conditions.</p>	<p>Refused: 18 July 2019</p> <p>Appeal allowed: 18 March 2020</p>
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3/18/2465/OUT

- 3.2 In late 2018, a hybrid planning application was submitted on part of the HERT2 site. This application covered the northern and southern parcels of HERT2 (current application site), however excluded the land used as the timber yard. This application sought full planning permission for the erection of 375 dwellings (346 flats

and 29 houses), together with gymnasium floorspace, co-working space, car parking, cycle parking, open space, landscaping, an internal access road and improvements to Marshgate Drive. In addition, outline planning permission, with all matters reserved except access, was sought for the provision of 2,200 square metres of employment floor space with associated parking and landscaping. The Landscape Masterplan for this application is shown below.



- 3.3 The Landscape Masterplan for the original scheme shows that there would be 5 apartment blocks on the northern parcel, which would have accommodated 346 flats. A new vehicular access into the northern parcel was proposed from Marshgate Drive, with an internal access road running eastward into the site. A bus turning head was also intended to be provided centrally within the parcel, so to allow a bus to route into the site in the future, should a bus service become a viable proposition. Parking areas were proposed to be created at the ground floor level of the apartment blocks, with street parking supplied adjacent to Buildings E/F, G and H.
- 3.4 Three pedestrian/cycle connections were proposed between the northern apartment blocks, with these routes running northwards from the internal access road to join the towpath. Considerable areas of open and green space were proposed, with a locally equipped area of play (LEAP) also intended to be delivered on the western side and other areas of play spread across the wider northern parcel. Private communal amenity spaces were proposed to be provided within the podiums of Buildings A – F.
- 3.5 The southern parcel was intended to accommodate 29 houses, with these dwellings provided in rows of terraces. Some of these houses would front onto Marshgate Drive, while others were positioned at a set-back location from the highway. A new vehicular access into the southern parcel from Marshgate Drive was proposed. A communal parking area was intended to be provided centrally within the southern parcel. The employment floor space was proposed to be delivered at the southernmost part of the site, with a new vehicular access created from Mead Lane and a separate parking area provided.
- 3.6 It was accepted through the course of this application that the scheme was constrained in terms of viability. Therefore, it was not viable to deliver a policy compliant level of on-site affordable housing (40% affordable housing). Following viability discussions, the applicant offered 56 shared ownership flats, which represented

15% affordable housing. These affordable units were proposed to be delivered in Buildings G and H.

3.7 This application was refused by the Council in 2019 on 11 grounds. This decision was subsequently appealed by the applicant, with an inquiry held in late 2019. The Planning Inspector dealing with the appeal deemed that there were 6 main issues to consider, as listed below:

- The employment floorspace provision and deliverability.
- The design quality.
- The impact on the living conditions of residents residing in canal boats.
- Highway capacity, the effect on bus services and the level of car parking.
- The size of the development, in the context of District Plan Policy.
- Potential to prejudice the regeneration of the full allocated site.

3.8 Shortly after the inquiry, in early 2020, the appeal decision was issued, with the Planning Inspectorate allowing the appeal, subject to conditions and a S106 Legal Agreement. The Legal Agreement required the applicant to provide the 56 shared ownership units, whilst also securing financial contributions towards sustainable transport, highway improvements, education and community facilities. In reaching the decision on the appeal, the Inspector drew a number of key conclusions on the above matters.

3.9 Firstly, the Inspector deemed that the full hybrid planning application would have provided sufficient employment floorspace, in the context of Policy HERT2 of the District Plan, and that the employment development would have been deliverable. It was also determined that the proposals would not have prejudiced delivery of the overall site allocation. Furthermore, the Inspector noted that the development would have represented good design, whilst not harming the living conditions of the residents occupying the canal boats. The Inspector also considered detailed traffic modelling,

together with technical highway capacity evidence, and concluded that the development would not have generated such a level of vehicular trips to result in a severe impact, in terms of free flow of traffic at key junctions. Following on from this, it was determined that the reliability of bus services would not have been compromised, and the development would not have resulted in excessive displacement of car parking onto the wider road network.

- 3.10 The Inspector did note that the HERT2 site was identified for the provision of 'around 200 homes' in the District Plan and that the appeal scheme, supplying 375 dwellings, would have represented a material increase in housing delivery above the allocation. Therefore, the Inspector did accept that there was some non-compliance with the District Plan. However, in light of the conclusions on highway capacity, the Inspector saw no reason to limit the scale of the development on the site to just 200 units, and therefore deemed that the appeal scheme would not have been excessive in terms of the quantum or scale of development.
- 3.11 After the conclusion of the appeal, the applicant begun work on discharging the relevant pre-commencement conditions. These pre-commencement conditions were subsequently discharged in full and works were commenced on the residential element of the appeal scheme in June 2021. By March 2022, piling work had been undertaken and the ground floor slab was completed. However, it is understood that all works stopped in April 2022, with the applicant citing increasing build costs and poor sales as the main reasons for ceasing building operations. Works have not restarted on site since ceasing in April 2022. Whilst this recent history is noted, the lawful commencement of works on site means that the full planning permission for the residential part of the development remains extant and could be resumed at any time. On the other hand, the outline planning permission covering the employment part of the appeal scheme was not commenced. This outline permission has now expired, and therefore cannot be implemented.

3/23/1863/NMA

3.12 In 2023, a non-material amendment application was submitted on the site under Section 96a of the Act. This proposed to amend the description of the appeal scheme (reference: 3/18/2465/OUT) to omit the number of dwellings, alter the amount of commercial floorspace and update the commercial use classes. This non-material amendment was granted in late 2023 and the amended description authorised through that approval is provided below:

- Hybrid planning application comprising: Full planning permission for residential dwellings, up to 420 sqm for a gymnasium (Class E(d)), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of employment floorspace (Use Class E(g)(iii)), car parking, landscaping and associated works (all matters reserved except access).

3/23/2034/VAR

3.13 Shortly after this, a Section 73 application was submitted on the site under reference: 3/23/2034/VAR and this proposed to make changes to the appeal scheme. This application sought to vary condition 53 (approved plans) of reference: 3/18/2465/OUT, so to enable several amendments to the approved plans. These alterations are listed below:

- Reduction in floorspace of gym.
- Addition of 5 dwellings to Building G.
- Addition of parking spaces adjacent to Building C/D.
- Alteration to soft landscaping proposals.
- Introduction of air source heat pumps for Buildings G and H.
- Increase in electric vehicle charging points.

3.14 This application was approved, subject to conditions and a supplementary S106 Legal Agreement. This Legal Agreement secured uplifted financial contributions towards sustainable transport, education and community facilities, so to cover the net increase of 5 dwellings through this Section 73 application. The consent granted under reference: 3/23/2034/VAR is the most recent planning permission on the site.

4.0 **Main Policy Issues**

4.1 The main policy considerations relate to the relevant policies within the National Planning Policy Framework (2024) (NPPF) and the adopted East Herts District Plan (2018) (DP).

Main Issue	NPPF	DP Policy
Principle of Development	Section 2, Section 4, Section 5, Section 11	INT1, DPS1, DPS2, DPS3, HERT1, HERT2, DES1
Delivery of Housing and Housing Type / Mix	Section 2, Section 5, Section 11	DPS3, HERT2, HOU1, HOU3
Community Facilities and Social Infrastructure	Section 8, Section 10, Section 12	HERT2, DES1, CFLR1, CFLR7, CFLR9, CFLR10, DEL1, DEL2
Scale, Layout and Design Quality	Section 8, Section 11, Section 12	HERT2, HOU2, HOU7, DES1, DES3, DES4, DES5, HA1, HA4
Transport	Section 9, Section 11, Section 12	HERT2, TRA1, TRA2, TRA3, CFLR3, DEL1, DEL2
Heritage Assets	Section 12, Section 16	HERT2, HA1, HA2, HA3, HA4, HA7
Sustainability and Climate Change	Section 12, Section 14	CC1, CC2, WAT4, EQ4
Trees, Biodiversity and Ecology	Section 12, Section 15	HERT2, DES3, DES4, NE1, NE2, NE3, NE4
Flood Risk and Drainage	Section 12, Section 14	HERT2, WAT1, WAT2, WAT3, WAT5, WAT6

Land Contamination, Noise Pollution, Air Pollution and Light Pollution	Section 12, Section 15,	HERT2, DES4, EQ1, EQ2, EQ3, EQ4
Neighbour Amenity	Section 12	DES4, EQ2, EQ3

4.2 The site is located within the Hertford Kingsmead Ward, which is covered by the adopted Kingsmead Neighbourhood Plan (KNP). However, the designated Neighbourhood Plan Area excludes the application site. Therefore, the KNP is not a relevant development plan document for the purposes of this application.

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

5.0 Equality Act 2010

5.1 Section 149 of the Equality Act (2010) confirms that a Public Sector Equality Duty (PSED) came into force in April 2011 and this requires the Council to consider the equality impacts on all protected groups when exercising its functions. In the case of planning, equality 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 referred to in this committee report have all been subject to an Equalities Impact Assessment (EqIA), and 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.

6.0 Summary of Consultee Responses

Note: East Herts District Council (EHDC) and Hertfordshire County Council (HCC).

6.1 All the comments received from consultees have been fully considered in the preparation of this report.

- 6.2 HCC Highway Authority: Do not wish to restrict the grant of permission, subject to conditions regarding: details of access arrangements, provision of visibility splays, closure of existing accesses, details of hard surfacing materials, details of electric vehicle charging points, details of cycle storage, details of improvement works to Marshgate Drive, details of improvement works to Marshgate Drive/Mead Lane junction, details of off-site pedestrian crossovers and a Construction Management Plan.
- 6.3 In addition, the following planning obligations are requested as part of a Section 106 Agreement: a sustainable, accessible and active travel financial contribution of £640,999 (index linked by SPONS from March 2023) and a travel plan, including enhanced travel vouchers for each dwelling of £500 per dwelling (index linked by RPI from May 2014) and a travel plan remedial measures notice clause.
- 6.4 This consultee outlines that the access arrangements, internal highway layouts and off-site highway works remain largely unchanged. It is noted that the accesses would provide suitable visibility splays, while tracking has also previously been submitted to demonstrate that the accesses can accommodate the relevant vehicles. Internally, the Highway Authority notes that a bus turning area is proposed off the spine road. This spine road could potentially be adopted, as and when an extended bus service routes into the development.
- 6.5 The Highway Authority notes that the 2018 application was submitted, and approved, in a different planning/highway policy era, which at the time still had a large focus on accommodating vehicle capacity. It is acknowledged that since this time there have been numerous new policies, which focus on development providing high quality sustainable, accessible and active travel measures and infrastructure. The Highway Authority outlines that this does not mean that highway capacity/congestion is no longer important. Instead, it means that the proposal needs careful consideration, in light of the urgent climate crisis, and should be

assessed on the basis of current highways/planning policies, rather than what was in place in 2018.

- 6.6 This consultee acknowledges that the applicant's Transport Assessment predicts an additional 10 vehicle trips in the morning peak hour and an additional 15 vehicle trips in the evening peak hour, compared to the consented scheme. This increase is based on a new TRICS assessment, which shows that very generally trip rates for developments of this nature have reduced over the past few years. These figures include a reduction in vehicle trip rates of 25%, due to there being a reduction of 25% to parking standards. The Highway Authority has no issue in principle with the TRICS outputs. However, it remains unconvinced over the assumptions which correlate on-site car parking to the reduction in trip generation.
- 6.7 The applicant's recent traffic counts at 5 key locations reveal that there has been morning peak hour increases in all cases. The applicant has largely dismissed this increase. The Highway Authority emphasises that the applicant should understand that it is possible for there to be new homes, employment and growth in a suitable area without an associated increase in vehicle traffic. Therefore, the Highway Authority considers that the focus of this development should be on sustainable, accessible and active travel opportunities. The development needs to demonstrate that it would accommodate the needs of pedestrians, cyclists and public transport first, and the needs of the private motorcar last.
- 6.8 The Highway Authority is disappointed with the parking ratio of around 0.85 spaces per dwelling which they consider would still encourage many residents to own and use a car. As such, HCC considers the parking provisions are only acceptable in this case, if a meaningful sustainable, accessible and active travel contribution is forthcoming towards CIL compliant schemes in accordance with HCC Guidelines. This contribution would go towards the schemes outlined in the original S106 and those set out in these comments (improvement works to Mead Lane level crossing; public realm improvements on Mill Road/Railway Street across the frontage of

Hertford East Station and works at the Mill Road/Railway Street junction; improvement works to the Hertford to Ware canal towpath; and extending/re-routing existing bus services to serve the development).

6.9 The Highway Authority does not wish to object, on the basis of the recommended conditions and S106 contributions being included.

6.10 HCC Growth and Infrastructure: Requests that the following financial contributions are secured via a Section 106 Legal Agreement:

- Primary education contribution of £161,074 (index linked to BCIS 1Q2022);
- Secondary education contribution of £167,267 (which includes land costs of £3,614) (index linked to BCIS 1Q2022);
- Childcare contribution (0 – 2 year olds) of £1,391 (index linked to BCIS 1Q2022);
- Childcare contribution (5 – 11 year olds) of £97 (index linked to BCIS 1Q2022);
- Special educational needs and disabilities contribution of £17,174 (index linked to BCIS 1Q2022);
- Library service contribution of £4,260 (index linked to BCIS 1Q2022);
- Youth service contribution of £1,613 (index linked to BCIS 1Q2022);
- Waste service recycling centre contribution of £9,506 (index linked to BCIS 1Q2022);
- Waste service transfer station contribution of £6,958 (index linked to BCIS 3Q2022);
- Fire and rescue service contribution of £25,119 (index linked to BCIS 1Q2022); and
- Monitoring fee – based on the number of triggers within each legal agreement with each distinct trigger point attracting a charge of £340 (adjusted for inflation against RPI July 2021)

- 6.11 HCC Historic Environment: No comments to make, as archaeological investigations have already been carried out at this development site via the conditions placed on the original consent.
- 6.12 HCC Local Lead Flood Authority (LLFA): No objections, subject to an informative regarding drainage calculations and review of condition 9 of the original consent.
- 6.13 The LLFA initially objected to the application as the updated Drainage Strategy Report included discrepancies between the revised drainage layout and the drainage calculations. However, following submission of a further updated Drainage Strategy Report these discrepancies were addressed.
- 6.14 HCC Ecology: No objections.
- 6.15 The changes will not have any direct ecological consequences. The Planning Statement notes that there would be a 59.8% biodiversity net gain, however this cannot be confirmed without submission of the metric.
- 6.16 EHDC Conservation and Design: Raises concerns that some of the issues raised during the application process have not been fully addressed. The Design Officer recommends further improvements should be secured, but does not seek to raise objection.
- 6.17 The Design Officer considers that the rooftop additions and re-configured fenestration affects the visual rhythm and composition of the elevations, compared to the consented scheme. The increased massing is considered to have implications from key viewpoints, with the rooftop units and associated inset terraces, introducing visual clutter.
- 6.18 This consultee raises concerns over the provision of rooflights instead of conventional windows, outlook from within, daylight/sunlight levels within the upper floor flats, ventilation and quality of view. The Design Officer considers inset terraces would benefit from glazed cheeks. The Design Officer has come concerns

over the usability of the roof level flats (with sloped ceilings) and number of single aspect units.

- 6.19 The Design Officer does not support the reduced sizes of the residential lobbies. It is advised that the rooflights should be easily maintainable and reversible, therefore a condition is recommended.
- 6.20 The Design Officer considers the revised scheme does not improve upon the approved landscaping scheme and raises concerns about the additional car parking spaces within the public realm, where these are provided at the expense of landscaping. Further improvements have been suggested but have not been included in the scheme. Overall, the Design Officer considers there are missed opportunities to improve or enhance the approved landscaping scheme.
- 6.21 This consultee outlines that the proposal does not provide enhancements to play spaces, seating or SUDs. It is suggested that the eastern play space should incorporate furniture, play equipment and naturalised SUDs. An accessible and inclusive connection between the eastern park and the towpath was recommended, however this was not taken forward by the applicant.
- 6.22 The Design Officer considers that the cycle stores are in less favourable parts of the ground floor than the approved scheme. The Design Officer considers the preferred locations should be closer to the entrances adjacent to the internal site spine road.
- 6.23 EHDC Environmental Health (Air Quality and Contamination): Do not wish to restrict the grant of permission.
- 6.24 EHDC Environmental Health (Noise and Nuisance): Recommends a condition securing a Noise Impact Assessment.
- 6.25 Confirmation is required to ensure that the noise from adjoining industrial uses would not have a detrimental impact on the

proposed additional 66 flats. The internal noise levels set out in previous acoustic reports should be met.

- 6.26 EHDC Housing: Advice is provided.
- 6.27 The applicant is seeking to increase the number of homes by 66 units. An affordable housing contribution of 40% is required, which equates to 26 dwellings. Within the overall affordable housing provision, a tenure split of 84% rented and 16% intermediate (shared ownership) is required. This equates to 22 dwellings for affordable rent and 4 homes for shared ownership. Should a 40% affordable housing contribution be secured on the additional units, in line with the tenure split, then the overall scheme would deliver 18% affordable housing, with a tenure split of 27% affordable rent and 73% shared ownership. In these circumstances, a rebalance of the tenure split would be welcomed, with an increase in affordable rent units proposed. It is disappointing that the development is entirely flatted, when there is a pressing need for family-sized units.
- 6.28 The S106 should secure: rents (including service charges) within local housing allowance rates for this broad market rental area, shared ownership rents set at a maximum of 2.75% of unsold equity and shared ownership leases in the form of Homes England Model shared ownership lease.
- 6.29 There is an evidenced need for 15% of affordable homes to meet M4(3) standard and wherever possible M4(3) dwellings should have secure outside spaces. Market and affordable units should be in separate blocks and not mixed. Wherever possible rented units should be in a separate block from any shared ownership flats, as RPs are not keen on mixed tenure blocks. The affordable homes should be owned and managed by an RP. The RP will be required to enter into a nomination agreement, secured in the S106.
- 6.30 An Affordable Housing Statement should be provided including details of: number of affordable units, type/tenure of affordable

units, size of affordable units, proportion of M4(3) units, location of affordable units and layout of affordable units.

6.31 EHDC Landscape: No objections.

6.32 The proposals involve the creation of additional homes within the roof space. As such, there should be no greater impact upon views from the wider townscape. The replacement of planting areas with parking spaces is disappointing. However, overall, on balance, the scheme remains relatively well landscaped.

6.33 EHDC Section 106: Requests that the following financial contributions are secured via a Section 106 Legal Agreement:

- Allotments contribution of £11,672 (payable on identified occupation triggers and RPI indexed from May 2020);
- Children's play and provision for young people contribution of £141,713 (payable on identified occupation triggers and RPI indexed from May 2020);
- Natural and semi-natural green space contribution of £27,390 (payable on identified occupation triggers and RPI indexed from May 2020);
- Parks and gardens and amenity space contribution of £65,061 (payable on identified occupation triggers and RPI indexed from May 2020);
- GP provision contribution of £91,938 (payable on identified occupation triggers and RPI indexed from Date of Resolution);
- Recycling contribution of £5,016 (payable on first occupation of each phase of the development and RPI indexed from October 2008);
- Monitoring fee contribution of £4,800 (provisional figure) (payable prior to commencement of development and RPI indexed from date of resolution);
- Community centres and village hall contribution of £45,729 (payable on identified occupation triggers and RPI indexed from May 2020);
- Fitness gyms contribution of £16,789 (payable on identified occupation triggers and RPI indexed from May 2020);

- Studio space contribution of £6,936 (payable on identified occupation triggers and RPI indexed from May 2020);
- Swimming pool contribution of £38,633 (payable on identified occupation triggers and RPI indexed from May 2020);
- Sports hall contribution of £37,779 (payable on identified occupation triggers and RPI indexed from May 2020);
- Bowls contribution of £15,896 (payable on identified occupation triggers and RPI indexed from May 2020);
- Playing pitches contribution of £34,530 (payable on identified occupation triggers and RPI indexed from May 2020); and
- Outdoor tennis contribution of £10,890 (payable on identified occupation triggers and RPI indexed from May 2020).

6.34 Canal and River Trust (CRT): Recommends conditions securing details of landscaping, details of towpath improvements, details of podium materials, details of lighting, details of drainage proposals, a Landscape and Ecological Management Plan and a Construction and Environmental Management Plan. In addition, CRT requests an uplifted 'Transport Improvement Contribution' as part of the S106. CRT also recommends several informatives relating to works on CRT's land, surface water discharge to the waterway and CRT's Code of Practice.

6.35 The CRT initially raised concerns with the development due to the absence of information relating to landscaping and overshadowing. The initial amended proposals included play provision within the podiums and along the waterway corridor. The proximity of the play equipment to the waterway and increased use would have presented a risk to the safety of users of the waterway and future occupiers of the development. Following the submission of amended plans, which re-locate the play away from the waterway these concerns have been addressed.

6.36 Concerns were raised regarding the lack of detail on the size and design of the podium gardens. The amended plans now indicate that landscaping is proposed adjacent to the buildings and podiums fronting the waterway. The addition of this landscaping is positive, however opportunities to maximise the amount of

bunding, realign steps and add feature brick should be explored. Cross ventilation for the podium decks onto side streets should be maintained to avoid parking grilles on waterside elevations. Further details of landscaping could be addressed via condition.

- 6.37 The lack of an accessible route to the eastern towpath is disappointing and opportunities to re-consider this should be explored. It was previously proposed to widen the towpath to 3 metres, however provision of a 2 metre wider towpath would probably be sufficient.
- 6.38 The Transient Overshadowing Assessment referred to by the applicant has been reviewed. The CRT are satisfied with the assessment of the impact on transient towpath users. However, the Local Planning Authority should consider the impact of the development on the moorings opposite the site.
- 6.39 Environment Agency (EA): No objections, subject to an informative regarding vehicle parking in flood risk areas and possible updates to condition 34 of the original consent.
- 6.40 The EA initially objected to the application, noting that an acceptable Flood Risk Assessment had not been submitted. However, following submission of an updated Drainage Strategy Report, Flood Risk Assessment Addendum and Flood Risk Technical Note these concerns were addressed.
- 6.41 Health and Safety Executive: The buildings do not meet the height condition for 'relevant buildings', and therefore are outside the scope of planning gateway one.
- 6.42 Historic England: No comments to make.
- 6.43 Thames Water: Recommends conditions securing details of foul water capacity/upgrades and a Piling Method Statement. In addition, this consultee advises an informative relating to the need for a Groundwater Risk Management Permit.

7.0 Town/Parish Council Representations

- 7.1 The comments received by Hertford Town Council have been fully considered in the preparation of this report.
- 7.2 Hertford Town Council: Objects to the application, raising concerns regarding: non-compliance with HERT2 policy, vehicular trip generation, insufficient parking, insufficient vehicle charging point provision, lack of clarity on sustainable transport improvements, absence of solar power generation, lack of design/landscaping improvements and insufficient bird/bat box provision.
- 7.3 The HERT2 policy allocated the size for a mixed-use development to provide 200 homes. If this application were to be approved, the number of homes would reach 441, more than doubling the initial site allocation. The application is justified by the applicant who considers that the proposal would make a valuable contribution to East Herts housing land supply, which is currently below 5 years.
- 7.4 Any additional trip generation would be unacceptable. The original traffic objection focussed on the continued effective operation of employment areas on Mead Lane and Dicker Mill. These industrial and business premises are both an asset for residents and valuable as an employment resource. Any further congestion would not be acceptable.
- 7.5 The total number of parking spaces has increased. 10% of parking spaces will have charging points and charging points could be installed in a further 10% of spaces if required. This would represent a very small increase in the availability of charging points.
- 7.6 A draft Residential Travel Plan has been submitted. This is a draft document and is subject to further discussion with the Local Planning Authority and Highway Authority. Confirmation of improvements to the path along the river will be a positive improvement. If indeed a car club is set up and managed, then this could potentially be a benefit to the town. There is no agreement

with an operator to run buses through the site. It is considered that methods for encouraging sustainable travel are still being discussed. The increase in the number of residential units is not balanced by the proposals.

- 7.7 The Planning Statement notes that CO2 savings will exceed Building Regulations Requirements. However, there is no attempt to improve this to integrate solar generation, despite the amendment to include pitched roofs.
- 7.8 The inclusion of pitched roofs across all residential blocks will increase the massing of the development, providing no improvements to the aesthetic of the design. In fact, this change is overall a negative design feature. Landscaping has been enhanced on the connections to the river. However, this appears to be a minimal improvement, with large areas of paving and artificial grass shown. Native hedging is unidentifiable on the Landscape Masterplan.
- 7.9 Biodiversity Net Gain has been increased to 59.8%. However, only 6 swift bricks, 2 sparrow terraces and 2 bat boxes are to be installed. Such a small enhancement on a development of this size is inconceivable. The Ecological Assessment referred to in the Sustainability Assessment is not available to view.

8.0 Summary of Other Representations

- 8.1 The application has been advertised by neighbour consultation with 273 notification letters sent. Press notices have been posted in a local newspaper and numerous site notices have been displayed in the vicinity of the site.
- 8.2 All the comments received from local residents, third parties and other interested persons/groups have been fully considered in the preparation of this report.

8.3 Across two rounds of consultation, 17 responses were received from local residents and other third parties. These representations object to the proposal broadly on the grounds summarised below:

- Additional strain would be placed on local infrastructure (e.g. schools, healthcare and public transport).
- There is no demand for flats in Hertford. Family-sized units are required.
- The proposal would be overdevelopment of the site and the buildings are too large.
- The proposal would have a detrimental impact on the character of the area.
- The design is lacking, the materials/style should be revisited, varied designs should be adopted and density should be lowered.
- The intensification would compromise the quality of the development by reducing open spaces, increasing overshadowing, diminishing design and lessening amenity.
- There is concern regarding the use of unsustainable materials, the installation of inadequate fittings for the flats and the potential poor quality of the build.
- It is questioned why shops and cafes are not being provided.
- There would be increased use of the towpath, which will result in noise and disturbance for flats at Smeaton Court and Elder Court.
- There would be increased traffic in the area, pushing the highway network beyond capacity.
- The existence of only one access into the wider Mead Lane Area is insufficient.
- There would be increased traffic on Marshgate Drive, which is already extremely busy.
- There would be increased traffic on Mead Lane and Mill Lane, where there are already substantial queues.
- Local businesses would be impacted by increased traffic and queuing.
- The proposal would impact parking availability and capacity on Marshgate Drive and Spencer Street.

- The lack of parking would result in residents parking further down Mead Lane and using the parking spaces of businesses in the employment areas.
- During the construction phase, there would be displacement of parked vehicles on Marshgate Drive.
- Increased vehicular movements could impact the condition of the highway carriageways.
- There would be increased air pollution.
- Flooding is already an issue in the area and this development could worsen flood risk.
- It is questioned what will happen if the foul water pumping station fails.
- It is unclear where the power supply for the development will come from.
- It is questioned whether disruption will affect existing residents during the construction phase.
- There is no evidence of meaningful public engagement.
- This is not a variation of the original planning permission but a substantial change that should require a new full planning application.

8.4 Across two rounds of consultation, 1 response was received from a local councillor and 2 responses were received from local groups. These representations object to the proposal on the grounds summarised below:

- Councillor Crystal: Objects to the application. There is deep concern regarding the potential impact of additional vehicles from the site using the single route out of the area via Mill Road, in terms of additional queuing, safety and also due to additional air pollution. This traffic and pollution will have a direct impact on nearby Air Quality Management Areas.
- Hertford Civic Society: Objects to the application. The amendments cannot be described as minor, or appropriate for consideration under a variation application. These are material changes of great significance to Hertford and should require a full planning application. While the principle of development is

established, the sheer scale of changes necessitates proper public consultation and scrutiny. There has been no community involvement save for a leaflet claimed to have been delivered to local residents. There is nothing on the Tesco Community Notice Board. A meeting prior to submission with a small group of councillors does not constitute public consultation. This application should be dealt with as a new application, with the public properly consulted and the application presented to Committee. It is a dangerous precedent to set to allow these types of proposal to be considered as variations.

There will be further adverse impacts on local highways, there only being one access road in and out. The position of the Highway Authority is questioned. Based on current traffic flows and peak hour congestion, the potential capacity impact from the development remains severe. In particular, the viability of the industrial estate is already impacted by traffic delays. The sheer number of additional properties means there will be an impact on local services, which residents should have the opportunity to comment on. There needs to be transparency regarding revised S106 obligations and quantum of affordable housing. The design of the development should again have the attention of the Design Review Panel. The points raised by the Design Officer regarding the single aspect nature of the units, inset terraces, ceiling heights, outlook from rooflights, maintenance of rooflights, visual clutter and possible overheating are of great significance for the liveability of the units.

- Kingsmead Residents Association: Objects to the application. An application for such a large number of dwellings cannot be regarded as a variation of condition. It is concerning that the developer thinks it is acceptable to add, what is approaching a 20% increase in the number of dwellings. This far exceeds the original 200 dwellings deemed appropriate in the District Plan. While a Planning Inspector determined that an additional 175 dwellings above the District Plan allocation should be

approved, it remains questionable whether a further 65 units would have been considered acceptable. Given the LLFA and EA comments, there are some issues around drainage and flood risk. The traffic issues at the Bluecoates roundabout, Ware Road/Mill Road junction and the approaches to these will be worsened. Overspill parking from the development will displace existing resident's vehicles. It is questioned whether flats are needed, instead 3-bedroom family homes are required, as was evident when preparing the KNP.

9.0 Consideration of Issues

- 9.1 Section 70(2) of the Town and Country Planning Act (1990) (as amended) and Section 38(6) of the Planning and Compulsory Purchase Act (2004) require decisions to be made in accordance with the development plan, unless there are material considerations that indicate otherwise.
- 9.2 A number of recent appeal decisions have concluded that the Council cannot currently demonstrate a five year housing land supply (5YHLS). It is estimated that the Council's current 5YHLS stands at between 3.4 years and 3.7 years. Within this supply, 375 homes from the HERT2 development have been factored into the figures over the relevant period for calculating supply. The consequence of not having a 5YHLS is that the 'presumption in favour of sustainable development' and the 'tilted balance' are engaged in the decision-making process. These relate to Paragraph 11(d) of the NPPF, which outlines that where the policies that are most important for determining the application are out of date (such as when a 5YHLS cannot be demonstrated) the application should be approved, unless:
- (i) the application of policies within the NPPF that protect areas or assets of particular importance provides a strong reason for refusing the development; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF as a whole, having particular regard to key policies

for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

- 9.3 In this context, the policies that are considered to be out of date include those relating to the development strategy and the delivery of housing, which are referred to in this report.

Principle of Amending the 'Extant Planning Permission'

Section 73 Application Procedure

- 9.4 This application is seeking an amended planning permission using a Section 73 application for the variation of condition 53 (approved plans) of planning permission: 3/23/2034/VAR (Dated: 15/10/2024), as amended by planning reference: 3/23/1863/NMA, for a hybrid planning application comprising: Full planning permission for residential dwellings, up to 420 sqm for a gymnasium (Class E(d)), 70 sqm of residents co-working floorspace, car and cycle parking, access, open space, landscaping and associated works, improvements to Marshgate Drive and creation of a Spine Road in the Northern Sector; and Outline planning permission for the construction of employment floorspace (Use Class E(g)(iii)), car parking, landscaping and associated works (all matters reserved except access).
- 9.5 The applicant can apply for an amendment to the extant scheme permission, under Section 73 of the Town and Country Planning Act (1990) (as amended) (the Act). Section 73 of the Act can be used, amongst other things, to approve amendments to an existing planning permission by amending a condition (or conditions) upon which the permission was granted. In law, a Section 73 application results in the grant of a new planning permission affecting the same site that is subject to the relevant amended conditions.
- 9.6 This material amendment procedure was confirmed by the Government in 2009 when it streamlined the procedure for Section 73 applications and issued accompanying guidance on how best to

achieve flexibility with planning permissions by allowing minor material amendments to planning permissions without the need for the submission of entirely new planning applications. The overriding purpose of the streamlined procedure and guidance was to avoid the burden that would fall on both planning authorities and developers, if fresh planning applications had to be submitted every time that a development is materially amended.

- 9.7 The guidance is now contained in the Department for Communities and Local Government's National Planning Practice Guidance (PPG). The previous version of the PPG noted that a minor material amendment is likely to include any amendment whose scale and/or nature results in a development which is not substantially different from the one which has been approved. The current PPG advises that 'there is no statutory limit on the degree of change permissible to conditions under Section 73, but the change must only relate to conditions and not to the operative part of the permission'. Relevant and recent case law on this matter indicates that the Section 73 route can be applied to determine more significant amendments to planning permissions, which do not result in a 'fundamental' change to an approved development (*R [Fiske] v Test Valley Borough Council [2023] EWHC 2221 [Admin]*).
- 9.8 Officers are satisfied that the proposed amendments to the development (as per the variations to condition 53 and the approved drawings) do not amount to a fundamental alteration from the original scheme, when considered as a whole, particularly given the scale of the development and the nature and amount of changes, which do not amend the operative part of the planning permission.
- 9.9 The first issue which needs to be addressed is to determine whether the proposed amendments, either individually or cumulatively, can be approved as an amendment to the consented development under Section 73 of the Act. The legal test, established in case law, is that amendments to a planning permission can be permitted via Section 73, where they do not constitute a 'fundamental change' to the approved development.

We examine the scale and nature of the amendments proposed in the following paragraphs below to determine if they would fundamentally alter the planning permission.

- 9.10 As explained in a previous part of this report, this current Section 73 application proposes to make several changes to the approved scheme, with these amendments limited to the northern parcel of the site. The apartment blocks on the northern parcel are intended to be modified by utilising the existing and extended roof voids to provide additional dwellings including the associated provision of roof lights and inset balconies with floor to ceiling glazed recessed windows. The revisions also comprise minor elevational amendments and changes to the internal layout of buildings. In addition, some alterations are proposed to the approved site layout and landscaping on the northern parcel.
- 9.11 The quantity of proposed changes to the extent scheme is limited and this is an initial indication that the proposals would not amount to a fundamental change to the consented development. It is noted that the extensions/alterations to the apartment blocks would result in an additional 66 dwellings being delivered through the development. While this uplift, taken in isolation, creates new residential floorspace within the development, it only represents an approximate 17% increase in the number of proposed dwellings, compared with the extant scheme. This is considered to be a modest increase in the overall quantum of residential development on the site, which is achieved through very limited additional increased massing to the buildings.
- 9.12 In addition to the above, all of these 66 dwellings would be accommodated within the footprint of the consented apartment blocks, with the maximum height of the buildings also not increased by the roof extensions. Therefore, the footprint, layout and density of built development would be maintained, with the scale of the buildings not significantly altered. The only modest additional housing delivery, coupled with the retention of the same built footprint and the only limited additional mass incorporated into the buildings, means that, in officer's view, these changes

would not result in a development that is substantially different, in its form or composition, to the extant scheme. Furthermore, the alterations to the site layout and landscaping would be minor in nature and would not materially alter the approved scheme. On this basis, and having regard to the relevant case law and guidance in the PPG, officers do not consider that the amendments would result in a fundamental change to the approved development. This supports the consideration of the application under Section 73 of the Act.

9.13 Officers highlight that the PPG advises that changes under Section 73 must 'only relate to conditions and not to the operative part of the permission' (i.e. the description of development). The description of this development has previously been modified by way of a non-material amendment (Section 96a of the Act) (reference: 3/23/1863/NMA), which omitted the number of dwellings, altered the amount of commercial floorspace and updated use classes. These approved updates to the description now allow modifications to be made to the quantum of proposed uses on the site, in particular dwellings, without changing the overall description of development (operative part of the permission). Therefore, the variation of condition 53 of 3/23/2034/VAR, which seeks to substitute approved drawings and plans, can be undertaken without a change to the description occurring.

9.14 Overall, officers consider that the amended proposals would not result in a fundamental change to the approved development. The description of the development would also not be altered. The relevant legislation does not prohibit an amendment to a condition, which would facilitate an increase in dwellings, from being considered under Section 73. Therefore, it is considered that the proposed changes can appropriately be dealt with as amendments to the extant permission using Section 73 of the Act. Notwithstanding the above in principle commentary, it is necessary to interrogate the wider economic, social and environmental impacts of the development (as amended) to determine whether

the proposals are in accordance with the development plan, the NPPF and any other relevant planning guidelines.

Development Strategy

- 9.15 DP Policy DPS1 identifies the need to deliver new housing growth in the District, with a minimum of 18,458 new homes required over the plan period (2011 – 2033). The spatial development strategy for the District, at DP Policy DPS2, sets out that this housing need will be met by following a hierarchy, which includes reference to ‘sustainable brownfield sites’.
- 9.16 In order to achieve the housing targets, DP Policy DPS3 identifies a number of strategic site allocations that will be delivered. Included within this list is the ‘Mead Lane Area’. DP Policy HERT2 allocates the ‘Mead Lane Area’ for the provision of around 200 homes by 2027, as part of a mixed-use development. The full site allocation is shown in the hatching on the below image.



- 9.17 The allocation of the HERT2 site for 'around 200 homes', taken together with the grant of planning permission at appeal for 375 dwellings on the land, means that the principle of residential development on the site is established and accepted. However, this amended scheme would result in a total of 446 dwellings being delivered on only part, albeit a large part, of the site allocation. This level of housing delivery would represent a material uplift above the original site allocation and cannot reasonably be considered to equate to 'around 200 homes'. Due to this significant increase in housing provision above the original site allocation, there would be some conflict with the relevant parts of DP Policies DPS3, HERT1 and HERT2. This reflects the position established at the appeal in 2020.
- 9.18 Whilst the above is noted, it was confirmed at the appeal that the reason for limiting the residential element of the HERT2 allocation to 'around 200 homes' was related to highway capacity matters. Through the appeal, the Inspector determined that the delivery of 375 dwellings on the site would not have resulted in a severe highways capacity impact on approach routes or at key junctions. Therefore, the Inspector concluded that there was no justification for restricting housing delivery on the site to 'around 200 homes'. Given this, it is considered that the housing allocation figure of 'around 200 homes' is out of date, in the context of the appeal decision.

- 9.19 The Highway Authority have commented on this application and have not objected to the amended scheme, on the basis of highway capacity concerns. This is discussed further in a following part of this report. Given the position of the Highway Authority, there is no in principle reason to cap development on the site to 'around 200 homes' or to 375 dwellings as approved at appeal, subject to the amended scheme being acceptable in all other respects. Therefore, while this amended scheme would not comply with some parts of the allocation policies in the DP, officers consider that this policy conflict should be given no negative weight.
- 9.20 In summary, the allocation of the HERT2 site in the DP means that the principle of residential development is established on the site. It is accepted that this amended scheme would provide a number of dwellings that would significantly exceed the housing allocation figure of 'around 200 homes'. However, this housing allocation figure is considered to be out of date, in light of the conclusions of the 2020 appeal decision. Noting this, and given the current position of the Highway Authority, there is no in principle reason for capping the quantum of housing delivery on the site to 200 or 375 homes, subject to the amended scheme being appropriate in all other respects. In addition, the government's aim of significantly boosting the supply of homes, together with the Council's current 5YHLS deficit, further support the increased housing delivery on the site. Therefore, overall, officers consider the uplift in dwellings proposed through this amended scheme to be acceptable in principle.

Housing Delivery

- 9.21 As noted in the previous part of this report, DP Policy DPS1 outlines that the Council will provide a minimum of 18,458 new homes in the District over the plan period (2011 – 2033). Section 5 of the NPPF sets out that the Government maintains it's overarching objective of significantly boosting the supply of homes. Furthermore, Section 11 of the NPPF notes that substantial weight

should be given to the value of using brownfield land within existing settlements for homes.

- 9.22 This amended scheme would provide an additional 66 dwellings on this sustainable brownfield site. This use of brownfield land, within a settlement, for housing delivery attracts direct and strong support from Section 11 of the NPPF. In addition, the uplift of 66 dwellings on the site means that the amended scheme could make a greater contribution towards housing targets in the local area and the District.
- 9.23 Officers have been advised by the applicant that this application has been submitted, in order to secure planning permission for a more viable scheme and enable the developer to recommence implementation of the development. The applicant has explained that the former approved scheme became unviable, due to rapidly increasing build costs and a slow-down in property values, and it was, therefore, necessary to revisit the scheme to explore with the Local Planning Authority whether further value could be realised from the planning permission, without fundamentally re-designing the development and safeguarding the qualities of the approved scheme. Therefore, the revised scheme is anticipated to deliver additional residential units in the current five year period, meaning that the amended development would assist the Council in addressing the 5YHLS deficit. Overall, the provision of an additional 66 dwellings on this sustainable brownfield site in the centre of Hertford is a substantial benefit of this current application, which is supported by Sections 5 and 11 of the NPPF. This housing delivery should be assigned significant positive weight in the overall balance.
- 9.24 As previously noted, it is estimated that the Council's current 5YHLS stands at between 3.4 years and 3.7 years. Included within this housing supply are the 375 homes approved at HERT2 through the appeal. The applicant has indicated that neither the 375 or the 380 unit development is viable, and consequently there are significant doubts regarding whether the extant scheme would be built out. Therefore, if this current amended proposal, delivering

an uplift of 66 units, were not to be progressed, then there is a very real prospect of the HERT2 development not being delivered at all. Such a result means that 375 units would have to be omitted from the Council's current 5YHLS. In such circumstances, the Council's overall 5YHLS deficit would significantly worsen, with additional sites potentially having to coming forward for development in less sustainable locations. There are, therefore, further risks to the Council's housing supply position, if permission is not forthcoming for these proposed amendments.

Amended Housing Mix, Site Wide Affordable Housing and Viability

Housing Mix

- 9.25 DP Policy HOU1 outlines that housing developments should deliver an appropriate mix of housing tenures, types and sizes, in order to create mixed and balanced communities, taking into account the latest Strategic Housing Market Assessment (SHMA) and any up-to-date evidence. DP Policy HOU7 requires new homes to be readily accessible and adaptable to meet the changing needs of occupants. This policy expects residential development to meet Building Regulations Requirement M4(2) – Accessible and Adaptable Dwellings. Major developments should also provide a proportion of dwellings that meet Building Regulations Requirement M4(3) – Wheelchair User Dwellings.
- 9.26 This amended scheme would deliver an additional 66 dwellings, including 42 one-bedroom flats and 24 two-bedroom flats. The tables below identify the currently approved housing mix and the overall proposed housing mix that would be provided through the amended development.

Current Approved Housing Mix

Property Type	No. of Units
One-Bedroom Flat	136 (35%)
Two-Bedroom Flat	215 (57%)

Three-Bedroom House	14 (4%)
Four-Bedroom House	15 (4%)

Proposed Housing Mix

Property Type	No. of Units
One-Bedroom Flat	178 (40%)
Two-Bedroom Flat	239 (54%)
Three-Bedroom House	14 (3%)
Four-Bedroom House	15 (3%)

- 9.27 This current application proposes roof extensions and alterations to the apartment blocks that were approved as part of the original scheme, so to deliver the uplift in dwellings. Therefore, it is only possible to secure additional flats through this current application. A significant number of the additional units would be provided as one-bedroom flats, with a lower provision of two-bedroom flats. Officers consider this to be acceptable, as it would result in an overall mix of flats across the full development that would better reflect the demand identified in the SHMA, when compared with the consented scheme. As such, the housing mix provided through this amended proposal would be acceptable and would comply with DP Policy HOU1.
- 9.28 Kingsmead Residents Association and some local residents have raised concern that no further houses or family homes are being proposed. While these comments are noted, it is not possible to secure an uplift in houses through this current application, as this amended scheme only proposes alterations to the apartment blocks that formed part of the originally approved scheme. The delivery of a development that incorporates a high proportion of flats on the site was also deemed acceptable at the appeal and it is not within the scope of this current application to revisit that determination.
- 9.29 The applicant has confirmed that all of the new flats would be built out to comply with Building Regulations Requirement M4(2) – Accessible and Adaptable Dwellings. This is supported by officers,

in the interests of providing accessible and adaptable homes. Provision of these M4(2) homes can be secured via condition, in accordance with DP Policy HOU7.

- 9.30 The flats provided within the roof extensions would have slightly lower ceiling heights, and therefore it is not possible for these units to comply with Building Regulations Requirement M4(3) – Wheelchair User Dwellings. The applicant has acknowledged this, and instead proposes to adapt 11 of the lower level flats within Buildings G and H, so that they are capable of meeting M4(3) standards. Officers consider this to be an acceptable provision of M4(3) homes, and therefore the scheme would accord with DP Policy HOU7, which requires a ‘proportion’ of dwellings to meet M4(3) standards. The delivery of these M4(3) homes can be secured via condition.

Affordable Housing and Viability

- 9.31 DP Policy HOU3 seeks to secure 40% affordable housing provision on developments of 15 or more dwellings. This policy notes that lower provision may be permitted, if it is demonstrated that 40% affordable housing cannot be achieved due to viability reasons, or where it would prejudice the need to secure other infrastructure priorities. Applicants seeking to justify a lower level of affordable housing will be required to provide a financial viability assessment, which can then be assessed by an external independent consultant.
- 9.32 The original scheme was supported by a Financial Viability Assessment (FVA), which concluded that it was not financially viable to deliver any affordable housing through the development. However, the applicant entered into negotiations with the Council and an independent viability consultant. Following these negotiations, it was agreed between the Council and the applicant that the scheme would deliver 56 shared ownership units. This constituted 15% affordable housing on the original scheme. The provision of these 56 affordable units was secured in the signed Section 106 Legal Agreement. While this position is noted, works

on site stopped in April 2022, with the applicant citing increasing build costs and poor sales, as the main reasons for ceasing operations. Works have not re-commenced since and it is understood that the applicant views the consented scheme, including the 15% affordable housing, as financially unviable.

- 9.33 In order to improve the viability of the scheme, and ultimately deliver the development, the applicant has brought forward this revised proposal, which would increase the total number of units on the site to 446. This amended scheme is supported by a new FVA, which again concludes that it is not financially viable to provide any affordable housing through the development. This FVA sets out that the amended proposal, with no affordable housing included and financial contributions proportionally increased in line with the consented scheme, would have a profit rate of 8.6% of the gross development value (GDV). Officers note that this is significantly below the profit rates deemed acceptable in the Planning Practice Guidance (PPG) and other guidance, which are often set at 15% - 20% of GDV. On this basis, the applicant considers that the amended scheme, with no affordable housing included, is financially unviable.
- 9.34 The Council appointed an independent viability consultant to review the applicant's new FVA. Detailed negotiations on the viability appraisal of the scheme have also been undertaken between officers, the applicant and the Council's appointed consultant. The Council's consultant has re-modelled the viability of the amended scheme, with elevated financial contributions included to reflect up to date guidance, and other adjustments made. The consultant's modelling indicates that the amended scheme, without affordable housing, would have a profit rate of 13.41% of GDV. This profit rate is again below the profit rates deemed acceptable in the PPG and other guidance (i.e. 15% - 20% of GDV).
- 9.35 It is noted that applicant and the consultant have not agreed on the exact viability position of the scheme. However, both the applicant's FVA and the consultant's review conclude that the profit

rate of the amended scheme, with no affordable housing included, would be below the 15% - 20% profit rate specified in the PPG and other guidance. As such, it is accepted that both the applicant's FVA and the consultant's review indicate that the amended scheme, including no affordable housing, would be unviable. Given this position, officers agree that it is not viable to provide affordable housing through this development.

- 9.36 The above conclusions mean that the potential to deliver affordable housing on the site is highly constrained. However, the applicant recognises that affordable housing provision is a priority within the District. Therefore, the applicant remains committed to delivering 56 affordable units on the site in either Building G or Building H. This reflects the quantum of affordable housing required under the original scheme. Securing these 56 affordable units, as part of this revised proposal, means that affordable housing provision across the development would total 13%.
- 9.37 While this commitment is noted, the constrained viability position of this scheme means that the applicant does not deem a typical approach to delivering affordable housing to be viable, in this case. Instead, the applicant proposes that a cascade mechanism is built into the Section 106 Legal Agreement, which would firstly seek to deliver on-site affordable units, before alternative options for provision of discount market sale dwellings (DMS) or financial contributions are considered.
- 9.38 Firstly, the applicant proposes to promote the sale of 56 units to a Registered Provider of affordable housing (RP). The RP could seek to acquire the 56 units from the applicant through using any available grant funding from Homes England. Once the RP has acquired the units, these homes could then be brought forward as either shared ownership or affordable rent dwellings.
- 9.39 If despite a period of agreed engagement with RPs, the applicant is unable to enter into a contract with an RP to acquire the units, then the flats would, at this point, be switched to discounted market sale dwellings (DMS). These DMS units would be marketed for sale

at a discount of 20% of market value, therefore remaining affordable, in accordance with the PPG/NPPF definition of affordable housing.

- 9.40 If any of the 56 units remain unsold after an agreed marketing period, then the flats could, at this point, be changed to open market dwellings for sale with the sum equivalent to 20% of the open market value of any unit being paid to the Council as an affordable housing payment in lieu. These funds could then be used by the Council to deliver affordable housing elsewhere in the District.
- 9.41 It is regrettable that no additional on-site affordable units are proposed (above the extant scheme) and that a typical approach to securing affordable housing is not feasible. However, this is ultimately a result of the highly constrained viability position of the scheme, which has significantly limited the potential to provide affordable housing on the site, whilst delivering a high quality development. Nonetheless, officers consider the cascade approach to delivering affordable housing, as put forward by the applicant, to be the optimum and best available solution in seeking to secure some affordable housing on the site, while also ensuring that the development remains deliverable. Therefore, officers consider that the affordable housing cascade mechanism should be incorporated into the Section 106 Legal Agreement. This is considered to be an acceptable and pragmatic approach to delivering affordable housing on this site, at this time. This is also an established approach to delivering affordable housing in complex regenerative developments, which has been accepted by other Local Planning Authorities in the UK.
- 9.42 Officers note that almost full financial contributions towards local infrastructure are proposed to be secured through this application. The affordable housing provision could be revisited, if the financial contributions were decreased significantly. However, in officer's view, it is important to maximise financial contributions, so to ensure that the development mitigates its impact on local infrastructure. Furthermore, it is understood there has been an

over provision of affordable flats within the area in recent years. Therefore, the type of affordable housing that could be secured through this application (i.e. flats) is not one that is in high demand. Given this position, it is, in this instance, considered appropriate to prioritise securing the maximum financial contributions, above the provision of affordable flats. Regardless of this view, any potential reductions in financial contributions deemed agreeable by EHDC and HCC would not be likely to be at such a level to materially alter the level of affordable housing provision deemed viable. As such, officers consider that an optimal position has been reached in securing the maximum financial contributions, whilst still seeking to deliver affordable housing through the cascade mechanism.

9.43 Overall, the scheme would not provide a policy compliant level of affordable housing, nor typical affordable housing provisions within the Section 106 Legal Agreement. However, DP Policy HOU3 allows for a lower affordable housing provision, where there is a viability justification. The constrained viability position of the scheme has been adequately demonstrated and established through the course of this application, and therefore, in this instance, a lower level of affordable housing is justified and considered acceptable in policy terms. In addition, officers consider that the cascade approach, as described in the previous paragraphs, is the best available option in seeking to secure some affordable housing, whilst still ensuring that the development remains deliverable. The reduced level of proposed affordable housing, coupled with the lack of a guarantee on the supply of affordable homes, means that the weight assigned to the provision of affordable housing has to be tempered in the final balance. On this basis, it is considered that the supply of 56 affordable units, or the alternative of delivering DMS units or financial contributions, should only be assigned some positive weight.

9.44 DP Policy HOU3 also sets out that affordable units should be integrated into the development using appropriate methods, such as 'pepper-potting' and 'tenure-blind' design. The proposed cascade approach to affordable housing provision means that the

individual affordable units are not identified through this application. However, the applicant has confirmed that the dwellings within Buildings G and H would be promoted for sale to RPs. As such, the amended scheme seeks to deliver affordable units in these buildings. This means that the potential affordable homes would be clustered on the southern side of the northern parcel. While this clustering is acknowledged, officers accept that RPs are generally not keen on mixed blocks of market and affordable units, as this complicates management arrangements. Therefore, there is limited scope to 'pepper-pot' the potential affordable units across the northern parcel. On this basis, the identification of Buildings G and H for possible affordable housing provision is considered acceptable.

- 9.45 The application is accompanied by detailed elevation drawings, which demonstrate that Buildings G and H would be of the same design quality as the other apartment blocks. In addition, through the discharge of condition 3 of the original scheme (reference: X/20/0444/CND) it was agreed that the same high-quality materiality would be used for all the apartment blocks. As such, officers are confident that the amended scheme would be genuinely 'tenure-blind', in line with DP Policy HOU3.

Amended Scheme Design, Layout and Scale

- 9.46 DP Policy DES1 sets out that 'significant' development proposals will be required to prepare a Masterplan. This should be prepared collaboratively involving site promoters, landowners, East Herts Council, the Town Council and other relevant key stakeholders. The Masterplan should also be informed by public participation.
- 9.47 DP Policy DES4 outlines that developments must be of a high standard of design and layout to reflect and promote local distinctiveness. Proposals will be expected to make the best possible use of the available land by respecting or improving upon the character of the site and the surrounding area, in terms of: scale, height, massing, orientation, siting, layout, density, materials, landscaping and design features. This policy and DP Policy NE4 also

require developments to maximise opportunities for urban greening through landscaping and planting of trees.

- 9.48 DP Policy HOU2 notes that housing developments should make efficient use of land and proposals should demonstrate how density has been informed by the character of the local area. This policy also explains that densities will vary according to the relative accessibility and character of locations, with higher densities more favourably considered on central sites.
- 9.49 DP Policy DES4 requires all new developments to supply internal rooms that are of an appropriate size and dimension, so that the function of each room can be satisfactorily achieved. This policy also sets out that dwellings should be identified by their square metrage. The Technical Housing Standards - Nationally Described Space Standards (2015 (NDSS) provides guidance on the minimum internal floor area requirements and minimum ceiling heights for new dwellings. Paragraph 135 of the NPPF advises that developments should provide a high standard of amenity for existing and future users.

Extension, Conversion and Alteration of Roofs

- 9.50 The additional rooftop units would be provided by extending, altering and converting the roofs of all the approved apartment blocks. It is proposed to infill voids between gable-ends and construct additional roof space above flat roofs. These extensions would result in crown roof forms being created across the apartment blocks. In addition, rooflights and inset terraces would be incorporated into the roofs. The below images show consented and currently proposed elevations for Building A/B. The proposed extensions are identified in these images.

Consented Elevation Building A/B



Extension

Proposed Elevation Building A/B

Extension



- 9.51 The HERT2 Masterplan Framework seeks to limit the height of buildings on the northern parcel to 4 – 5 storeys. It is acknowledged that this amended scheme proposes to incorporate further volume and massing into the roof of the apartment blocks. However, officers consider that the resultant apartment blocks would still have the appearance of 4 or 5 storey buildings. As such, it is not considered that the amended scheme would result in any conflict with this part of the Masterplan Framework or DP Policy DES1.
- 9.52 The proposed extensions would not project above the highest ridge lines of the consented apartment blocks, with the additions filling voids and unoccupied areas below the roof pitches. As such, the maximum height of the apartment blocks would not be increased through this amended scheme. Noting this, and given that only a limited amount of further mass would be incorporated into roofs, officers do not consider that the extensions would appear as excessively large or bulky additions to the consented apartment blocks.
- 9.53 The Design Officer has suggested that the additional massing has some implications on viewpoints from the canal, bridge and street scene. This comment is noted, however in such views the additions above the flat roof elements would appear as modest sloping roof forms sitting below the main ridge lines. Therefore, officers do not consider that these extensions would appear bulky or incongruous in wider views. The roof additions between the gable ends would be set-back slightly from the main facades. In addition, views of these extensions taken from the street or towpath would be at such an upward angle that the additions would not be highly perceivable. As such, it is not considered that these roof extensions would appear as overly dominant features from key viewpoints.
- 9.54 The roof additions would result in various crown roof forms being created across the apartment blocks. There is a mix of different roof typologies in this locality, and therefore the alteration to the roof forms would not result in the apartment blocks appearing out of keeping in the area. Regardless of this, in views from street level

the crown roofs would not be highly visible, instead a number of the roof additions would appear as sloping pitched roofs. Such roof types would not appear incongruous in this locality. Furthermore, officers note that the provision of these crown roofs would enable areas of green roof to be retained. This is supported, in the interests of enhancing biodiversity and reducing surface water run off.

- 9.55 Rooflights and inset terraces would be incorporated into the roofs of the buildings. The Design Officer has some concern that these features would visually clutter the roofscape. These comments are acknowledged, however through the pre-application process officers had various discussions with the applicant regarding the type, form and number of features to be incorporated into the roofs. This included consideration of rooflights, dormer windows and several differently sized inset terraces. Officers consider that the best option has been presented in this application, as the quantity of fenestration and projecting features within the roofs has been kept to the minimum necessary. Furthermore, the proposed rooflights and inset terraces would be modestly proportioned, ensuring that they would not appear unduly dominant within the roof. A good portion of the roof slopes would also remain unoccupied by rooflights and terraces, and therefore it is not considered that the roofscapes would become overly cluttered.
- 9.56 The materials of construction for the development have already been agreed under reference: X/20/0444/CND. A condition is recommended requiring the development to be carried out, in line with this agreed high-quality materiality. While this is noted, the specification for the rooflights has not been provided with this application. The Design Officer has specifically requested that the rooflights are reversible, in order to allow future residents to properly clean and maintain these features. Given this, officers consider that a condition requiring details of the proposed rooflights would be necessary, so to ensure that a suitable model of rooflight would be installed.

9.57 Overall, the roof extensions would not result in the apartment blocks breaching the height restrictions of the HERT2 Masterplan Framework. The extensions would facilitate an uplift in housing delivery on the site, without altering the footprint or maximum height of the buildings. Therefore, it is considered that the additions would boost housing supply through effective use of the land and the consented buildings. A modest quantity of additional bulk would be incorporated into the apartment blocks, with the extensions not appearing overly dominant from key viewpoints in the locality. Fenestration and features within the roof slopes have been kept to the minimum possible and would not result in an overly cluttered roofscape. As such, officers consider that the proposed roof additions would not detract from the quality of the development, nor would they harm the character and appearance of the site, the street scene or the surrounding area. Therefore, this element of the amended proposals would comply with DP Policies HOU2 and DES4, as well as Section 12 of the NPPF.

Other Elevational Alterations

9.58 This amended scheme also includes external alterations to the elevational treatment of the consented apartment blocks. It is proposed to incorporate additional balconies into the facades (as shown on the elevation drawings of Building E/F on the following page), while it is also intended to alter the siting of fenestration, re-position podium car park entrances and brick-up areas of the elevations.

9.59 Officers consider these changes to be relatively minor in nature, and therefore they would not result in a negative visual impact on the appearance of the buildings. It is noted that the Design Officer has questioned whether the composition and rhythm of the elevations would be disrupted by these amendments. However, officers consider that the fenestration across all the buildings would remain to be sited in an appropriate orderly arrangement. This is clear from the below image, where the fenestration and balconies continue to line up with the features above and below. Therefore, it is not considered that these changes would detract

from the quality of the development, nor would they adversely impact the character and appearance of the site or the surrounding area. These alterations would comply with DP Policy DES4 and Section 12 of the NPPF.

Consented Elevation Building E/F



Proposed Elevation Building E/F



Alterations to Internal Layouts

- 9.60 A number of alterations are proposed to the internal layouts of the consented apartment blocks and the majority of these changes are at ground floor level. The residents gym is proposed to be moved from Building G to Building A/B, with two additional dwellings created in Building G. In addition, it is proposed to re-locate bike and bin stores, re-configure the residents lounge in Building E/F and make several other minor amendments to the internal layout.
- 9.61 The re-location of the residents gym to Building A/B and the creation of two additional dwellings in Building G are not changes that raise any particular design concerns. The provision of the residents gym continues to be a positive element of the scheme, which would benefit the future residents of the development. Similarly, the re-configuration of the resident's lounge is an alteration of minor nature that would not detract from the quality of the scheme.
- 9.62 The Design Officer has raised concern with the proposed re-location of the cycle stores, suggesting that the routes to the stores would be convoluted. While these comments are acknowledged, the cycle stores within Building C/D, Building E/F and Buildings G/H would be found in similar locations to the consented scheme. It is considered that some of the cycle stores have been positioned, in order to provide good access down towards the towpath and the cycle network in the area generally. On this basis, the positioning of these cycle stores is considered acceptable, on balance.
- 9.63 The cycle store within Building A/B would be shifted towards the rear of the building and it is accepted that this would not be as convenient location, when compared with the consented layout of Building A/B. This store could, however, still be reached by walking down the side of the building, with direct access then possible onto the towpath, which is a key cycle route from the site. Therefore, officers do not consider that the re-positioning of the cycle store in Building A/B would materially discourage cycling as an active travel

mode. Internal accesses from the podium car parking areas into the cycle stores have also been removed through this amended scheme. This may lengthen some routes to the cycle stores. However, it is understood that these internal accesses have been removed to enable the layout to meet fire and building regulations. Therefore, due to the need to adhere to latest fire safety standards, it is necessary to make this change to the layout, which overrides some other design considerations.

- 9.64 Initially the Design Officer questioned the location of the bin stores and the strategy for refuse collections. The applicant responded to this, explaining that the management company would oversee the refuse stores for Building A/B, Building G and Building H, with bins presented at the collection points on the relevant days. In terms of Building C/D and Building E/F, the applicant has provided tracking drawings in the Transport Assessment which demonstrate that refuse vehicles could stop close enough to the refuse stores of these blocks to collect bins. Officers consider these arrangements for refuse collections to be acceptable.
- 9.65 The other alterations to the internal layout of the apartment blocks would be minor in nature and it is understood that many of these changes have been driven by the requirements of both fire and building regulations. These amendments have no material bearing on the assessment of this application. It is noted that the Design Officer has raised concern with the dimensions of the lobbies within the apartment blocks. While these comments are acknowledged, the lobbies provided through this amended scheme would not be of significantly different size to those shown on the consented layouts. Nonetheless, it is not within the scope of this planning application to require larger lobby areas. Instead, it is in the interests of the applicant to provide as generous and welcoming lobby spaces as possible.
- 9.66 In summary, the majority of the changes to the internal layout are limited in nature and would not detract from the quality of the overall development. The re-positioning of the cycle stores would not materially discourage cycling as an active mode of travel, while

the arrangements for refuse collections have been adequately explained. Therefore, the alterations to the internal layout are considered acceptable as proposed and they would not be contrary to DP Policies DES4 or TRA1, nor Section 12 of the NPPF.

Alterations to Layout and Landscaping

- 9.67 This amended scheme includes various minor amendments to the approved layout and landscaping within the site. In the north-western corner, it is intended to enlarge the podium of Building E/F, so to provide additional podium parking spaces and incorporate fire safety infrastructure into the block. Between the apartment blocks alterations to landscaping are proposed, with some green spaces replaced by parking, while in other areas parking spaces are intended to be removed for new soft landscaping. Changes are also proposed to the communal parking layouts and the parking along the main access road. A number of other minor alterations are proposed to the play provision, the soft landscaping and the planting scheme.
- 9.68 The enlarged podium in the north-western corner of the site would extend onto land identified on the consented layout as green space. As such, this amendment would result in the loss of a small area of soft landscaping. While this is noted, a grassed strip would still be retained in this corner, ensuring that a green edge for the development would be maintained. The Design Officer has acknowledged this change and suggests that structural planting is supplied to screen the podium from the street and to provide privacy for residents using the podium gardens. Officers agree that this planting would be necessary to ensure that the enlarged podium is appropriately softened in views from Marshgate Drive and the towpath. This planting can be secured through condition 6, which seeks final details of the landscaping proposals for the site. Subject to this condition, and the provision of suitable planting, officers do not consider that the enlarged podium would result in adverse visual impacts from the street or towpath.

9.69 It is intended to remove an area of green space between Building A/B and Building C/D, so to enable the provision of 16 parking spaces. However, the applicant proposes to compensate for this loss by providing a green link between Building C/D and Building E/F (as shown in the below images). This link would enable views from the northern boundary of the site towards the LEAP, whilst also providing a direct pedestrian connection from the towpath to the LEAP. While the loss of the green space adjacent to Building A/B and Building C/D is regrettable, officers understand that it is inevitable that some additional parking would be required to accommodate the uplift in dwellings on the site. Furthermore, it is considered that the loss of this green space is appropriately offset by the creation of the green link, which provides southerly views through the site and creates permeability between the towpath and the LEAP. As such, these alterations, taken together, would not detract from the appearance or quality of the development.

Consented Landscape Masterplan



Proposed Landscape Masterplan



- 9.70 The Design Officer has raised concern with the introduction of 7 parking spaces along the main access road. This comment is noted, however the consented layout already includes some parking along the access road and this scheme only seeks to add a limited number of additional spaces. Therefore, officers do not consider that this change would result in material harm to the overall landscaping proposals for the site. Significant alterations are not proposed to the southern communal parking areas. The main amendment in this part of the site is to re-locate a number of parking spaces away from the eastern facade of Building H. This change is supported by officers, as it would improve the amenity of ground floor apartments in Building H.
- 9.71 Concern has been raised by the Design Officer regarding the play space offer. This comment is acknowledged, however there is no policy requirement that would dictate the need for revised play space provisions and, it is intended to retain the large proposed LEAP on the western side of the site. This is supported by officers, as this LEAP would be of significant benefit to the occupiers of the

development, as well as local residents, who could use this facility. In addition, this scheme proposes to introduce further play equipment to the podium gardens, while play equipment would also be installed across the green link and on a grassed area to the front of Building A/B. The Design Officer has suggested that the eastern green space should accommodate some play equipment. However, the applicant has explained that there is limited scope to provide play space in this part of the site, as this is a flood compensation area. Overall, officers consider that this amended scheme includes adequate enhancements to play spaces, so to ensure that the play offer is sufficient for the uplift of residents on the site. Final details of the play space and equipment can be secured via condition 6.

- 9.72 Limited details have been provided regarding the boundary treatment for the LEAP. The Design Officer recommends that hedge planting, structural landscaping and naturalistic fencing should be used to enclose the LEAP and provide separation from the road. Officers agree that further information is required regarding the boundary treatment for the LEAP. Such details can be secured via condition 6.
- 9.73 Both the Design Officer and the Canal and River Trust (CRT) initially queried the form of the bunding along the northern site boundary, and its relationship with the towpath. While these comments were noted, the approach to the bunding on the northern side of the site would not be significantly altered through these current proposals, when compared with the consented scheme. Nonetheless, the applicant has provided the below 3D image to illustrate the appearance of the northern site boundary. In addition, the section drawings have been updated to show the bunding and landscaping. Following these additional drawings, the Design Officer has not provided any further observations on the appearance of the northern site boundary. However, the CRT continues to suggest that the amount of bunding should be maximised, with opportunities to improve the podium explored. Officers consider that final details of the bunding and landscaping to screen the podiums can be secured through condition 6. Subject

to this condition, it is considered that the proposals along the northern site boundary would create a high quality visual relationship with the towpath and River Lee Navigation.



- 9.74 The CRT have also recommended that the podiums do not incorporate ventilation grilles on the waterside elevations, as these features could detract from views of the development along the canal. None of the elevation drawings indicate that grilles would be provided on the waterside elevations. Therefore, it is not considered that such adverse visual impacts would arise.
- 9.75 Accessible routes into the site from the towpath have been questioned by both the Design Officer and the CRT. It is noted that the eastern connection onto the towpath incorporates steps, and therefore is not fully accessible to all users. The applicant has clarified that due to the land levels at this part of the site it is not viable to provide this connection as an accessible route. Furthermore, officers note that the consented scheme did not provide an accessible route in this location. As such, it would not be reasonable to require the applicant to re-design this connection,

at this stage. Nonetheless, the scheme includes two sloped and accessible pathways into the site, one between Building A/B and Building C/D, and a second between Building C/D and Building E/F. Therefore, it is considered that the scheme provides suitable accessible connections from the towpath into the site. In reaching this conclusion, officers have carefully considered this arrangement in the context of Section 149 of the Equality Act 2010. It is considered that the provision of these two sloped pathways into the site would ensure that those individuals relying on accessible routes (i.e. older people, disabled persons, parents with pushchairs and others) would not be disadvantaged, as result of the development.

- 9.76 The other changes to the layout and landscaping of the development are minor in nature and do not have a material bearing on the assessment of this application. It is acknowledged that the Design Officer has questioned whether the level of tree planting has been reduced. This comment is noted, however the number of trees proposed to be planted remains similar to the consented scheme. The CRT have also requested that detailed landscaping proposals are provided, in order to ensure that any planting along the northern site boundary is appropriate to the waterside setting. Officers agree that a final landscaping scheme for the site is required, and this can be secured via condition 6. Both the Design Officer and the CRT have queried the lighting proposals for the site. Again, these details can be required through condition.
- 9.77 Overall, the layout of the development has not significantly changed, when compared with the consented scheme. Officers consider that an appropriate balance has been struck between hard and soft landscaping across the site. The development would continue to provide a good level of green space and suitable areas for play. Appropriate connections onto the towpath and Marshgate Drive would be retained, encouraging permeability. Therefore, the landscaping proposals for the site are considered acceptable and would not detract from the quality of the development, nor the character and appearance of the site or the surrounding area.

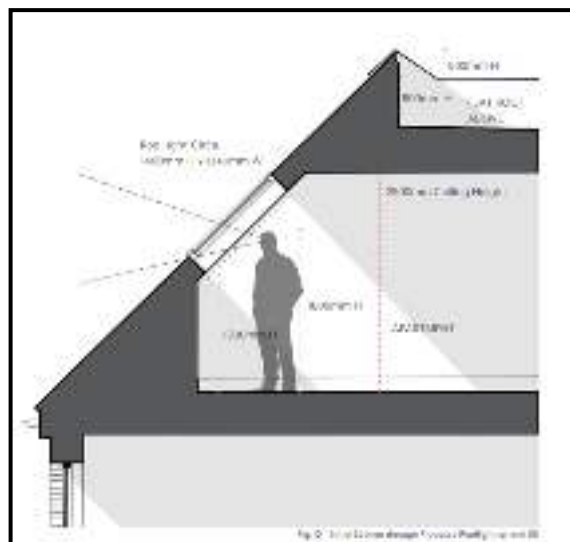
While this is noted, final details of the landscaping scheme would be secured via condition. Subject to this condition, it is considered that this amended scheme would comply with DP Policies DES4 and NE4, as well as Section 12 of the NPPF.

Quality of Accommodation

- 9.78 All of the flats within the development, including the new rooftop units, would have a gross internal floor area that comfortably exceeds the minimum standards of the NDSS. In addition, the floor to ceiling heights of the new flats would meet the NDSS minimum standards. The internal spaces would be of appropriate dimensions and configuration, allowing suitable circulation within the flats and enabling the functions of all rooms to be carried out. As such, officers consider that the flats would be of acceptable internal size and layout, which would support good living conditions for the future occupiers.
- 9.79 The majority of the rooftop units, together with the two new flats in Building G, would be served by a terrace, meaning that most of the flats would have a private outdoor space. There would be 5 new one-bedroom flats that would not be supplied with a terrace. While this is noted, this only minimal number of flats without a terrace means that the scheme would, in general, make suitable provision for private outdoor spaces. The occupiers of the 5 flats without a terrace would have the option of using the communal and public green spaces within the development. Furthermore, these residents could regularly visit public open spaces at Hartham Common and the Meads, which are a short distance away. Therefore, officers consider that the occupiers of these 5 flats would have adequate access to communal and public outdoor spaces and this would offset the necessity for a private terrace. Notwithstanding this, there is no specific policy in the DP that requires balconies or terraces for the new flats. As such, it would not be reasonable to insist on the provision of terraces for these 5 units.

- 9.80 The Design Officer has questioned the quality of the inset terraces serving the rooftop flats. This consultee suggests that the terraces could have been designed with glazed cheeks, fully glazed openings and flush levels, in order to maximise light, outlook and useability. The applicant has reviewed these comments, however it is understood that the sides of the terraces are not of sufficient size to accommodate glazed cheeks. Furthermore, the applicant has explained that it is not possible to provide flush levels between the terrace and the flat, as a step is required for drainage purposes. As such, it is accepted that these suggestions from the Design Officer are not feasible. Officers acknowledge that fully glazed terrace doors may allow slightly more light into the internal spaces. However, the proposed terrace doors, as shown on the applicant's drawings, are of notable size, and therefore would allow good levels of light to enter the homes. Notwithstanding the Design Officer's comments, officers consider that the terraces are of suitable size, design and quality, providing the future occupiers with outlook, light and access to a private outdoor space with attractive views towards the river navigation, towpath and beyond.
- 9.81 The internal spaces of the rooftop flats are not served by conventional windows, instead rooflights, balconies and inset terraces are provided to deliver light. The Design Officer originally raised concern that this would not supply sufficient light to the flats, noting that the applicant's initial Daylight and Sunlight Report suggested that 13 living/dining/kitchen spaces would not pass the BRE daylight test. Since these initial comments, the applicant has reviewed the rooftop units and installed further rooflights, mostly on flat roofs. A revised Daylight and Sunlight Report has then been provided, with the daylight and sunlight tests re-run. This updated report confirms that, following the installation of the additional rooflights, all the tested habitable rooms would pass both the daylight and sunlight tests. On this basis, officers consider that the rooftop flats would receive adequate levels of daylight and sunlight.
- 9.82 The Design Officer has also raised concern that the rooflights would not provide adequate outlook for the future occupiers of the

flats. While this is noted, the applicant has provided an indicative section drawing (as shown below), which illustrates the typical outlook that would be available for residents. It is clear from this section that the rooflights would provide some outlook for the future occupiers. In addition to this, all the rooftop flats would either be served by an inset terrace or juliet balcony, providing additional outlook. Officers consider that the outlook from the rooflights, combined with the outlook from the terraces or balconies, would be sufficient to ensure that the internal spaces of the flats would not feel unduly enclosed or constrained. As such, officers consider that the future residents of the rooftop flats would benefit from a satisfactory level of outlook.



- 9.83 A number of the rooftop flats would be single aspect and the Design Officer does not support this. While this is acknowledged, there is no specific policy that restricts the provision of single aspect units. In addition, numerous flats provided at the lower

floors of the consented apartment blocks would be single aspect. Given these observations, there are no grounds to object to the principle of single aspect units. Regardless of this, all the habitable spaces within the rooftop flats, including those in the single aspect units, would be served by either a rooflight, balcony or terrace. Furthermore, the above paragraphs have concluded that all the rooftop flats would supply adequate levels of light and outlook for the future residents. As such, it is not considered that the single aspect nature of some of the units would inappropriately compromise the daylight, sunlight, outlook or overall living conditions of the flats.

- 9.84 Overall, all the new flats would be of appropriate internal size and layout, with the majority of the units having access to a private outdoor space. The applicant has demonstrated that the flats would receive adequate levels of daylight and sunlight. Officers also consider that satisfactory outlook would be available for the future residents. Therefore, the flats would be of acceptable quality, with a good standard of amenity provided for the future occupiers. As such, the proposed amended scheme would comply with DP Policy DES4 and Section 12 of the NPPF.

Impact on Heritage Assets

- 9.85 DP Policy HA1 outlines that proposals should preserve, and where appropriate, enhance the historic environment of East Herts. Similarly, DP Policy HA4 notes that developments adjacent to Conservation Areas will be permitted, provided they preserve or enhance the special interest, significance, character and appearance of the area, taking into account: buildings lines, layouts, materials, scale, proportions, form, height, design and overall character. DP Policy HA7 sets out that proposals will only be permitted where the setting of listed buildings is preserved. These policies reflect the requirements of Section 16 of the NPPF and the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act (1990).

Hertford Conservation Area (CA)

- 9.86 The site is not located within the CA. However, the CA is situated to the south and west of the site, and therefore there is some potential for the development to impact on the setting of this heritage asset. The CA to the south and south-west covers parts of the historic core of Hertford, as well as the Hertford East Railway Station and areas around Ware Road. Whereas, to the west and north-west the CA encompasses Hartham Common and parts of Bengoe beyond.
- 9.87 This Section 73 application only includes changes to the northern parcel of the development, which is well separated from the parts of the CA to the south and south-west. Noting this separation, and given that the maximum height of the apartment buildings is intended to remain the same, officers do not consider that the amendments to the scheme would result in harm to the setting of the CA to the south and south-west. In addition, a number of views towards the site from the CA to the south and south-west would be screened by intervening buildings, ensuring that visual impacts on this part of the CA would be minimal.
- 9.88 To the west and north-west the CA is more open in nature. However, the northern parcel of the site is still well separated from the parts of the CA to the west and north-west. This separation, coupled with the retention of the same maximum height for the apartment blocks and the screening provided by vegetation in Hartham Common, means that the changes to the scheme would not result in harmful visual impacts on the parts of the CA to the west and north-west.
- 9.89 Officers therefore consider that, overall, the amended scheme would result in a neutral impact on the character, appearance and setting of the nearby CA. The significance and special interest of this heritage asset would be preserved. Consequently, this amended scheme would not conflict with DP Policies HA1 or HA4, nor Section 16 of the NPPF or the provisions within the Planning (Listed Buildings and Conservation Areas) Act (1990).

Listed Buildings

- 9.90 The closest listed buildings to the site are the grade II listed Hertford East Railway Station and the associated grade II listed buffer lights. These listed buildings are some distance to the south-west of the site. There are also several buildings between these heritage assets and the northern parcel, which screen intervisibility. Due to the separation distances involved, and the presence of intervening buildings, it is not considered that the alterations to the scheme would compromise the setting of the grade II listed Hertford East Railway Station or the grade II listed buffer lights.
- 9.91 There are other heritage assets in the wider area, including listed buildings to the north in Bengoe, as well as further listed buildings to the south and south-west. The significant separation distances to these heritage assets means that the setting of these listed buildings would not be affected by the proposed amendments.
- 9.92 Therefore, overall, it is considered that there would be a neutral impact on the setting of all nearby listed buildings. The special interest and historic significance of all heritage assets would be preserved, in accordance with DP Policies HA1 and HA7, as well as Section 16 of the NPPF and the provisions within the Planning (Listed Buildings and Conservation Areas) Act (1990).

Neighbouring Amenity

- 9.93 DP Policy DES4 notes that development should avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties and land, and ensure that their environments are not harmed by noise and disturbance, or by inadequate daylight, privacy or overshadowing. DP Policy EQ2 outlines that proposals should be designed and operated in a way that minimises the direct and cumulative impact of noise on the surrounding environment.

Smeaton Court

- 9.94 To the west of the site is a complex of modern apartments at Smeaton Court. The closest new building on the northern parcel to Smeaton Court would be Building E/F, which would be positioned on the western side of the site. It is proposed to alter the form of Building E/F, with roof extensions erected to provide additional flats. The roof extensions would be constructed a considerable distance (over 20 metres) from the closest apartment block at Smeaton Court. Due to this separation, it is not considered that the flats at Smeaton Court would be materially impacted by overbearing effects, visual obtrusiveness, losses of light, overshadowing or restriction of outlook.
- 9.95 It is also proposed to install several rooflights into the western elevation of Building E/F and these would face towards Smeaton Court. While this is noted, there would be approximately 16 metres between these rooflights and the closest part of Smeaton Court. Officers consider this separation distance between the development and Smeaton Court to be sufficient, so to avoid invasive overlooking towards the flats. The other changes proposed through this amended scheme would not be of such scale or nature to adversely impact properties at Smeaton Court. Therefore, officers consider that the amenity and living conditions of the flats at Smeaton Court would be suitably protected, in accordance with DP Policy DES4.

1 – 27 Marshgate Drive

- 9.96 There are terraced properties at 1 – 27 Marshgate Drive, which are also to the west of the site. These dwellings are a significant distance from the northern parcel, and therefore the amenity and living conditions of these properties would not be compromised by the amendments to the approved scheme. As such, the amended proposals would not be contrary to DP Policy DES4.

Moorings along the River Lee Navigation

- 9.97 To the north of the site and on the opposite side of the River Lee Navigation there are several permanent canal boat moorings. At the appeal, the Local Planning Authority raised concern that the development, by virtue of its size, scale and design, would have resulted in overbearing impacts, overlooking and a reduction in the daylight/sunlight received by the permanent canal boats. The Inspector considered the daylight/sunlight tests within the BRE guidance and determined that the original development would not have resulted in a significant loss of daylight/sunlight to the canal boats. Furthermore, the Inspector concluded that the design of the apartment blocks, coupled with the relevant separation distances, would have ensured that invasive overlooking and overbearing impacts would not have affected the canal boats.
- 9.98 Building A/B, Building C/D and Building E/F would be constructed on the northern part of the site and would face towards the canal boats. This current application proposes to introduce some further bulk to all these buildings through the roof extensions. However, the maximum height of the buildings is not proposed to be increased and the amount of additional bulk incorporated would be modest. Given these observations, officers do not consider that the amendments to the approved scheme would result in a materially greater amenity impact, when compared with the approved development. As such, the amenity and living conditions of the canal boats would not be unduly impacted by losses of light, overshadowing, restriction of outlook or overbearing affects.
- 9.99 This amended scheme proposes to increase the number of windows and balconies on the northern elevations of Building A/B, Building C/D and Building E/F. While this is noted, these buildings are not intended to be re-positioned through this current application and would remain to be approximately between 15 - 24 metres from the permanent canal boats. The retention of this separation distance would ensure that inappropriate overlooking towards the canal boats would not arise. Furthermore, the low level of the canal boats, in relation to the new balconies and windows, means that direct and invasive views into the canal boats would not be created through this amended scheme. The other

proposed amendments to the approved development would not be of such scale or nature to impact the canal boats. Therefore, overall, it is not considered that this amended scheme would compromise the amenity or living conditions of the permanent canal boats. As such, there would be no conflict with DP Policy DES4.

Timber Yard and Adjacent Businesses

- 9.100 Directly to the south of the northern parcel is the existing timber yard, while to the south and east there are also other commercial and industrial uses at the Mead Lane designated employment area. The provision of dwellings adjacent to these commercial uses has already been accepted through the grant of planning permission at the appeal. There is no reason to suggest that the introduction of further flats onto the site would result in any material disruption of these neighbouring commercial uses.
- 9.101 Suitable spacing would continue to be provided between the new buildings and these adjacent commercial uses. Therefore, the proposed elevational amendments to the buildings would not impact the operation of these neighbouring businesses. Furthermore, the alterations to the layout of the scheme would not, by their nature, result in any adverse impacts on the adjacent commercial uses. As such, the amendments would not compromise the operation of nearby businesses or commercial uses, in line with DP Policy DES4.

Other Amenity Considerations

- 9.102 Some comments from local residents have raised amenity concerns not considered above. One local resident has suggested that the uplift in dwellings on the site would result in increased use of the towpath, which could cause noise issues and disturbance for flats at Smeaton Court and Elder Court. While this comment is acknowledged, officers do not consider that the increase in residential units on the site would result in such intense use of the

towpath that material noise impacts or disturbance would affect properties at either Smeaton Court or Elder Court.

- 9.103 A further comment from a local resident has raised concern regarding disturbance during the construction phase of the development. This concern is noted, however a Construction Management Plan (CMP) has already been agreed for the development under reference: X/21/0018/CND. This CMP includes various measures to ensure that disruption for local residents is kept to a minimum through the build-out phase. Adherence to the CMP can be secured via condition. Subject to this condition, it is not considered that undue disturbance would arise for local residents during construction.

Transport, Highways and Parking

- 9.104 DP Policy TRA1 aims to promote developments that are accessible and conducive to travel by sustainable transport modes. This policy requires site layouts to prioritise the movements of modes of transport other than the car. This policy sets out that developments should ensure that a range of sustainable transport options are available to occupants or users, which may involve improvements to pedestrian links, cycle paths, or passenger transport networks.
- 9.105 DP Policy TRA2 notes that proposals should not result in a severe residual cumulative impact. Similarly, Paragraph 116 of the NPPF explains that developments should not be prevented on highways grounds, unless the residual cumulative impacts on the road network would be severe. This policy also outlines that developments should ensure safe and suitable access can be achieved for all users. This policy and Paragraph 116 of the NPPF outline that proposals should be acceptable in highway safety terms.
- 9.106 DP Policy TRA3 sets out that vehicle parking should be assessed on a site-specific basis, taking into account the Supplementary Planning Document 'Vehicle Parking Provision at New

Development' (Vehicle Parking SPD). This SPD contains the Council's parking standards. DP Policy TRA3 also expects developments to supply secure, covered and waterproof cycle storage facilities. DP Policies DES4 and TRA3 encourage the provision of electric vehicle charging points.

Trip Generation and Sustainable Modes

- 9.107 As previously explained in this report, housing provision as part of the original HERT2 site allocation was capped at 'around 200 homes', due to concerns with highways capacity in the area. The original application on the site proposed to deliver 375 dwellings, and therefore intended to provide a number of homes significantly in excess of the site allocation figure. The Highway Authority objected to this original application, as in their view, this quantum of residential development would have generated a level of vehicular trips that would have led to a severe impact on the capacity of the local highway network. The Inspector dealing with the subsequent appeal considered the Highway Authority's position, whilst also reviewing relevant traffic modelling and highway capacity evidence. Through this assessment, the Inspector concluded that the provision of 375 homes on the site would not have resulted in such a quantity of vehicular trips to cause a severe impact, in terms of free flow of traffic on approach routes and key junctions. On this basis, the reason for refusal on highway capacity grounds was not upheld and the appeal was allowed.
- 9.108 This amended scheme is accompanied by a revised Transport Assessment (TA) and this contains details of new traffic modelling that has been undertaken at key locations in the area (Gascoyne Way, London Road, Ware Road and Mill Road). This modelling reveals that during the AM and PM peaks the majority of counts are slightly higher, meaning that, in general, the identified locations are experiencing slightly greater levels of traffic, when compared with the last counts taken in 2017 (8 out of 10 counts are higher).
- 9.109 The TA also includes an updated trip generation calculation for the scheme, which indicates that trips rates for developments of this

nature, in this type of location, have generally reduced in recent years. This trip generation calculation estimates that the amended scheme, including an uplift of 66 units, would generate an additional 5 two-way vehicular trips in the AM peak and a further 8 two-way vehicular trips in the PM peak, when compared with the consented scheme. These figures include a 25% reduction in vehicular trips to account for lower parking provision on the site, an approach that was agreed by the Inspector at the appeal. The two-way vehicular trip figures from the TA are provided below.

	AM Peak	PM Peak
Consented Scheme	72	74
Amended Scheme	77	82
Difference	+5	+8

9.110 The Highway Authority has reviewed the trip generation calculations and does not have a fundamental issue with the outputs. However, they are not convinced that the parking levels are at such a low level to genuinely result in a 25% reduction in vehicular trips. While this is noted, the parking space to dwelling ratio for this amended proposal is similar to that of the original appeal scheme. The Inspector determining the appeal accepted that the reduction in proposed parking provision, below the adopted parking standards, was sufficient to allow a 25% decrease in estimated vehicular trips to be applied. Officers are not aware of any changing circumstances that would justify a different approach being taken to that the Inspector adopted at the appeal. Therefore, it is considered that the 25% reduction in vehicular trips remains reasonable.

9.111 Regardless of the above, even if the 25% reduction in vehicular trips were excluded from the calculations, it is not considered that the uplift of 66 dwellings through the development would result in a substantial increase in vehicular trips, when compared with the consented scheme. Furthermore, the Highway Authority have not objected to the proposal, on the basis that the amended scheme would result in a severe impact on the capacity of local highway network. Whilst the position of the Highway Authority is

acknowledged, it is dependent on a package of sustainable transport measures being secured, in order to encourage the future residents to use sustainable modes rather than vehicular travel. Included within this package is a requested financial contribution towards sustainable and active travel projects and infrastructure in the area.

- 9.112 The applicant has agreed to the full financial contribution sought by the Highway Authority. Part of this contribution could go towards a sustainable and active travel scheme around Hertford East Station, which includes public realm improvements to the front of the station, Oxford Circus style diagonal pedestrian crossings, an emergency vehicular access on Mill Road and a bus gate from Claude Hamilton Way (funding has already been secured for this bus gate). In addition, the contribution would be used to improve the Mead Lane level crossing for pedestrian and cycle use, while funds would also go towards enhancement works to the towpath. Furthermore, part of the contribution could fund the extension or re-routing of bus services in the locality. Therefore, it is considered that the financial contribution would be used to elevate the quality of pedestrian and cycling environments in the area and improve bus services. As such, the contribution would support and encourage the residents of the development to travel by sustainable and active modes.
- 9.113 In addition to the financial contribution, both the consented and amended schemes propose off-site improvement works, including a new footway and stretch of shared footway/cycleway on the eastern side of Marshgate Drive and new crossing points. These works would enhance walking and cycling environments in the immediate vicinity of the site, again promoting these active modes of travel. The works can be secured via condition. Furthermore, it is proposed for 3 connections to be provided through the development and onto the towpath, encouraging the new residents to regularly use this active travel route.
- 9.114 The Highway Authority also request that a Travel Plan, together with £500 travel vouchers per dwelling, are secured for the site, in

order to promote sustainable travel options from the outset of the development. The applicant has agreed to these measures. It is noted that the Highway Authority has suggested that the Travel Plan should be included within the Section 106 Legal Agreement. However, the consented scheme secured the Travel Plan through condition and officers consider that it is reasonable to maintain this approach. On the other hand, the travel vouchers can be required under the provisions within the Section 106 Legal Agreement.

- 9.115 Overall, it is acknowledged that the modelling undertaken by the applicant indicates that generally traffic has slightly increased in the locality since 2017. However, the calculations within the TA suggest that the amended proposal would only result in a limited uplift in vehicular trip generation, when compared with the consented scheme. Furthermore, the Highway Authority have not objected to the current application, on the basis that the uplift of 66 dwellings would result in a severe impact on the capacity of the local highway network.
- 9.116 While the above is noted, it is understood that the Highway Authority's position is dependent on the scheme suitably promoting active and sustainable travel modes through a package of measures. The applicant has agreed to provide a financial contribution towards active travel projects and bus services in the area, while off-site highway improvement works, a Travel Plan and travel vouchers would also be secured. It is considered that these measures would appropriately encourage the future residents to travel by sustainable and active modes, and would in turn reduce vehicular usage. Noting the only modest additional trip generation from this amended scheme, and given that the proposal would suitably promote sustainable modes, officers consider that the delivery of a further 66 dwellings on the site would not result in a severe impact on the capacity of the local highway network. Therefore, this amended scheme would not be in conflict with DP Policy TRA2 or Paragraph 116 of the NPPF.

9.117 Local residents, Hertford Town Council, Hertford Civic Society and Kingsmead Residents Association have all raised concern in their comments regarding increased congestion. These comments have been largely addressed in the above paragraphs. While this is noted, residents and local groups have specifically questioned the suitability of the Mill Road/Mead Lane route to the site. In addition, concerns have been raised that increased congestion could adversely impact the functioning of adjacent businesses. These comments are acknowledged and it is accepted that Mill Road/Mead Lane is the sole access route to the site and nearby employment areas. However, it is not considered that the uplift of 66 dwellings would give rise to such an increase in vehicular trips to result in a severe impact on the capacity of this route. As such, the operation of nearby businesses would not be materially compromised. This position is backed up by the comments of the Highway Authority, who have not objected on these grounds, subject to the package of sustainable and active travel measures being secured.

Vehicular Access Arrangements

9.118 The original scheme and the first Section 73 application both included two vehicular accesses from Marshgate Drive into the site. The northern access from Marshgate Drive would serve the apartment blocks, while the southern access would be used by the houses. Drawings were provided with these previous applications to demonstrate that these accesses would be constructed to appropriate standards, with suitable visibility provided along Marshgate Drive. In addition, tracking drawings were previously submitted to show that all relevant vehicle types could manoeuvre into/out of these access points. These accesses have largely been constructed on site. This current proposal does not seek to alter any of the vehicular access arrangements from the public highway. These access arrangements remain acceptable to serve this amended development and would not compromise highways safety, in accordance with DP Policy TRA2.

9.119 This amended scheme does include some changes to the internal road layout, with additional parking introduced along the main access road and parking layouts adjacent to the buildings altered. Updated tracking drawings have been provided in the TA and these illustrate manoeuvres within the site for refuse vehicles, emergency vehicles and buses. The Highway Authority has reviewed this proposal, including the internal layout, which was amended through the course of the application. This consultee has not raised any concern with vehicle manoeuvres within the site. Noting this, officers consider that the amended layout of the scheme would continue to allow the safe turning and manoeuvring of all relevant vehicles within the site. Therefore, the internal access and manoeuvring arrangements are acceptable and would comply with DP Policy TRA2.

Car Parking

9.120 The consented scheme proposed to deliver parking spaces in the podiums of Buildings A – F, with communal parking areas also created for the apartments and the houses. In total, the consented scheme proposed 324 parking spaces for the 380 dwellings across the full site. This equates to approximately 0.85 parking spaces per dwelling. On the northern parcel, the consented scheme would deliver 260 parking spaces to serve the 351 apartments, which represents roughly 0.74 parking spaces per dwelling.

9.121 This amended scheme seeks to increase the number of parking spaces on the northern parcel to serve the additional 66 units. These further parking spaces would be provided within enlarged and reconfigured podiums, while some additional above ground spaces would be supplied along the main access road and within the communal parking areas. Overall, this amended scheme proposes 367 parking spaces across the development, which constitutes approximately 0.82 parking spaces per dwelling. The northern parcel would accommodate 303 parking spaces for the 417 apartments. This represents roughly 0.73 parking spaces per apartment. The relevant parking provision figures are summarised in the table below. From this table, it is evident that the amended

development would deliver a similar ratio of parking spaces to dwellings, when compared with the consented scheme.

	Consented Scheme	Proposed Scheme
Full Site	324 parking spaces 0.85 spaces per dwelling	367 parking spaces 0.82 spaces per dwelling
Northern Parcel	260 parking spaces 0.74 spaces per dwelling	303 parking spaces 0.73 spaces per dwelling

9.122 Using the Council's parking standards the apartments on the northern parcel would give rise to a need for 745 parking spaces. Therefore, the amended scheme, delivering 303 parking spaces for the apartments, significantly under provides parking, when assessed in the context of the full parking standards. While this is noted, the Vehicle Parking SPD includes a zonal approach to parking provision, whereby the number of required parking spaces can be reduced in more sustainable and accessible locations. In this instance, the site is situated in Zone 4, where a 25% reduction can be used. Applying this reduction, the proposals for the northern parcel would still result in a requirement for 559 parking spaces. As such, the amended scheme under delivers parking for the apartments, when considered against the parking standards and the Vehicle Parking SPD.

9.123 While this under provision is acknowledged, DP Policy TRA3 is clear in that parking should be assessed on a 'site-specific basis'. In this case, officers note that the proposed parking space to dwelling ratio is similar to that accepted by the Inspector at the appeal. This is an initial indication that the parking provision is appropriate. Furthermore, the site is in a sustainable location, where residents would have the option of walking or cycling to access amenities within Hertford Town Centre, as well as the Tesco Superstore and employment opportunities to the east. Hertford East Railway Station is also a short distance to the south-west, while there are

various bus stops available in the locality. As such, the future residents would be likely to use public transport on a regular basis. The accessibility of this location, and the associated scope to travel by sustainable modes, means that the occupiers of the development would not be overly reliant on car ownership or travel by the private vehicle. Given this, officers consider that there is clear justification for a reduction in parking provision below the requirements of the Vehicle Parking SPD.

- 9.124 Officers also note that HCC declared a climate emergency in 2019 and EHDC agreed a climate emergency in 2023. In light of this, it is considered that proposals in sustainable locations should be seeking to limit parking provision, so to discourage car use and minimise carbon emissions. This provides further support for a proposed reduction in parking provision below the requirements of the adopted parking standards.
- 9.125 Whilst the above position is acknowledged, it is accepted that it is still necessary to provide some on-site parking, in order to ensure that new residents do not regularly park on-street and cause parking capacity issues on local roads. Officers consider that the provision of 303 parking spaces on the northern parcel would be sufficient to address the parking demand arising from the apartments. Therefore, the amended development would not result in material adverse impacts on parking capacity on local roads. Furthermore, the proposals would not result in new residents taking up parking spaces used by nearby businesses. Overall, it is considered that this amended scheme has struck an appropriate balance between meeting the parking demand arising from the development, while still seeking to reduce parking provision to discourage car use. As such, the proposed parking arrangements are considered acceptable and would not be contrary to DP Policy TRA3.
- 9.126 The Highway Authority have outlined that they are disappointed with the number of parking spaces being proposed, as in their view, a lower provision would be likely to further discourage car use. While this is noted, the Highway Authority has

not objected to the parking provision, subject to a financial contribution being provided towards sustainable and active travel projects in the locality. This full financial contribution has been agreed by the applicant. It is considered that this financial contribution, and the ultimate delivery of the relevant projects, would improve walking and cycling environments in the locality, promoting active travel modes as a genuine alternative to vehicular usage. In addition, the financial contribution could be used to enhance existing bus services, encouraging public transport as a further alternative to car travel. As such, the financial contribution, and the associated enhancements, would promote active and sustainable modes, whilst discouraging the future residents from using the private vehicle for daily journeys. This encouragement of active and sustainable modes, coupled with the supply of a level of parking notably below the adopted standards, means that the overall scheme would adequately discourage car usage and ownership.

Cycle Parking, Electric Vehicle Charging and Car Club

- 9.127 This amended scheme includes cycle parking storage areas within the apartment buildings. The applicant has confirmed that 446 cycle parking spaces would be supplied across the development, meaning that there would be one space per dwelling. This provision is in line with the Council's adopted cycle parking standards in the Vehicle Parking SPD. Officers support this provision, which would appropriately encourage cycling as a sustainable mode of transport, in accordance with DP Policies TRA1 and TRA3.
- 9.128 The submitted Planning Statement explains that 10% of all the parking spaces on site would be provided with electric vehicle charging points (45 charging points). In addition, a further 10% of the parking spaces would have the option of a charging point being installed, if required. Therefore, 20% of all the parking spaces across the development could have access to electric vehicle

charging points. It is noted that Hertford Town Council do not consider this number of electric vehicle charging points to be sufficient. However, this provision aligns with the vehicle charging proposals included within the first Section 73 application. Officers consider that delivery of this quantity of charging points would appropriately encourage the uptake of electric vehicles, supporting a reduction in carbon emissions. Therefore, the provision of electric vehicle charging points complies with DP Policies DES4 and TRA3. While this is noted, the location of the charging points and means of supplying this infrastructure has not been confirmed in this current application. As such, it is considered necessary to secure further details of the electric vehicle charging point infrastructure by condition.

- 9.129 The applicant has also committed to providing a car club on site, with this secured in the original Section 106 Legal Agreement. Officers support this, as it would discourage the future residents from owning vehicles, whilst also promoting car sharing for journeys. Therefore, creation of this car club would assist in reducing vehicular trips from the site, in accordance with DP Policies TRA1 and TRA2.

Other Highways Matters

- 9.130 Local residents have raised concern that during the build-out phase construction vehicles would park on Marshgate Drive and displace existing parked vehicles. While these comments are noted, a Construction Management Plan (CMP) has already been agreed for the development (reference: X/21/0018/CND) and this identifies sufficient contractor parking areas on site. This means that construction vehicles would park on the site, rather than on Marshgate Drive. Adherence to the agreed CMP, and the supply of the identified on-site contractor parking areas, can be secured via condition. Subject to this condition, it is not considered that parked vehicles on street would be displaced by construction vehicles.
- 9.131 A comment from a local resident has questioned whether increased vehicular movements could impact the condition of

highway carriageways in the vicinity. While this concern is noted, the agreed CMP includes provisions for dealing with any abnormal wear and tear that is identified following the construction phase. As such, any damage caused to the public highway during construction would be adequately repaired. In addition, once the development is occupied the types of vehicles accessing the site would not, by their nature, be likely to cause significant damage to carriageways.

Flooding and Drainage

Flood Risk

- 9.132 DP Policy WAT1 notes that developments should not increase the likelihood or intensity of any form of flooding, both on site and to neighbouring land or further downstream. This policy and Section 14 of the NPPF require proposals in areas known to be at flood risk to be subject to the sequential test, which seeks to steer new development to areas at the lowest risk from flooding. DP Policy WAT3 sets out that an undeveloped buffer strip of at least 8 metres should be maintained alongside all main rivers.
- 9.133 Flood Zones 2 and 3 extend over the eastern part of the northern parcel, and therefore these parts of the site are at high to medium risk of flooding. The site is located adjacent to the River Lee Navigation and there is another watercourse known as Hags Dell to the south, which is understood to be the source of the flood risk. As noted above, developments in flood zones are normally subject to the sequential test. However, Paragraph 180 of the NPPF explains that 'where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again'. In this case, the site was allocated through the development plan, and therefore there is no requirement to apply the sequential test to this amended scheme.
- 9.134 Notwithstanding the above, it must still be ensured that the development would not increase risk of flooding both on-site and

off-site, as required by DP Policy WAT1. The original scheme was supported by a Flood Risk Assessment (FRA), which set out several measures that would, in the applicant's view, ensure that the development would be acceptable in flood risk terms. This included the creation of a large flood compensation area in the open space to the eastern side of the northern parcel. This area was proposed to hold floodwater, in the event of a flood, whilst not impeding escape routes from the site. The Environment Agency (EA) reviewed this FRA and were content that the measures included would ensure that undue flood risk would not arise. However, they did recommend conditions, including condition 34, which requires the development to be implemented in line with the recommendations of the FRA.

9.135 Given that the layout of the scheme has been revised through this current application, and noting that the EA's requirements have changed since 2019, it was reasonable to expect an updated FRA to be provided with this amended scheme. However, this current application was not originally accompanied by a new FRA. Due to this, the EA initially objected to this application, setting out that further information was required regarding access/egress in the event of a flood, the finished floor levels and the functioning of the flood compensation scheme.

9.136 Following this, the applicant submitted an FRA Addendum and a Flood Risk Technical Note. These documents explained that flood compensation area on the eastern side of the northern parcel was proposed to be retained, with floodwater directed to this area in the event of a flood, as shown in the images below. Further technical information on the functioning of this flood compensation area and the finished floor levels was also provided. In addition, the FRA Addendum identified the proposed egress route, in the event of a flood. The EA have reviewed these documents and have removed their objection. On this basis, officers consider that the amended scheme would not increase flood risk either on-site or off-site. Therefore, the proposal would comply with DP Policy WAT1 and Section 14 of the NPPF. While this is noted, it is necessary to update condition 34, so to ensure that

this condition makes reference to the most up to date flooding information.



9.137 In addition to the above, the EA also initially objected on the basis that no information had been provided to demonstrate that the riparian buffer zone alongside the River Lee Navigation would be maintained through this amended scheme, as required by DP Policy WAT3. The applicant responded to this concern in the FRA Addendum confirming that no changes were proposed to the site layout along the northern site boundary. The EA has reviewed the FRA Addendum and has removed their objection on these grounds. Given this, officers are content that an appropriate buffer would be retained between the development and riparian zone, in accordance with DP Policy WAT3 and Section 14 of the NPPF.

Surface Water Drainage

9.138 DP Policy WAT5 requires developments to utilise the most sustainable forms of drainage systems, in accordance with the SUDs hierarchy. This policy outlines that proposals should aim to achieve greenfield run-off rates, with surface water managed as close to its source as possible.

9.139 The original application was accompanied by a Drainage Assessment, which set out the proposed approach to managing surface water drainage on the site. This Drainage Assessment explained that on the northern parcel it was proposed to discharge surface water at a controlled rate into the River Lee Navigation. It is understood that this approach was adopted as possible infiltration

on the site was restricted due to the groundwater levels on site and contaminated soils. This drainage strategy was reviewed by the Canal and River Trust (CRT), the Local Lead Flood Authority (LLFA) and the EA and none of these consultees objected to the scheme. However, conditions 9 and 10 were included, in order to secure final details of the drainage scheme and the approach to maintenance.

- 9.140 This amended scheme was accompanied by a Drainage Strategy Report. This report explained that the applicant proposes to retain the approach of discharging surface water on the northern parcel into the River Lee Navigation at a controlled rate. Whilst this is noted, the LLFA initially reviewed this Drainage Strategy Report and objected to the proposal, as an updated drainage layout was presented in the report, which did not align with the provided calculations. Following this, the applicant submitted an updated Drainage Strategy Report. The CRT, LLFA and EA have all reviewed this updated report and none of these consultees have objected. The LLFA, in particular, have commented to note that the new drainage calculations included within the updated report are suitable. Given the comments of the consultees, and the particular constraints on the site, officers are content that that proposed surface water drainage strategy is appropriate. The adopted strategy would ensure that surface water on site would be suitably managed, in accordance with DP Policies WAT3 and WAT5.
- 9.141 The LLFA initially questioned whether condition 9 would need to be re-discharged to take account of the updated drainage strategy. However, since these comments the LLFA have advised that they are fully content with the drainage proposals presented in this application. As such, condition 9 has been updated to a compliance condition, requiring the development to be implemented in accordance with the agreed drainage strategy. In addition, the CRT have outlined that the applicant would be required to enter into a formal agreement with them to discharge surface water into the River Lee Navigation. An informative is recommended to cover this point.

- 9.142 The Design Officer has suggested that passive drainage measures would be preferable to pumped infrastructure. This comment is noted, however the provision of a surface water pumping station was agreed as part of the consented scheme. Furthermore, the land levels on the site mean that it is not possible for surface water to be discharged via gravity, and therefore a pumping station is required.
- 9.143 A condition securing a Construction and Environmental Management Plan has been recommended by the CRT to cover the demolition, remediation and construction phases of the development. They suggest that this could include measures to prevent pollution of the River Lee Navigation. This suggestion is acknowledged, however a Construction Management Plan has already been secured for the site under reference: X/21/0018/CND and this includes details of the drainage proposals during the construction phase. Noting this, and given that works have already commenced on site, it would be unreasonable to seek a further management plan for the construction phase.

Foul Water Drainage

- 9.144 DP Policy WAT6 sets out that development should ensure that adequate wastewater infrastructure capacity is available. This policy also encourages new wastewater infrastructure to utilise best available techniques and practices.
- 9.145 The Drainage Strategy Reports accompanying this application confirm that it is proposed to provide a foul water pumping station on the site, which would discharge flows into the public sewer network. This approach reflects the foul water strategy that formed part of the original scheme. Thames Water have commented on the application and have not objected to this approach to managing foul water. Given this, officers do not have any concerns with the foul water drainage strategy, which would comply with DP Policy WAT6.

- 9.146 While the above is noted, Thames Water have recommended a condition requiring details of the foul water capacity in the locality and seeking further information on the potential network upgrades. This condition is considered to be necessary, as it would ensure that any works to the foul water network, which are required to accommodate the uplift in dwellings, are undertaken. As such, this condition forms part of this recommendation.
- 9.147 Thames Water have also recommended a condition requiring a Piling Method Statement, as it is understood that there are strategic sewers in the area that could be impacted by any piling. Whilst this request is acknowledged, all ground works associated with development on the northern parcel have already been undertaken by the applicant. Furthermore, condition 36 of the extant scheme prohibits any piling taking place on the site, unless agreed by the Local Planning Authority. Such agreement would only be given if Thames Water and the Environment Agency were content with the method of piling. As such, a condition securing a Piling Method Statement is not deemed necessary.
- 9.148 A local resident has questioned how any malfunctions with the foul water pumping station would be managed. The submitted Drainage Strategy Report explains that a dual pumping station would be installed. This would incorporate a standby pump, which would only be used in the event of the main pump failing. In addition, a back-up power unit would be provided to cover any power shortages. From this, it is clear that the applicant intends to put measures in place to ensure that any failings with the foul water drainage system are adequately dealt with. Thames Water have not raised any concerns with the stated approach and officers have no reason to dispute the suitability of this arrangement. However, the final details of this would be agreed at Building Regulations stage.

Biodiversity and Ecology

- 9.149 DP Policies NE2 and NE3 outline that developments should achieve a net gain in biodiversity and deliver biodiversity enhancements,

where it is feasible and proportionate to do so. DP Policy NE1 sets out that proposals which have a detrimental impact on designated nature conservation sites should not be permitted. DP Policy NE3 notes that development should avoid impacting protected species. In addition, this policy expects proposals to create opportunities for wildlife and provide integrated bird and bat boxes.

Trees and Biodiversity

- 9.150 The existing site comprises of large areas of hardstanding and some scattered vegetation, and therefore is of limited biodiversity value. This amended scheme does propose to remove some green spaces and areas of trees that were part of the approved development. For example, the green space between Building A/B and Building C/D would be reduced, so to accommodate additional parking, while soft landscaping in the north-western corner would be decreased to enable a larger podium.
- 9.151 Whilst these losses of green space are noted, the amended scheme includes compensatory areas of new soft landscaping, including a green corridor between Building C/D and Building E/F, as well as new trees across the northern parcel. The applicant has confirmed that the proposal would, overall, deliver an approximate biodiversity net gain (BNG) of 59.8%. It has not been possible to corroborate this BNG figure, as a BNG Metric has not been submitted. Furthermore, the exact BNG figure has not been updated following recent amendments secured through this current application. Nonetheless, when regard is had to the condition of the existing site, it is clear that the scheme would provide a notable BNG. In addition, given the only modest changes to the layout of the scheme, it is considered that the level of BNG achieved would be similar to the approved scheme. On this basis, officers consider that this amended proposal would provide an appropriate level of BNG, in accordance with DP Policies NE2 and NE3. Delivery of this BNG attracts some limited to moderate positive weight in the overall planning balance.

9.152 The Environment Act (2021) introduced a mandatory requirement for developments to deliver at least a 10% BNG. However, the Biodiversity Gain Requirements (Exemptions) Regulations (2024) identify certain types of development that are exempt from mandatory BNG. These regulations set out that mandatory BNG is not applicable to Section 73 applications, where the original planning permission is exempt. In this instance, the original application was submitted in late 2018 and this was before the introduction of mandatory BNG. Therefore, the original application and this current application are exempt from mandatory BNG.

Ecology

9.153 The site is not situated with a designated nature conservation site. It is noted that the Kings Mead Local Wildlife Site (LWS) is a short distance to the north-east. However, it was established through the original application that this nearby LWS would not be adversely impacted by the development. The currently proposed amendments to the approved scheme would not result in any further impacts on this LWS. Therefore, the integrity of this LWS would not be compromised by the proposals. No other designated nature conservation sites would be in such proximity to the site to be impacted by the development. As such, the amended scheme would not be in conflict with DP Policy NE1.

9.154 Through the original application, it was determined that there was limited scope for protected species to occupy the existing site. On this basis, it was concluded that protected species would not be impacted by the proposed development. There is no reason to suggest that the currently proposed amendments to the approved scheme would result in any further impacts on protected species. Therefore, officers do not consider that protected species would be harmed, and the proposals would not be contrary to DP Policy NE3.

9.155 Neither the original application, nor the first Section 73 application, secured specific wildlife enhancements on the site. However, the applicant has outlined in their Design and Access Statement that

they intend to install 12 swift boxes, 8 sparrow terraces and 4 bat boxes on the northern parcel. While this commitment is acknowledged, Hertford Town Council has raised concern that this provision is low for a development of this size. Officers agree that the incorporation of only 20 wildlife features is modest for a scheme of this scale. Therefore, it is considered appropriate to include an additional condition requiring further bat and bird boxes to be provided on site. This would ensure that the scheme creates appropriate opportunities for wildlife, in line with DP Policy NE3.

- 9.156 Hertford Town Council have questioned whether the Ecological Appraisal referenced by the applicant is available to view. Officers note that the applicant's Sustainability Checklist refers to an Ecological Assessment from 2018. This is the Ecological Appraisal that was submitted with the original 2018 application and this document can be viewed on the planning register page relevant to this previous application.

Energy Efficiency and Climate Change

- 9.157 DP Policy CC2 requires developments to minimise carbon emissions, taking into account the Energy Hierarchy. This policy encourages energy efficiency standards above Building Regulations. DP Policy CC1 sets out that proposals should demonstrate how the design, materials, construction and operation of the development would minimise overheating and reduce the need for heating in the winter. Schemes should also minimise the use of mains water, with residential developments designed to meet the water consumption target of 110 litres per head, per day, in line with DP Policy WAT4.
- 9.158 The original scheme proposed to minimise carbon emissions across the development largely through adopting a fabric first approach to construction, incorporating low U-values and high levels of air tightness. The scheme was then revised under the first Section 73 application (reference: 3/23/2034/VAR), with air source heat pumps (ASHPs) added to Buildings G and H.

- 9.159 This amended scheme is supported by a Sustainability Statement and Sustainability Checklist, which set out the energy strategy for the revised development. These documents explain that the fabric first approach would continue to be utilised for the new construction associated with the additional dwellings. Therefore, the roof extensions would be built in fabric that facilitates low U-values, low air permeability and improved insulation. This approach would enable the new apartments to use energy efficiently. The Sustainability Statement estimates that adopting this fabric first approach would result in a 2.3% carbon reduction beyond Building Regulations across the development. Achieving this carbon emission reduction means that the amended scheme would meet the requirements of DP Policy CC2 and would satisfactorily minimise carbon emissions.
- 9.160 Officers do note that the ground floor plans for Buildings G and H have been updated through this amended scheme, with the areas containing the ASHPs removed. This has been queried with the applicant, who has subsequently confirmed that it is now proposed to install heat pumps within the individual apartments. This approach and provision of renewables is supported by officers, as it would enable energy to be delivered to these apartments in an efficient, green and sustainable manner. It is understood that the carbon emission reduction associated with the installation of the heat pumps has not been factored into the calculations within the Sustainability Statement. As such, the carbon emission reduction beyond Building Regulations is likely to exceed the 2.3% figure referred to in the Sustainability Statement.
- 9.161 Hertford Town Council have questioned why solar panels are not proposed to be incorporated into this development. This query is acknowledged, however this amended scheme is able to deliver a carbon emission reduction beyond Building Regulations, through adopting a fabric first approach to the development. As such, the requirements of DP Policy CC2 have been satisfied. Given this, there is no policy basis to require the provision of solar panels on the buildings.

- 9.162 The Design Officer initially raised concern that the new apartments could be at risk from overheating. In response to this, the applicant submitted an Overheating Assessment, which considers whether, or not, the development would meet Building Regulation requirements relating to overheating. In order to assess this, the Overheating Assessment includes modelling of a number of south facing apartments, as these would be the most susceptible units to overheating.
- 9.163 The Overheating Assessment acknowledges that there are sources of noise in the surrounding area, including from road traffic and nearby industrial uses. Due to this, natural ventilation through opening windows cannot be relied on as the sole measure to avoid overheating, as this could leave the occupiers of the apartments vulnerable to noise disturbance. While this is noted, the Overheating Assessment does consider that the opening of windows during unoccupied hours of respective spaces would be acceptable (i.e. opening of living room windows during the night and opening of bedroom windows in the day). Therefore, this use of openable windows has been factored into the modelling within the Overheating Assessment. Furthermore, the Overheating Assessment advises that mechanical ventilation and efficient glazing should be incorporated into the additional units to assist with cooling the apartments.
- 9.164 The Overheating Assessment concludes that the use of openable windows at appropriate times, taken together with the installation of mechanical ventilation and efficient glazing, would enable the additional apartments to meet Building Regulations, relating to overheating. The Design Officer does not dispute these findings, and therefore officers consider that the development can be designed to appropriately minimise overheating, in accordance with DP Policy CC1. Whilst this is noted, these conclusions are based on the advice of the Overheating Assessment being followed. Therefore, it is deemed necessary to attach a condition requiring adherence to the recommendations of the Overheating Assessment.

9.165 The Sustainability Statement and Sustainability Checklist confirm that the new dwellings would be fitted out to achieve a water consumption target of 105 litres, per head, per day. This level of water consumption exceeds the requirements of DP Policy WAT4. Therefore, the development would appropriately minimise use of mains water. Compliance with the water consumption target of DP Policy WAT4 can be secured via condition.

Infrastructure Requirements

9.166 DP Policy DEL1 notes that for individual proposals adequate infrastructure should be provided both on and off site, so to enable the delivery of sustainable development. DP Policy DEL2 sets out that the Council will seek a range of planning obligations, where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. This policy requirement reflects Paragraph 58 of the NPPF and Regulation 122 of Community Infrastructure Regulations (2010) (CIL Regs).

9.167 Several local residents have raised concern with the capacity of services and infrastructure in the area. However, none of the statutory bodies responsible for the relevant infrastructure have objected to the scheme on capacity grounds. It is, nonetheless, accepted that any major development of this scale will inevitably have some impact on existing local services and infrastructure, including schools, healthcare, sports facilities, community facilities and highways. In order for a development to be viewed as sustainable, it is important that a proposal mitigates its impact on local infrastructure and services. Mitigation can be provided in the form of financial contributions, which can be used to improve services and facilities, so that they are able to accommodate the new residents occupying the development. Such contributions must, however, be justified in the context of the tests outlined at DP Policy DEL2, Paragraph 58 of the NPPF and Regulation 122 of the CIL Regs.

9.168 As part of the original scheme and the first Section 73 application, various financial contributions were secured in the relevant Section 106 Legal Agreements, in order to mitigate the impact of the 380 unit development on local services and infrastructure. These secured financial contributions are listed in the table below. All these contributions are index linked to the relevant indexations referred to in the Section 106 Legal Agreements.

Infrastructure/ Facility	3/18/2465/OUT	3/23/2034/VAR	Total
Bus Services	£397,800	£5,304	£403,104
Children and Young People	£38,145	£509.60	£38,654.60
Community Centre Provision	£68,872	£918.30	£69,790.30
Community Healthcare	£68,261	£910.15	£69,171.15
Early Years Provision	£74,922	£999	£75,921
GP Provision	£265,426.20	£3,539	£268,965.20
Hartham Common Bridge	£93,255.47	£1,230.40	£94,485.87
Library Services	£43,949	£586	£44,535
Mental Health	£72,922	£972.30	£73,894.30
Primary Education	£274,389	£6,350	£482,570
Secondary Education	£201,831		

Recycling	£27,000	£360	£27,360
Sports	£258,272.84	£3,444.66	£261,717.50
Transport Improvements	£459,433	£6,126	£465,559
Vehicle Parking	£15,000	£200	£15,200
Youth Services	£5,068	£68	£5,136
Travel Plan Evaluation and Support (Commercial)	£6,000	-	£6,000
Travel Plan Evaluation and Support (Residential)	£6,000	-	£6,000
Total Contributions	£2,376,546.51	£31,517.41	£2,408,063.92

9.169 In addition to the above contributions, this current application is required to mitigate the impact on local services and infrastructure, resulting from the proposed uplift of 66 dwellings on the site. Since the appeal decision, both EHDC and HCC have updated their guidance on planning obligations and financial contributions. This updated guidance has increased the level of financial contributions that should be secured, whilst also requiring financial contributions for additional types of services and infrastructure.

9.170 Officers have undertaken discussions with the applicant, in order to establish the appropriate level of financial contributions to secure, particularly given the constrained viability position of the scheme. While the viability constraints have been acknowledged, in officer's view, it is important to maximise financial contributions, so to enable local services and infrastructure to accommodate and

manage the increased number of residents occupying the site. In light of this, the applicant has agreed to the financial contributions based on EHDC's and HCC's updated guidance, alongside the full NHS contribution. However, some financial contributions requested by EHDC's Section 106 Officer have been excluded, as these facilities are being provided on-site (gym contribution and children's play contribution). Furthermore, the amenity green space/parks and gardens contribution has been reduced to account for some on-site provision. The full list of agreed financial contributions is provided in the table below. All these contributions are index linked to the relevant indexations referred to in the Heads of Terms.

Infrastructure/Facility	Contribution
EHDC Contributions	
Allotments	£11,672
Amenity Green Space/Park and Gardens	£28,627
Bowls	£15,896
Community Centres	£45,729
GP Provision	£91,938
Natural and Semi-Natural Green Space	£27,390
Recycling	£5,016
Outdoor Tennis	£10,890
Playing Pitches	£34,530
Sports Hall	£37,779
Studio Space	£6,936
Swimming Pool	£38,633
HCC Contributions	
Childcare (0 – 2 years)	£1,391
Childcare (5 – 11 years)	£97
Fire and Rescue Service	£25,119
Library Service	£4,260
Primary Education	£161,074
Secondary Education	£167,267
SEND	£17,174

Sustainable, Accessible and Active Travel	£650,826
Waste Service Recycling Centre	£9,506
Waste Service Transfer Station	£6,958
Youth Service	£1,613
Total Contribution	£1,400,321

9.171 Officers consider that these financial contributions are required to mitigate the impact of the additional 66 units and to enable local services and infrastructure to accommodate the uplift in residents living on the site. Therefore, it is considered that the financial contributions are necessary to make the development acceptable, directly related to the development, and fairly and reasonably related in scale and kind to the development. On this basis, the financial contributions pass the tests set at DP Policy DEL2, Paragraph 58 of the NPPF and Regulation 122 of the CIL Regs.

9.172 The financial contributions would be secured within the Section 106 Legal Agreement. These new financial contributions would be supplemental to the contributions secured through the appeal scheme and the first Section 73 application. Therefore, the full development would make a total financial contribution of £3,808,384.92. While the purpose of the contributions is to mitigate the impact of this amended scheme, it is clear that the secured funds would result in wider public benefits, as improvements would be made to services used by existing local residents. This public benefit should be assigned limited positive weight in the final planning balance.

Other Matters

Noise Impacts

9.173 DP Policy EQ2 notes that noise sensitive development should be located away from existing noise generating sources, where possible, to prevent prejudicing existing operations. This policy

reflects the 'agent of change' principle at Paragraph 200 of the NPPF, which sets out that development should integrate effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

- 9.174 The commercial uses adjacent to the site do generate some noise when in operation. If this noise generation is not appropriately considered, then it could impact the living conditions of the flats on the application site. This could eventually lead to noise complaints, which could result in restrictions being placed on the commercial uses. Such circumstances would be contrary to DP Policy EQ2, Paragraph 200 of the NPPF and the agent of change principle.
- 9.175 Through the appeal, the Inspector considered this matter and concluded that it was appropriate to include a condition requiring a scheme for protecting the new dwellings from noise. This condition was discharged under reference: X/20/0474/CND. In order to discharge this condition, an Acoustic Report was submitted, which recommended the installation of specific glazing in the dwellings, as well as mechanical ventilation to certain units, in order to reduce the need to open windows. Subject to these measures, it was determined that the dwellings would not be adversely impacted by noise from the adjacent commercial uses, and as such noise complaints would not be likely to occur. Therefore, it was considered unlikely that restrictions on existing businesses would be required.
- 9.176 The Environmental Health Officer has commented on this application and has advised that a further Acoustic Report is required, in order to ensure that the additional rooftop units would not be impacted by noise from the adjacent commercial uses. Officers consider that this is necessary, so to protect the occupiers of the new flats from noise generation and avoid noise complaints. Therefore, a condition is recommended to secure a further Acoustic Report.

Air Quality

- 9.177 DP Policy EQ4 notes that the effect of a development on air quality is a material consideration. This policy also explains that development should include measures to minimise air quality impacts. These requirements are consistent with Paragraph 199 of the NPPF.
- 9.178 Some local residents have raised concern that the amended scheme, and the linked vehicular trips, would result in increased air pollution, particularly as the site is close to an Air Quality Management Area (AQMA). While these comments are noted, the Environmental Health Officer has not objected to the application, on the basis of adverse air quality impacts. Furthermore, officers do not consider that the provision of a further 66 dwellings would give rise to such an uplift in vehicular journeys to result in a significant increase in air pollution, when compared with the consented scheme.
- 9.179 In addition to the above, this amended proposal supports sustainable modes of transport through financial contributions to active travel projects and bus services, delivering off-site highway improvements, providing cycle parking facilities, committing to implementation of a Travel Plan and supplying travel vouchers. These measures would encourage residents to utilise sustainable and active travel modes, as an alternative to vehicle usage, and would therefore limit air pollution. The scheme also includes the provision of electric vehicle charging points, so to ensure that when vehicular journeys are necessary there is potential to use a low emission vehicle. This would further minimise air pollution associated with vehicular travel.
- 9.180 Overall, officers consider that this amended proposal would only result in a modest increase in vehicular trips, when compared with the consented scheme. Noting this, and given that the development would suitably encourage sustainable modes of travel and use of electric vehicles, it is considered that the amended scheme would adequately minimise air pollution. This

position is supported by the Environmental Health Officer, who has not objected on air quality grounds. As such, it is not considered that the amended scheme would be contrary to DP Policy EQ4 or Section 15 of the NPPF.

Fire Safety

- 9.181 The Health and Safety Executive (HSE) was consulted on this application. This consultee has advised that the proposed buildings do not meet the height condition for 'relevant buildings'. Therefore, in regard to fire safety, HSE is not a statutory consultee and has no comments to make on the application.
- 9.182 While this is noted, the applicant has submitted a Stage 2 Fire Strategy Report with this application. This report makes several fire safety recommendations, including the provision of alarm systems, the inclusion of smoke detection systems and the need for smoke ventilation systems. In addition, the report considers access for the fire service, assesses the internal layouts of the buildings and identifies escape routes. Therefore, it is clear that the applicant has considered the fire safety requirements of the development. However, compliance with the fire regulations would ultimately be a matter considered at Building Regulations stage.

Self-Build

- 9.183 DP Policy HOU8 requires sites delivering more than 200 dwellings to supply at least 1% of dwellings plots for sale to self-builders.
- 9.184 This amended scheme would deliver 446 units on the site, meaning that under DP Policy HOU8 at least 4 self-build plots would be expected. While this is noted, the Council agreed through the assessment of the original application that it would not be advisable to secure self-build plots on the site, due to contamination risks and liability issues. Officers are not aware of any changing circumstances that would justify a different approach being adopted on this current application. In addition, it is not considered that a development of this nature, incorporating a high

proportion of flats, together with terraced housing, would lend itself to the delivery of self-build units. Given these observations, officers do not consider that it would be appropriate to require self-build plots through this amended proposal.

Screening

9.185 Prior to the submission of the original scheme on the site (reference: 3/18/2465/OUT), a request for a screening opinion under the Town and Country Planning (Environmental Impact Assessment) Regulations (2017) was submitted, in order to determine whether an Environmental Impact Assessment was required to accompany the application. The Local Planning Authority considered this request and determined that the proposals would not have resulted in significant effects on the environment. Therefore, it was concluded that an Environmental Impact Assessment was not required. It is not considered that the currently proposed amendments to the original scheme would be of such scale or nature to alter the previous conclusions. Therefore, the Local Planning Authority do not consider that an Environmental Impact Assessment is required.

Third Party Comments

9.186 The majority of matters raised by local residents and groups, in their objections, have been considered elsewhere in this report. However, there are some items that have not been addressed in the main parts of the report. For example, one local resident has questioned why shops, cafés or other commercial uses are not being provided on site. This query is acknowledged, however the mix of uses to be delivered through the development was set as part of the original application on the site. This current application seeks to make external alterations and extensions to the consented apartment blocks, whilst also making amendments to the approved layout of the northern parcel. It is not within the scope of this application to revisit the mix of uses to be provided.

- 9.187 A local resident has also queried the arrangements to provide power to the site. Officers see no reason why power supply to the site would be constrained. Nonetheless, this is a matter for the applicant to resolve with the relevant power supplier.
- 9.188 Several objections have been received raising concern that the applicant has not undertaken meaningful public engagement. While this concern is noted, the applicant has included a Statement of Community Involvement (SCI) within their Planning Statement, which explains the steps that have been taken to engage with the public. The SCI outlines that the applicant undertook a newsletter drop, with 500 newsletters distributed to nearby properties. These newsletters included information about the proposed amendments to the consented scheme and supplied an email address for residents to send any feedback to. In addition, the newsletters directed local residents to a dedicated website that contained details on the amended proposals and offered further opportunities to provide feedback. It is understood that the applicant also delivered newsletters to a nearby superstore, so that they could be pinned on the community board.
- 9.189 Officers acknowledge that some local residents do not consider this level of engagement to be sufficient. However, it must be emphasised that this current application is an amendment to a consented scheme. Given this, the full range of public engagement methods that would be necessary for a completely new application cannot be expected for this current proposal. It is considered that the applicant has adopted a proportionate and adequate approach to public engagement, taking into account that this proposal is an alteration to any already consented scheme.

Conditions

- 9.190 In terms of planning conditions, the conditions from the appeal scheme and first Section 73 application, which have not yet been discharged, have been carried over to this recommendation. The already discharged conditions have been altered to compliance conditions requiring the development to be implemented in

accordance with the details previously agreed. Additional text has also been added to these compliance conditions, where appropriate, to allow the applicant to re-discharge these conditions, should it be necessary. All the conditions and wording that relates to outline planning permission has been removed or superseded, as the outline consent has expired and can no longer be implemented. Therefore, these conditions are not considered to be necessary. The full list of recommended conditions is provided in the final section of this report.

10.0 Planning Balance and Conclusion

- 10.1 This report provides a comprehensive officer consideration of this planning application and its supporting documentation. This includes the additional information submitted by the applicant through the course of the application, as well as all the representations received from consultees, local groups and third parties. The report has considered this amended proposal, in the context of the adopted development plan policies and other material considerations.
- 10.2 The site comprises of brownfield land, near to the centre of Hertford and close to a railway station. The highly sustainable location of the site, coupled with the designation of HERT2 as a strategic housing allocation in the DP, means that the principle of residential development on the land is established and accepted. It is noted that this amended scheme would provide a number of dwellings significantly in excess of the DP housing allocation figure of 'around 200 homes'. However, this allocation figure is out of date, in light of the conclusions of the 2020 appeal decision (reference: APP/J1915/W/19/3234842). Due to this, there is no in principle reason to cap the quantum of housing delivery on the site to 'around 200 homes', or to the 375 homes allowed at appeal, subject to this amended proposal being acceptable in all other respects.
- 10.3 As previously explained, the Council cannot currently demonstrate a 5YHLS. The consequence of not having a 5YHLS is that the

'presumption in favour of sustainable development' and the 'tilted balance', as set out at Paragraph 11(d) of the NPPF, are engaged in the decision-making process. This means that the application should therefore be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF, taken as a whole. When undertaking this balancing exercise, Paragraph 11(d)(ii) of the NPPF requires particular regard to be had to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.

- 10.4 In terms of benefits, this amended scheme would deliver an uplift of 66 dwellings on this sustainable brownfield site, through extending and altering the already consented buildings. Due to this, the full scheme would provide a total of 446 homes. This effective use of brownfield land to provide homes attracts direct and strong support from Sections 5 and 11 of the NPPF. Furthermore, this elevated housing delivery means that this amended proposal can make a valuable contribution to the supply of housing in the District, at a time when the Council cannot demonstrate a 5YHLS. The provision of these additional dwellings is a substantial benefit of the proposal that should be assigned significant positive weight in the overall balance.
- 10.5 In addition to the above, this amended proposal aims to deliver 56 affordable units on the site, which equates to 13% affordable housing. This potential provision of affordable homes is a benefit of the scheme. However, this level of affordable housing is significantly below the policy requirement of 40%. Furthermore, these affordable homes would not be secured in a traditional manner, instead a cascade mechanism is proposed to be built into the Section 106 Legal Agreement. This approach could result in DMS units, or financial contributions, being provided, if an RP is unable to acquire the homes with the assistance of grant funding. The supply of a level of affordable housing notably below policy requirements, taken together with the lack of a guarantee on the delivery of affordable homes, means that the weight assigned to

affordable housing provision must be significantly tempered. On this basis, the supply of affordable housing can only attract limited positive weight.

- 10.6 This amended scheme would make significant financial contributions to local infrastructure, services and community facilities. The primary purpose of these contributions is to mitigate the impact of the development and improve local services so that they are able to accommodate the increase in population. However, these enhanced services and facilities would be used by existing local residents, meaning that these financial contributions would have a wider public benefit. It is considered that this public benefit should be attributed limited positive weight. In addition, the proposal would provide a biodiversity net gain and this should also attract some limited to moderate positive weight.
- 10.7 It is not considered that the roof additions or the alterations to the layout of the scheme would detract from the overall quality of the development. As such, there would not be an adverse impact on the character and appearance of the site or the surrounding area. The separation distances to the Hertford CA and the closest listed buildings means that there would be a neutral impact on the setting of heritage assets. The special interest and significance of all heritage assets would be preserved. The amended proposals would also not compromise the amenity or living conditions of nearby properties. Furthermore, the scheme would not increase flood risk and a suitable drainage strategy has been presented. These matters are all neutral in the planning balance.
- 10.8 The trip generation calculations provided by the applicant indicate that there would only be a limited uplift in vehicular journeys, when compared with the consented scheme. Furthermore, the Highway Authority has not objected to the proposal, subject to a package of measures being secured, which promote sustainable and active modes of travel. These measures have been agreed by the applicant. The only modest additional trip generation, taken together with the appropriate encouragement of sustainable and active modes of travel, means that this proposal would not result

in a severe impact on the capacity of the local highway network. This amended proposal also strikes a suitable balance between meeting the parking demand associated with the development, while still seeking to reduce parking provision to discourage car use. Therefore, the amended scheme would not result in material adverse impacts on the parking capacity of local roads. Again, these matters are neutral in the planning balance.

10.9 Drawing all of the above matters together, it is considered that the provision of 66 additional dwellings on this sustainable brownfield site, coupled with the other identified benefits of the scheme, would attract significant positive weight. No adverse impacts have been identified that would significantly and demonstrably outweigh the benefits of the proposal. This assessment has been made in accordance with the development plan, read as a whole, and has taken into account all other material considerations. Therefore, in line with the NPPF, it is recommended that planning permission be granted, subject to conditions and a Section 106 Legal Agreement.

11.0 Recommendation

11.1 That planning permission be **GRANTED**, subject to conditions and the completion of a Section 106 Legal Agreement.

Heads of Terms to be secured in Section 106 Legal Agreement

HCC Contributions

- **Sustainable, Accessible and Active Travel Contribution – £650,826** index linked by SPONS from March 2024. To go towards:
 - a) improvement works to Mead Lane level crossing;
 - b) public realm improvements on Mill Road and Railway Street across the frontage of Hertford East Station, including an improved pedestrian crossing environment and works at the Mill Road and Railway Street junction, including the provision of tactile paving;

- c) improvement works to the Hertford to Ware canal towpath to enhance access between the development, Hartham Common, Hertford Town Centre and Ware; and
 - d) extending and re-routing existing bus services to serve the development and connect it to other key locations.
- **Further Supplemental Early Years Provision Contribution – £1,488** index linked to BCIS 1Q2022. To go towards improvements to early years provision serving the development.
 - **Further Supplemental Education Contribution – £328,341** index linked to BCIS 1Q2022. To go towards the expansion of Simon Balle Primary School (including nursery provision) and the delivery of a new secondary school within WARE2, and/or provision serving the development.
 - **Further Supplemental Library Services Contribution – £4,260** index linked to BCIS 1Q2022. To go towards increasing the capacity of Hertford Library and/or provision serving the development.
 - **Further Supplemental Youth Services Contribution – £1,613** index linked to BCIS 1Q2022. To go towards resource requirements to support the delivery of youth work with young people in the area and/or provision serving the development.
 - **SEND Contribution – £17,174** index linked to BCIS 1Q2022. To go towards new severe learning difficulty (SLD) special school places (EAST) and/or provision serving the development.
 - **Waste Service Recycling Centre Contribution – £9,506** index linked to BCIS 1Q2022. To go towards the new recycling centre at Ware and/or provision serving the development.
 - **Waste Service Transfer Station Contribution – £6,958** index linked to BCIS 3Q2022. To go towards the new Eastern Transfer Station and/or provision serving the development.

- **Fire and Rescue Service Contribution – £25,119** index linked to BCIS 1Q2022. To go towards the new fire station at Hertford and/or provision serving the development.

EHDC Contributions

- **Allotments Contribution – £11,672** RPI indexed from May 2020. To go towards the costs of facilities provision, improvement and maintenance of allotments at Cromwell Road and/or other community growing spaces within Hertford as used by the residents of the development.
- **Amenity Green Space and Parks/Gardens Contribution – £28,627** RPI indexed from May 2020. To go towards provision, improvement and maintenance of parks and gardens and amenity green space facilities at Hartham Common and/or other public parks, gardens and amenity greenspaces in Hertford as used by residents of the development.
- **Bowls Contribution – £15,896** RPI indexed from May 2020. To go towards the provision, improvement and maintenance of Bowls Club facilities including the bowling green and clubhouse at Hertford Castle Bowls Club and/or Sele Bowls Club in Hartham Common and/or any other local Bowls Club as used by residents of the development.
- **Further Supplemental Community Centre Provision Contribution – £45,729** RPI indexed from May 2020. To go towards the provision of facilities, improvements, and maintenance of Pinehurst Community Centre and/or other community centre facilities in Hertford (including BEAM) as used by the residents of the development.
- **Further Supplemental GP Provision Contribution – £91,938** RPI indexed from date of resolution. To go towards the retrospective cost of the relocation of Wallace House Surgery to their new premises known as Lea Wharf Surgery and the removal of their Lloyd George patient records to secure off site storage all of which

was done to increase patient capacity to accommodate new patients from developments such as this. The contribution would also go towards the repurposing of the vacated records space at Lea Wharfs branch surgery known as Carlton Court and any necessary reconfiguration and refurbishment to further increase patient capacity as a direct result of new patients from this development.

- **Further Supplemental Recycling Contribution – £5,016 RPI** indexed from October 2008. To go towards the Council's costs for the provision of refuse and recycling containers to the dwellings in the development.
- **Natural/Semi-Natural Green Space Contribution – £27,390 RPI** indexed from May 2020. To go towards the provision, improvement, and maintenance of natural and semi-natural green space at the Hartham Common and/or other natural green spaces in Hertford as used by residents of the development.
- **Outdoor Tennis Contribution - £10,890 RPI** indexed from May 2020. To go towards provision, improvement, and maintenance of the outdoor tennis courts facilities at Hartham Common and/or at Wodson Park Sports and Leisure Centre, Ware and/or alternative provision serving the development as agreed between the owners and the Council in writing.
- **Playing Pitches Contribution – £34,530 RPI** indexed from May 2020. To go towards the provision, improvement and maintenance of the playing pitches and facilities at Hartham Common and/or the Meads or other public pitches in Hertford as used by residents of the development.
- **Sports Hall Contribution – £37,779 RPI** indexed from May 2020. To go towards provision of facilities, improvements, and maintenance of the indoor community sports facilities at Wodson Park Leisure Centre, Ware and/or other sports facilities/community sports halls as used by the residents of the development.

- **Studio Space Contribution – £6,936** RPI indexed from May 2020. To go towards provision of facilities, improvements, and maintenance to the studio space(s) at Hartham Leisure Centre and/or alternative provision serving the development as agreed between the owners and the Council in writing.
- **Swimming Pool Contribution – £38,633** RPI indexed from May 2020. To go towards provision of facilities, improvements, and maintenance of the swimming pool facilities at Hartham Leisure Centre and/or alternative provision serving the development including Ware Lido as agreed between the owners and the Council in writing.

Monitoring Fees

- **County Council Monitoring Fee – £340 per distinct trigger point** adjusted for inflation against RPI July 2021.
- **District Council Monitoring Fee - £300 per EHDC financial contribution plus £300** RPI indexed from date of resolution.

Non-Financial Obligations

- **Affordable Housing**
 - ‘Cascade Mechanism’
 - a) Owner to promote the sale of Buildings G and H as open market dwellings to a Registered Provider, on the basis that a Registered Provider secures grant funding to enable 56 dwellings in Buildings G and H to be acquired at a value of not less than £420 per square foot. If a Registered Provider purchases these market homes, then they can elect to promote them as shared ownership units, or a mix of shared ownership and affordable rent units.
 - b) If, despite using reasonable endeavours for an agreed period of time following start on site, the owner has been unable to enter into a contract with a Registered Provider to acquire the 56 dwellings in Buildings in G and H, then the owner shall then market 56 dwellings in Buildings G and H as discounted market sale dwellings at a discount of 20% of market value.

- c) If, despite using reasonable endeavours for an agreed period of time following practical completion of the 56 dwellings in Buildings G and H, the owner has been unable to dispose of any of the 56 units, then the owner shall be entitled to dispose of any remaining dwellings as open market dwellings. The owner shall pay to the Council a sum equivalent to 20% discount from market value of the relevant dwellings, less the owner's costs of disposing of the dwellings on the open market.
- Engagement Strategy with Registered Providers for acquisition of 56 units in Buildings G and H.
 - Marketing Strategy for sale of 56 discounted market sale dwellings in Buildings G and H.
 - **Travel Vouchers – £500 per dwelling** index linked by RPI from May 2014. To be included in welcome pack for reach new occupier.
 - **Travel Plan Remedial Measures Notice Clause.**
 - **Update to Original Section 106 Contribution** – to allow the original Secondary Education Contribution to go towards the delivery of a new secondary school within WARE2, instead of the expansion of Sele School.

Conditions

Time Limit

1. The development hereby approved on that part of the site for which Detailed Planning Permission is granted and shown on drawing number: W408-LDA-PR-XX-GA-010-102 P2 shall commence by 30th January 2023.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 (As Amended).

Site Wide Construction Programme

2. The development shall be implemented in accordance with the approved site wide Construction Programme discharged under planning ref: X/20/0437/CND, or in accordance with an alternative site wide Construction Programme that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To agree the timescales of delivering the scheme.

External Materials

3. The development shall be implemented in accordance with the approved external materials discharged under planning ref: X/20/0444/CND, or in accordance with alternative external material details which shall first be submitted to and approved in writing by the Local Planning Authority.

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

External Lighting

4. Prior to the first occupation of the development on that part of the site for which Detailed Planning Permission is granted and shown on drawing number: W408-LDA-PR-XX-GA-010-102 P2, details of any external lighting proposed in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development on this part of the site shall be implemented in accordance with the approved details.

Reason: In the interests of amenity in accords with Policies DES4 and EQ3 of the East Herts District Plan 2018.

Communal Television

5. The development shall be implemented in accordance with the approved communal television reception facilities discharged under planning ref: X/22/0053/CND, or in accordance with alternative details of communal television reception facilities that

shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the delivery of high quality design and services in accordance with Policy DES4 of the East Herts District Plan 2018.

Landscaping

6. Prior to the first occupation of the development on that part of the site for which Detailed Planning Permission is granted and shown on drawing number: W408-LDA-PR-XX-GA-010-102 P2, details of landscaping shall be submitted to and approved in writing by the Local Planning Authority and shall include full details of both hard and soft landscape proposals (including any play equipment), finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and an implementation timetable. Thereafter, the development on this part of the site shall 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.

Landscaping Implementation

7. All hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscaping in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

Management of Communal Areas

8. Prior to the occupation of any part of the development hereby permitted on that part of the site for which Detailed Planning Permission is granted and shown on drawing number: W408-LDA-PR-XX-GA-010-102 P2, details of the arrangements for the management and maintenance of all external communal areas shall be submitted to an approved in writing by the Local Planning Authority. Such details shall include a plan identifying all external communal areas which are to be managed and maintained. Thereafter, all such areas shall be managed and maintained in accordance with the approved details.

Reason: To ensure the provision and maintenance of a reasonable standard of amenity spaces in accordance with the approved designs, in accordance with policies DES3 and DES4 of the East Herts District Plan 2018.

Drainage Scheme

9. The development shall be implemented in accordance with the drainage scheme within the Drainage Strategy Report (Prepared by: Davies Maguire, Ref: W408-DAM-SW-XX-REP-210-001 Rev P04, Dated: 29 April 2025). The drainage scheme shall be fully implemented and thereafter maintained, in accordance with the approved programme for implementation or within any other period as may subsequently be agreed in writing by the Local Planning Authority.

Reason: In the interests of flood risk and to ensure appropriate drainage, in accordance with Policies WAT1 and WAT5 of the East Herts District Plan 2018.

Drainage Management and Maintenance Plan

10. Upon completion of the surface water drainage scheme in accordance with the approved programme for implementation, a

management and maintenance plan for the surface water drainage scheme, inclusive of any SuDS features, shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- Provision of a complete set of as built drawings for site drainage.
- Details of all maintenance and operational activities.
- Any arrangements for adoption and/or other measures to secure the operation of the surface water drainage scheme throughout its lifetime.

Thereafter, the surface water drainage scheme shall be managed and maintained in accordance with the approved details.

Reason: In the interests of flood risk and to ensure appropriate drainage, in accordance with Policies WAT1 and WAT5 of the East Herts District Plan 2018.

Acoustic Report

11. The development shall be implemented in accordance with the approved acoustic report details discharged under planning ref: X/20/0474/CND, or in accordance with an alternative acoustic report that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity in accordance with Policies DES4 and EQ2 of the East Herts District Plan 2018.

Sound Attenuation (Gym)

12. Prior to the first use of any part of the buildings hereby approved as a Gymnasium (Class E), a scheme of sound attenuation works shall be submitted to the Local Planning Authority for their written approval, installed and thereafter retained. The scheme of works shall be capable of restricting noise breakout from the Gymnasium

use to the flats above and adjoining the premises to levels complying with the following:

- Bedrooms - Noise Rating Curve NR20 (23:00 TO 07:00hrs)
- Living Rooms - Noise Rating Curve NR25 (07:00 to 23:00hrs)

The Noise Rating Curve shall be measured as a 15 minute linear Leq at the octave band centre frequencies 31.5Hz to 8kHz.

Reason: In the interests of amenity in accordance with Policies DES4 and EQ2 of the East Herts District Plan 2018.

Gym (Opening Hours)

13. Prior to the first use of any part of the buildings hereby approved as a Gymnasium, details of the hours of operation shall be submitted to and approved in writing by the Local Planning Authority. The gym shall thereafter only operate in accordance with the approved details thereafter.

Reason: In the interests of amenity in accordance with Policies DES4, EQ2 and EQ3 of the East Herts District Plan 2018.

Permitted Development Withdrawal (Class A)

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

Reason: To ensure the Council retains control over future development.

Electric Vehicle Charging Points

15. Prior to the first occupation of any part of the development hereby approved on that part of the site for which Detailed Planning Permission is granted, an updated scheme for the installation of, and measures to facilitate the provision of, electric vehicle charging points in accordance with the recommendations of the updated Vectos Transport Statement dated October 2023 shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme, which shall include a timetable and method of delivery, shall be implemented prior to the first occupation of that part of the development to which it relates and shall be retained thereafter.

Reason: To promote sustainable methods of transport in accordance with Policies TRA1 and EQ4 of the East Herts District Plan 2018.

Access Details

16. The development shall be implemented in accordance with the approved engineering and construction details discharged under planning ref: X/20/0580/CND, or in accordance with alternative engineering and construction details for the accesses that shall first be submitted to and approved in writing by the Local Planning Authority. Upon completion of the works, confirmation that the works have been completed in accordance with the approved details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the northern and southern vehicular accesses to Marshgate Drive shall be retained as approved with the permanent provision of the visibility splays as shown on these plans, within which there shall be no obstruction to visibility between 600mm and 2 metres above the finished carriageway level.

Reason: In the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Visibility Splays (Individual Dwellings)

17. Prior to the vehicular accesses to the individual dwellings along Marshgate Drive first being brought into use, triangular vision splays shall be installed to both sides of each access, measuring 0.65 metres along the fence, wall, hedge or other means of definition of the front boundary of the site, and 0.65 metres measured into the site at right angles to the same line along the side of the new access drive. The vision splays so described and on land under the applicant's control shall be maintained in perpetuity free of any obstruction to visibility exceeding a height of 600mm above the adjoining footway level.

Reason: In the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Access Closure

18. Before the Northern Marshgate Drive access as shown on drawing number 162527/A/26 Revision C in the "Vectos response to HCC Comments - April 2019" is first used, any existing access not incorporated in the approved plans shall be permanently closed. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details thereafter.

Reason: In the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Access Closure

19. Before the Southern Marshgate Drive access as shown on drawing number 162527/A/31 in the "Vectos response to HCC Comments - April 2019" is first used, any existing access not incorporated in the approved plans shall be permanently closed. Details of the means of closure shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with those details thereafter.

Reason: In the interests of Highway Safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Hard Surfaces

20. The development shall be implemented in accordance with the hard surface materials details discharged under planning ref: X/20/0438/CND, or in accordance with alternative details of hard surface materials that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of Highway Safety and to ensure high quality design in accordance with Policy TRA2 and DES4 of the East Herts District Plan 2018.

M4(2) Accessible and Adaptable Dwellings

21. All dwellings hereby permitted shall be constructed to meet Category M4(2) (Part M) of the Building Regulations (apart from those constructed to meet Category M4(3) requirements). Thereafter, the dwellings shall be retained in the approved form.

Reason: In accordance with Policy HOU7 of the East Herts District Plan 2018.

M4(3) Wheelchair User Dwellings

22. Before any of the dwellings hereby permitted in Buildings G and H, as shown on drawing numbers: W408-INT-G-00-DR-K-880-121 P-01, W408-INT-G-01-DR-K-880-122 P-01, W408-INT-G-02-DR-K-880-123 P-01, W408-INT-G-03-DR-K-880-124 P-01 and W408-INT-G-04-DR-K-880-125 P-02, are first occupied eleven of these dwellings shall be constructed to meet Category M4(3) (Part M) of the Building Regulations. Thereafter, these dwellings shall be retained in the approved form.

Reason: In accordance with Policy HOU7 of the East Herts District Plan 2018.

Travel Plan

23. No occupation of the development on that part of the site for which detailed Planning Permission is granted shall take place until a detailed Travel Plan for residential and employment use based on the Hertfordshire County Council document 'Hertfordshire's Travel Plan Guidance for Business and Residential Development' has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be occupied in accordance with the approved Travel Plan.

Reason: In accordance with TRA1 of the East Herts District Plan 2018.

Layout, Scale, External Appearance and Landscaping (Outline)

24. Condition no. 24 Outline permission Layout, Scale and External Appearance - Deleted as time limits for Outline permission has now expired.

Time Limit (Outline)

25. Condition no. 25 Approval of Reserved matters time limit - Deleted as time limits for submission of Reserved Matters for Outline permission has expired.

Landscaping Implementation (Outline)

26. Condition no. 26 - Hard and Soft Landscaping - Deleted as time limits for Outline permission has now expired and these details are already secured in condition 7.

Drainage Scheme (Outline)

27. Condition no. 27 Surface Water Drainage System for the outline element of the scheme - Deleted as time limits for Outline permission has now expired.

Drainage Management and Maintenance Plan (Outline)

28. Condition no. 28 Surface Water Drainage System Management and Maintenance Plan - Deleted as time limits for Outline permission has now expired.

Access Details (Outline)

29. Condition no. 29 Construction and engineering designs including visibility splays - Deleted as time limits for Outline permission has now expired.

Hard Surfaces (Outline)

30. Condition no. 30 Hard Surfacing - Deleted as time limits for submission of Reserved Matters for Outline permission has expired.

Electric Vehicle Charging Points (Outline)

31. Condition no. 31 Electrical Vehicle Charging - Deleted as time limits for submission of Reserved Matters for Outline permission has expired.

Cycle Storage (Outline)

32. Condition no. 32 Cycle Storage - Deleted as time limits for submission of Reserved Matters for Outline permission has expired.

Travel Plan (Outline)

33. Condition no. 33 Travel Plan - Deleted as time limits for Outline permission has now expired.

Flood Risk Assessment

34. The development shall be carried out in accordance with the submitted flood risk assessment: 'Flood Risk Assessment; Former Gasworks, Marshgate Drive, Hertford' prepared by JNP Group (reference: C85529-R001E October 18), the Technical Note: 'Hertford Gasworks – FRA Addendum' prepared by JNP Group (reference: BR31301 TN002 – P04) and the Technical Note 'Hertford Gasworks Response to EA comments' prepared by JNP Group (reference: BR31301 TN006 – P02) and the following mitigation measures it details:

- Finished floor levels (as detailed in BR31301-TN006–P02) shall be set no lower than 35.92m above Ordnance Datum (AOD) plus 300mm freeboard for the Northern parcel situated in the floodplain, and 36.82m above Ordnance Datum (AOD) plus 300mm freeboard for the Southern parcel.
- Compensatory storage shall be provided to the full volume of 1 in 100 year plus 35% climate change allowance; 3,370m³ for the Northern parcel and 46m³ for the Southern parcel.
- Suitable boundary treatment for 0.8m above existing ground levels to allow flood flows to enter the site as pre-development, as detailed in BR31301-TN006–P02.

These mitigation measures shall be fully implemented prior to the first occupation of the dwellings and/or employment generating use(s) to which they respectively relate in the northern and southern parcels and subsequently in accordance with the Construction Programme approved by the Local Planning Authority. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: In the interests of flood risk in accordance with Policies WAT1 of the East Herts District Plan 2018.

Landscape and Ecological Management Plan

35. Prior to the first occupation of any part of the development hereby permitted, a landscape and ecological management plan, including long term design objectives and mitigation actions shall be

submitted to and approved in writing by the Local Planning Authority. Thereafter, the landscape and ecological management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the Local Planning Authority. The landscape and ecological management plan shall include the following elements:

- Details of any new habitats created on site
- Details for the treatment of buffers around water bodies
- Details of the biodiversity value of the site
- Details of an invasive species management plan.
- Details showing how the landscape and ecological management plan relates to the parts of the site for which Detailed Planning Permission is granted.

Reason: In accordance with Policies DES3 and NE3 of the East Herts District Plan 2018.

Piling

36. No piling or any other foundation designs using penetrative methods and/or any excavation below the chalk ground water table shall take place other than with the express written approval of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by a piling or other risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: In accordance with Policy WAT3 of the East Herts District Plan 2018.

Surface Water Drainage Scheme

37. The development permitted by this planning permission shall be carried out in accordance with Drainage Strategy Report (Prepared by: Davies Maguire, Ref: W408-DAM-SW-XX-REP-210-001 Rev P04, Dated: 29 April 2025). The surface water drainage scheme shall

include:

- Implementation of the appropriate drainage strategy for the northern site based on attenuation and discharge into the River Lee Navigation Channel (restricted to 5l/s).
- Implementation of the appropriate drainage strategy for the southern site based on attenuation and discharge into the Thames Water surface water sewer (restricted to 5l/s).
- Providing attenuation 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 for both the northern and southern sites.
- Undertake the drainage to include blue/greens roofs, tanked permeable paving and attenuation tanks as indicated on drawings: C85529-SK-201 Rev G, W408-DAM-SW-XX-DR-210-001 P01 and W408-DAM-SW-XX-DR-210-002 P01.

Reason: In accordance with Policy WAT1 and WAT5 of the East Herts District Plan 2018.

Archaeology

38. The development shall be implemented in accordance with the approved archaeology details discharged under planning ref: X/20/0453/CND.

Reason: To preserve heritage assets of archaeological significance in accordance with Policy HA3 of the East Herts District Plan 2018.

Air Quality

39. Prior to occupation of the development hereby permitted a scheme for protecting and enhancing the air quality of future occupiers of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall follow the mitigation measures recommended in the Air Quality Impact Assessment (reference 01.0097.001/AQ) produced by Isopleth Limited 2018. The scheme shall be fully implemented in

accordance with the approved details and shall be retained in accordance with those details thereafter.

Reason: In accordance with Policy EQ4 of the East Herts District Plan 2018.

Marshgate Drive Improvements

40. Before occupation of any part of the development, the improvement works to Marshgate Drive and Mead Lane as shown on drawing numbers: 162527/A/26 Revision C, 162527/A/31, and 162527/A/29 Revision B shall be carried out and completed in accordance with engineering and construction details including details of specification which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Mead Lane/Marshgate Drive Junction Improvements

41. Before occupation of any part of the development, the improvement works to the Mead Lane/Marshgate Drive junction as shown on drawing number: 162527/A/34 shall be carried out and completed in accordance with engineering and construction details including details of specification which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Pedestrian Crossover Points (Railway Street/Mitre Court)

42. Before occupation of any part of the development, upgraded pedestrian crossover points at the Railway Street/Mitre Court junction, to include pedestrian dropped kerbs and tactile paving shall be carried out and completed in accordance with engineering

and construction details which shall previously have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of Highway Safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Construction Management Plan

43. The development shall be implemented in accordance with the approved Construction Management Plan discharged under planning ref: X/21/0018/CND, or in accordance with an alternative Construction Management Plan that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of Highway Safety in accordance with Policy TRA2 of the East Herts District Plan 2018.

Plant and Machinery

44. Prior to first use, any externally mounted plant, machinery or other equipment associated with the development hereby permitted, shall be installed and made available for use in accordance with details of any resulting noise emissions and associated mitigation measures which shall previously have been submitted to and approved in writing by the Local Planning Authority. Thereafter, such externally mounted plant, machinery or other equipment shall only be used in accordance with the approved details.

Reason: In the interest of amenity in accordance with Policy DES4 and EQ2 of the East Herts District Plan 2018.

Broadband Connections

45. The development shall be implemented in accordance with the approved high speed broadband details discharged under planning ref: X/20/0443/CND, or in accordance with alternative

high speed broadband details that shall first be submitted to and approved in writing by the Local Planning Authority.

Reason: In accordance with Policy ED3 of the East Herts District Plan 2018.

Site Investigation Scheme

46. The development shall be implemented in accordance with the approved site investigation scheme discharged under planning ref: X/20/0567/CND.

Reason: In accordance with Policy EQ1 of the East Herts District Plan 2018.

Quantitative Risk Assessment Report

47. The development shall be implemented in accordance with the approved quantitative risk assessment discharged under planning ref: X/20/0568/CND.

Reason: In accordance with Policy EQ1 of the East Herts District Plan 2018.

Remediation Strategy

48. The development shall be implemented in accordance with the approved Remediation Strategy approved under planning ref: X/21/0009/CND.

Reason: In accordance with Policy EQ1 of the East Herts District Plan 2018.

Unexpected Contamination

49. If following the commencement of development unexpected contamination is encountered which is potentially significant and has not previously been identified, the Local Planning Authority

shall be notified immediately. No further development shall be carried out (unless otherwise agreed in writing by the Council) until the unexpected contamination has been assessed and a scheme of remediation works and measures has been submitted to and approved in writing by the Local Planning Authority. Thereafter any such revised scheme of remediation works and measures shall be carried out in accordance with the approved details.

Reason: In accordance with Policy EQ1 of the East Herts District Plan 2018.

Verification Report

50. Prior to the occupation of any individual dwelling and/or use of the gymnasium (Class E), a Verification Report (or reports) confirming that the approved scheme of remediation works and measures as may relate to such dwelling and/or use has been carried out and demonstrated to be effective and appropriate to the use(s) hereby approved, shall be submitted to and approved in writing by the Local Planning Authority. The verification report(s) shall include all responses to any unexpected contamination discovered during the course of the development.

Reason: In accordance with Policy EQ1 of the East Herts District Plan 2018.

Fire Hydrants

51. The development shall be implemented in accordance with the approved Fire Hydrants approved under planning ref: X/20/0443/CND, or in accordance with alternative details of fire hydrants that shall first be submitted and approved in writing by the Local Planning Authority.

Reason: In accordance with Policy WAT4 of the East Herts District Plan 2018.

Water Consumption

52. Prior to the first occupation of the development, measures shall be incorporated within the development to ensure that a water efficiency standard of 110 litres (or less) per person per day is achieved.

Reason: In accordance with Policy WAT4 of the East Herts District Plan 2018.

Approved Plans

53. The development hereby approved on that part of the site for which Detailed Planning Permission is granted and shown on drawing number: W408-LDA-PR-XX-GA-010-102 P2 shall be carried out in accordance with the following approved plans, drawings and specifications:

- W408-LDA-PR-XX-GA-010-102 Revision P2
- W408-LDA-PR-XX-GA-010-000 Revision P14
- W408-LDA-PR-XX-GA-010-1000 Revision P6
- W408-LDA-PR-XX-GA-010-1001 Revision P5
- W408-LDA-PR-XX-GA-020-101 Revision P6
- W408-INT-A-00-DR-K-880-100 Revision P-01
- W408-INT-A-01-DR-K-880-101 Revision P-01
- W408-INT-A-02-DR-K-880-102 Revision P-01
- W408-INT-A-03-DR-K-880-103 Revision P-01
- W408-INT-A-04-DR-K-880-104 Revision P-01
- W408-INT-A-05-DR-K-880-105 Revision P-03
- W408-INT-A-06-DR-K-880-106 Revision P-03
- W408-INT-C-00-DR-K-880-107 Revision P-01
- W408-INT-C-01-DR-K-880-108 Revision P-01
- W408-INT-C-02-DR-K-880-109 Revision P-01
- W408-INT-C-03-DR-K-880-110 Revision P-01
- W408-INT-C-04-DR-K-880-111 Revision P-01
- W408-INT-C-05-DR-K-880-112 Revision P-03
- W408-INT-C-05-DR-K-880-113 Revision P-02
- W408-INT-C-00-DR-K-880-114 Revision P-02
- W408-INT-C-01-DR-K-880-115 Revision P-01

- W408-INT-C-02-DR-K-880-116 Revision P-01
- W408-INT-C-03-DR-K-880-117 Revision P-01
- W408-INT-C-04-DR-K-880-118 Revision P-01
- W408-INT-C-05-DR-K-880-119 Revision P-03
- W408-INT-E-05-DR-K-880-120 Revision P-04
- W408-INT-G-00-DR-K-880-121 Revision P-01
- W408-INT-G-01-DR-K-880-122 Revision P-01
- W408-INT-G-02-DR-K-880-123 Revision P-01
- W408-INT-G-03-DR-K-880-124 Revision P-01
- W408-INT-G-04-DR-K-880-125 Revision P-02
- W408-INT-G-05-DR-K-880-126 Revision P-03
- W408-INT-A-XX-DR-K-880-200 Revision P-02
- W408-INT-A-XX-DR-K-880-201 Revision P-03
- W408-INT-A-XX-DR-K-880-202 Revision P-03
- W408-INT-A-XX-DR-K-880-203 Revision P-03
- W408-INT-A-XX-DR-K-880-204 Revision P-03
- W408-INT-A-XX-DR-K-880-205 Revision P-04
- W408-INT-A-XX-DR-K-880-206 Revision P-03
- W408-INT-A-XX-DR-K-880-207 Revision P-03
- W408-INT-A-XX-DR-K-880-208 Revision P-03
- W408-INT-A-XX-DR-K-880-209 Revision P-01
- W408-INT-A-XX-DR-K-880-210 Revision P-03
- W408-INT-H-XX-DR-K-880-211 Revision P-04
- W408-INT-A-XX-DR-K-880-212 Revision P-02
- 2017.00485_PL_510 Revision A
- 2017.00485_PL_230 Revision A
- 2017.00485_PL_231 Revision A
- 2017.00485_PL_104.0
- W408-INT-ZZ-XX-DR-K-880-1000 Revision P-03
- W408-INT-ZZ-XX-DR-K-880-1001 Revision P-03
- W408-INT-ZZ-XX-DR-K-880-1002 Revision P-03
- W408-LDA-PR-XX-DR-010-504 Revision P7
- W408-LDA-PR-XX-DR-010-505 Revision P8
- 2017.00485_PL_016
- 2017.00485_PL_506 Revision A

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

Rooflight Specifications

54. Prior to any construction above first floor slab level on the apartment buildings, details and specifications of the proposed rooflights shall be 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.

Noise Impact Assessment

55. Prior to any construction above first floor slab level on the apartment buildings, a Noise Impact Assessment covering the 65 rooftop dwellings shall be submitted to and approved in writing by the Local Planning Authority. This Noise Impact Assessment shall include details of:

- the external noise levels (including reflected and re-radiated noise);
- the sound insulation of the building envelope;
- orientation of habitable rooms away from major noise sources;
- acoustically attenuated mechanical ventilation as necessary to achieve internal room amenity noise standards in accordance with the criteria of BS8233:2014; and
- any low frequency noise and proposed mitigation, if required.

A post installation noise assessment shall be carried out to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Thereafter, the development shall be implemented in accordance with the approved details prior to first occupation of the development.

Reason: In order to ensure that the amenities of the new flats are not adversely impacted by noise from commercial uses in accordance with Policy EQ2 of the East Herts District Plan 2018.

Bird and Bat Boxes

56. Prior to any construction above first floor slab level on the apartment buildings, a scheme for the provision of bird and bat boxes shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall include details of the model and siting of integrated bird and bat boxes on the site. The approved bird and bat boxes shall be installed before any part of the roof of the buildings is constructed, which includes the fitting of any cappings or copings, roof ties, roof trusses or rafters according to construction method. Thereafter, the bat boxes and bird boxes shall be retained for the lifetime of the development.

Reason: In order to create opportunities for wildlife in accordance with Policy NE3 of the East Herts District Plan.

Wastewater Infrastructure

57. Prior to the first occupation of the development hereby approved, details shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that foul water capacity exists off site to serve the development or that all foul water network upgrades required to accommodate the additional flows have been completed. Should this not be feasible a Development and Infrastructure Phasing Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details prior to first occupation.

Reason: In order to ensure that sufficient wastewater capacity exists to serve the development, in accordance with Policy WAT6 of the East Herts District Plan 2018.

Overheating Assessment

58. The development hereby permitted shall be implemented in full accordance with the recommendations of the Approved Document O Overheating Assessment (Prepared by: Vector Design, Reference: 4495-4-2-REP-OH01 Revision B, Dated: 04.04.2025).

Reason: In order to ensure that instances of overheating are minimised, in accordance with Policy CC1 of the East Herts District Plan 2018.

Informatives

1. 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.
2. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water Interest) etc. Neither does this permission negate or override any private covenants which may affect the land.
3. 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/highways-roads-and-pavements.aspx> or by telephoning 0300 123 4047.

4. 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/highways-roads-and-pavements.aspx> or by telephoning 0300 123 4047.
5. 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/highways-roads-and-pavements.aspx> or by telephoning 0300 123 4047.
6. 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 123 4047.

7. Estate Road Adoption: The applicant is advised that Hertfordshire County Council as Highway Authority no longer adopts new highway as maintainable at the public expense unless a wider public benefit can be demonstrated. However, all internal roads should be built to adoptable standards. If any of the internal roads are proposed to be adopted then the extent of highways to be included as maintainable at the public expense should be marked on a plan, together with details of the specification, layout and alignment, width and levels of the said highways together with all the necessary highway and drainage arrangements, including runoff calculations, that must be submitted to the Highway Authority. No development should commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place. For any sections of highway that will not be adopted, the developer should put in place a permanent arrangement for long term maintenance, and at the entrance of any such residential estates, a road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. 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 123 4047.
8. It is noted that default CV values have been used in the drainage calculations, as was done for the approved discharge of conditions application. It is recommended that the calculations are rerun with a CV value of 1 as a sensitivity test, to assess potential residual risk across the site and inform whether localised resilience measures are necessary.
9. A Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result

in prosecution under the provisions of the Water Industry Act 1991. The developer is expected to demonstrate what measures they will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning: 0203 577 9483 or by emailing: trade.effluent@thameswater.co.uk Application forms should be completed online via: www.thameswater.co.uk

10. The applicant/developer is advised that any works on the Canal and River Trust's land and any new or enhanced access to the towpath will require a separate agreement with the Trust and they are advised to contact Bernadette McNicholas, Estates Surveyor (bernadette.mcnicholas@canalrivertrust.org.uk) to discuss these matters and commercial agreements or licenses that would be required.
11. The applicant/developer is advised that any surface water discharge to the waterway will require prior consent from the Canal and River Trust, As the Trust is not a land drainage authority, such discharges are not granted as of-right, where they are granted, they will usually be subject to completion of a commercial agreement. Please contact Liz Murdoch, Utilities Surveyor to discuss this further.
12. The applicant/developer is advised that the works will need to comply with the Canal and River Trust's 'Code of Practice for Works affecting the Canal and River Trust'. Please contact Steven Ellis, Works Engineer to discuss these matters further (steven.ellis@canalrivertrust.org.uk).
13. The applicant/developer is advised that the development is within an area identified as being at risk of flooding, and includes the provision of car parking within buildings. The applicant should be aware that vehicles can start to float in flood depths of less than 60cm if it is fast-flowing. The applicant must satisfy themselves that any relevant building will be constructed in such a way that vehicles floating or displaced, as a result of flooding, would not jeopardize its structural stability. In addition, the applicant should

ensure that any sensitive infrastructure such as gas and water pipes or electrical cabling are located and designed to withstand the potential impacts of floating or displaced vehicles.