



# DEVELOPMENT CONTROL AGENDA

**THURSDAY 17 DECEMBER 2015 AT 7.00 PM  
COUNCIL CHAMBER**

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

## Membership

Councillor D Collins (Chairman)	Councillor Riddick
Councillor Guest (Vice-Chairman)	Councillor Ritchie
Councillor Birnie	Councillor R Sutton
Councillor Clark	Councillor Whitman
Councillor Conway	Councillor C Wyatt-Lowe
Councillor Maddern	Councillor Fisher
Councillor Matthews	Councillor Tindall

For further information, please contact Katie Mogan or Member Support

## **AGENDA**

### **1. MINUTES**

To confirm the minutes of the previous meeting (these are circulated separately)

### **2. APOLOGIES FOR ABSENCE**

To receive any apologies for absence

### **3. DECLARATIONS OF INTEREST**

To receive any declarations of interest

A member with a disclosable pecuniary interest or a personal interest in a matter who attends a meeting of the authority at which the matter is considered -

- (i) must disclose the interest at the start of the meeting or when the interest becomes apparent and, if the interest is a disclosable pecuniary interest, or a personal interest which is also prejudicial
- (ii) may not participate in any discussion or vote on the matter (and must withdraw to the public seating area) unless they have been granted a dispensation.

A member who discloses at a meeting a disclosable pecuniary interest which is not registered in the Members' Register of Interests, or is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days of the disclosure.

Disclosable pecuniary interests, personal and prejudicial interests are defined in Part 2 of the Code of Conduct For Members

[If a member is in any doubt as to whether they have an interest which should be declared they should seek the advice of the Monitoring Officer before the start of the meeting]

It is requested that Members complete the pink interest sheet which will be made available at the meeting and then hand this to the Committee Clerk at the meeting

#### **4. PUBLIC PARTICIPATION**

An opportunity for members of the public to make statements or ask questions in accordance with the rules as to public participation.

Time per speaker	Total Time Available	How to let us know	When we need to know by
3 minutes	Where more than 1 person wishes to speak on a planning application, the shared time is increased from 3 minutes to 5 minutes.	In writing or by phone	Noon the day of the meeting

You need to inform the council in advance if you wish to speak by contacting Member Support on Tel: 01442 228221 or by email: [Member.support@dacorum.gov.uk](mailto:Member.support@dacorum.gov.uk)

There are limits on how much of each meeting can be taken up with people having their say and how long each person can speak for. The permitted times are specified in the table above and are allocated for each of the following on a 'first come, first served basis':

- Town/Parish Council and Neighbourhood Associations;
- Objectors to an application;
- Supporters of the application.

Every person must, when invited to do so, address their statement or question to the Chairman of the Committee.

Every person must after making a statement or asking a question take their seat to listen to the reply or if they wish join the public for the rest of the meeting or leave the meeting.

The questioner may not ask the same or a similar question within a six month period except for the following circumstances:

- deferred planning applications which have foregone a significant or material change since originally being considered
- resubmitted planning applications which have foregone a significant or material change
- any issues which are resubmitted to Committee in view of further facts or information to be considered.

At a meeting of the Development Control Committee, a person, or their representative, may speak on a particular planning application, provided that it is on the agenda to be considered at the meeting.

## 5. INDEX TO PLANNING APPLICATIONS (Pages 5 - 6)

- 4/01132/15/MOA - LUCAS AEROSPACE LTD, MAYLANDS AVENUE, HEMEL HEMPSTEAD, HP2 7DF (Pages 7 - 59)
- 4/01679/15/MOA - LAND R/O 71-87A AND 89 SUNNYHILL ROAD, HEMEL HEMPSTEAD HP1 (Pages 60 - 100)

- (c) 4/00421/15/ROC - BARNES CROFT, BARNES LANE, KINGS LANGLEY, WD4 9LB (Pages 101 - 114)
- (d) 4/00366/15/FUL - BERKHAMSTED CRICKET, SPORTS & SOCIAL CLUB, CASTLE HILL, BERKHAMSTED, HP4 1HE (Pages 115 - 149)
- (e) 4/02711/15/FUL - 20 HIGH STREET, TRING, HP23 5AP (Pages 150 - 176)
- (f) 4/02712/15/LBC - 20 HIGH STREET, TRING, HP23 5AP (Pages 177 - 181)
- (g) 4/03614/15/ROC - ANNEXE AT LITTLE MARTINS, BURY RISE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0DN (Pages 182 - 189)
- (h) 4/00862/15/FUL - HIGH RIDGE FARM, ROMAN ROAD, FRITHSDEN, BERKHAMSTED (Pages 190 - 196)
- (i) 4/03034/15/FHA - HOLLOW HEDGE, HOLLY HEDGES LANE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0PE (Pages 197 - 207)

**6. APPEALS** (Pages 208 - 210)

**7. CHANGE OF SCHEME OF DELEGATION WITH RESPECT OF ADVERT AND PLANNING CONTRAVENTION NOTICE PROSECUTIONS** (Pages 211 - 216)

**8. EXCLUSION OF THE PUBLIC**

To consider passing a resolution in the following terms: That, under s.100A (4) of the Local Government Act 1972 Schedule 12A Part 1, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded during the items in Part II of the Agenda for this meeting, because it is likely, in view of the nature of the business to be transacted, that if members of the public were present during these items there would be disclosure to them of exempt information relating to: Item 9.

**9. PART 2 - FAILURE TO COMPLY WITH THE REQUIREMENTS OF AN ENFORCEMENT NOTICE** (Pages 217 - 225)

## INDEX TO PLANNING APPLICATIONS

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5.03	4/00421/15/ROC	VARIATION OF CONDITION 4 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/00866/13/FHA (EXTENSION AND ALTERATIONS). BARNES CROFT, BARNES LANE, KINGS LANGLEY, WD4 9LB	101
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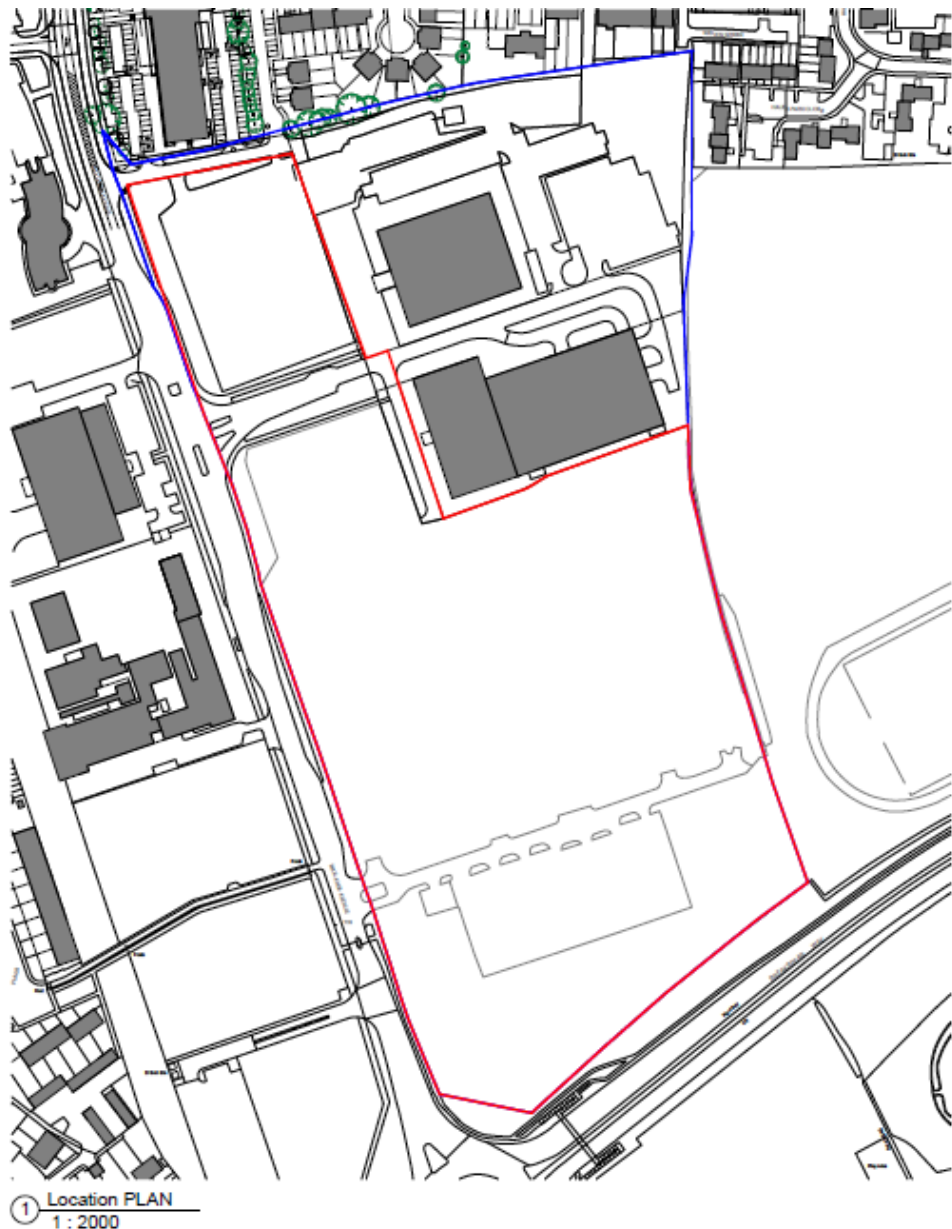
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## ITEM 5.01

**4/01132/15/MOA- Outline Application for the Construction of Retail Floorspace (Use Class A1) Measuring 12,503 sq. m, Office Floorspace (Use Class B1) Measuring 3,004 sq. m, Restaurants Measuring 650sq. m, and Associated Car Parking, Access and Landscaping Works**

**LUCAS AEROSPACE LTD, MAYLANDS AVENUE, HEMEL HEMPSTEAD, HP2 7DF**



**ITEM 5.01**

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**LUCAS AEROSPACE LTD, MAYLANDS AVENUE, HEMEL HEMPSTEAD, HP2 7DF**



1 Birdseye Maylands Gateway proposal



**4/01132/15/MOA - Outline Application for the Construction of Retail Floorspace (Use Class A1) Measuring 12,503 sq. m, Office Floorspace (Use Class B1) Measuring 3,004 sq. m, Restaurants Measuring 650sq. m, and Associated Car Parking, Access and Landscaping Works.**

**LUCAS AEROSPACE LTD, MAYLANDS AVENUE, HEMEL HEMPSTEAD, HP2 7DF.**

**APPLICANT: Aviva Life and Pensions UK Limited.**

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[Case Officer - Fiona Bogle]

## **Summary**

The application is recommended for approval subject to conditions and a S106 Agreement to secure compliance with the retail conditions, provision of a Travel Plan and contributions towards public realm improvements. However, if the committee accept the recommendation the application must be referred to the Secretary of State for Communities and Local Government (SoS) as a Departure from the Development Plan for consideration to "call-in" the application as the proposal exceeds 5000sqm, is an out of town shopping centre on designated employment land.

## **Summary of reasons to grant**

The application submitted seeks outline planning permission for a retail park building of 12,503 sqm comprising Class A1 retail units within a maximum of 6 units and a commercial B1 unit of 3,004sqm and 650sqm of A3 restaurant space on land at the former Peoplebuilding site on Maylands Avenue. Whilst planning permission exists for B1 business uses on the site, other than one office building, a health club and car park the site has remained vacant for in excess of 15 years. There does not appear to be any prospect of B1 employment use coming forward on this site in the near future. Studies carried out on behalf of the Council show that land provided within the Maylands Gateway for offices will exceed demand and much of it may not be taken up over the plan period to 2031. Despite uncertainty over whether some key sites, particularly Maylands Gateway, will be developed mainly for offices or industrial/warehousing floorspace studies have concluded that there would not necessarily be an employment land supply problem for the Borough over the plan period 2006-2031.

The proposal for retail development is responding to the lack of demand for B1 office uses and promoting an alternative use in accordance with the NPPF. The site is considered an out of centre location for retail development, accordingly the development is subject to a sequential test and retail impact assessment. The Council employed retail consultants Peter Brett Associates (PBA) to assess these aspects of the proposal. It is concluded that the scheme meets the sequential tests and whilst an open A1 scheme would likely impact on the viability and vitality of Hemel Hempstead Town Centre, with appropriate conditions to control floorspace and type of goods sold the scheme is acceptable on retail impact grounds. The consultants also considered whether the town centre would be able to withstand the scheme together with any potential scheme at Jarman Park. The conclusions are that with suitable controls in place the town centre would not suffer on account of cumulative impact of both schemes. This work was also supported by work carried out by Chase & Partners (C&P) who considered the current health of the town centre and retailer demand for out of centre retail development in Hemel Hempstead. Their findings show that there is sufficient retailer demand for both the application proposal and a scheme at Jarman Park, which subject to suitable controls on type of goods sold would not adversely

affect the health of Hemel Hempstead Town Centre.

It is therefore concluded that the case for accepting the proposed retail development with the suggested conditions secured via a S.106 Agreement is strong enough to override any concerns about the loss of employment land and in terms of retail impact on Hemel Hempstead Town Centre.

The proposal in outline form is considered satisfactory in all other respects subject to suitable conditions to accord with the guidance in the NPPF, the saved policies of the Dacorum Borough Local Plan 1991-2011 and the Core Strategy.

## **Description**

The application site comprises part of the former Lucas Aerospace site located on the corner of Maylands Avenue with Breakspear Way within the urban area of Hemel Hempstead. The site measures 6.4 hectares forming part of a larger area for which outline planning permission was first granted on 14 August 2001 for a business park. (See planning history below).

The northern part of the land, excluded from the proposal site, has been developed comprising one office building (B2) at the northern end of the whole of the site. A health club and restaurant building has also been constructed adjacent to building B2, and a decked car park is located to the rear of the health club building to serve B2 with surface parking to the rear of B2 for users of the health club.

To the north of the whole site are a number of factory units fronting Wood Lane End. To the north east is a residential development known as Hales Park and to the east is the former Lucas Sports ground. The site occupies a very prominent position as a gateway into Hemel Hempstead from the M1 motorway and from St Albans and is part of the 'Maylands Gateway' area as defined in the Maylands Masterplan.

## **The Proposal**

Outline planning permission is sought for the redevelopment of the land to provide retail floorspace totalling 12,503sqm, restaurants and office space. All matters reserved for later approval except for access which is to be from the existing access on Maylands Avenue. A further exit-only vehicle access onto Maylands Avenue is also proposed approximately 130m to the north of the Maylands Avenue/ A414 roundabout. The application as submitted comprises the following development:

- A food store (2,356sqm gross floor area (gfa)) of which 1,414sqm would be convenience floorspace and 353sqm comparison floorspace.
- Non-food retail units (10,147sqm gfa)
- Class A3 restaurant use (1031sqm)
- Class B1 office use ( 3,004sqm)
- 553 car parking spaces
- Associated access and landscaping works

An estimated 559 full time equivalent jobs would be created.

The application was supported by a Planning Statement, a Design and Access Statement, a Transport Assessment, a Flood Risk Assessment, an Air Quality Assessment, an Ecological Appraisal, a Preliminary Environmental Risk Assessment, a Noise impact Assessment, an Archaeological Assessment, an Employment Statement, a Sustainability Statement and a Statement of Community Involvement.

The Council appointed Peter Brett Associates, retail consultants to assess the retail impact of the proposed development contained within the applicant's Planning Statement. PBA provided some initial comments in April 2015. The applicant formally responded in June 2015. Additional information on comparison goods impact assessment was provided in July 2015, this superseded the majority of the comparison goods impact assessment contained within the original Planning Statement. A further report was prepared by PBA based on the July submission, This was issued on 13 September 2015 (Appendix 1). The applicants gave an initial response on 14 September including suggested conditions relating to restrictions on sales floor space and type of goods to be sold. In a further email dated 23rd September the applicant suggested further adjustments to their suggested conditions and a reduction in the A3 floorspace. The formal response to the PBA report (Sept 2015) was received on 2nd October 2015 (Appendix 2) and this formally amended the application by reducing the extent of A3 use to 650sqm. The applicant's suggested conditions, to mitigate the impact on Hemel Hempstead Town Centre were appended to the letter.

The conditions include restricting the convenience floorspace to 1,414 m<sup>2</sup> net sales area and the comparison floorspace to 7,848 m<sup>2</sup> (gross internal floorspace). Other proposed conditions include a limit on clothing and footwear to 3% of the net sales area of each unit, except for the following units where such goods could occupy up to 50% of the space:

- A unit of up to 2,700 m<sup>2</sup> net sales area, which would also sell goods such as furniture, furnishings and garden centre goods
- A unit of up to 1,650 m<sup>2</sup>, which would also sell sports equipment.

A further review was issued by PBA in November 2015, this takes into account the submissions since September 2015 and representations received in respect of the retail impact aspects of the proposed development. This report is attached at Appendix 3. PBA also issued in November 2015 a Comparative Assessment (Appendix 4) based on the current proposal for retail-led development on land at Maylands Avenue and the appeal proposal relating to the Jarman Park scheme for 10,300sqm retail floorspace (4/00424/15/MOA) that the Committee refused planning permission for in May 2015 on retail impact grounds. The Council also commissioned Chase and Partners to carry out a Retailer Demand Assessment, again looking at both the application site and Jarman Park. This report is at Appendix 5.

### **Referral to Committee**

The Assistant Director for Planning, Development and Regeneration, in exercising his authority under the Council's Constitution has requested the application be brought to committee, on the basis of the impact of the proposed development on wider public interests.

## Planning History

The site has been the subject of a number of applications. The most relevant are as follows:

### 2001

- 4/0245/01OUT Following the signing of a s.106 agreement requiring contributions towards transport issues, outline planning permission was granted on 14th August 2001 for a business park of 47,380 sq m with associated access road, car parking, service areas, landscaping and 928 sq m of ancillary uses comprising A1, A2, A3 and D2 uses. All matters, other than siting and access, were reserved for subsequent approval.
- 4/0850/01OUT Outline planning permission for a health club with cafe and restaurant was granted on 14 August 2001. The health club and public cafe/restaurant comprised 3,530 sq m of floor space with 75 car parking spaces.
- 4/0851/01FUL Following the signing of a s.106 agreement requiring contributions towards transport issues, full planning permission was granted for Office Buildings 1 and 2 on 14 August 2001 for the demolition of the existing buildings and the construction of two four storey office buildings (Class B1 (a)) with associated access road, car parking, service area, ancillary buildings and landscaping. The proposal involved 20,320 sq m of office floorspace within two new buildings with 694 parking spaces. A central boulevard was shown to run north/south through the site with office buildings located either side of the boulevard at the northern end.
- 4/1474/01FUL Following a deed of variation to the August 2001 agreement, on 8 April 2002, planning permission was granted for a four storey office (Class B1(a)) with ancillary associated access road, car parking, service area, ancillary buildings, plant and machinery and landscaping (Office Building 3). The application sought permission for 10,160 sq m of office floorspace with 570 car parking spaces and 40 cycle parking spaces.
- 4/1488/01FUL Following a deed of variation to the August 2001 agreement, Full planning permission was granted on 8 April 2002 for a two storey health club and public café/restaurant (Class D1/Class A3) with associated access road car parking, plant machinery and landscaping.

### 2003

- 4/2728/03/OUT Following a deed of variation to the August 2001 agreement, outline permission was granted on 7 June 2006 for construction of three office buildings (Class B1(a)), ancillary structures, ancillary building (retail (Class A1), security and management suite, meeting facilities), car parking, cycle parking and landscaping. All matters, other than access, layout and scale, were reserved for subsequent approval.

## 2008

4/0006/08/MFA A revised full planning permission was granted for Office Building 1 on 6 March 2009, including plant room, refuse and recycling storage and cycle storage with associated car parking and landscaping.

## 2009

4/0806/09RES Reserved matters approval was granted on 12 August 2009 for the submission of reserved matters (design, external appearance, landscaping) and details required by conditions 4, 5, 6, 9, 11, 12 And 17 pursuant to outline planning permission 4/02728/03 (construction of three office buildings (class B1(a)) ancillary structures, ancillary building (retail (class A1), security and management suite, meeting facilities), car parking, cycle parking and landscaping).

The current permitted use of the site therefore is for B1 (a) employment use by virtue of the partially implemented business scheme as outlined above.

### **Policies**

#### National Planning Guidance

National Planning Policy Framework (NPPF)

#### Core Strategy

Policies NP1, CS1, CS2, CS4, CS8, CS9, CS10, CS12, CS13, CS14, CS15, CS16, CS25, CS29, CS31, CS32, CS33, CS34, CS35

#### Saved DBLP 1991-2011

Policies 10, 13, 31, 33, 37, 44, 51, 54, 55, 57, 58, 99, 100, 106, 113, 116, 118 and 129

#### Planning Policy Statement

Maylands Master Plan: The Gateway to a Greener Future Sep 2007

Maylands Gateway Development Brief (July 2013)

Site Allocations Development Plan Document, Pre-Submission version (September 2014) as amended by the Focused Changes (August 2015)

### **Summary of Representations**

The full response to the consultation process is attached at Appendix 6.

In summary:

#### **Herts County Council Highways**

Does not wish to restrict the grant of permission subject to conditions requiring:

1. Detailed plans showing roads, footways and drainage infrastructure, access arrangements and visibility splays, car parking and cycle provision.
2. Submission of a Delivery and Servicing Plan.
3. Submission of a Construction Management Plan.

The Highway authority also recommends the imposition of informatives in respect of:

1. Storage of materials.
2. General works within the highway.
3. Road Deposits.

#### Summary and conclusions

Hertfordshire County Council as Highway Authority does not object to the principle of the proposed development. However strategic traffic modelling (currently being undertaken by HCC) is required to assess the cumulative impacts of the development on the wider highway network in Hemel Hempstead.

**S278 Agreement** The proposed works within the highway boundary (including alterations to junctions and existing vehicular access) will need to be secured and approved via a s278 agreement.

**S38 Agreement** It is assumed that all roads within the site will remain under private control and management. No s38 agreement should therefore be required.

**S106 Agreement** A s106 agreement will be required to secure the Travel Plan and the financial contributions towards sustainable transport initiatives.

#### **Conservation and Design**

Significant design concerns regarding the layout of the proposal since the back/servicing of the buildings will be facing Maylands Avenue which is a key frontage. In addition the turning circle for the service vehicles will be the primary focus on the corner facing the roundabout. These facades will not be 'key facades' as noted in the D&A since they will be functional service yards and not main frontages. I also have concerns regarding the cranked nature of retail unit 6 since this form may appear odd in the streetscene in particular in such a prominent location.

I would therefore suggest that a landmark focal corner building is sited closer to the roundabout and that a terrace of retail units is pulled back to the eastern boundary with servicing at the rear. The car parking could then be sited to the frontage with high quality boundary treatment (brick piers and railings) with tree planting.

#### **Trees & Woodlands**

No objection to the outline application to develop the Lucas Aerospace Ltd site in Maylands Avenue, Hemel Hempstead.

The majority of the existing site is devoid of any good or exceptional quality trees that may restrict intended site usage. Existing trees and vegetation do not offer a screening function to adjacent property and is likely to be of low wildlife value.

Alongside the access road to existing buildings that would be shared with proposed site users is an impressive double row of Pin Oaks. These trees were planted during previous site development and have a positive impact upon their immediate

surroundings. They would need to be retained and protected during construction activity.

Part of the site frontage, either side of the existing access road, is already landscaped with an interesting selection of trees. This variety along the frontage could be replicated on other site boundaries and around the balancing pond (drawing no. 5266 A110, GA plan) with additional Pin Oaks forming focus points throughout the development. There is certainly space within and around the proposed development to introduce high quality interesting landscaping.

### **Rights of Way Officer**

This site is abutted on its northern boundary by Hemel Hempstead public footpath 50.

No other comments

### **Parks and Open Spaces**

The outlined landscaping for the site looks promising and should fit in with the area it is located in. It doesn't go into any real detail to what they will be specifically planting. I have no real objections, although it would be good to see a detailed planting scheme.

### **Scientific Officer**

The Environmental Health Division is in receipt of the following reports submitted in respect of the above planning application:

- Preliminary Environmental Risk Assessment; Document Reference: EED14757-100-R-1-2-1-GH; Waterman Energy, Environment & Design; February 2015
- Air Quality Assessment; Document Reference: EED14757-100\_AQ\_R2.1.1\_CB; Waterman Energy, Environment & Design; February 2015

### **Contamination:**

The report provides a satisfactory preliminary risk assessment of the site. I am in agreement with the recommendations as follows:

- *'A ground investigation should be undertaken to confirm the underlying ground conditions within the Site. The scope of this investigation should be informed following a detailed review of past ground investigation reports and remediation validation information. The scope and timing of the resultant investigation should be agreed with the local authority. The investigation should target potential sources of contamination, notably from the engineering works and waste treatment/disposal site, including previously remediated areas. In addition, soils and stockpiles should be screened for potential contaminants including asbestos. The outcome of this investigation could then be used to inform the nature and scope of potential remedial measures;*
- *The ground investigation should also allow for geotechnical assessment to assist with foundation design. This should include an assessment of the potential for settlement within any residual superficial deposits left on Site. In*

*addition, the nature of the bedrock should be investigated if it is considered likely that foundation loads will have an impact on bedrock e.g. as a result of the use of piled foundations;*

- As the Site is located in a groundwater Protection Zone III, the ground investigation should also include leachate and groundwater sampling to identify potential contaminants in the groundwater and the mobility of potential contaminants in the soils beneath the Site;*
- Ground gas monitoring should be undertaken to establish the gas regime of the Site and to determine if any gas protection measures will be required in the proposed development. At this stage it is recommended that a two month programme of six gas monitoring visits will be required to comply with CIRIA C665;*
- During any groundworks, it is recommended that all construction workers wear appropriate PPE to reduce the risk of exposure to potential contaminants in the underlying Made Ground; and*
- The on site stockpiles and any materials excavated to facilitate the proposed development should be assessed for their potential for reuse on Site, in accordance with the requirements of the CL:AIRE waste protocol, or if excess to Site requirements the waste classification of the material assessed.'*

As further works are required, I recommend the contamination condition is applied should planning permission be granted in order to ensure that the recommended works are undertaken.

#### Air Quality:

An air quality assessment was undertaken in order to determine the likely effects of the proposed development on local air quality. I am in agreement with the conclusions drawn as follows:

- 'The construction of the proposed development would have the potential to generate fugitive dust from construction activities and changes in air quality as a result of exhaust emissions from plant and construction vehicles.'*
- A range of best practice environmental mitigation measures would be implemented to minimise dust generated during the construction works. With mitigation in place, the occurrence of nuisance dust would be minimised, and it is considered that the significance of effect would be negligible to minor adverse, and would be localised and temporary.*
- Exhaust emissions from construction plant operating on the Site would be small in comparison to the emissions from the road traffic movements on the roads adjacent to the site and therefore it is considered that their effect on air quality would be negligible.*
- It is anticipated that the effect of exhaust emissions from construction vehicles entering and leaving the Site would be minor adverse during peak construction periods and negligible at all other times, considering current background*



*pollutant concentrations and local road traffic emissions.*

- An assessment of the effect of the traffic associated with the proposed Development on local air quality has been undertaken using the DMRB. This predicted the effect of the proposed development on air quality at two sensitive receptors surrounding the Site.*
- Taking into account uncertainty in future NO<sub>x</sub> and NO<sub>2</sub> reductions, the effects are predicted to be of minor adverse to negligible significance at the existing sensitive receptors considered in this assessment. The effects of the proposed development are predicted to be negligible for PM<sub>10</sub> and PM<sub>2.5</sub> concentrations.'*

Ensuring that appropriate dust control measures are implemented in relation to the construction phase, I am satisfied that the construction and operational stages of the development will have a negligible to minor adverse effect on air quality.

### **HCC Minerals and Waste**

Should the district council be mindful of permitting this application, a number of detailed matters should be given careful consideration.

Government policy seeks to ensure that all planning authorities take responsibility for waste management. This is reflected in the County Council's adopted waste planning documents. In particular, the waste planning documents seek to promote the sustainable management of waste in the county and encourage Districts and Boroughs to have regard to the potential for minimising waste generated by development. Most recently, the Department for Communities and Local Government published its *National Planning Policy for Waste (October 2014)* which sets out the following: *'When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities, ensure that:*

- the likely impact of proposed, non- waste related development on existing waste management facilities, and on sites and areas allocated for waste management, is acceptable and does not prejudice the implementation of the waste hierarchy and/or the efficient operation of such facilities;*
- new, non-waste development makes sufficient provision for waste management and promotes good design to secure the integration of waste management facilities with the rest of the development and, in less developed areas, with the local landscape. This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service;*
- the handling of waste arising from the construction and operation of development maximises reuse/recovery opportunities, and minimises off-site disposal.'*

This includes encouraging re-use of unavoidable waste where possible and the use of recycled materials where appropriate to the construction. In particular, you are referred to the following policies of the adopted Hertfordshire County Council Waste Core Strategy and Development Management Policies Development Plan Document 2012

which forms part of the Development Plan. The policies that relate to this proposal are set out below:

Policy 1: Strategy for the Provision for Waste Management Facilities. This is in regards to the penultimate paragraph of the policy;

Policy 2: Waste Prevention and Reduction: &

Policy 12: Sustainable Design, Construction and Demolition.

In determining the planning application the borough council is urged to pay due regard to these policies and ensure their objectives are met. Many of the policy requirements can be met through the imposition of planning conditions.

Waste Policy 12: Sustainable Design, Construction and Demolition requires all relevant construction projects to be supported by a Site Waste Management Plan (SWMP).

This aims to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken to. Good practice templates for producing SWMPs can be found at:

<http://www.smartwaste.co.uk/> or

[http://www.wrap.org.uk/construction/tools\\_and\\_guidance/site\\_waste\\_management\\_planning/index.html](http://www.wrap.org.uk/construction/tools_and_guidance/site_waste_management_planning/index.html)

SWMPs should be passed onto the Waste Planning Authority to collate the data. The county council as Waste Planning Authority would be happy to assess any SWMP that is submitted as part of this development either at this stage or as a requirement by condition, and provide comment to the Borough council.

### **Thames Water**

#### Waste Comments

Request condition requiring drainage strategy to be submitted.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure. The applicant is advised to contact Thames Water Developer Services on 0800 009 3921 to discuss the details of the piling method statement.

Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing [wwqriskmanagement@thameswater.co.uk](mailto:wwqriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality). Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. We further recommend, in line with best practice for the disposal of Fats, Oils and Grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses.

Final comments

Waste Comments

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Supplementary Comments

Due to correspondence received from MJM Consulting Engineers on 14th October 2015 confirming proposals for foul water discharge from this development are now to make a single connection into Thames Water manhole reference 1201, based on a proposed flow rate of 16 litres per second for the site as a whole, our previous request to add a Grampian condition due to capacity concerns is no longer necessary.

### **Environment Agency**

Since submission of the application the responsibility for flood risk in respect of major applications has been taken over by the Lead local Flood Authority (LLFA). The comments of the Environment Agency as reported in Appendix 6 have been superseded by the comments of the LLFA.

The original submission was lacking in a suitable FRA which led to the objection from the Environment Agency and initially from the LLFA as reported in Appendix 6..

### **Lead Local Flood Authority**

Final Comments

In response to the letter sent by MJM Consulting Engineers dated September 3<sup>rd</sup>, 2015 submitted to the LPA in response to our previous letter dated September 2<sup>nd</sup>,

2015, we remove our objection on flood risk grounds.

At this outline stage the applicant has provided sufficient detail to demonstrate that there is a feasible drainage scheme that can provide a significant betterment from current surface water run-off rates. The proposed discharge into the public sewer network has been accepted by Thames Water. The drainage scheme also includes sufficient attenuation of the required surface water volumes and has proposed the most appropriate sustainable drainage methods such as ponds, swales and permeable paving.

However as this is an Outline Planning application, we will require more detail as part of any reserved matters application particularly in relation to the proposed layout to ensure the principles set out in the outline drainage strategy are implemented and the space identified for the strategic SuDs features is allocated to ensure there will be no increase in flood risk within the development site.

A number of conditions as set out in Appendix 6 are requested.

### **Hertfordshire Constabulary**

Public Parking areas:

a. Youths and vehicles: There is currently a problem with youths and vehicles (doing wheelies, etc) at the nearby Jarman Park. The car park for this proposed development should be designed to deter such activity.

b. Safer Parking Award: The Safer Parking Scheme is aimed at the management of criminal behaviour within the parking environment. Parking facilities that have achieved the award mean the parking operator has in place measures that help to deter criminal activity and anti social behaviour, thereby doing everything they can to prevent crime and anti social behaviour in their parking area. I therefore ask for the following condition:

Condition: No development shall commence until details to demonstrate how the car parks on site will achieve and maintain 'Park Mark,' Safer Parking Award status, have been submitted to and approved in writing by the Local Planning Authority in agreement with Hertfordshire Police. The car park shall not be brought into use until the approved measures have been implemented in full and shall thereafter be retained.

Reason: To prevent crime and protect those people using the car park in accordance with paragraph 69 of the NPPF

CCTV & site Security:

a. Site CCTV & Security: To help prevent crime at such sites, whether it be vehicle crime or crime directed at the retail premises, it will be important to have good quality CCTV of the public realm on site as well as appropriate security. I have already mentioned the nearby Jarman Park site which currently has issues with youths in vehicles. That site also suffers from crime directed at the various premises on that site. The whole of the proposed site at Maylands will be private premises to which the public are invited. The Police do not patrol private sites to deter crime, so the duty of care for members of the public and site security will fall to the site owners /

management.

b. Maylands area CCTV: At the present time the area is an industrial / office / commercial area. If permission is granted then it will attract members of the public into the area as a site of destination, and this could lead to an increase in casual crime in the Maylands area. There is already a problem with theft of diesel from lorries and theft of goods from lorries in the area. Therefore I would support the addition of public realm CCTV for the area, to help deter crime in the Maylands area.

### **Herts Ecology**

1. We have no ecological information on record from this former industrial site, although bats and badgers have been recorded from the general area.
2. Within the Environmental Risk Assessment Former buildings are noted as being demolished by 2006. With a lack of other activity, the site has now developed ecologically for nearly ten years. Photographs of stockpiles and developing vegetation are provided in a number of the submitted documents and clearly show potential habitat opportunities for reptiles and other wildlife. The ephemeral nature of these – colonising vegetation and bare, friable ground are typical of such brownfield sites and these could have developed a locally significant biodiversity, particularly for invertebrates and reptiles. However these habitats are relatively recent and isolated (other than areas at Buncefield) which may reduce their full potential.
3. Whilst I have no reason to consider there is any significant biodiversity interest on the site, its nature is such that it requires an assessment of its biodiversity and any appropriate recommendations.
4. In this respect I note the Ecological Appraisal which has been prepared in support of the application. This has provided an extended Phase 1 map of the site and identified potential reptile interest which will require further surveys to properly take these into account.
5. Previous discussion with HE on this issue concluded that reptile surveys could be undertaken by Condition if this outline application is approved or at the detailed phase of proposals. The reptile species most likely to be present (slow worms or common lizards) are not EPS and there is no requirement to consider these fully prior to determination. However as a material consideration further survey and advice is needed under the control of planning to ensure the protected species are properly taken into consideration as part of the planning process. Survey work can take place at any appropriate time to inform this.
6. A building inspection for bats was undertaken – bats are European Protected Species and information is required prior to determination.
7. The evidence from the surveys provided within the Appraisal is consistent with the interpretation of significance. Whilst the species-poor semi-improved grassland does include some indicator plants, I acknowledge the interest to be limited to the level of the site itself. The same follows for the other major habitat features on the site, such as hedgerows. Any role the site plays in contributing to a corridor will be of wider significance.

8. I consider the habitat enhancements as outlined in 5.4 are appropriate, and further details will be provided with a more detailed scheme of suitable landscaping proposals.

9. In this context, I note that the Site Strategy Masterplan (02.01) states:

*A green and sustainable place*

- *Promote the use of green energy*
- *Create new and improved existing habitats*
- *Incorporate green infrastructure*
- *Create wildlife corridors and landscape linkages*

Within the Landscaping Section (02.08) it states: *The landscape scheme seeks to retain key trees in and around the site which contribute to the amenity of the local area as well as forming an established landscape setting for the proposed built form.*

*It is anticipated that a comprehensive scheme of landscaping will be conditioned as part of the proposed development. This will complement the existing retained vegetation and create a high quality setting for the proposals. The proposed planting will incorporate an appropriate mix of native and ornamental species to ensure a varied scheme which contributes positively to biodiversity is achieved. Species which are beneficial to pollinators as well as other fauna will be incorporated as part of this mix.*

10. I would expect the process outlined above to be followed. The balancing pond is shown as a wildflower meadow – the extent to which any such ecological gain can be achieved will be dependent upon the feature's role as temporary water storage – which will limit its function as both dry grassland or a wetland depending upon its design and function.

11. Historically there were numerous orchards within this area of what is now Hemel Hempstead, and this habitat should also be considered as an objective of landscaping if there is sufficient opportunity. Orchards provide an amenity, pollination and a water management role as well as being productive.

12. In respect of species, bats are not considered to be present in buildings or trees, birds will be covered by the usual provisions re disturbance to nests if vegetation is cleared, and reptiles dealt with as outlined above. Methods of dealing with any issues are outlined and follow Best Practice.

13. The presence of Little Ringed Plover is a possibility in some parts of the site (e.g. Plates 2 and 5) if the vegetation remains open enough and undisturbed, as a pair showed signs of breeding in similar habitat at Buncefield. In any event this is likely to be a temporary exploitation of this habitat, and could be considered in the event of more detailed reptile surveys being undertaken.

14. On the basis of the above, I consider there are no fundamental ecological constraints associated with the proposals. Some further reptile surveys are required but can be provided as necessary to ensure they are fully considered. Otherwise there appears to be limited ecological interest associated with the site. Whilst detailed invertebrate surveys have not been undertaken, in terms of habitat quality, there is nothing to suggest there is anything other than perhaps local interest.

15. I have no reason to consider there are any other ecological issues associated with this proposal. Consequently I have no objections to raise regarding these proposals.

### **Herts Fire and Rescue**

Having examined the drawings it is noted that the access for fire appliances and provision of water supplies appears to be adequate.

Further comments will be made when we receive details of the Building Regulations application.

The drawing is retained for our records.

### **National Grid**

An assessment has been carried out with respect to National Grid Electricity Transmission plc's and National Grid Gas plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus.

For details of National Grid's network areas please see the National Grid website (<http://www.nationalgrid.com/uk/Gas/Safety/work/>) or the enclosed documentation.

National Grid has identified that it has apparatus in the vicinity of the enquiry which may be affected by the activities specified. Can you please inform National Grid, as soon as possible, the decision your authority is likely to make regarding this application. If the application is refused for any other reason than the presence of National Grid apparatus, we will not take any further action.

Due to the presence of National Grid apparatus in proximity to the specified area, the contractor should contact National Grid before any works are carried out to ensure our apparatus is not affected by any of the proposed works.

See Appendix 6 for Responsibilities and Obligations

### **ASSESSMENT**

#### **Affected Apparatus**

The National Grid apparatus that has been identified as being in the vicinity of your proposed works is:

- Low or Medium pressure (below 2 bar) gas pipes and associated equipment. (As a result it is highly likely that there are gas services and associated apparatus in the vicinity)
- Above ground gas sites and equipment

#### **Requirements**

BEFORE carrying out any work you must:

- Note the presence of an Above Ground Installation (AGI) in proximity to your site. You must ensure that you have been contacted by National Grid prior to undertaking any works within 10m of this site.

- Carefully read these requirements including the attached guidance documents and maps showing the location of National Grid apparatus.
- Contact the landowner and ensure any proposed works in private land do not infringe National Grid's legal rights (i.e. easements or wayleaves). If the works are in the road or footpath the relevant local authority should be contacted.
- Ensure that all persons, including direct labour and contractors, working for you on or near National Grid's apparatus follow the requirements of the HSE Guidance Notes HSG47 - 'Avoiding Danger from Underground Services' and GS6 – 'Avoidance of danger from overhead electric power lines'. This guidance can be downloaded free of charge at <http://www.hse.gov.uk>
- In line with the above guidance, verify and establish the actual position of mains, pipes, cables, services and other apparatus on site before any activities are undertaken.

### **St. Albans City and District Council**

This Council is concerned about the potential impact on St Albans City Centre. As stated in NPPF at paras 24-27:

“Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”

We consider that the issues identified in the NPPF need to be addressed fully including how they relate to St Albans City Centre.

Comprehensive assessment of impact on St Albans City Centre is needed. This includes assessment of spend originating in St Albans district and further afield. We think this would be necessary for you to understand the full impact of the proposed development.



In addition, there may also be a cumulative impact on St Albans from proposed retail development at Jarman Park. It is considered that this should also be taken into account.

We also note the potential impact on Hemel Hempstead Town Centre.

### **Local Residents/Businesses**

#### **Supporting application**

161 signature cards stating:

I support the application as it will bring a derelict site back into positive economic use, creating approximately 560 FTE jobs and enhance the shopping facilities in Hemel.

#### **Email from Graham Taylor**

With regard to proposal for the planning application on behalf of Trilogy/Aviva I feel this is a much better option than having housing especially as it is an industrial estate. Aviva's other buildings on the industrial estate are a pleasure to drive past as they are immaculately kept and i feel the new development would be in the same vein. It would bring jobs and people to the area. This should not affect the town centre as the proposed shops shouldn't conflict with the brilliant town centre that we have. I hope you take this into consideration when making your decision.

#### **Email from Julie Taylor**

We consider putting some retail outlets would bring in more money to Hemel Hempstead and not affect our brilliant town centre shops. No retail park would stop us ever using our town centre shops as they are completely different shopping experience. At the moment the Industrial Estate looks untidy where there is hoarding up and old offices sitting empty. The people building and the virgin health club's land always look fantastically manicured and impeccably tidy it is always a pleasure to drive or walk past this part. So we feel if they would like to redevelop more of the land they could only do it justice. We feel certain there is room in our town for the right retail outlets and welcome it to happen.

#### **Email from Sharon Morton**

I fully support plans for shops and development in this area but not too many so that our nice green areas become over populated with housing and people.

I am a member at virgin active in Maylands Ave and the derelict areas surrounding this building could certainly be improved with some smaller shops, but good ones, like Next home store, M & S small store, and a small Morrisons and maybe a Lidl store too.

I personally don't see the need for a petrol station as there are already three nearby.

No more restaurants please as Jarman Park is adequate. A nice coffee shop would bring people into the area but we don't want the area to be spoiled too much and we don't want to encourage kids /teenagers to hang around the area causing trouble.

Please don't spoil the area with too many concrete buildings that all look the same....

### **Email from June Street**

I am pleased to see that the former Lucas Aerospace site is about to be developed with a view to providing extra shopping facilities which will serve several neighbourhoods on this side of the town.

I am delighted that it will be a multi purpose site, with retail services providing more choice , employment, and lunchtime opportunities for existing employees on our industrial site , for shopping and hopefully eating a light lunch away from their desks and PC's.

This will benefit many employees.

The houses which are planned to be built opposite Hightown Housing Associations Head office will also benefit from this shopping resource as for years it has been known that many employees have requested a regular lunchtime bus to the Town Centre for shopping in their lunch hour. Now the new facility will make it easier and is within walking distance if necessary.

I am sure that the residents of Adeyfield, Bennetts End and Leverstock Green will make the most of this new retail development. Traffic may be a problem as is obvious and I feel I don't need to comment on this as I am not a traffic experts.

### **Email from Miss S Waye (long term resident, Wood End Close)**

I want to add that I am not in support of any commercial site on the application from being used for residential purposes (as I understand that recent government legislation now makes that easier to do).

### **Councillor William Wyatt- Lowe**

I have spent a lot of time considering the pros and cons of this application. I think that it is time to make you aware of some of the reasons why, on balance, I support the application to allow use of the site for specific retail purposes.

- 1) The residents of the east of 'Maylands' (plus many living between Leverstock Green Road and Maylands) have long felt isolated, and would value a food outlet within walking distance.
- 2) Although the Dacorum Core Strategy identifies the area as being for business, I believe that the current levels of road congestion mean that more 9-5 business would be a disaster for traffic in the area. I am aware (through attendance at the Maylands Partnership) that businesses considering coming to Hemel may have been led to expect that this site would be reserved for business use. Nevertheless I would be surprised if a change to retail for this small area was seen as a disincentive.
- 3) Workers in the Maylands business area are cut off from lunch time options by their distance from the town centre. Attempts to provide a 'shopper service' to the town centre (the ML2 and Christmas shopping specials) have failed dismally because the journey time was too great. For public health benefits the more options available in
- 4) A significant majority of the residents with whom I have discussed possible developments have supported the idea of retail on the site. Of the minority, several were opposed to all development – whether light industry, office, or retail.

- 5) There is a growing emphasis on Public Health issues in planning (such as the recent announcement of the “Healthy Towns” initiative). This was not true at the time of
- 6) As County Councillor for the town centre, I have not yet seen anything in this application which is competitive with the Town Centre retail offer (nor with The Queen’s Square). I would, of course, support restrictions which ensure that this continues to be so.

### **Councillor Graham Adshead**

I support this application

### **Objections**

#### **On behalf of Maylands Partnership**

This subject has been discussed at length with the various businesses based on Maylands and who form part of the Maylands Partnership which I represent. It is the combined view of the group that this proposed development is not appropriate for the site and as such we would like to register an objection. We have several concerns, the key ones I summarise below:

1. We are very concerned that the proposal is not aligned with the original Master plan for Maylands which was defined via a lengthy and thorough consultation process and approved as the Maylands Local Development order, 4th March 2011.

This planning application for retail falls into the area defined as ‘The Gateway’ which was expected to be the locations for: ‘A series of high quality, sustainable buildings set within a green landscape focused around a central lake. It will provide a range of building sizes suitable for key tenants in landmark buildings, including a Higher Education presence, HQ offices, conference facilities and a hotel.’ [taken directly from the Master plan document].

It should be noted that several major businesses have invested into Maylands based on the principle set out in the Master plan, so to ignore this, we believe, goes against the whole drive for regeneration in Maylands and undermines the long term direction for the park.

2. One of the major issues with Maylands Business park is the traffic especially during the rush hour periods in the morning & evening. The road layout & infrastructure struggles to cope with the current level of business commuters which leads to long queues and waiting times for those leaving and entering the business park. Particular problem areas are at the Leverstock Green roundabout. It is our view that this proposed retail application would generate significantly more traffic, leading to even more serious traffic issues. As an example we have experienced major problems caused by the new Aldi site in recent months which if replicated at the Leverstock Green roundabout would be a major issue for commuters into the business park. Traffic has been sighted [sic] as one of the reasons why new businesses would not move to Maylands and we are concerned this application would hinder our drive to attract more inward investment to the area.

3. With the major investments into the town centre’s regeneration which The Maylands Partnership support, we believe adding retail units on Maylands would be a distraction to the town centre and lead to a dilution of trade there. We believe that the heart of retail should be at the town centre and not be split across many separate sites.

Maylands is not suitable for the creation of an out of town retail park.

### **Hightown Praetorian & Churches Housing Association**

On behalf of Hightown Housing Association, I hereby object to the application for extensive retail floorspace in the Maylands Gateway.

Hightown is a local charity, which continues to invest heavily in the regeneration of Hemel Hempstead. In the Heart of Maylands, Hightown has worked closely with Dacorum Borough Council to bring forward a deliverable mixed use scheme which complies with local planning policy. In line with the Maylands Masterplan and 2010 Heart of Maylands Development Brief, the scheme will create an attractive centre for businesses and employees working in Maylands, providing shops, cafes, business services and community facilities, focussed on a new public square. The clear function here is as an enabling development to draw in further business users.

Our understanding is that the Maylands gateway is intended to be a "visible sign of regeneration of Maylands and emphasise the role of the area as a high quality environment in which to invest, do business and work." The Gateway development brief was reviewed relatively recently in 2013 and while this introduced some flexibility to enable development, out of town retail stores did not feature in the description of acceptable uses.

Approval of the proposed scheme would run contrary to local policy and undermine the principle of regulating development and land use through strategic planning. This would set a dangerous precedent for other sites within the Borough.

We would encourage the Council to press for a policy compliant development on the former Lucas Aerospace site, which genuinely embraces Maylands as a growing and thriving business park.

### **GR Planning Consultancy on behalf of the leasehold owners of the Riverside Shopping Centre (RSC)**

#### 1. Background to Objections

RSC together with the Marlowes Shopping Centre (MSC) represents the main retail 'core' of the Town Centre. My clients have invested heavily within the RSC and continue to work closely with the Council and other local stakeholders in promoting RSC as well as the wider Town Centre, ensuring that any new investment undertaken within the 'public realm' and shopping environment realises positive improvements for the Town Centre.

My clients consider it essential to the continuing success of the Town Centre that its health is protected and enhanced and that new investment is positively encouraged so as to increase footfall and build on the success of recent developments and new investment within the Town Centre.

#### 2. Refusal of Jarman Park Application (ref: 4/00424/15/MOA)

The Minutes of the Development Control Committee on the 28th May 2015 confirm that Members resolved to refuse planning permission for this development as the proposal

would have a 'substantially harmful impact' on the Town Centre and would adversely affect the Council's aims as set out in the adopted Town Centre Master Plan. At the time of writing that refusal had still to be issued. Nevertheless, this decision establishes a number of important principles:

- That even with the recommended restrictions on the sale of clothing & footwear the Council (Members) concluded that a development of 10,102sqm of A1 floorspace (6,700sqm of which was the subject of an extant consent) would result in a 'significant adverse impact' on the Town Centre contrary to Policy CS16 of the Core Strategy
- The development would adversely affect the aims of the Town Centre Master Plan which includes proposals for a new foodstore and the consolidation of comparison floorspace within the Gade Zone - a central driver in the regeneration of the Town Centre and in generating value to fund various environmental improvements (paragraph 5.2.4 of the Master Plan)
- That the Council (Members) concluded that the Town Centre was vulnerable to further out-of-centre retail development and that the benefits of the proposed scheme did not outweigh the adverse impact on the Town Centre

In relation to the latter point, this conclusion was, in part, based on the advice provided by the Strategic Planning Team (in turn based on the independent retail advice from the Council's retained retail consultants, PBA). These established principles provide the context for determining the outstanding application on the Former Lucas site.

### 3. Objections to Former Lucas Site Application (ref: 4/01132/MOA)

In view of my clients significant interests within the Town Centre we have concentrated our objections on the retail implications of this application and specifically the Planning Statement (dated March 2015) submitted in support by Savills ('Savills Statement'). In doing so, we have been mindful that the Council's retail consultants, PBA, are undertaking a detailed critique of this retail assessment. We have therefore sought to provide, from the perspective of our clients, a further independent analysis of some of the main points that arise from the Savills Statement.

The application seeks consent for 12,503sqm of A1 retail space – the clear implication is that an open A1 use is sought. However, there is no existing retail development on the application site and it does not benefit from any extant consent for A1 use. Similarly, it is not allocated for retail use and is not one of the recognised 'Out-of-Centre Retail Locations' referred to in Table 6 of the Core Strategy. It is therefore seeking consent for a completely new out-of-centre retail destination on a scale that well exceeds the proposals refused on Jarman Park. The immediate conclusion that can be drawn from this is that the development is contrary to the development plan and that by applying the principles established through the Jarman Park refusal, the development will result in a "*significant adverse impact*" on the Town Centre contrary to Policy CS16 of the Core Strategy and paragraph 27 of the National Planning Policy Framework (NPPF) (March 2012).

See Appendix 6 for detailed objections with reference to the relevant paragraphs in the Savills Statement.

Summary & Conclusions

In summary, the proposed development would result in a 'significant adverse impact' on the Town Centre contrary to Policy CS16 of the Core Strategy, the Town Centre Master Plan and paragraph 26-27 of the NPPF. There are no material considerations or other benefits of the proposed scheme that would in any way outweigh the adverse impact on the Town Centre. Consistent with the Council's decision on the smaller Jarman Park development, planning permission must be refused.

### **Further Comments**

The Savills response primarily deals with queries raised by the Council's retail consultants, PBA.

As the Savills submission does not respond to or address any of the objections we submitted, there is clearly no need for us to respond further and I can confirm that the objections detailed in our letter of the 10th June 2015 therefore remain outstanding. These objections include:

- The fact that the application conflicts with the development plan and specifically policy CS16 of the Core Strategy
- The failure of the application to address the findings of the 2011 Retail Study Update in relation to the future performance of Hemel Hempstead Town Centre (HHTC) and the need to allow its businesses to grow and meet their full potential
- The various flaws and errors within the supporting retail assessment including the fact that HHTC's retail businesses are not overtrading at present
- The underestimation of impact and trade draw from HHTC – adopting the principles agreed in determining the Jarman Park application the Lucas development is likely to result in the loss of £17.0Million of comparison turnover from HHTC (as well as the loss of convenience turnover) leading to the loss of footfall and linked trips and resulting in "*significant adverse impact*" on HHTC and current/planned investment
- The clear similarities with the appeal proposals on the Leamington Spa Homebase site where the Inspector dismissed a significantly smaller retail development given the risks that even a small amount of trade diversion can have on centres that even though are showing signs of improved health and are in need of both public and private investment and not further out-of-centre competition to ensure that those improvements continue.

### **Intu Watford**

We write on behalf of our client, intu Watford Ltd ('intu') to object to the above planning application. Intu is the owner and operator of the intu Watford Shopping Centre, previously known as the Harlequin Centre in Watford town centre.

The planning application proposes a major out-of-town centre retail development at Lucas Aerospace Ltd, Maylands Avenue, which, if planning permission is granted, would provide 12,503 sq m of Class A1 floorspace for the sale of comparison and convenience goods. This floorspace is split into 2,563 sq m of convenience floorspace and 10,147 sq m of comparison goods floorspace.

The reasons for our objection are set out in this letter. Our concerns relate primarily to

the comparison goods element of the proposed development.

#### Principle of Development

The Dacorum Core Strategy (adopted 2013) allocates the application site and the wider Maylands Avenue area as a 'Core Office Location'. Policy 31 of the Dacorum Local Plan 2004 (saved policies) relates to general employment areas and states that the Maylands Avenue area is a 'prestigious business area' and should be 'enhanced'. It states that small scale retail uses are acceptable if needed to serve the area.

Policy 44 of the Local Plan relates to retail floorspace outside of defined centres and states that "shopping proposals outside defined centres will be required to demonstrate that a sequential approach to site selection has been followed". Policy CS16 of the Core Strategy is consistent with this and states that "new retail floorspace will only be permitted outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of impact assessment."

The proposed development is contrary to the Core Strategy and Local Plan because the substantial amount of floorspace would undermine the designated 'Core Office Location' and impact upon the local retail hierarchy. The scale of development proposed will create a major shopping destination that is likely to change shopping patterns within the Borough and further afield.

Our client is concerned that the proposed development will have an adverse impact on Watford town centre. The applicant's retail assessment assumes that 10% of the proposed development's turnover will be diverted from Watford town centre but does not quantify the impact on this location. Retail development proposals in out-of-centre locations should complement, rather than compete with the existing retail offer and planned investment within town centres. Out of centre developments should not divert planned investment away from any defined centre within the catchment. As a regional shopping destination, Watford is expected to continue to strengthen its retail offer irrespective of neighbouring proposals. In order to do this, it needs to attract retailers to ensure town centre investment is deliverable. Intu recently obtained planning permission for the redevelopment of Charter Place, adjacent to intu Watford Shopping Centre. The applicants have not considered the impact of the proposed development on investment within Watford town centre.

The application is applying for Class A1 floorspace, with approximately 40% of the comparison retail floorspace to be occupied by a "national multiple retailer selling a mix of furniture, homewares, garden and electrical goods and clothing and footwear". This could have a significant adverse impact on planned investment in Watford town centre. Intu are delivering 10,000 sq m of open A1 use in Watford town centre as part of the Charter Place redevelopment, providing large modern retail units in a sequentially preferable location. If planning permission is granted for the Maylands Avenue proposal, the delivery of this planned investment within Watford will be threatened and potential retail tenants could be diverted away from Watford town centre to the Maylands Avenue scheme. This could reduce the prospects for letting space within the development and consequently reduce the ability to attract new retailers to Watford town centre.

This would impact more widely on the vitality and viability of the centre. The potential loss of customers in the centre could jeopardise or delay planned investment in Watford. We therefore request that the Council refuse permission for this application due to it being contrary to local planning policy and having the potential to undermine

the retail hierarchy and shopping patterns within the borough and further afield. The applicants failed to fully address the impact of the proposed development, and in particular have not demonstrated the implications for planned investment within Watford town centre.

#### Suggested Condition

Should the Council be minded to recommend this application for approval, it is paramount that restrictions are imposed by way of Planning Conditions to ensure investment and regeneration in Watford Town Centre is not diverted to an unsustainable out of centre location. Conditions should ensure that the nature of the retail offer is properly controlled, appropriate to the role of the area in the retail hierarchy and does not adversely impact on Watford town centre or other centres in the catchment area.

Intu therefore requests as a minimum that the Council impose the following Condition

*“The use of the approved retail units shall be limited to the sale of DIY, home improvement and garden products, furniture and for no other purposes including any other purpose within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 as amended”.*

Reason: To control the range of goods sold within the approved development in the interest of safeguarding the vitality and viability of existing town centres. To ensure that the development complies with the terms of the planning application and that the retail impacts of the development are not greater than is anticipated in the retail impact assessment accompanying the application. To comply with Policy CS16 of the Core Strategy (2013). To comply with the National Planning Policy Framework.

In accordance with the NPPF, this condition is necessary to ensure that in future the proposed retail units cannot be occupied by a retailer selling a wide range of comparison good which should be offered in a town centre location. This is important to protect the vitality and viability of town centres.

#### **NGK Spark Plugs (UK) Ltd**

Object on grounds of peak traffic flows. Consider that the current traffic is already too great for the existing road network. It is stated in the documents submitted to be "Known to operate close to capacity in peak period and the extant office scheme could be implemented without any further highway improvements". We believe that the capacity assessments for the extant office scheme are no longer valid. I can not be sure because the document is so long , but I assume that the assessments date from 2003 or earlier. Since then, traffic has increased significantly and journeys take a lot longer at peak weekday times. The document accepts that " a number of junctions would be over capacity in the future year scenario" and the traffic will be above capacity levels, though " not to the same extent as the extant office scheme scenarios", yet concludes that "the scheme should receive planning approval" because the proposals provide a betterment in comparison with the extant office scheme". We believe that this conclusion does not follow from the reasoning, in that one flawed scheme does not justify a less flawed scheme.

**Resident of Nordest, Leverstock Green Road**



The Council is investing considerable sums developing the town centre and trying to fill the significant number of vacant retail outlets, hence these retail units could easily be located in the town centre. If we allow retail to move into the 'Industrial Area' we will reduce the space available for future 'Industrial development' with the jobs they will bring, which will be far in excess of those brought by retail. The overall effect would be to fragment the retail in the town centre, wasting the potential of the current development taking place there.

### **Resident of 110 Wood Lane End**

While Hemel Hempstead needs jobs, shops, and a more pleasant environment, the only cause for concern is the level of traffic coming into Wood Lane End from both ends in the peak periods. Has a traffic plan been devised to allay the fears of residents concerning extra traffic flow in the lane itself? As you know there is a children's nursery / school at the junction at the top of lane. Also many workers access the factories to rear of Wood Lane End via pavements which could be improved to assist them going to work, many have to walk in the road now because of the narrow pavement, would Wood Lane End become one way for vehicle traffic? maybe an option. Also the fields at the cemetery side needs to be protected from the wild life point of view.

### **Considerations**

#### Planning Policy context

The Strategic Planning and Regeneration (SPAR) Officer has provided the detailed planning policy background within the appendix to the SPAR report found at Appendix 6. To avoid repetition here, the committee is referred to that appendix for the full policy context pertinent to this case. In summary the proposal needs to be assessed against the National Planning Policy Framework (NPPF), Saved Policies from the DBLP, the Core Strategy and background papers, and the Maylands Master Plan and Maylands Gateway Development Brief.

The site largely falls within the Maylands Avenue General Employment Area (GEA), which is allocated for business use and designated as a Core Office Location. The southern part of the site is designated as open land in the Local Plan. However, previous planning permissions and the Maylands Master Plan, the Maylands Gateway Development Brief and the Core Strategy propose development across the whole site. Planning permission for a business park comprising 47,380sqm of office space was first granted in August 2001. Since then, despite numerous proposals for business development on the land only 1 office building comprising 10,160sqm has been constructed along with a health club and decked car park, the remainder of the land has been vacant or used as a temporary car park. The Roger Tym and Partners Report (Dacorum Employment Land Update (July 2011) suggests that land provided within the Maylands Gateway for offices will exceed demand and much of it may not be taken up over the plan period. This is supported by the findings of the Strengthening Economic Prosperity Background Issues Paper (August 2015) which suggests that given uncertainty over whether some key sites, particularly Maylands Gateway, will be developed mainly for offices or industrial/warehousing floorspace there would not necessarily be an employment land supply problem for the Borough over the plan

period 2006-2031.

The proposal is responding to the lack of demand for office use and promoting an alternative use in accordance with paragraph 22 of the NPPF which states:

"where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative use of land or building should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities."

Such is also in line with the recommendations of the (Dacorum Employment Land Update (July 2011)). Whilst the proposal includes a small amount of office development it is primarily for A1 retail use. Given the location of the site and the scale of the retail development proposed the proposal is defined as an out of centre retail development and thus is subject to a sequential test and retail impact assessment to accord with the NPPF and Core Strategy. In accordance with Core Strategy policy CS16 new retail floorspace will only be permitted outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of the impact assessment. Both these elements have been fully assessed by the Council's consultants PBA. The results of which are considered in depth below.

In respect of need for the retail development GL Hearn's report (Retail Study Update (October 2011)) concludes that there is a demonstrable need for additional convenience goods floorspace to serve Hemel Hempstead. With regard to comparison goods GL Hearn consider that no new allocation outside of the Town Centre be earmarked, however the very recent analysis of the market carried out by Chase and Partners show that there is considerable demand for comparison goods within an out of centre location. The impact of such on the health and viability of the Town Centre is explored in detail below.

A further consideration is the allocation of Jarman park as a retail and leisure location and in particular the planning requirements as set out in the Site Allocations Development Plan Document, Pre-Submission version (September 2014) as amended by the Focused Changes (August 2015):

"Acceptable uses are retail and leisure uses. Approximately 7,000 sqm (gross) of retail space is acceptable, except for the sale and display of clothing and footwear, unless ancillary to the main use of an individual unit."

PBA have considered the cumulative impact of the proposal and the site allocation at Jarman Park and the appeal proposal on the Town Centre and Chase and Partners have considered the deliverability of a development here in association with the Jarman Park allocation or the appeal scheme.

## **Key Issues**

Set against the policy background the two key issues to consider are the loss of B1 employment land and the impact of the development on the health of Hemel Hempstead Town Centre. Given the site is allocated for B1 Employment Use the effect of the loss of employment land is considered first.

## 1. Loss of Employment Land

In consideration of this key issue the SPAR report at Appendix 6 addresses this in the context of "should the site be retained for employment purposes" and poses 3 questions under this heading. Taking each in turn:

### How important is the Maylands Gateway in meeting Dacorum's future needs for B-class employment?

Maylands Gateway is of great importance in meeting Dacorum's future needs for B-class employment and a key aim of the Core Strategy is to encourage employment development on the Maylands Business Park and the emerging South West Hertfordshire Economy Study regards Maylands Business Park as a strategically important employment area of regional significance and whilst there is very little available land elsewhere in Dacorum for B class development the proposal for employment development at East Hemel Hempstead in the proposed St Albans Strategic Local Plan means that there is now a very large reserve of land (55 hectares) for B-class uses in the expanded Gateway area. It is concluded therefore, that it would be reasonable to accept the loss of a limited amount of this land to other uses.

### Is the site commercially attractive for B-class employment development?

It may be that there is no current demand for B1 office space, however as evidenced in the SPAR report there would appear to be demand for other B Class uses in the Maylands area. The South West Hertfordshire Economy Study acknowledges SW Hertfordshire as having "all the key ingredients of a successful growing economy and the economic forecasts suggest that employment will continue to grow at a faster rate than the UK average" and in particular, a significant increase in demand for office space over the next twenty years is forecast. Maylands Business Park is a strategically important employment area of regional significance. Demand for industrial and warehouse and distribution uses is strong. It is concluded that if the application site were marketed for B-class uses in the current market it is highly probable that there would be a high level of interest for warehousing development, an element of office development might be included. In the future, it is possible that the site could become commercially attractive for office development.

### Are the employment targets in the Dacorum Core Strategy likely to be achieved?

Core Strategy Policy CS14 states that sufficient land will be allocated to accommodate growth in the economy of approximately 10,000 jobs between 2006 and 2031. Policy CS15 states that a minimum area of land will be identified and retained for B-class uses, including General Employment Areas (which will be protected for B-class uses). The policy sets the following targets for the 2006-2031 plan period:

- Around 131,000 sq. metres (net) additional office floorspace; and
- Nil net change in floorspace for industry, storage and distribution.

The SPAR report assesses progress in relation to the targets in Policies CS14 and CS15 with reference to the Strengthening Economic Prosperity Background Issues Paper (June 2015) and the Dacorum Annual Monitoring Report (AMR) 2014/15.

The Issues Paper includes an assessment of potential floorspace change over the

Core Strategy plan period. For some of the sites in the Maylands Business Park, floorspace assumptions are made for two scenarios:

Scenario 1: high industrial/warehousing growth

Scenario 2: high offices growth

These scenarios reflect the uncertainty over whether some key sites, particularly the Maylands Gateway site (including the application site), will be developed mainly for industrial/warehousing floorspace or offices.

The Annual Monitoring Report provides the most up-to-date monitoring information on completions and job growth since 2006 and prospects for future change to 2031. It seems likely that the Maylands Gateway will be developed mainly for warehousing. The AMR suggests that there will be a substantial net loss of office floorspace over the Core Strategy plan period, rather than the major floorspace increase (130,000 sq. metres) proposed in Policy CS14. In contrast, a large increase in industry, storage and distribution floorspace is forecast between 2006 and 2031, rather than the nil net change proposed in Policy CS15.

The calculations assume 26,000 sq. metres of industry, storage and distribution floorspace on the application site. The current planning application includes 3,000 sq. metres of offices, but no industry, storage and distribution space. Therefore, if the application scheme goes ahead, it would slightly reduce the overall loss of office floorspace and reduce the increase in industry, storage and distribution space to around 25,000 sq. metres.

The AMR estimates that there will be an increase of 9,900 jobs in the Borough 2006-2031, as such the Borough is almost exactly on line to achieve the target in Policy CS14 of 10,000 additional jobs 2006-2031.

The calculations assume 370 industry, storage and distribution jobs on the application site (assuming 26,000 sq. metres of floorspace). The current planning application would provide an estimated 559 full time equivalent jobs. The actual job numbers would be considerably higher, as many retail jobs are part time. Therefore, if the scheme goes ahead, it would increase the total jobs growth estimate to well over 10,000.

The SPAR report concludes that office floorspace over the Core Strategy plan period is forecast to be way below target, whilst industrial, storage and warehousing floorspace is expected to be substantially above target. Job growth 2015-2031 is forecast to meet the Council's target. In addition, there is likely to be large scale employment floorspace and jobs growth within St Albans District immediately adjoining Dacorum at East Hemel Hempstead.

#### Overall conclusion on loss of B-class employment land

There are a wide range of factors to be considered relating to this question. After taking account of all these factors, it is concluded that most of Maylands Gateway should be retained for B-class uses. Nevertheless, it would be reasonable to accept the loss of a limited amount of this land to other uses, but only if there is a clear justification for such uses. The Application site should be considered in this context.

## 2. Retail Impact

There are a number of significant considerations in terms of the acceptability of the proposal on retail planning grounds. The SPAR report has posed a number of key questions against which to assess the scheme. Expert advice has been sought in responding to these points from retail consultants PBA and Chase and Partners in respect of retailer demand.

Taking each in turn:

### Is the site in an edge of centre or out of centre location?

Paragraph 6.2 in Savills' Planning Statement accompanying the application classifies the site as edge of centre. However, section 4.1 in PBA's Retail Review (RR) concludes that the site is in an out of centre location.

### Does the proposed development meet the sequential test?

Section 6 of Savills' Planning Statement provides an assessment of the potential impact of the proposed development. Sections 4.3-4.6 in the RR are relevant. Paragraph 4.6.3 concludes that the proposed development is compliant with the sequential approach.

### Is Jarman Fields or the application site the most appropriate location for further out of centre retail development?

PBA in the table in paragraph 4.5.2 of the RR indicates that the Jarman Fields site is not sequentially preferable to the Aviva site. This is because they are both defined as out of centre sites. However, as summarised by SPAR, it is considered that Jarman Park is a preferable site because it is allocated for shopping development in the Local Plan and a broadly similar allocation is proposed in the Site Allocations. It is already an existing well established out of centre retail and leisure location. It is closer to the town centre than the application site and the application site involves the loss of key employment development land, contrary to the Council's policies. There is a danger that the development of the Jarman Fields site will be jeopardised if this application is permitted and a retail development should be permitted only if it is concluded that it would be appropriate to permit two such developments.

### Is the impact of the proposed development on Hemel Hempstead town centre and the local centres acceptable?

This is the crux of the issue and key to the suitability or otherwise of the development in principle.

Savills considered impact in section 7 of their Planning Statement and in their 2 October letter. PBA's original advice is contained in section 5 of the RR and they provided further advice in sections 4 and 5 of the Further Retail Review (FRR). The RR (paragraph 5.9.2) states that the key concern arising relates to the effects of the forecast trade diversion on the vitality and viability of Hemel Hempstead town centre.

The RR and section 4 in the FRR deal with the 'solus' impact of the application scheme

i.e. the impact arising only from the current application proposals. However, section 5 in the FRR considers cumulative impact i.e. the combined impact of the application scheme, the Jarman Fields development and the recently refused Lidl application which is considered most relevant in assessing this proposal. It is worth noting however, that even PBA's solus impact assessment shows that an unrestricted retail development on the application site would not be acceptable and would cause a significant and adverse impact on Hemel Hempstead town centre. However, and critically to the determination of this case PBA consider that the solus impact could be acceptable if the amount of fashion floorspace is carefully controlled through planning conditions.

Section 5 in the FRR looks separately at comparison impact and convenience impact. Paragraph 5.1.5 in the FRR explains that the comparison impact is the most relevant in relation to Hemel Hempstead town centre, and the convenience impact is the key issue regarding impact on local centres.

PBA's conclusions on cumulative impact are summarised below (from the SPAR report):

- Cumulative comparison impact on Hemel Hempstead town centre (FRR sections 5.2, 5.4, 5.5 and 6.3): paragraph 5.5.3 assumes that the application proposal and Jarman Fields scheme will be controlled to limit the amount of floorspace devoted to clothing and fashion. Nevertheless, paragraph 6.3.1 states that there is the potential for a significant adverse impact on Hemel Hempstead town centre, particularly due to diversion within the comparison goods sector. The following conclusion is reached in paragraph 6.3.5:

"The results of the cumulative assessment exercise demonstrate that DBC should only support either Jarman Fields or the current application.

- Cumulative convenience impact on Hemel Hempstead town centre (FRR sections 5.3-5.5 and 6.3): paragraph 6.3.3 states that the cumulative convenience impact on Hemel Hempstead town centre would be less pronounced than the comparison impact. This is primarily because there is only one significant foodstore in the town centre, so any additional convenience floorspace would compete mainly with other out of centre stores.
- Impact on existing local centres (FRR paragraphs 4.6, 4.7, sections 5.2-5.4 and 5.6): PBA have assessed the impact on the Adeyfield, Leverstock Green and Woodhall Farm local centres. Paragraph 5.6.1 concludes as follows:

"With regard to cumulative impact, as set out above, it is the convenience element

- Impact on proposed Heart of Maylands local centre (FRR section 3): the new Heart of Maylands local centre is now under construction and the convenience store within the centre has been let to Sainsbury's Local. Hightown Housing Association (the Heart of Maylands local centre developers) made representations on the proposed Lidl foodstore opposite the Aviva site on Maylands Avenue. In response, PBA recommended conditions preventing the Lidl store having various in-house facilities and restricting the sale of certain goods. PBA are now recommending that the same conditions should be

imposed on the foodstore element of the application scheme, in order to mitigate the impact on planned investment in the Heart of Maylands.

Is there a quantitative need for the proposed retail development?

The NPPF does not require 'need' to be demonstrated to justify retail development. However, as the proposed retail development is contrary to the Council's planning policies on employment land it is considered that the proposed retail development should not be permitted unless a clear need for retailing on the site can be demonstrated, sufficient to justify making an exception to the employment policies.

Small scale retail uses that primarily serve the Maylands Avenue GEA are acceptable in terms of Local Plan Policy 31. Also, the Maylands Master Plan allows for small scale food and drink uses in the Maylands Gateway. However, the proposed scheme is contrary to Policy 31 and the Master Plan because:

- The large scale and nature of the proposed retail development means that it would serve a much wider area than just the Maylands Business Park.
- The scheme might have a detrimental effect on the Heart of Maylands local centre.

(a) Quantitative need for a foodstore

The Retail Study Update 2011 identified a demonstrable need for additional convenience goods floorspace to serve Hemel Hempstead and advised that this need should be met in the town centre. Core Strategy Policy CS16 proposes an additional 6,000 sq. metres (net) of convenience floorspace in the town centre in the period to 2031 "if there is demand".

Since the Retail Study was produced, there has been:

- Tesco's Jarman Park extension has increased net convenience floorspace at this superstore by 684 sq. metres.
- Aldi has opened two discount foodstores in the town (total net convenience floorspace = 1,876 sq. metres).
- The Pre-Submission Site Allocations document proposes mixed uses including retail (possibly including a food store) on the West Herts College/Civic Zone site. However, a large foodstore is unlikely to be built on this site.

The total net convenience floorspace in the Tesco extension plus the Aldi stores is around 2,560 sq. metres. This is close to the assessed convenience floorspace need in Hemel Hempstead to 2016 (i.e. 2,805 sq. metres – see paragraph 3.30 in the Retail Study Update). It is some 1,200 sq. metres below the assessed need to 2021 (3,764 sq metres). Also relevant is that the actual turnover achieved at Aldi's new Hemel Hempstead stores is considerably higher than the relatively low levels expected.

The new Marks and Spencer foodstore and the permitted Lidl supermarket in Berkhamsted will more than meet that town's assessed need for additional convenience floorspace to 2031. This may slightly reduce the need for further convenience floorspace in Hemel Hempstead.

Proposals for large scale proposed housing growth at Spencer's Park (around 1,000 homes, mainly in Dacorum/partly in St Albans District) and at East Hemel Hempstead (around 2,500 in St Albans) increases the case for additional convenience floorspace in the eastern part of the town. However, this has not been quantified. At present, only limited local shopping facilities are proposed in association with these developments.

A further 3,200 sq. metres net of convenience floorspace is proposed in the current application and the recently refused Jarman Fields and Lidl applications. It would appear that there may be a quantitative need for one of the currently proposed foodstores to meet identified short term needs, although it should be noted that the forecasts in the Retail Study Update are now quite old. Planned housing development in eastern Hemel Hempstead may provide a justification for some further convenience provision in this part of the town, although no assessment has been made to confirm whether this is the case.

(b) Quantitative need for comparison floorspace

The Retail Study Update 2011 showed a theoretical capacity for an additional 15,500 sq. metres of comparison shopping to serve Hemel Hempstead between 2009 and 2021 and a total of 47,500 sq. metres over the whole 2009-2031 period. However, paragraph 3.7 in the Retail Study stated that limited reliance should be placed on these longer term horizons and certainly beyond 10 years. Also, paragraph 5.4 advised that there was no need to consider further allocations for comparison floorspace until marked improvements are noted in vacant floorspace levels in the town centre and the trading performance of existing stores.

The application scheme proposes nearly 7,500 sq. metres of net comparison floorspace, whilst the figure for the refused Jarman scheme is 8,000 sq. metres. This gives a total of around 15,500 sq. metres, which is the same figure as in Policy CS16 for the period to 2021. It should also be borne in mind that:

- The Council's Annual Monitoring Report states that since 2009 there has been a modest decrease in floorspace.
- There are currently no significant commitments for new comparison floorspace in Hemel Hempstead.

At present there are no sites available in the town centre, or on the edge of the centre, for significant additional comparison floorspace provision. As a result, out of centre sites will have to be considered to meet any current needs.

It appears that there may be a quantitative need for both the Jarman Fields and the application proposal to meet comparison floorspace needs, although it should be noted that the forecasts in the Retail Study Update are now quite old. This conclusion is also subject to considering whether the town centre is sufficiently healthy to withstand such competition.

Is Hemel Hempstead town centre sufficiently healthy to withstand competition from new out of centre developments?



contains some helpful comments on the health of Hemel Hempstead town centre. Points made include the following:

- The level of comparison retailers in Hemel Hempstead is well above the national average. Comparison retailers occupy the largest proportion of units within the town centre. The high proportion of such retailers in the town centre and the reasonably expensive goods they sell is indicative that the town is in reasonable health.
- The vacancy level in Hemel Hempstead is slightly below the national average. This is also an indicator that the town is in reasonable health.
- Experian Goad has identified a number of multiple retailers as being 'key attractors'. Of the 30 key attractors, 23 are represented within Hemel Hempstead. This is a positive indicator of the town being in reasonable health.
- It is important for a town to have a variety and mix of multiples and independents, which is a feature of Hemel Hempstead town centre.
- The Riverside Shopping Centre has attracted a number of multiple retailers including a Debenhams department store and many fashion retailers.
- Dacorum Borough Council has been proactive in improving the quality of offer and environment through its 'Hemel Evolution' strategy. This investment will be critical for the future health and longer term success of the town centre as a retail destination.

Given Chase & Partner's findings, it is concluded that there has been a clear improvement in the town centre's health, although there are still a number of vacant units. It appears that the town centre's health is strong enough to withstand competition from additional out of centre comparison retailing, subject to the scale not being too large and conditions being attached to any planning permissions to mitigate the impact on the town centre.

Is there sufficient retailer demand to make the Jarman Fields scheme together with the application scheme viable?

Savills' 2 October letter states that:

"The proposed development will provide retail floorspace that is qualitatively different to that located in Hemel Hempstead and other defined centres. It will accommodate different formats of store to those found in the town centre and will enhance the overall choice within Hemel Hempstead helping to retain shoppers and expenditure locally."

PBA, however consider that there is no guarantee that the development would successfully clawback any of this leakage. They also note that only 10% of the forecast turnover is expected to come from out-of-centre locations outside Hemel Hempstead.

C&P are of the opinion (paragraph 3.29) that the out of centre retail offer in Hemel

Hempstead is limited in comparison with similar towns, a view shared by Property Market Analysis (PROMIS). PROMIS reports that “most goods categories are under-represented...particularly Child/Sport, Fashion/Other High Street and Furniture/shing goods.”

Section 4 in the C&P report assesses the current demand for out of centre retailing in Hemel Hempstead. C&P have identified strong retailer demand to locate in the town, although some of this demand comes from retailers who would not comply with the conditions proposed by PBA for the Jarman Fields and Aviva sites.

C&P conclude in section 7 of their report (paragraph 7.15) that:

“At the present time the commercial property investment market is particularly strong, with demand for this type of asset attracting many potential purchasers from both home and abroad. We are of the opinion that both the Jarman Park and Maylands Avenue proposals would produce attractive and fundable retail parks in today’s market. Development of these parks would add to the retail offer in Hemel Hempstead with the potential to attract customers from outside the borough.”

and (paragraph 7.16)

“Given the restrictions proposed in the planning conditions that have been suggested by the applicants, we feel that there will be sufficient retail demand to support each development.”

Demand exists both from convenience store operators and from comparison store operators who comply with the proposed conditions.

Would the Jarman Fields and Aviva schemes be likely to lead to retailers relocating from Hemel Hempstead town centre?

C&P were asked for a professional view on whether implementation of either or both schemes would be likely to lead to retailers relocating from the town centre.

C& P report at paragraph 7.3 that:

“If open A1 planning permission is granted for both schemes we are of the opinion that this could have considerable impact on the town centre, through retailers relocating out of centre. It is not possible to predict precisely who would relocate or to quantify the numbers of tenants who may do so.”

However, paragraph 7.5 states that:

“The planning conditions suggested by both applicants should help to protect the town centre from out of centre competition. The restrictions suggested will limit the number of retailers who would be able to trade from the proposed parks and thus the retailer demand that we have identified will be reduced.

Paragraph 7.16 concludes that:

“...the restrictions will limit those retailers who will be able to trade at each location offering some protection to the town centre, which should remain the principal focus for

Hemel Hempstead.”

If the development is permitted, should conditions be imposed to restrict the type of goods sold?

PBA and the applicant have liaised over what conditions should be attached if it is concluded that planning permission should be granted. This dialogue has informed paragraph 4.1.8 in PBA’s FRR, which recommends 12 conditions:

- i. Restriction on total net sales area (9,262 sqm net) and gross floor area (12,503 sqm GIA);
- ii. Control over the proportions of net sales area devoted to the sale of convenience (1,414sqm net) and comparison goods (7,848 sqm net);
- iii. Convenience retail floorspace to be restricted to a single unit; the net sales area of that unit limited to 1,767 sqm;
- iv. Controls to prohibit in-store post office, pharmacy, bakery, delicatessen, photo shop, financial services or opticians within the foodstore unit;
- v. Controls to prevent the sale of newspapers and periodicals, tobacco and individual confectionary items;
- vi. Minimum unit size: imposing a lower threshold of 650 sqm gross on units;
- vii. Maximum of six retail units;
- viii. Restriction on the total amount of A3 floorspace to 650 sqm GIA;
- ix. Revoking permitted development rights.
- x. Restriction of clothing and footwear, jewellery and fashion accessories, and pharmaceuticals, toiletries and cosmetics to no more than 3% of the net sales area of any of the retail units;
- xi. Notwithstanding the above restriction xi. clothing and footwear and jewellery and fashion accessories up to a maximum of 1,350 sqm net sales to be allowed within a single unit where the proportion of floorspace devoted to other comparison goods must exceed 1,350 sqm net sales
- xii. Notwithstanding the above restriction xi. sports and outdoor clothing up to a maximum of 825 sqm net sales to be allowed within a single unit where the proportion of floorspace devoted to the sale sports and outdoor pursuits equipment must exceed 825 sqm.

These conditions are considered necessary to ensure that the impact of the development does not result in a likelihood of significantly adverse impact on Hemel Hempstead town centre. The applicant is in agreement with the conditions and has been asked to either provide a unilateral undertaking to the effect that these conditions will be adhered to or to agree to such being included within the S106 Agreement.

## Overall conclusion on the retail impact of the proposal

A wide range of factors have been considered. On balance, it is concluded that out of centre retail development should be accepted on this site as the proposal would appear acceptable on retail planning grounds. Key points that have particularly influenced this conclusion are:

- The impact on Hemel Hempstead town centre and the local centres is unlikely to be significant and adverse, as long as the conditions recommended by PBA and the applicant are imposed.
- There appears to be a quantitative need for some additional out of centre retailing in Hemel Hempstead.
- It appears that the town centre's health is strong enough to withstand competition from additional out of centre comparison retailing, subject to the scale not being too large and conditions being attached to any planning permissions to mitigate the impact on the town centre.
- Despite the proposed planning conditions, there is thought to be sufficient retailer demand to support both the Jarman Fields and the application developments.
- The proposed planning conditions will limit those retailers who will be able to trade at the site, offering some protection to the town centre, which should remain the principal focus for Hemel Hempstead.

## Conclusions on Key Issues

In terms of loss of employment land and retail impact it is concluded that the proposed development is acceptable as the proposal would result in the loss of only a limited amount of the Maylands Gateway to other uses, the majority being retained for B-class uses and it is concluded on balance that the application is acceptable from a retail perspective as per the key points identified above. It would seem therefore that there is a strong enough case for accepting that the proposed retail development, subject to the conditions identified above would override the concerns about the loss of employment land and any potential impact on the health of Hemel Hempstead Town Centre. It is therefore considered that the application is acceptable in terms of employment and retail planning policies.

## **Other Planning Considerations**

### Traffic and parking

Highways Comments are provided in full at Appendix 6. The application was supported with a Transport Assessment. The applicant has been in discussion with Hertfordshire County Council highway authority in terms of highways requirements and assessment of Transport Impacts from pre-app stage. The application is in outline form with all matters reserved other than access. The access to the site would be via the existing signalised junction on Maylands Avenue. A further exit only access onto Maylands Avenue is proposed approximately 130m to the north of the Maylands Avenue/A414 roundabout. This is an existing historic access that now requires improvements as an exit point for HGVs. There will be a need for a S278 Agreement in

respect of works within the highway including alterations to the junction. Subject to conditions as set out in Appendix 6 the highway authority have no objection in principle to the development.

A s106 Agreement is necessary to secure a Travel Plan, The Highway Authority need to provide justification to ensure compliance with the CIL Regulations. The site is within Accessibility Zone 3 where 50-75% of the parking standard is applied. The parking requirement for the proposed development is therefore between 357 and 536 parking spaces. 553 spaces are to be provided, 480 for the retail element and 73 for the B1 office unit. The proposal therefore meets the parking requirements. Cycle parking provision should also be provided.

#### Layout and Landscaping

Whilst the application is in outline form, the Conservation and Design officer has raised some concerns over the indicative layout provided with the application. These relate to the rear and servicing of buildings fronting Maylands Avenue and the turning circle for the service vehicles adjacent to the Maylands Avenue/A414 roundabout. A landmark focal building is suggested for the corner and servicing to the rear of the buildings. These are matters that it is hoped would be addressed through the reserved matters application. In terms of landscaping the Trees and Woodlands officer recommends that the existing landscaping to either side of the access road be replicated on other site boundaries and around the balancing pond with additional Pin Oaks, reflecting those along the access road providing focal points throughout the development. There is the space within and around the development site to introduce high quality interesting landscaping.

#### Archaeology, Ecology, Contamination and Crime Prevention

Subject to conditions recommended by the respective consultees these matters are all acceptable.

#### Drainage and Flood Risk Issues

There has been considerable correspondence between the applicant and Thames Water and the Lead Local Flood Authority as evidenced in the representations section at Appendix 6 to resolve issues. These matters, again subject to conditions are now satisfactory.

#### S106 Agreement

A Section 106 Agreement is required to secure financial contributions and other matters as detailed as follows:

Hertfordshire County Council's Planning obligation Guidance (2008) requires a two-strand approach to planning obligations in order to address the immediate impacts of the development (first strand) and the cumulative impacts of all development on non-car networks (second strand). Only the First Strand would be applicable to this and other cases in Dacorum. The second strand does not comply with our approach under Regulations 122 and 123 of the CIL Regulations as the Council has indicated that it will use CIL to fund for 'strategic and local transport proposals'

- First Strand - Financial contributions may be required to address the immediate and direct impacts of the proposed development on the local highway network. This is likely to be limited to mitigation measures at adjacent junctions to the application site and those works to access the

development - Further advice from the Highway Authority is awaited in this regard.

- Provision of a Travel Plan
- Financial contribution to Maylands Public Realm – The Council has excluded the Maylands Public Realm improvements from the Regulation 123 list and those items upon which it intends to spend CIL receipts. As such it is appropriate to secure such funds through a S.106 agreement. The site represents a key area for the future regeneration of the business park as DBC look to improve the quality of the built environment. The Maylands Masterplan, which was adopted by the Council as a planning policy consideration in September 2007, identifies these sites within the 'Face of Maylands' character zone. This zone is identified as a high quality office led location.

The current site gives a mixed impact on Maylands Avenue delivering some B1 (office) and other retail uses. The new proposals seek to significantly reduce the level of office content within the development as to what is already approved. The site will significantly reduce the level of employment generating uses and provide lower amounts of employment than would have been generated through the previous approvals. The new uses will also detract from the business park nature of the area through adding a wider mix of uses.

On this basis, contributions are sought towards the Maylands public realm improvements, which is necessary to mitigate the impact of the development. The Maylands Masterplan and Gateway development brief set a clear vision for the area, noting the desire to create a 'pleasant, high quality environment' among other objectives. A programme of works has been scheduled which details substantial improvements to the public realm of the Maylands Business Park; and most importantly the Maylands Avenue frontage has significant upgrade works detailed. Funding has been secured for the majority of the works; however, a proportion is expected to be achieved through S106 contributions associated with development taking place within the areas of the Development Brief. New developments are to contribute towards these with the schedule split into a number of sections with developments contributing to 20% of the cost of the works of the section immediately to the front of the development site.

The total contribution requested therefore is £166,984.60

- To secure the recommended retail conditions

#### Community Infrastructure Levy

The development of the site is subject to a CIL payment calculated in accordance with the CIL Charging Schedule. The convenience based retail and retail warehouse elements (A1) of the scheme are chargeable at £150 per square metre. A zero charge is levied against "Other" uses within the Charging Schedule and as such no charge is levied against either the B1 or A3 uses. The scheme results in an overall CIL Liability of some £1,875,450.

#### **Conclusion**

The proposed retail development runs contrary to policies of the Development Plan

which direct development within the Maylands gateway to B1 employment use. A case for loss of this employment site to alternative use has however been made and justified. The proposed retail use meets the sequential test and it has been shown that subject to appropriate conditions the development would not have a significant impact on the vitality and viability of Hemel Hempstead Town Centre. It is also thought that the town could not only accommodate this development but also any future proposal for Jarman Park. In all other aspects, subject to conditions and S.106 Agreement the proposal is considered satisfactory in the context of the NPPF, Saved Policies of the DBLP and Core Strategy policies.

### **Referral to Secretary of State**

Under the Town and Country Planning (Consultation) (England) Direction 2009 paragraph 5.(1) local planning authorities are required to refer applications to the Secretary of State for development outside town centres consisting of or includes retail, leisure or office use, and which

(a) is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and

(b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and

(c) consists of or includes the provision of a building or buildings where the floor space to be created by the development is:

(i) 5,000 square metres or more; or

(ii) extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres.

Given that the application is for open A1 use on land designated for B1 employment use and exceeds the floorspace stated it is considered that should committee accept the recommendation to grant planning permission that the application be referred to the Secretary of State as it is considered that the proposal does not comply with the provisions of para. 5(1) above.

It is considered therefore that in accordance with the direction the application should be referred to the Secretary of State for consideration as to whether the application should be called-in.

### **Recommendations**

That in accordance with paragraph 5. (1) of the Town and Country Planning (Consultation) (England) Direction 2009 the application be **REFERRED** to the Secretary of State (DCLG).

- In the event that the Secretary of State does not call in the application that the application is **DELEGATED** to the Group Manager - Development Management & Planning with a view to approval subject to the completion of a planning obligation under s.106 of the Town and Country Planning Act 1990 and the draft list of

conditions below.

1. That the following Heads of Terms for the planning obligation be agreed:
2. Financial contribution to address the immediate impacts of the proposed development on the local highway network *Amount to be advised by HCC*
  - Provision of a Travel Plan
  - Provision of Fire Hydrants
  - Financial contribution towards Maylands Public Realm - £166,984.60
  - To secure compliance with the retail conditions that preclude the sale of the following goods:
    1. Clothing and Footwear
    2. Jewellery and fashion accessories,other than as permitted by Draft Conditions 9, 10 and 11.
3. That the following conditions be imposed:



RECOMMENDATION -

- 1 **Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 2 **Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 3 **The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters to be approved.**

Reason: To prevent the accumulation of planning permission; to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 4 **The Class A1 retail floorspace hereby permitted shall have a maximum gross floor area of 12,503sqm. The net sales area of the Class A1 retail floorspace shall not exceed 9,262sqm comprising a maximum of;**

**1,414sqm (convenience food goods)  
7,848sqm (comparison non-food goods)**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 5 **The Class A1 retail units hereby permitted shall have a minimum gross internal area of 650sqm.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 6 **The Class A1 retail development hereby permitted shall be limited to a maximum of six retail units.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 7 **The convenience retail floorspace hereby permitted shall be restricted to a single unit, the net sales area of which shall not exceed 1,767sqm.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 8 **No retail unit shall contain a dedicated in-store post office, pharmacy, photo shop or financial services.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre and Heart of Maylands Local Centre in accordance with Core Strategy Policy CS16.

- 9 **In units used primarily for the sale of comparison goods, the sale and display of: food and drink; clothing and footwear, jewellery and fashion accessories, and pharmaceuticals, toiletries and cosmetics shall be limited to no more than 3% of the net sales area of any of the retail units hereby permitted.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16 and to allow the local planning authority to retain control over the type of goods sold.

- 10 **Notwithstanding the restriction set out in Condition 9, clothing and footwear, jewellery and fashion accessories and toiletries and cosmetics will only be permitted to be sold from a maximum of 1,550sqm (net sales) within a single unit where the sale and display of other comparison goods and services exceeds 50% of the net sales area of the unit.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 11 **Notwithstanding the restriction set out in condition 9 sports and outdoor clothing will only be permitted to a maximum of 825sqm net sales to be allowed within a single unit where the sale and display of other goods and services relating to sports and outdoor pursuits exceeds 50% of the net sales area of the unit.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 12 **The Class A3 use hereby permitted shall be limited to a maximum gross internal floorspace area of 650sqm.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 13 **The Class A1 retail units shall only be used for Class A1 uses in accordance with other conditions of this planning permission and the Class A3 unit shall only be used for Class A3 uses and for no other purpose of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification and for no other purpose permitted under Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 unless otherwise agreed in writing with the local planning authority.**

Reason: In the interests of safeguarding the vitality and viability of Hemel Hempstead Town Centre in accordance with Core Strategy Policy CS16.

- 14 **No development shall take place until samples of the materials to be used for the external surfaces of the development shall have been submitted to and approved in writing by the local planning authority. The approved materials shall be used in the implementation of the development.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

- 15 **Details to be submitted in accordance with Condition 1 above shall include full details of both hard and soft landscape works. These details shall include:**

- **hard surfacing materials;**
- **means of enclosure;**
- **soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;**
- **trees to be retained and measures for their protection during construction works;**
- **proposed finished levels or contours;**
- **car parking layouts and other vehicle and pedestrian access and circulation areas;**
- **minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc);**
- **proposed and existing functional services above and below ground**

(e.g. drainage, power, communications cables, pipelines etc, indicating lines, manholes, supports etc);

- retained historic landscape features and proposals for restoration, where relevant.

**The approved landscape works shall be carried out prior to the development being brought into use.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Core Strategy policy CS12.

- 16 **No development shall take place until a landscape management plan for a period of 10 years from the date of the implementation of the landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include long term design objectives, management responsibilities and maintenance schedules for the landscaped areas. The landscaping shall be managed in accordance with the approved plan.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Core Strategy Policy CS12.

- 17 **No development shall take place until a scheme for the protection of existing trees within and adjoining the site (as agreed to be retained on any Reserved Matters application), shall have been submitted to and approved in writing by the local planning authority. The approved scheme of protection shall be installed in accordance with the details approved and shall be maintained in place during the whole period of site demolition, excavation and construction (including any excavation for the purposes of archaeological assessment).**

Reason: In order to ensure that damage does not occur to the trees / hedges during building operations in accordance with saved Policy 99 of the Dacorum Borough Local Plan 1991-2011 and Policy CS12 of the Dacorum Core Strategy September 2013.

- 18 **No development shall take place until reptile surveys have been carried out to establish the presence or otherwise of slow worms, common lizards or other reptiles and the findings shall be submitted to the local planning authority.**

Reason: In the interest of safeguarding any ecological interest on the site in accordance with the NPPF.

- 19 **The details of scale to be submitted for the approval of the local planning authority in accordance with Condition 1 above shall include details of the proposed slab, finished floor and roof levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land and buildings. The development shall be constructed in accordance with the approved levels.**

Reason: For the avoidance of doubt and to ensure a satisfactory form of development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

- 20 **Details submitted in accordance with Condition 1 of this permission shall include scaled plans and written specifications to show the layout of the following:**

**roads**

**footways**

**foul and on-site water drainage**

**existing and proposed access arrangements including visibility splays**

**car parking provision in accordance with standards adopted by the local planning authority**

**cycle parking provision in accordance with standards adopted by the local planning authority**

**servicing areas**

**loading areas**

**and turning areas for all vehicles**

Reason: To ensure a suitable layout that complies with the highway requirements and to ensure adequate and satisfactory provision of off-street vehicle parking facilities in accordance with Saved Policy 58 of the DBLP.

- 21 **No development shall take place until details of the materials to be used for hard surfaced areas within the site, including roads, driveways and car parking areas, shall have been submitted to and approved in writing by the local planning authority.**

Reason: To ensure that the internal roads and other layouts are built to required / adoptable standards in accordance with saved Policy 54 of the adopted Dacorum Borough Local Plan 1991 - 2011 and Policy CS12 of the Dacorum Core Strategy September 2013.

- 22 **Prior to commencement of the development, a delivery and servicing plan shall be submitted to the local planning authority which shall contain the delivery and servicing requirements (including refuse collection), a scheme for co-ordinating deliveries and servicing, areas within the site to be used for loading and manoeuvring of delivery and servicing vehicles and access to and from the site for delivery and servicing vehicles.**

Reason: In the interests of maintaining highway efficiency and safety in accordance with saved policy 54 of the DBLP.

- 23 **No development shall take place until a Construction Management Plan shall have been submitted to and approved in writing by the local planning authority. The statement shall provide for:**

- the parking of vehicles of site operatives, contractors and visitors;
- loading and unloading of plant and materials;

- storage of plant and materials used in constructing the development;
- timing and routes to be employed by construction vehicles;
- construction access arrangements;
- the erection and maintenance of security hoarding;
- wheel washing facilities;
- measures to control dust and dirt during construction;

The details shall include a plan showing the proposed location of these areas. The approved statement shall be adhered to throughout the construction period.

Reason: To minimise danger, obstruction and inconvenience to users of the highway in accordance with saved Policy 51 of the Dacorum Borough Local Plan 1991-2011.

- 24 **Prior to the commencement of the development hereby permitted a Phase I Report to assess the actual or potential contamination at the site shall be submitted to and approved in writing by the local planning authority. If actual or potential contamination and/or ground gas risks are identified further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority.**

**For the purposes of this condition:**

**A Phase I Report consists of a desk study, site walkover, conceptual model and a preliminary risk assessment. The desk study comprises a search of available information and historical maps which can be used to identify the likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not obvious from desk studies. Using the information gathered, a 'conceptual model' of the site is constructed and a preliminary risk assessment is carried out.**

**A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.**

**A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.**

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development.

- 25 **All remediation or protection measures identified in the Remediation Statement referred to in Condition 24 shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and**

approved in writing by the local planning authority prior to the first occupation of any part of the development hereby permitted.

For the purposes of this condition a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development.

- 25 **Petrol/oil interceptors shall be fitted in all car parking/washing/repair facilities.**

Reason: To prevent oil-polluted discharges entering local watercourses in accordance with Policy CS32.

- 27 **A properly maintained fat trap shall be installed to serve any units operating within Class A3 at the application site.**

Reason: To prevent the blocking of drains, sewage flooding and pollution to local watercourses in accordance with Policies CS31 and 32.

- 28 **The A3 floorspace hereby permitted shall not be commenced until there has been submitted to and approved by the local planning authority a scheme for ventilation of the premises, including the extraction and filtration of cooking fumes. The approved scheme shall be carried out prior to the commencement of the use hereby permitted.**

Reason: In the interests of the amenity of adjoining uses in accordance with Policy CS12.

- 29 **Notwithstanding the sustainability checklist submitted, no development shall take place until an online Sustainability Statement and an Energy Statement via C-Plan shall have been submitted to and approved in writing by the local planning authority. The statements shall be submitted for approval concurrently with the first of the reserved matters to be submitted. The development shall be carried out in accordance with the details approved.**

Reason: To ensure the sustainable development of the site in accordance with the aims of accompanying Policy CS29 and paragraph 18.22 of the Dacorum Core Strategy September 2013 and the Sustainable Development Advice Note March 2011.

- 30 **No development shall take place until details of measures to recycle and reduce demolition and construction waste which may otherwise go to landfill, together with a site waste management plan (SWMP), shall**

have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details.

Reason: To accord with the waste planning policies of the area, Policy CS29 of the Dacorum Core Strategy (September 2013) and saved Policy 129 of the Dacorum Borough Local Plan 1991-2011.

31 **The development hereby permitted shall be carried out in accordance with the FRA carried out by MJM Consulting Engineers dated March 2015 reference 6011-001 Rev A, all supporting documents (letters by Rebecca High dated August 18<sup>th</sup>, 2015 and September 3<sup>rd</sup>, 2015 and drainage map referenced SK006 named “Maylands Gateway – Surface water drainage strategy – greenfield with SUDS”); mitigation measures detailed within the FRA as follows:**

**(i) Limiting the surface water run-off generated by the critical storm event so that it will not exceed a the rate of 3.3 l/s from the North of the site and 32.9 l/s from the South of the site, in order not to exceed a total discharge rate of 36.2 l/s.**

**(ii) Implementing appropriate SuDS features giving priority to above ground measures such as permeable pavements, ponds and swales, as stated in the email and shown in the map referenced SK 006 that was received from the LPA on August 20<sup>th</sup>, 2015.**

**(iii) 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 providing a minimum of 215 m<sup>3</sup> of attenuation volume in a swale in the North site, a total of 2109 m<sup>3</sup> of attenuation volume in the South site. 1320 m<sup>3</sup> of the overall storage will be attenuated in one pond and the remaining 789 m<sup>3</sup> is to be provided in a swale and permeable pavements as outlined in the letter sent by Rebecca High the 3<sup>rd</sup> of September, 2015.**

**(iv) Discharge of surface water to the Thames Water sewer network.**

**The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.**

Reason: To prevent flooding by ensuring the satisfactory disposal of surface water from the site.

To prevent flooding by ensuring the satisfactory storage of surface water from the site.

To ensure there will be no risk of flooding from surface water to the proposed properties within the development site.

To ensure surface water can be managed in a sustainable manner.



To provide a betterment from the current brownfield runoff rates.

In accordance with Policy CS31.

- 32 **No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.**

**The scheme shall also include:**

**Details of how the scheme shall be maintained and managed after completion**

**Details of the proposed drainage scheme providing a drainage plan showing the location of any proposed SuDS, pipe runs and any areas of proposed informal flooding.**

**Detailed assessment of the existing surface water flood risk as shown on the EA National surface water flood maps, ensuring the development layout does not place any proposed properties at risk from surface water flooding.**

**Justification of SuDS selection giving priority to above ground methods, reducing the requirement for an underground piped system, reducing the requirement for overly deep attenuation ponds.**

**Detailed engineering details of the design of the proposed SuDS features**

**Detailed surface water drainage calculations for all rainfall events up to and including the 1 in 100 year + climate change event.**

Reason: To prevent the increased risk of flooding, both on and off site In accordance with Policy CS31.

- 33 **The development hereby permitted shall not be commenced until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.**

Reason: The development may lead to sewerage flooding; to ensure that

sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact on the community in accordance with policies CS31 and 32.

- 34 **No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programming for the works) has been submitted to and approved in writing by the Local Planning Authority, in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method.**

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure in accordance with Policies CS31 and 32.

- 35 **No development shall take place until details to demonstrate how the car park will achieve and maintain 'Park Mark, safer Parking Award Status have been submitted to and approved in writing by the local planning authority in consultation with Hertfordshire Police. The car park shall not be brought into use until the approved measures have been implemented in full and shall thereafter be retained.**

Reason: To prevent crime and protect people using the car park in accordance with paragraph 69 of the NPPF.

- 36 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**A103**  
**A110 (For indicative purposes only)**  
**A112 (For indicative purposes only)**

Reason: For the avoidance of doubt and in the interests of proper planning.

#### Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

#### INFORMATIVES

##### Highways

1. The applicant is advised that the storage of materials associated with the construction of the 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 <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

2. General works within the highway: Construction standards for works within the highway: All works to be undertaken on the adjoining highway shall be constructed to the satisfaction and specification of the Highway Authority, by an approved contractor, and in accordance with Hertfordshire County Council's highway design guide "Roads in Hertfordshire". 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 <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

3. 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 <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

### Contamination

Paragraph 121 of the NPPF states that all site investigation information must be prepared by a competent person. This is defined in the framework as 'A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.'

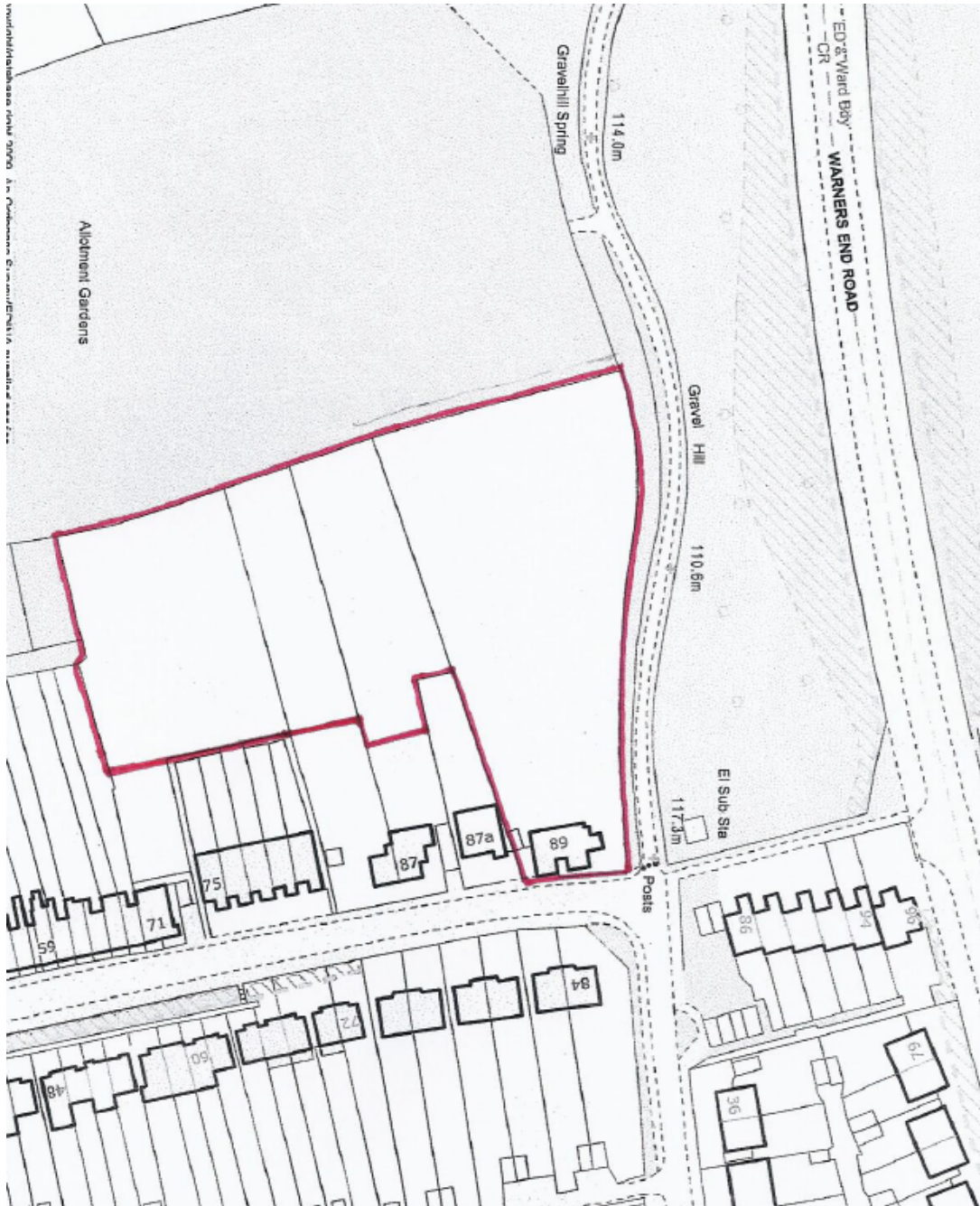
Contaminated Land Planning Guidance can be obtained from Regulatory Services or via the Council's website [www.dacorum.gov.uk](http://www.dacorum.gov.uk)

# Agenda Item 5b

## ITEM 5.02

**4/01679/15/MOA- PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 25 HOUSES (4 X 4 BED 10 X 3 BED AND 11 X 2 BED) WITH GARAGING, PARKING AND NEW ESTATE ROAD - OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT LAYOUT AND ACCESS.**

**LAND R/O 71 - 87A AND, 89 SUNNYHILL ROAD, HEMEL HEMPSTEAD, HP1**



**ITEM 5.02**

**4/01679/15/MOA- PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 25 HOUSES (4 X 4 BED 10 X 3 BED AND 11 X 2 BED) WITH GARAGING, PARKING AND NEW ESTATE ROAD - OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT LAYOUT AND ACCESS.**

**LAND R/O 71 - 87A AND, 89 SUNNYHILL ROAD, HEMEL HEMPSTEAD, HP1**

PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 25 HOUSES WITH GARAGING, PARKING AND NEW ESTATE ROAD AT 89, 87, 85 AND 71 SUNNYHILL ROAD HEMEL HEMPSTEAD HERTS.



**4/01679/15/MOA - PROPOSED RESIDENTIAL DEVELOPMENT COMPRISING 25 HOUSES (4 X 4 BED 10 X 3 BED AND 11 X 2 BED) WITH GARAGING, PARKING AND NEW ESTATE ROAD - OUTLINE APPLICATION WITH ALL MATTERS RESERVED EXCEPT LAYOUT AND ACCESS..**

**LAND R/O 71 - 87A AND, 89 SUNNYHILL ROAD, HEMEL HEMPSTEAD, HP1.**

**APPLICANT: E. J Waterhouse & Sons Ltd.**

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[Case Officer - Andrew Parrish]

## **Summary**

The application is recommended for approval. The application proposes the construction of 25 houses to the rear of 71 to 87A and 89 Sunnyhill Road with access and layout for determination. An appeal in 2012 for 13 dwellings on part of the site was allowed by the Inspector who considered that there would be no harm to highway safety as a result of the introduction of an access in close proximity to a steep section of Melsted Road and close to a sharp bend. In particular, the Inspector was satisfied that in wet or dry conditions an errant vehicle would not be likely to collide with vehicles associated with the new access, or with pedestrians, and that, subject to planning conditions, there would be no adverse harm to highway and pedestrian safety in inclement weather conditions including snow and ice. He also noted that the various safety improvements would reduce the potential for vehicle collisions in snow and ice.

The proposal, as before, incorporates under-carriageway heating elements and back up systems to minimise danger on the steep access road during times of snow or ice. A management company would be formed to manage the system. The Highway Authority raise no objections to the proposal given that the appeal Inspector accepts the principle of under-road heating as a solution to the severe gradient of the access road, and given the significant safety improvements incorporated both on and off-site to mitigate the impact of a junction at this point. The proposal is considered acceptable in layout and access terms and will accord with parking standards. There would be no material harm to adjoining residential occupiers. It would be designed to meet Code level 3 plus 5% CO2 reductions. The proposal provides satisfactory evidence that there will be no harm to European Protected Species and the applicants are willing to complete an s106 unilateral undertaking securing contributions to affordable housing, highway improvements and sustainable transport.

## **Site Description**

The site is L shaped and extends to 0.65 hectares, with a relatively small frontage to Sunnyhill Road and the majority of the site sitting behind Nos. 71 to 87A. It is sited approximately 0.5 km to the west of the town centre on the western side of Sunnyhill Road, close to a sharp bend with Melsted Road, in the Hammerfield North area of the town.

The site is located adjacent to open space known as Gravelhill Spring that consists of a densely wooded area to the north, allotments to the west and an element of recreational space. A public right of way runs along the northern boundary of the site between Sunnyhill Road and Warners End within the aforementioned wooded area, which is also a designated nature reserve.

Part of the site comprises a large 1930s detached, two-storey, gable-ended dwelling directly fronting Sunnyhill Road. It is served by a very large residential curtilage to the

rear with significant trees to its northern and western boundaries. These trees are subject to a Tree Preservation Order. Land levels across the site drop approximately 10-metres between the front (eastern) and rear (western) boundaries of the site. The site also comprises garden land to the rear of Nos. 71 and 87A Sunnyhill Road, the western boundaries to which are defined by mature hedges and trees.

## **Proposal**

Outline permission is sought for the demolition of No. 89 Sunnyhill Road and the erection of 25 detached, semi-detached and terraced residential units (4 x 4 bed 10 x 3 bed and 11 x 2 bed) together with associated gardens, landscaping, car parking, garages and access road from Sunnyhill Road. All matters are reserved apart from access and layout.

The details submitted in respect of access which relate to that part of the site comprising No. 89 Sunnyhill Road are virtually identical to those submitted under the previous application 4/00522/12/MOA and include proposals for under carriageway heating and back up generators. The details of layout are also very similar to those previously submitted and approved but now involve additional dwellings served by an extended access, and the omission of the originally approved block of 4 flats in favour of houses.

In addition to a location plan, site survey, layout plan and street scenes, the application is supported by a Design & Access Statement, a Tree Survey and Arboricultural Plan, a Bat Survey, a Health and Safety Review, a Development Access Design Report, a Road Performance in Wet Conditions Assessment Report, a letter from Strada regarding the under carriageway heating, and a Development Access plan.

## **Referral to Committee**

The application is referred to the Development Control Committee at the request of Councillor Janice Marshall.

## **Planning History**

4/00611/14/FUL	DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF TWO THREE- BED DWELLINGS Withdrawn 16/05/2014
4/00552/12/MOA	CONSTRUCTION OF SEVEN DWELLINGS AND SIX APARTMENTS AND ACCESS ROAD (AMENDED SCHEME) Refused 27/11/2012  Appeal allowed March 2013
4/00542/11/MOA	CONSTRUCTION OF SEVEN DWELLINGS AND SIX APARTMENTS AND ACCESS ROAD (AMENDED SCHEME) Refused 14/09/2011
4/00561/10/MOA	CONSTRUCTION OF SEVEN DWELLINGS AND SIX APARTMENTS AND ACCESS ROAD

Refused  
30/06/2010

4/00403/07/PRE RESIDENTIAL DEVELOPMENT  
Unknown  
25/04/2013

4/00984/92/4 TWO DETACHED DWELLINGS  
Refused  
11/03/1993

4/00827/91/4 TWO DETACHED DWELLINGS AND ACCESS DRIVE (OUTLINE)  
Refused  
09/08/1991

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance (NPPG)  
Circular 1/2006, 05/2005  
Manual for Streets

### Hertfordshire Highway Authority

Roads in Hertfordshire, A Guide for New developments, June 2011

### Adopted Core Strategy

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS4 - The Towns and Large Villages  
CS8 - Sustainable Transport  
CS9 - Management of Roads  
CS10 - Quality of Settlement Design  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS13 - Quality of Public Realm  
CS17 - New Housing  
CS19 - Affordable Housing  
CS23 - Social Infrastructure  
CS25 - Landscape Character  
CS26 - Green Infrastructure  
CS28 - Renewable Energy  
CS29 - Sustainable Design and Construction  
CS31 - Water Management  
CS32 - Air, Water and Soil Quality  
CS33 - Hemel Hempstead Urban Design Principles  
CS35 - Infrastructure and Developer Contributions



## Saved Policies of the Dacorum Borough Local Plan

Policies 10, 12, 13, 18, 21, 51, 54, 58, 61, 62, 63, 99, 100, 102, 111, 129  
Appendices 1 (*to be updated through the CPlan sustainability checklist*), 3, 5 and 6

## Supplementary Planning Guidance/Documents

Environmental Guidelines

Residential Character Area HCA9: Hammerfield North

Accessibility Zones for the Application of Car Parking Standards July 2002

Water Conservation & Sustainable Drainage

Energy Efficiency & Conservation

Advice Note on Achieving Sustainable Development through Sustainability Statements

Sustainable Development Advice Note

Planning Obligations SPD April 2011

Affordable Housing SPD 2013

## Advice Notes

Sustainable Development Advice Note (March 2011) *Note: This is in the process of being updated to reflect the content of the adopted Core Strategy*

Refuse Storage Guidance Note February 2015

## **Summary of Representations**

### Strategic Housing

Having considered the particular issues with developing this site, the extant permission on the first part of the site and imminent planning policy changes regarding affordable housing, would accept the offer of £163,500 as an affordable housing commuted sum. This would be payable at commencement of development.

### Response to the viability report:

1. The applicants construction costs are based on BCIS rates plus 15% for external works and infrastructure. There is also an additional £230,000 included in the viability report for abnormal costs. The construction cost is higher than the Council would expect. We therefore require further evidence to support this and supporting information to confirm the work listed in the abnormal costs schedule is required.
2. The Council believes the applicant can achieve higher sales values. The house prices used as comparisons are for smaller properties than the proposed units and do not take into account the premium for new build.
3. The total capital value of the affordable housing units is lower than the Council would expect. The applicant has stated that they would sell the affordable housing units to a registered provider, this should be reflected in the viability appraisal.
4. The Council requires the applicant to provide evidence of the existing use value through a RICS approved valuation.
5. Sales fees are stated as 3.5%, further evidence is require.
6. The applicant should provide further details of the Misc and arrangement fees.

### Initial comments:

To meet the affordable housing policy requirements 35% of the dwellings should be agreed for affordable housing. Therefore 9 affordable housing units should be agreed for affordable housing on this site. We would specify that the tenure mix of the affordable housing provision is 75% affordable rented and 25% shared ownership in line with our Affordable housing SPD.

### Conservation and Design

#### Layout:

- Unit 7 could better terminate the view into the site
- Terminating the streetscene with the garage serving 19 and 26 is not visually acceptable
- The garage to 87 Sunnyhill Road would be better sited within the site and an external door provided to the garden

#### House Types:

- These are seeking to emulate Victorian town houses and are lacking in correct detailing. Sash windows and proper canted bays would improve the scheme significantly. Also taller corbelled chimneys would give emphasis to a better roofscape
- Traditional fanlights need to be provided. What is shown is confusing
- Unit 6 would benefit from a ground floor bay window to articulate the corner

### Hertfordshire Highways

Raises no objection subject to conditions covering:

1 i) Roads, footways, and on-site water drainage, ii) Access arrangements in accordance with those shown in principle on approved plan 12002/101 Rev C, iii) Parking provision in accordance with adopted standard and iv) Turning areas.

2) Visibility splays.

3) Stage 2 Road Safety Audit for the proposed highway improvements and access junction.

4) Street Lighting scheme.

5) Construction Management Plan

6) Scheme for the parking of bicycles.

Informatives covering:

Storage of materials within the site, construction standards for works within the highway, road deposits and mud.

S106 agreement to secure financial contributions towards sustainable transport initiatives, bus stop upgrades and traffic regulation order.

S278 Agreement to secure works within the highway boundary.

Based on the proposed scale of the development, the level of assessment is considered to be appropriate and is consistent with Roads in Hertfordshire and the National Planning Policy Framework (NPPF).

Access: Sunnyhill Road has a gradient of approximately 1 in 50 in the vicinity of the site frontage and Melsted Road is approximately 1 in 7.

The proposed access road is designed to adoptable standards with a turning head at the end of the cul-de-sac. It is not intended that the access road will be adopted.

HCC raised issues associated with the severe longitudinal gradient of the proposed access road during previous applications for the site. The Planning Inspectorate Appeal Decision (APP/A1910/A/11/2160924) accepted that under-carriageway heating provides an adequate solution for both vehicle and pedestrian access. As stated in our response to the previous application (4/00552/12/MOA), HCC accepts that under-carriageway heating will mitigate any issues with the severe longitudinal gradient of the proposed access road.

Visibility: The submitted plan (12002/101) indicates that visibility splays of 2.4m x 43m are achievable within highway land (to the south). This is considered appropriate for a 30mph road and due to the right-hand bend and the steep gradient of Melsted Road, vehicle speeds are likely to be below 30mph in the vicinity of the site.

The extent of the highway boundary on the eastern side of Sunnyhill Road is not shown and the drawing does not demonstrate that the visibility splay is achievable within highway land. The applicant will need to provide revised visibility splay drawing illustrating the existing highway boundary (including any existing fences and structures) to demonstrate that the proposed visibility is achievable. This should be secured via a condition.

Highway Improvements: As part of providing the proposed access junction, the following improvements to the local highway are proposed by the applicant: • High friction surfacing on Melsted Road; • Additional gullies along the steep section of Melsted Road; • Additional gullies on Sunnyhill Road between the proposed access and Melsted Road; • Improvements to the existing allotment access with increased turning radii and deflection from the main carriageway; • Additional pedestrian space and guardrails to the north of the existing allotment access; • Bollards to the north of the proposed access to deflect vehicles; • Tactile pavers and drop kerbs across the proposed access and the existing allotment access; and • Improved road markings along Sunnyhill Road and Melsted Road including double yellow lines. These will need to be secured through a s278 agreement.

Impact on Highway Network: The number of vehicle trips generated by the proposed 26 dwellings (now 25) is unlikely to have a significant impact on the local highway network. As a result, a full analysis of the impact of trips generated by the proposed development is not required.

Road Safety Collision data held by HCC indicate there have been no recorded collisions on Sunnyhill Road or Melsted Road within the last 5 years.

Road Safety Audit: An independent Road Safety Audit (RSA) was carried out by TMS Consultancy on behalf of the applicant in February 2012. The initial detailed design for the new access junction was submitted to TMS Consultancy along with the Planning Inspector's appeal decision. The RSA noted the following problems / issues:

Item 2.1 – Melsted Road/ Sunnyhill Road - Potential loss of control type vehicle conflicts. High friction anti-skid surfacing will be provided on the bend of Melsted Road and Sunnyhill Road and this will be continued up to the crest of Melsted Road opposite number 36. High friction anti-skid surfacing will also be provided along the proposed development access to provide additional skid resistance during wet weather conditions.

Item 2.2 - Development Access Junction onto Sunnyhill Road - Potential hazard for vehicles. The proposed ramp near the junction of the access road with Sunnyhill Road has been omitted from the design so that it does not provide an additional obstacle for vehicles on the steep up-hill access road.

Item 2.3 – Development Access (Footway) - Potential hazard to pedestrians. The proposed footway on the south side of the development access road will also feature a gradient of 1:7, which may be inaccessible to pedestrians with visual and mobility impairments. Handrails will be provided along the footways within the development. The footway on the northern side of the access will terminate at the pedestrian crossing point.

Item 2.4 – Development Junction and Allotment Access - Potential hazard to pedestrians. Pedestrian crossing points at the development access and across the allotment access are designed to ensure gradients of the tactile paving do not exceed 1 in 12 and are laid flush where they meet the kerb line.

Item 2.5 – Development Junction and Allotment Access - Potential hazard to vehicles. Skid resistant lids to service chambers will be provided within the bellmouth entrances of both the proposed development access and the allotment access.

Item 2.6 – Development Access Road - Potential hazard to pedestrians / drivers. The proposed generator of the under carriageway heating will be located outside of the footway and any visibility splay. The generator should also be located where a maintenance vehicle can park without causing an obstruction to passing vehicles.

Item 2.7 (number not used)

Item 2.8 – Development Junction onto Sunnyhill Road - Darkness related hazards to all road users. A detailed street lighting scheme will be provided to ensure the junction is correctly illuminated.

All the recommendations of the RSA have been accepted and included within the improved detailed design.

Interim Safety Audit: In 2012, HCC Safety Audit Team carried out an Interim Safety Audit (ISA). This is not a formal RSA but a review of the applicant's proposed design and the RSA carried out by TMS.

The ISA noted the following responses to the problems/ issues raised in the RSA: •

Item 2.1 - The problems identified are an existing problem with the current local highway network. The proposed high-friction surfacing is welcomed but may become a maintenance issue due to the unusually severe road geometry. • Item 2.2 - Agree with RSA comments. • Item 2.3 - Agree with RSA comments. Surface texture is required to provide additional grip for pedestrians on the steep footway. • Item 2.4 - Agree with RSA comments. Pedestrian crossings should be installed in accordance with DfT Guidance. • Item 2.5 - Agree with RSA comments. • Item 2.6 - Agree with RSA comments. • Item 2.8 - Agree with RSA comments.

The following additional problems / issues were identified in the ISA:

Item 3.1 - Junction of Access Road with Sunnyhill Road - Potential Vehicle conflicts. The ISA noted that the introduction of a new side road junction at this location would aggravate traffic movements on the existing poor road geometry on Sunnyhill Road/ Melsted Road. The ISA noted that there are limited mitigating measures that could be incorporated into the new road layout to reduce the risk of collisions as a result of the additional turning movements to and from the new development access.

The ISA recommended that double yellow lines are provided on the access road junction, and on Sunnyhill Road and Melsted Road to improve visibility and reduce potential conflicts. Double yellow lines have been incorporated into the submitted plan (12002/101 Rev C). The double yellow lines will require a Traffic Regulation Order (TRO) and should be included within the s106 agreement.

Item 3.2 - Junction of Allotment Access Road with Sunnyhill Road - Safety Fence. The ISA recommended the use of bollards rather than a pedestrian safety fence. This has been incorporated into the submitted plans (12002/101).

The problems/ issues identified in the RSA and the ISA have been resolved or included in the revised highway and access design. The ISA noted that the majority of the problems/ issues were Stage 1 RSA comments and an approved Stage 2 RSA is required. As a result, a Stage 2 RSA should be secured as a condition.

Parking: The proposed development includes a total of 52 car parking spaces within the site. This is a ratio of two car parking spaces per unit. This is consistent with the maximum parking standards for residential developments required by DBC.

The layout and provision of car parking should be submitted for approval of DBC (in consultation with HCC) as part of the reserved measures.

The proposal does not outline any cycle parking that will be provided within the site. A scheme for cycle parking within the site should be secured via a condition.

Accessibility: The site is approximately 1600m from the centre of Hemel Hempstead (Marlowes), but the topography of the adjacent area may discourage some residents from walking and cycling. The DAS states that residents of this development will be reliant on private vehicle transport to get to and from shops and services. There are also several schools in the vicinity and the footpath link through to Warners End Road reduces the walking distance.

The nearest bus stops are located approximately 120m away on Warners End Road and are accessible via a footpath link where at the Sunnyhill Road/ Melsted Road

junction. The eastbound bus stop is a half layby design while the westbound bus stop consists of a flagpole but no bus cage road markings. Neither of the stops have easy access kerbs or shelters.

The proposed development will generate additional trips via public transport. The applicant acknowledges that there is limited scope for improvement to the walking and cycling network. However measures to encourage the use of sustainable transport options are required to ensure the development is sustainable. As a result, the eastbound and westbound stops on Warners End Road should be upgraded with easy access kerbs.

Travel Plan: Based on the proposed number of residential dwellings, a Travel Plan is not required.

Planning Obligations: HCC's Planning Obligation Guidance (2008) implements a two-strand approach to planning obligations in order to address the immediate impacts of the new development (first strand), and the cumulative impacts of all development on non-car networks (second strand). The financial contributions required should be secured via a s106 agreement. First Strand - A financial contribution of £8,000 is required to upgrade the existing bus stops on Warners End Road as a result of the new development. This should be secured via a s106 agreement. Second Strand - There is a standard charge for residential development based on the number of bedrooms provided in each unit. Based on the proposed composition of the development, a contribution of £27,000 will be required. This should be secured via a s106 agreement. The contributions would be set aside as a contribution towards making improvements to the roundabout at the junction of Warners End Road, the B487 Queensway and the A4146 Leighton Buzzard Road. This is the main connection between the site and the local road network leading to the strategic network. It lies 625 metres to the east of the site. The need for it to be able to cope with planned development in the area was identified in computer traffic modelling carried out by consultants SKM Colin Buchanan for Dacorum Borough Council in 2013. The local road network is likely to suffer from unacceptable levels of congestion if the roundabout is not improved to cope with projected levels of development.

Construction: The submitted documents do not provide any details about the construction of the proposed residential units. Due to noted issues with the gradient of the proposed access road, and the substandard geometry of the local highway, a Construction Management Plan (CMP) is required to identify the most appropriate route for construction vehicles, ensure construction vehicles parked on-street do not obstruct the visibility of motorists, or damage the highway during construction.

Summary: Hertfordshire County Council (HCC), as Highways authority, has no objection to the principle of the development, subject to the conditions / contributions detailed within the response.

HCC Planning Obligations Officer

Any comments received will be reported at the meeting.

Trees and Woodlands

Comments on revised details:

Of those trees it is intended to remove the vast majority are cat C and U. It's not sensible to try to retain trees of this poor quality. Four cat B trees are due for removal due to their position. The only cat A trees are to be retained.

Minor cutting back of tree growth to facilitate development is acceptable.

The use of 'no-dig' techniques within the RPAs of trees 7, 8 and 9 is welcomed, as is the siting of the services trench away from established vegetation.

The shorter-term retention of tree 58, a Chestnut, to provide established canopy cover within the site is acceptable, with subsequent pruning or removal agreed due to condition as necessary.

Tree planting location proposals are acceptable. Detail of species, planting size and specification, and maintenance should be submitted for assessment.

Initial comments:

The main submitted document for consideration by Tree & Woodlands should be an Arboricultural Report, submitted in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction: Recommendations'. A document conforming to this standard has not been submitted and the impact of proposed development on site trees cannot therefore be determined.

An arboricultural survey, reference DS10061001, was carried out on 17th June 2010 and so is both not up to date and references an old British Standard, BS5837:2005. Changes to the British Standard between 2005 and 2012 mean that the submitted survey is not valid. Site trees would need resurveying against current standard, BS5837:2012.

Once that document has been submitted, the impact of proposed development on trees can be assessed.

Without knowing the impact upon site trees, the following is provided for information only:

Current documentation indicates that new tree planting is intended with the limited retention of existing trees, some protected by TPO. Throughout the proposed development, the relationship between trees, property and roads is poor.

Almost every new or retained tree is located too close to highway surfaces or property boundaries, leading to future conflict between people, property, hard surfacing and trees / tree roots; the likely result being the removal of trees.

The new proposed access road junction with Sunnyhill Road will impact upon the health of nearby trees (drawing 12002 101 Rev C) and along the northern site boundary. It is also probable that tree pruning will be required prior to the enabling phase of development and that significant stem and root damage will occur during construction.

Rather than agree protective measures that are likely to be infringed or ignored, it

would be more realistic to identify selected trees for removal, certainly along the northern boundary, to provide space for demolition and construction. A more widespread replanting scheme can be agreed and installed post-development.

More space should be provided around proposed planting locations to allow for future branch and root growth.

#### Public Rights of Way Officer

This site is crossed by Hemel Hempstead public footpath 24.

We have, in the past, had Herts CC Officers assess the legal line of this path and it was found to be obstructed by fencing from number 89 Sunnyhill Road. A diversion will be required unless adequate provision can be found to accommodate the legal extent of this path.

#### Hertfordshire Ecology

Any comments on the revised survey will be reported at the meeting.

#### Initial comments:

There is a local wildlife site adjacent to the site. The bat reports concludes that it is unlikely that bats are using the onsite buildings for roosting. Given the report was carried out 4 years ago the results are invalid and out of date. An updated bat survey should be required prior to permission being granted.

#### HMWT

Despite the fact that the submitted bat survey is nearly 3 years out of date, I do not think that it is likely that the building will have been colonised in the intervening time.

The bat survey recommends the inclusion of bat and bird boxes in the development. NPPF para 118 states: 'opportunities to incorporate biodiversity in and around developments should be encouraged'

Due to the surrounding habitats this development proposal is highly suitable for bat and bird features being incorporated into the development. Integrated bat and bird boxes should be incorporated into the brickwork of some the proposed buildings. The most suitable models are Habibat bat boxes and Eco-surv Swift boxes. A condition is recommended.

#### HCC Crime Prevention Advisor (in summary)

#### Comments on revised plans:

Having reviewed my previous comments, my updated comments are:

As regards my comment regarding Secured by Design, my comments still apply.

As regards my comment re rear garden access gates, I now see they are fitted, so no longer applies.



As regards my comment re trellis topping, my comment was based on what are garages which I thought were terraced dwellings, so my comment no longer applies

#### Initial comments:

Secured by Design part 2 physical security:

To alleviate any concerns regarding security, I would look for the development to be built to the physical security of Secured by Design part 2, which is the police approved minimum security standard. Building to the physical security of Secured by Design, which is the police approved minimum security standard, has been shown consistently to reduce the potential for burglary by 50% to 75%.

Rear Garden Access Alleyway:

These should be secured with a full height gate and able to be locked and unlocked from either side, so residents can enter and egress with their cycles and leave their rear garden secure.

Layout:

As regards layout I am content with the proposed layout on the basis of information supplied. It is unfortunate that there is the driveway though to the rear gardens of 87 & 87A, but I understand why this is there. As mitigation rear garden boundaries of new housing should have additional 0.3m trellis on top of the rear garden 1.8 fences. Also as regards plot 22, consideration could be given to a landing window overlooking the side access roadway.

#### Environmental Health

Advises that any permission should include conditions covering piling method statement, and informatives covering noise on construction sites, construction hours, dust and bonfires.

#### HCC Minerals and Waste

Recommends condition re Site Waste Management Plan.

#### Affinity Water

You should be aware that the site is located within the groundwater Source Protection Zone (SPZ) corresponding to Marlowes Pumping Station. This is a public water supply comprising a number of chalk boreholes operated by Affinity Water Ltd.

The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the sites then the appropriate monitoring and remediation methods will need to be undertaken.

Refers to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

#### Contaminated Land Officer

The site is located within the vicinity of potentially contaminative former land uses. Recommends that the standard contamination condition be applied if permission is granted.

#### Response to Neighbour Notification / Site Notice / Newspaper Advertisement (in summary)

##### Ward Councillor, 12 Wrensfeld - Objects:

The issue of the site opening out onto the very difficult and steep corner at the junction of Sunnyhill Road and Melsted Road caused immense difficulties with the previous applications. As a result of this difficulty, a number of highway safety matters were included as conditions to the granting of the permission for 4/00552/12. This development is double the number of properties previously granted on appeal (4/00552/12) and totals 72 bedrooms. I raise doubts as to the adequacy of the junction onto Sunnyhill Road in view of the considerable increase in units. I also question whether the sight line is sufficient at the corner where plots 6, 7 and 8 are located.

The Design & Access Statement advises that there are 2 parking spaces for each of the houses, with no frontage parking bays proposed. Bearing in mind there are no visitor parking spaces and almost certainly the larger houses will have more than 2 cars, it will mean that there will be greater pressure of parking in Sunnyhill and Melsted Roads. Both those roads have parking pressures as several of the properties (especially in Sunnyhill Road) do not have off-street parking. For the same reason, there would be parking on the internal road. However, the internal road is of modest width and I question whether there is sufficient space for manoeuvring and passing.

The proposed development is out of keeping with the locality. It is at variance to the housing styles and densities of the immediate neighbourhood. Whilst Sunnyhill Road and Melsted Road comprise a variance of housing styles and densities ranging from detached to linked family houses, all properties, including the linked houses, have gardens of a size which give an air of spaciousness. That is not the case with this development. The development is too cramped.

Should permission be granted, it is essential that none of the road safety provisions relating to the junction of Sunnyhill Road and Melsted Road, which were conditions of the planning permission for 4/00552/12 (construction of 13 dwellings at 89 Sunnyhill Road, Hemel Hempstead) be diluted.

9, 13, 21, 22, 34, 42, 51, 53, 58, 61, 67, 69, 70, 75, 77, 78, 81, 83, 87A, 89, 92 Sunnyhill Road, 8, 14, 20, 24, 25A, 28, 32, 34, 36 Melstead Road - Object:

Traffic / access

- Inadequate parking
- Lack of visitor parking

- Garages not wide enough to serve as parking spaces
- Additional on-street parking on Sunnyhill and Melsted Roads
- Additional parking congestion in Sunnyhill Road
- Increase in annual trips of some 57,000
- Inadequate visibility
- No plan showing visibility splays
- Obstruction to visibility by parked cars
- Additional road safety concerns at the junction
- Additional potential for road traffic collisions
- Danger to pedestrians / children at new junction
- Dangerous junction which is not addressed by updated report
- Increased skid danger on proposed access road and Melstead Road
- Emergency and waste vehicles will not be able to negotiate the access road in winter
- No safety audit work undertaken to review intensification of junction
- Development Access Design Report should be updated to relate to 26 dwellings
- How will construction traffic gain access?
- Road should be adopted and built to adoptable standards
- Access should be taken from a roundabout at the dip in Warners End Road
- Swept path plan for refuse vehicle should be provided
- If permission is granted, residents should be given parking permits

#### Layout

- Overdevelopment
- Density not in keeping - too dense / too many houses / too cramped
- 2 bed properties out of keeping with area

#### Residential amenities

- Loss of privacy contrary to Human Rights Act Protocol 1, Article 1 and 8
- Loss of privacy to occupants of the development, contrary to Human Rights Act
- Visual intrusion to No. 75 Sunnyhill Road
- Loss of privacy / security to No. 73 Sunnyhill Road
- Loss of outlook and privacy to No. 67 Sunnyhill Road
- Increased noise and disturbance, vibration and pollution from road traffic
- Loss of trees providing privacy to No. 87A Sunnyhill Road
- Do not want a gate at bottom of No. 87A Sunnyhill Road
- Overlooking / loss of privacy / visual intrusion to No. 77 Sunnyhill Road
- Light pollution
- Loss of value
- Noise and disturbance from construction works

#### Other matters

- Tree survey should be updated to take account of current scheme
- Some of the trees should be preserved
- Ecological survey required
- Bat survey should be updated
- Disturbance to wildlife
- Badgers setts located within gardens of Nos. 59/61 Sunnyhill Road
- Harm to protected badgers and slow worms

- No details of how the amenity value and physical features of the allotments will be maintained
- Phase 1 Site Investigation should be requested
- Who will pay for the under-carriageway heating?
- Impact on allotment tenants
- Impact on Gravel Spring nature reserve
- Impact on local schools and infrastructure
- No consultation by developer
- Inadequate sewerage capacity
- Construction works should be controlled by condition

## **Considerations**

### Policy and Principle

The site is located within the urban area of Hemel Hempstead wherein, under Policies CS1 and CS4 of the Core Strategy residential development is acceptable in principle subject to complying with all other relevant policy criteria. In accordance with the Character Appraisal (HCA9) plot amalgamation may be appropriate on the western side of Sunnyhill Road where rear gardens to houses fronting the road are of sufficient length to allow housing that meets the requirements of the Development Principles to be achieved.

Outline permission was granted on appeal for residential development comprising 13 dwellings to the rear of 89 Sunnyhill Road in March 2013. This is still extant. The principle of residential development has therefore been accepted. The current application includes further land to the rear of 71 to 87A Sunnyhill Road, thereby providing a larger comprehensive development site.

Policy CS17 encourages the development of housing to meet the district housing allocation. Saved Policy 10 of the Dacorum Borough Local Plan 1991-2011 encourages the use of urban land to be optimised.

Policies CS10, 11, 12 and 13 of the Core Strategy are overarching policies applicable to all development which seek a high quality of design in all development proposals. These are relevant to any residential development of this site.

The key issues in this case relate to the impact of the proposals on highway safety and the acceptability of the development in layout terms, including impact on character of the area, residential amenities and trees / ecology, and the implications in terms of affordable housing provision and social and physical infrastructure requirements.

### Highway and Access Considerations

The application is in outline with access and layout for determination at this stage.

The previous application (4/00552/12/MOA) was refused by the Development Control Committee, against officer recommendation, for the following reason:

*"The proposed access at the junction of Sunnyhill Road and Melsted Road is unsuitable to provide access to the development due to the increase in highway movements at this awkward junction leading to conditions detrimental to highway*

*safety at times of snow and ice. Whilst noting the findings and recommendations of the safety audit report and the proposals for under carriageway heating, failsafe systems and skid resistant surfacing to the access road, but only skid resistant surfacing to the public highways of Melsted and Sunnyhill Roads, the Local Planning Authority is not satisfied that the proposals adequately address the safety performance of Melsted and Sunnyhill Roads in these adverse conditions. The proposal thus fails to comply with Policies 11(f) and (g), 51 and 61 of the Dacorum Borough Local Plan 1991-2011 and Policy CS12 of the Council's emerging Core Strategy."*

Appeal decision - At the subsequent appeal, the Inspector considered the main issue to be the impact of the proposal on highway and pedestrian safety in conditions of snow and ice. He noted that the roads in the area are steep. He also noted that pedestrian footfall is high in part due to the local school at Warners End Road but that the scheme before him had been subject to a road safety audit and several additional highway and pedestrian-related safety features.

Despite this he noted that the Council considered that the proposed access road would not be suitable at times of snow and ice because the safety audit only covered a limited scenario of a fully iced up road where a vehicle loses traction at the top of Melsted Road and results in a straight line skid to the bottom of the road, as opposed to the intermediate scenario of a road being partially iced up and vehicles partially negotiating the bend before losing traction resulting in a collision scenario with vehicles emerging from the new access or pedestrians on the footway.

However, the Inspector was satisfied that the safety auditor would have considered the intermediate scenario. She noted that the likelihood of getting a partially iced up or snowy Melsted Road is very remote but nevertheless if it occurred the appellant's highway experts consider it would appear most likely that vehicles would end up north of the access bellmouth where there would be vehicle deflection bollards which is the location where anecdotal evidence relied on by the Council indicates that errant vehicles have ended up.

The Inspector was therefore satisfied that in wet or dry conditions an errant vehicle would not be likely to collide with vehicles associated with the new access, or with pedestrians, and that, subject to planning conditions, there would be no adverse harm to highway and pedestrian safety in inclement weather conditions including snow and ice. He also noted that the various safety improvements would reduce the potential for vehicle collisions in snow and ice.

On other matters, The Inspector did not consider there would be any harm to the character of the area from part of the proposal incorporating apartments as opposed to houses.

Discussion - All of the design principles that were fundamental to the eventual acceptability of the previous appeal decision have been incorporated into the current scheme and include the following:

- Offsite highway improvements to Melsted and Sunnyhill Roads comprising high friction surfacing, additional gullies, improvements to the allotment access with increased turning radii and deflection from the main carriageway, additional pedestrian space and guardrails to the north of the allotment access, bollards to the north of the proposed access to deflect vehicles, tactile pavers and drop kerbs

across the proposed access and allotment access, and improved road markings along Sunnyhill Road and Melsted Road including double yellow lines.

- Shared surface access road designed to adoptable standards
- Gradient of access road slightly improved due to proposed diversion of sewer
- Under carriageway heating with two tier back up provision and standby generator
- Anti-skid road surface
- Separate pavement with handrail

The Highway Authority raises no objection on highway grounds, subject to conditions and informatives. It accepts that under-carriageway heating will mitigate any issues with the severe longitudinal gradient of the proposed access road. It has advised that the number of vehicle trips generated by the proposed 26 dwellings (now 25) is unlikely to have a significant impact on the local highway network. It has noted that all the recommendations of the Road Safety Audit (RSA) have been accepted and included within the improved detailed design. It has noted that all the problems / issues identified in the RSA and Interim Safety Audit (ISA) have been resolved or included in the revised highway and access design. The ISA noted that the majority of the problems/ issues were Stage 1 RSA comments and an approved Stage 2 RSA is required. As a result, the HA has recommended that a Stage 2 RSA should be secured by condition. It has also noted that the offsite highway improvements will need to be secured by a s278 agreement with the Highway Authority. A Grampian condition is recommended with regards to these off-site works.

With regards to visibility, the submitted plan (12002/101) indicates that visibility splays of 2.4m x 43m are achievable within highway land (to the south). The HA considers this appropriate for a 30mph road and due to the right-hand bend and the steep gradient of Melsted Road, vehicle speeds are likely to be below 30mph in the vicinity of the site. However, the HA notes that the extent of the highway boundary on the eastern side of Sunnyhill Road is not shown and the drawing does not demonstrate that the visibility splay is achievable within highway land. Additional details (Abington Plans 12002/101 rev D and 15066/101) have been submitted which indicate the requested visibility splays together with refuse vehicle swept paths at the hammerhead. However, the details of visibility are not considered satisfactory to the HA and it is therefore recommended that the details be secured by condition.

Parking - Parking provision should accord with parking standards as assessed against saved Policy 58 and Appendix 5 of the Borough Plan. Amended plans increase the amount of parking in response to officer concerns. The site falls within Zone 4 where the full quantum of parking should be met. 51 parking spaces are required, and 56 are provided (including garages). The proposal therefore prima face complies with the standard, although the distribution is such that the 2 bed properties are technically over-provided whilst four of the 3-bed properties would be marginally under-provided by 0.25 spaces each. In addition, some of the dwellings have to rely upon remote garages and hardstandings for their parking which could encourage an element of on-street parking as residents seek appropriate surveillance. However, it is not considered so serious that a refusal could be justified in this case.

Garages would comprise a significant proportion of the overall provision and a number of residents have raised concerns that these may not be used for parking. However, in response it has been confirmed that the garages would meet an internal width of 2.7 metres and that there is sufficient space across the building frontages to accommodate this dimension. This internal width is considered reasonable to ensure that garages

can be used for parking, although it would not be possible to mitigate against the use of garages for domestic storage. However, conditions would be expedient to ensure that the parking provision meets minimum dimensions and is at all times retained for this purpose and not converted to living accommodation. The layout provides access for parking to the rear of 87 Sunnyhill Road via the new estate road which will help alleviate on-street parking on Sunnyhill Road.

As layout is for consideration at this stage, it is not considered reasonable to defer the layout and provision of car parking to the reserved matters stage as sought by the Highway Authority. A communal cycle store was initially proposed. However, this was considered likely to present both security and long term maintenance issues and considered unnecessary for houses unless no garage or shed is provided. As garages are proposed for most of the houses, this is considered sufficient for cycle storage in accordance with Appendix 5. However, further details of cycle storage will need to be provided by condition in relation the 4 dwellings without garaging.

The Highway Authority has requested that measures to encourage the use of sustainable transport options are required to ensure the development is sustainable and improvements to the eastbound and westbound bus stops on Warners End Road are identified for upgrading with easy access kerbs. Improvements to the roundabout at the junction of Warners End Road, the B487 Queensway and the A4146 Leighton Buzzard Road are also identified and requested to be secured by a s106 planning obligation. However, strategic and local transport proposals should normally be sought through CIL, unless the proposals directly result from any site requiring a Transport Assessment in accordance with the *Dacorum Borough Council - Regulation 123 List*. We are therefore seeking further justification for the request and an update will be provided at the meeting.

Subject to the above, the proposal is considered to accord with Policies CS8, 12 and saved Policy 58.

### Layout

Layout is a matter for determination at this stage.

Amended plans reduce the number of dwellings from 26 to 25 as the applicant decided that one less unit would improve the visual appearance of the building frontage across the rear of the site and its contribution to the scheme. This is welcome and will ensure reasonable spacing between dwellings.

Gardens on the western side of Sunnyhill Road are identified within the Policy Statement for the Hammersmith North Character Appraisal as appropriate for residential development comprising plot amalgamation where rear gardens are of sufficient length to allow housing that meets the requirements of the Development Principles. The existing gardens to properties comprised in the application site are roughly 65 to 75 metres deep and therefore considered to have good potential for backland development.

The Residential Character Appraisal Hammerfield (HCA 9) notes that the area has a medium density consisting of a variety of architectural ages and designs, possessing little unifying character throughout. The Character Appraisal notes the following development principles:

- Design: No special requirements.
- Type: All types are acceptable, although the resultant scale and mass of new proposals should respect that of adjoining and nearby development.
- Height: Should not normally exceed two storeys in height, except for cases where the proposal will adjoin three storey development and the character and appearance of the area is not harmed.
- Size: Small to medium sized dwellings are acceptable and appropriate.
- Layout: Variety in layout is acceptable. Where a clear building line exists, then this should be followed. Spacing should be provided at least within the medium range (2m - 5m).
- Density: Development should be provided in the medium density range (30 - 35 dwellings/ha).

The proposal adopts a layout that generally has a direct relationship with the street, which promotes safety, security and a more vibrant public realm and street face. The layout takes care to avoid a continuous block of 2-storey development along the boundary with the allotments and has been avoided by incorporating garages with lower roofscapes between the dwellings which will also help retain views of the allotments behind and the hillside beyond. Spacing at first floors would accord with the Development Principles. Height is not for consideration at this stage but the illustrative street scenes indicate that heights will accord with the Development Principles. The scheme provides a mix of accommodation sizes to reflect the prevailing character of the area. The previously approved flatted development has been omitted in favour of detached, link detached and semi-detached dwellings, it is said in response to previous concerns by residents that flatted development was not welcomed.

The proposed density at 37 dph is above the expected density of 25 - 35 dph in the Development Principles. A number of concerns have been raised by residents to the small size of gardens and the cramped layout of the development. It was also noted that the siting of Plot 19 hard up to the pavement would result in a rather urban form of development which would not necessarily be in keeping with the mature and spacious setting created by the treed surroundings and allotments. Furthermore, it is noted that a number of the plots have rear gardens somewhat below the minimum 11.5 metre standard in Appendix 3 which is a concern in relation to providing a reasonable margin to retained trees as the lack of suitable distance could result in pressure to remove trees and / or be impractical to request suitable replacement tree planting. A number of other detailed layout issues have been raised, inter alia, in respect of bin storage, private pedestrian access to rear gardens and provision of active frontages. Revised plans address most of these issues, although rear garden depths remain in many cases sub-standard, although it is not considered that it raises any particular privacy concerns. As regards the relationship to trees, no concerns have been raised by the Tree Officer and, on balance, therefore, it would be difficult to raise objections to the layout on this ground. However, it would be expedient to ensure control over future extensions for those plots backing onto the allotments in the interests ensuring a good spacing with trees on that boundary and the best chance for their future survival and retention.

The layout is therefore considered acceptable for approval and would comply with Policies CS10, 11, 12 and 13.

Design and Appearance



Design and appearance forms part of the reserved matters. However, information has been provided in the form of a layout plan, some illustrative street scenes and through discussion in the Design and Access Statement whereby design can be considered to a limited degree.

The site is located within Hammerfield North (HCA9) which is described in the Residential Character Appraisal (RCA) as a medium density residential area featuring a variety of architectural ages and designs but possessing little unifying character throughout. In terms of height the RCA points out that the area is predominately two-storey but with numerous three-storey examples, such as at Glendale, Glenview Road and Greenhills Court. Size is in the medium range, which is also the case for density, being 25 - 35 dwellings per hectare throughout.

As described above, the existing street is mixed in character of varying architectural forms and merit from traditional street terraces, early to mid C20 detached properties, later semi-detached properties and infill development from all periods. The street has a generally suburban quality being characterised by buildings with traditional proportions, two storey in height, set within landscaped gardens and having a close to medium setback from the road.

The proposed scheme is stated to be traditional in appearance with conventional housing frontages designed in accordance with CABE recommendations. In general terms, bearing in mind also that the new estate road will largely not be seen in the context of Sunnyhill or Melsted Roads, the architectural form adopted in the illustrative drawings is considered to be an acceptable approach with the use of traditional detailing and proportions associated with the older houses in the immediate context. Importantly, positive articulation is shown with the introduction of traditional gable roof-pitches, strong eaves overhang, bay windows, chimneys, projecting front gables, vertical fenestrations and a staggered built form following the topography of the site.

Overall, it is considered that a scheme for the design and appearance of the proposal would be likely to integrate with the wider context successfully.

#### Land Optimisation and Density

The extended site, enabling development of a number of gardens, would comply with saved Policy 10 that seeks a coordinated and comprehensive approach to development by ensuring that opportunities for development in the immediate area are not missed.

The number of dwelling units is set down in the description as 25. The impact of density can therefore be considered at this stage.

Saved Policy 10 of the Local Plan seeks to secure the optimum use of land in the long-term by requiring all development to meet a number of criteria. Inter alia, general building development should be designed to achieve the maximum density compatible with the character of the area, surrounding land uses and other environmental policies in the plan and, in particular, building development should make optimum use of the land available, whether in terms of site coverage or height.

Saved Policy 21 of the Local Plan states that densities will generally be expected to be in the range of 30 to 50 dwellings per hectare but higher densities will generally be encouraged in accessible locations within the town centre. However, the national

indicative minimum density of 30 dwellings per hectare was deleted from paragraph 47 of the now superseded PPS3, and NPPF no longer refers to a minimum. Therefore, there is no requirement to ensure that developments meet minimum density threshold as stipulated under Policy 21. Consequently, the issue is more focussed towards considering whether the density is compatible with the surrounding context. The Character Appraisal HCA 9 notes that new development should adopt a density between 25-35 dwellings per hectare. The proposal has 37 dwellings per hectare which, whilst slightly above the stipulated maximum, is on balance not considered to result in any material harm to the character of the area or other interests of acknowledged importance. Therefore, on balance, the proposal is considered to optimise the use of land in accordance with Policy 10.

### Affordable Housing

Under Policy CS19 the threshold for providing affordable housing on site is 10 dwellings or 0.3 hectares. The proposal, at 25 dwellings, would therefore require the provision of affordable housing in kind at 35% of the dwellings, or 9 units.

The Design and Access Statement accompanying the application states that the location of the proposed development does not lend itself well to the provision of on-site affordable housing. The applicants claim that residents will be reliant on private vehicles to get to shops and services, which are located some 30 minutes walk from the development. The applicants have therefore instructed consultants to assess the financial viability of providing an off-site commuted payment instead of on-site affordable housing.

We see no reason in principle why on-site affordable housing should not be provided in this case as we do not accept that the site is in a poor location for affordable housing. Accessibility to shops and services is much better than indicated by the applicants. For example, the site is close to primary and secondary schools, about 600 metres from Warners End local centre and around 15 minutes walk from the town centre. Also, it is close to bus services which run along Warners End Road. It is not considered that the incline of the access road should be a significant deterrant to the provision of affordable housing, nor do we accept the implication that those in affordable housing do not have access to a car. If this were the case, then many sites in the Borough would be ruled out for affordable housing.

The above said, the Council's Strategic Housing team has considered the applicant's viability case and has accepted the commuted sum offer of £163,000 (equivalent to the subsidy on 2 affordable units) in this case on the basis that there are substantial additional costs to the development of the site on the basis of the under-carriageway heating system and the topography of the site, both of which add substantially to construction costs. Any comments from Strategic Housing will be provided at the meeting.

### Impact on Trees and Landscaping

The landscaping of the site is reserved. However, the impact on existing trees needs to be considered as part of this application given that layout is for determination.

Information has been provided in the form of the layout plan and illustrative street scenes whereby the impact on trees and landscaping can be considered to a limited

degree. An arboricultural survey and implications assessment has been submitted which allows consideration of existing trees.

There are a great number of trees throughout the site and boundaries of varying maturity and condition. 91 individual trees and 22 groups of trees were surveyed of which some 41 individual trees and 12 groups are proposed to be removed to facilitate the development or for sound arboricultural management.

The proposed layout retains the majority of mature boundary tree vegetation which will be reinforced with new planting where necessary.

The Tree Officer has raised no objection to the layout subject to details of a landscaping scheme being submitted for assessment, noting that all category A trees (G6 - Field Maples) within the survey are to be retained. Only 5 category B trees or groups are to be removed. The vast majority of trees to be removed are category C and U which the Tree Officer has advised is not sensible to retain.

In terms of landscaping the proposal offers an excellent opportunity for a high level of planting, details of which should be sought under the reserved matters to the current application. The Tree Officer has confirmed that the tree planting locations are acceptable. Details should include proposals for tree protection fencing.

Consequently and in-principle, the layout would not have an adverse impact on any significant trees. However, there are still some issues that would need to be picked up at the reserved matters stage.

### Impact on Neighbours

The impact on residential amenities needs to be considered as part of this application given that layout is for determination. The impact of height, scale, window locations needs to be anticipated to some extent as these are for later determination. As well as layout, information has been provided in the form of illustrative elevations and through comments in the Design and Access Statement whereby residential amenity can be considered to a degree.

A number of objectors raise concerns with regards to overlooking, loss of privacy and visual intrusion.

With regards to No. 87A Sunnyhill Road, whilst there would be some overlooking of the rear garden from Plots 3 and 4, this would not affect the area immediately to the rear of the dwelling where the occupants would be expected to spend time sitting but rather an area some 13 metres and more from the rear-most wall. Oblique overlooking would occur over a distance of some 18 or so metres and in these terms the relationship is considered not to be harmful.

With regards to Nos. 75 to 87 Sunnyhill Road, there would be no overlooking from Plots 22 or 23 which would flank onto the rear aspect of these dwellings at a distance of some 19 to 24 metres. Whilst noting the concerns about visual impact, given this distance and the topography whereby Plots 22 and 23 would be set at a level some 7 metres lower than the affected dwellings, it is not considered that a refusal could be substantiated on grounds of overbearing appearance or visual intrusion. Soft landscaping and appropriate boundary treatment will help mitigate any overlooking and

visual impact.

Whilst mention has been made that rear garden depths are in a number of cases below standard, importantly, there would be no below-standard back to back distances within the development or affecting neighbouring development.

There would be no infringement of the 25-degree line taken from any nearest facing windows of neighbouring residential properties. It is also considered that given the circumstances of the site, an appropriate roof form, height and scale of residential buildings can be designed such that the development would not affect any light reaching any windows serving neighbouring residential properties.

Loss of value is not a material planning consideration.

Noise and disturbance from construction works will be controlled under other legislation.

The potential for light pollution is noted and it is recommended that details of lighting (including any street lighting as required by the Highway Authority) be required under the landscaping details.

#### Crime Prevention and Safer Places

This is a material planning consideration, although no details have been provided with the application. That said, the perimeter block layout would comply with recognised good practice urban design in terms of limiting opportunities for crime by ensuring public areas are well overlooked and private areas are secure and not easily breached by following the principle of public fronts and private backs. The Police Crime Prevention Officer has advised that he is content with the layout, although has noted that the driveway through to the rear of No. 87 and 87A is unfortunate. Revised plans now omit access to No. 87A as it is understood that the owner did not want this. A number of recommendations are suggested regarding additional security measures and Secured by Design part 2 accreditation is sought. The applicants have been advised but it is recommended that details of crime prevention / lighting measures be secured by condition. Subject to this the scheme would comply with Policy CS12.

#### Sustainability

Any new development should be consistent with the principles of sustainable design as set out in Policies CS29, CS30 and CS31 of the Core Strategy.

The application should be accompanied by a Sustainability Statement and Energy Statement as required by Para 18.22 of the Core Strategy and Policy CS29. This should be completed on-line through C-Plan. On-line statements have not been submitted in this case. The principal sustainability credential of this proposal is that it is re-developing an existing site and making more efficient use of land for housing in a sustainable location. Whilst accepting that the introduction of under-road heating is not sustainable per se, this should be considered in the context of its use on a limited number of days in any one year, and balanced against the safety improvements that enable the land to be developed for much needed housing in a sustainable urban location that would otherwise have to take place in the countryside thereby encouraging more car journeys.

Given that the proposal is new build, there are many sustainability measures that can be introduced. A brief sustainability statement is contained within the submitted Design and Access Statement which appears to indicate that the proposal will look to target Level 3 (plus 5% CO<sub>2</sub> reductions) of the Code for Sustainable Homes and that solar panels will be installed on south facing roof slopes in association with conventional condensing boilers. It is also stated that low levels of water use will be achieved, materials will be sourced locally, timber will be from renewable sources!, surface water will be cambered to allow runoff into the ground and a site waste management plan (SWMP) will be produced.

The above measures are welcomed as far as they go but are somewhat sketchy and do not cover all aspects of sustainability that would be picked up if the online sustainability and energy statements had been prepared.

The applicant's agent has confirmed that, at this outline stage, without a set of detailed house plans for each dwelling, the applicant's energy assessors are unable to produce a viable C-Plan submission. However, they have confirmed, based on experience, that compliance with Table 10 of the Core Strategy (i.e. level 3 or equivalent) plus 5% CO<sub>2</sub> reductions will be achievable. On the above basis it is recommended that these details be sought by condition together with details of SUDS, solar panels and a Site Waste Management Plan.

#### Impact on Ecology and Wildlife

It is noted that several concerns have been expressed covering the impact on the local ecology. Hertfordshire Ecology has noted that it has evidence of bats in this area of Hemel Hempstead. An internal and external bat inspection of the property was conducted on the 28th of June 2011 by Skilled Ecology Consultancy Ltd and no signs or evidence of bats was observed. However, in view of the fact that the bat survey is nearly 4 years old, Herts Ecology has advised that an update should be provided before permission is granted. We also advised the applicant to carry out an additional survey for the presence of other protected species such as badgers.

The site is located adjacent to a Local Wildlife Site, Gravel Hill Spring Wood, and a number of residents have mentioned the possible impact on badgers, slow worms and other fauna and flora protected under the Wildlife and Countryside Act 1981. However, the proposals will not directly impact on the LWS and there is no evidence of badger setts or slow worms actually inhabiting the site.

Hertfordshire Ecology advised on a previous application that if badgers are actually on the site, a consultant may be required to advise but if they are simply using the area for foraging then precautions re on-site works may be required. In any event badgers are not European Protected Species (EPS) so any surveys can be done after determination by condition. Otherwise an informative that reminds the applicants that badgers may be in the area, are protected and that precautions may be required to avoid disturbance or harm, would be advisable.

An extended phase 1 ecological habitat survey was conducted by Hone Ecology on 14th October 2015. The survey results indicate that the mature trees have the potential to support nesting birds and therefore works to remove trees should be undertaken

outside the nesting season. A single fruit tree trunk was identified with potential to support roosting bats but none were in evidence at time of survey. Therefore, a watching brief during felling is recommended. The dwelling to be demolished had no features suitable for bats. The site has a low potential for amphibians, reptiles and hazel dormice and no evidence of badger activity or setts was found. Domestic dogs contribute to a lack of mammal activity. Tree protection is recommended along the northern and western boundaries to prevent damage to trees. Enhancements across the site should include replacement native trees and plants and placement of bat roost boxes on one of the many trees to be retained.

Appropriate conditions and informatives are recommended to cover the above.

#### Social and Physical Infrastructure

The proposal for 25 dwellings would generate additional social and physical infrastructure requirements and therefore, in accordance with saved Policy 13 of the Local Plan and Policies CS23 and 35 of the Core Strategy, the Council can seek financial contributions towards the reasonable public facilities, services and infrastructure that the development would generate. These should be sought through an s106 planning obligation.

A number of discussions have taken place previously with the applicants on financial contributions towards social and physical infrastructure. However, since then CIL has been introduced, and therefore the majority of these financial contributions fall away. Subject to the further justification being sought from the Highway Authority and clarification from the CIL officer (an update for which will be provided at the meeting), the only contributions that can legitimately be requested under s106 are the highway contributions to the skid resistant surfacing on the adopted highway in Melsted Road, and the affordable housing commuted sum. The applicant has agreed these contributions and is preparing a s106 unilateral undertaking. Until this is received and accepted the recommendation is to delegate with a view to approval subject to the completion of a s106 planning obligation.

#### Other Material Planning Considerations

The Footpaths Officer has advised that Hemel Hempstead Footpath 24 which runs along the northern boundary of the site appears to lie within the application site according to the definitive map. He therefore advises that a footpath diversion order will be required. In practical terms, the actual footpath used will not change. An informative is recommended should planning permission be granted.

The matter of access to the footpath and dumping of garden waste could be controlled by appropriate means of enclosure as part of the *reserved matters/landscaping details*.

The Scientific Officer recommends the standard contamination condition be applied to this development should permission be granted.

The Minerals and Waste Team has recommended conditions covering construction waste recycling.

#### RECOMMENDATIONS

1. That the application be DELEGATED to the Group Manager Development Management and Planning with a view to approval subject to the completion of a planning obligation under s.106 of the Town and Country Planning Act 1990.
2. That the following Heads of Terms for the planning obligation, or such other terms as the Committee may determine, be agreed:
  - Financial contribution of at least £163,500 to be used by Dacorum Borough Council for the provision of affordable housing within its district.
  - Financial contribution towards the maintenance of the skid-resistant surfacing on the adopted highway of £12,000.
  - Provision of fire hydrants.
3. That the following draft conditions be agreed:

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **Approval of the details of the appearance and scale of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 2 **Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.**

Reason: To comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 3 **The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters to be approved.**

Reason: To prevent the accumulation of planning permission; to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92 (2) of the Town and Country Planning Act 1990.

- 4 **No development shall take place until samples of the materials proposed to be used on the external walls and roofs of the development shall have been submitted to and approved in writing by the local planning authority. The approved materials shall be used in the implementation of the development.**

Reason: To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, and the materials potentially ordered and used, thereby undermining the control of the local planning authority and potentially increasing costs and delays for the applicant if they have to be changed.

- 5 **The details of appearance to be submitted for the approval of the local planning authority in accordance with Condition (1) above shall include the physical infrastructure associated with any renewable energy measures. The development shall be carried out in accordance with the approved details.**

Reason: To ensure a satisfactory appearance and functioning of the development in accordance with saved Appendices 3 and 5 of the Dacorum Borough Local Plan 1991-2011 and Policies CS11, CS12, CS26 and CS29 of the Dacorum Core Strategy September 2013 and saved Policy 18 of the Dacorum Borough Local Plan 1991-2011.

- 6 **The details to be submitted for the approval of the local planning authority in accordance with Condition (1) above shall include:**

- **hard surfacing materials, which shall include the footpath and carriageway;**
- **means of enclosure, which shall include enclosure to prevent private access to Hemel Hempstead Footpath 24 from the site;**
- **soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (to include structurally diverse habitat and local species of provenance), noting species, plant sizes and proposed numbers/densities where appropriate;**
- **measures for biodiversity enhancement, including swift and bat boxes;**
- **programme of management for the soft planting;**
- **proposed finished levels or contours;**
- **external lighting;**
- **secure cycle storage facilities for those dwellings without garages;**
- **back-up generator;**
- **pedestrian handrail;**
- **minor artefacts and structures (e.g. furniture, refuse or other storage units, signs etc.);**
- **proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines) including heating strips, indicating lines, manholes, supports etc;**

**The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted. The trees, shrubs and**



**grass shall subsequently be maintained for a period of five years from the date of planting and any which die or are destroyed during this period shall be replaced during the next planting season and maintained until satisfactorily established.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policies CS10, 11, 12, 13 and saved Policy 100 of the Dacorum Borough Local Plan 1991-2011.

- 7 Prior to the commencement of the development (including demolition works), the trees shown for retention on the approved Arboricultural Impact Plan contained within the Tree Survey Report & Arboricultural Impact Plan prepared by Patrick Stileman Ltd shall be protected during the whole period of site demolition, excavation and construction in accordance with details to be submitted to and approved in writing by the local planning authority. The details of protection shall include a no-dig cellular confinement road construction detail and the siting of any service trenches on the side of the access road furthest from trees bordering the site's northern boundary.**

Reason: In order to ensure that damage does not occur to the trees during demolition works and building operations in accordance with Policy CS12 of the Dacorum Core Strategy September 2013 and saved Policy 99 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development as if they are deferred until after the development has begun, demolition and buildings works would potentially result in harm to the health and survival of trees to the detriment of the visual amenities of the development and area.

- 8 The details of scale to be submitted for the approval of the local planning authority in accordance with Condition (1) above shall include details of the proposed slab, finished floor and ridge levels of the buildings in relation to the existing and proposed levels of the site and the surrounding land and buildings. The development shall be constructed in accordance with the approved levels.**

Reason: For the avoidance of doubt and to ensure a satisfactory form of development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

- 9 Notwithstanding any details submitted with the application, no development shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the local planning authority. This assessment shall be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it shall include:**

**(i) a survey of the extent, scale and nature of contamination;**

**(ii) an assessment of the potential risks to:**

- (a) human health;
- (b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- (c) adjoining land;
- (d) groundwater and surface waters; and,
- (e) ecological systems.
- (f) archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

**This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013. The details are required before commencement of development as if they are deferred until after the development has begun, the opportunity to decontaminate the land will have been lost to the detriment of human health and other receptors.

- 10 **No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural environment has been submitted to and approved in writing by the local planning authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, proposed preferred option(s), and a timetable of works and site management procedures. The scheme shall ensure that the site does not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The remediation scheme shall be implemented in accordance with the approved timetable of works.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013. The details are required before commencement of development as if they are deferred until after the development has begun, the opportunity to decontaminate the land will have been lost to the detriment of human health and other receptors.

- 11 **Within 6 months of the completion of measures identified in the approved remediation scheme, a validation report (that demonstrates the effectiveness of the remediation carried out) shall be submitted to**

**the local planning authority for its written approval.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 12 **In the event that contamination is found at any time when carrying out the approved development that was not previously identified it shall be reported in writing within 7 days to the local planning authority and once the local planning authority has identified the part of the site affected by the unexpected contamination, development shall be halted on that part of the site. An assessment shall be undertaken in accordance with the requirements of Condition No 9, and where remediation is necessary a remediation scheme, together with a timetable for its implementation, shall be submitted to and approved in writing by the local planning authority in accordance with the requirements of Condition No 10. The measures in the approved remediation scheme shall then be implemented in accordance with the approved timetable. Following completion of measures identified in the approved remediation scheme a validation report shall be submitted to and approved in writing by the local planning authority in accordance with Condition No 11.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CS32 of the Dacorum Core Strategy September 2013.

- 13 **Notwithstanding any details submitted, no development shall take place until a sustainability statement and an energy statement which has been completed on-line through the carbon compliance toolkit, C-Plan, shall have been submitted to and approved in writing by the local planning authority. The Statements shall demonstrate compliance with Table 10 of the Dacorum Core Strategy (i.e. level 3 or equivalent) plus 5% CO<sub>2</sub> reductions. The statements shall be submitted for approval concurrently with the first of the reserved matters to be submitted. The development shall be carried out in accordance with the details approved.**

Reason: To ensure the sustainable development of the site in accordance with the aims of accompanying Policy CS29 and paragraph 18.22 of the Dacorum Core Strategy September 2013 and the Sustainable Development Advice Note March 2011. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, and the materials potentially ordered and used, thereby limiting the available options for

designing in sustainability measures.

- 14 **No dwelling shall be occupied until a post construction review to formally demonstrate achievement of the energy performance target approved under Condition 13 shall have been submitted to and approved in writing by the local planning authority.**

Reason: To ensure the sustainable development of the site in accordance with the aims of accompanying Policy CS29 and paragraph 18.22 of the Dacorum Core Strategy September 2013 and the Sustainable Development Advice Note March 2011.

- 15 **No development shall take place until plans and details of the measures for sustainable drainage and water conservation, and of sustainable materials sourcing shall have been submitted to and approved in writing by the local planning authority. The details shall include clear arrangements for the ongoing maintenance of the SUDS over the lifetime of the development. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The development shall be carried out in accordance with the details approved.**

Reason: To ensure the sustainable development of the site in accordance with the aims of Policy CS29 and paragraph 18.22 of the Dacorum Core Strategy September 2013 and the Sustainable Development Advice Note March 2011 and to prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with Policies CS29 and 31 of the Dacorum Core Strategy September 2013 Plan. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, and the materials and measures potentially ordered and used, thereby limiting the available options for designing in sustainability measures.

- 16 **No development / demolition shall take place until details of measures to recycle and reduce demolition and construction waste which may otherwise go to landfill, shall have been submitted to and approved in writing by the local planning authority. The measures shall be implemented in accordance with the approved details.**

Reason: To accord with the waste planning policies of the area, Policy CS29 of the Dacorum Core Strategy (September 2013) and saved Policy 129 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development as if they are deferred until after the development has begun, the plans and measures will already have been agreed and finalised, and the works commenced, thereby limiting the available options for designing in sustainable waste management.

- 17 **The development shall be designed to meet *Secured by Design* standards and no development shall take place until details of the physical measures to design out crime shall have been submitted to and approved in writing by the local planning authority. The**

**development shall be carried out in accordance with the approved details.**

Reason: To design out crime in the interests of ensuring a secure residential environment and a sustainable development in accordance with Policy 11 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, and the materials and measures potentially ordered and used, thereby limiting the available options for designing in crime prevention measures.

- 18 **No development shall take place until a Stage 2 Road Safety Audit for the proposed highway improvements and access junction shall have been completed and submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and recommendations therein.**

Reason: In the interests of highway safety in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, the materials ordered and works potentially carried out, thereby limiting the available options for designing a safe access and public highway.

- 19 **No part of the development shall be occupied until the off-site highway works identified in the approved Development Access Design Report by Abington Consulting Engineers and shown on Drg. No. 12002/101D shall have been completed. This condition shall not be considered discharged until written confirmation of the completion of the works has been submitted to and approved by the local planning authority.**

Reason: To ensure the adequate and satisfactory provision of a safe access and approaches to the access prior to first occupation of the development in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011. The works are required before commencement of development on site to ensure certainty that the works will be completed.

- 20 **The development hereby permitted shall not be occupied until the skid-resistant surface shown on Drg. No. 12002/101D shall have been provided in accordance with a PSV (Polished Stone Value) of 75 and a target SRV (Skid Resistant Value) of 80 as set out in the email from Ian Brazier (Abington Consulting Engineers) dated 15/10/12.**

Reason: To ensure the adequate and satisfactory provision of a safe access and egress to the site in wet conditions in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011.

21 **No development shall take place until full details (in the form of engineering specification scaled drawings and / or written specifications) shall have been submitted to and approved in writing by the local planning authority to illustrate the following:**

- i) Roads, footways, and associated surface water drainage;**
- ii) Access arrangements in accordance with those shown in principle on approved plan 12002/101 Rev D;**
- iii) Turning areas;**
- iv) Street lighting scheme;**
- v) Visibility splays at the junction with the highway.**

**The development shall be carried out in accordance with the approved details.**

Reason: In the interest of highway safety and to ensure that the junction of Sunnyhill Road / Melsted Road and the proposed access junction are correctly illuminated in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development as if they are deferred until after the development has begun, the design will already have been agreed and finalised, and the materials and works potentially carried out, thereby limiting the available options for designing a safe access and public highway.

22 **All car parking spaces shall be a minimum of 2.4 metres wide x 4.8 metres deep, and all garages shall have an internal width of at least 2.7 metres and a depth of at least 4.8 metres.**

Reason: For the avoidance of doubt and to ensure the satisfactory provision for car parking in accordance with Policy CS12 of the Dacorum Core Strategy September 2015 and saved Policy 58 and Appendix 5 of the Dacorum Borough Local Plan 1991-2011.

23 **The development hereby permitted shall not be occupied until the arrangements for vehicle parking (including garages) and circulation together with the access road shown on Drawing Nos. SRH/001 rev I, 12002/101D and the details of electric under carriageway heating shown on Drawing No. SRH/04 shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved.**

Reason: To ensure the adequate and satisfactory provision of a safe access and off-street vehicle parking facilities in accordance with Policies 11, 51 and 54 of the Dacorum Borough Local Plan 1991-2011.

24 **The development hereby permitted shall not be occupied until visibility splays measuring 2.4 x 43 metres shall have been provided to each side of the access where it meets the highway and such splays shall thereafter be maintained at all times free from any obstruction (on land within the applicant's control) between 600mm and 2m above the level of the adjacent highway carriageway.**

Reason: In the interests of highway safety in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51 and 54 of the Dacorum Borough Local Plan 1991-2011.

- 25 **The development (including demolition) hereby permitted shall not commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include details of:**

- **Construction vehicle numbers, type, routing;**
  - a. **Traffic management requirements;**
  - b. **Construction and storage compounds (including areas designated for car parking);**
  - c. **Siting and details of wheel washing facilities;**
  - d. **Cleaning of site entrances, site tracks and the adjacent public highway;**
  - e. **Timing of construction activities to avoid school pick up/drop off times;**
  - f. **The management of crossings of the public highway and other public rights of way;**
  - g. **Post construction restoration/reinstatement of the working areas and temporary access to the public highway.**

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in compliance with saved Policy 51 of the Dacorum Borough Local Plan 1991-2011. The details are required before commencement of development because the measures are required to be put in place to control activities from the start of works on site.

- 26 **Before any new access or crossover hereby permitted is first brought into use any existing access / crossover not incorporated into the development hereby permitted shall be stopped up and closed by removing the vehicle access / crossover, raising the kerb and reinstating the footway surface to the same line, level and detail as the adjoining footway verge and highway boundary**

Reason: To limit the number of access points along the site boundary for the safety and convenience of the highway user in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policy 51 of the Dacorum Borough Local Plan 1991-2011.

- 27 **No part of the development shall be occupied until details of a management company (to oversee the management and running of the communal parts of the development, including the under-carriageway and footway heating and the skid-resistant surfacing) together with a full list of objectives and the standards to be achieved, shall have been submitted to and approved in writing by the local planning authority. The details shall include a timetable for the inspection and replacement / maintenance of the skid-resistant surfacing and under-carriageway / footway heating. The development shall be maintained in accordance with the objectives and specifications approved and the company shall**

**be permanently retained to manage the estate unless otherwise agreed in writing by the local planning authority under this condition.**

Reason: To ensure appropriate means are in place for the long term maintenance of the communal areas and facilities in accordance with Policies CS8 and 12 of the Dacorum Core Strategy September 2013 and saved Policies 51, 54 and 100 of the Dacorum Borough Local Plan 1991-2011.

- 28 **The development shall be carried out in accordance with the recommendations contained within the approved Extended Phase 1 Ecological Habitat Survey Report by Hone Ecology.**

Reason: To minimise impacts on biodiversity and incorporate positive measures to support wildlife in accordance with Policy CS29 of the Dacorum Core Strategy September 2013.

- 29 **If piling is considered the most appropriate method of foundation construction, no development shall take place until a method statement detailing the type of piling and noise emissions, shall be submitted to and approved in writing by the Local Planning Authority. All piling works shall be carried out in accordance with the agreed details.**

Reason: In the interests of the amenities of residents of neighbouring properties and in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

- 30 **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) (with or without modification) no external lighting shall be installed on the site or affixed to any buildings on the site and no development falling within the following classes shall be carried out without the prior written approval of the local planning authority:**

**Schedule 2 Part 1, Classes A and E**

Reason: To enable the local planning authority to retain control over the development in the interests of limiting the impact of extensions / reduced garden depths on trees and / or light pollution on nature conservation and the adjoining Local Wildlife Site in accordance with Policy CS10, 12 and 13 of the Dacorum Core Strategy September 2013 and saved Policies 99 and 102 of the Dacorum Borough Local Plan 1991-2011 and NPPF guidance.

- 31 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**Location Plan  
A43-15 - Site Survey  
C0710 - Site Survey  
SHR/001 rev I  
12002/101 rev D**



## **SRH/04 rev B**

Reason: For the avoidance of doubt and in the interests of proper planning.

### Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

### INFORMATIVES:

#### European Protected Species Licence

Bats and their roosts remain protected at all times under National and European law. If bats or any evidence for them is discovered during the course of any works, all works must stop immediately and advice sought as to how to proceed from one of the following:

- h.** A bat consultant;
  - The UK Bat Helpline: 0845 1300 228;
  - Natural England: 0845 6014523 or
  - Herts & Middlesex Bat Group: [www.hmbg.org.uk](http://www.hmbg.org.uk)

The applicant is advised that should the presence of bats within trees or buildings on the development site become apparent, Natural England will need to be consulted and a European Protected Species licence obtained prior to any re/commencement of work. The licence application will need to include a *Method Statement* with the *results of the surveys*, a *Mitigation Strategy and Works Schedule* stating how it is proposed to accommodate each species of bat within the development.

All bats and their roosts are legally protected by the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010. If bats are present it is illegal to intentionally or recklessly kill, injure or take any individuals or to deliberately capture or disturb individuals. It is an offence to intentionally or recklessly damage or destroy a roost, to obstruct a roost, and to disturb an individual whilst occupying the roost.

#### Ways to achieve biodiversity gain

- Features identified in ecological surveys as of particular value for wildlife, such as mature tree lines, hedgerows or ponds, should be retained, protected and enhanced where possible;
- Opportunities for wildlife can be integrated into new buildings, through the installation of bird and bat boxes or bat lofts, or the creation of high quality green roofs;

- Landscaping can be designed to benefit wildlife, through creating structural and habitat diversity and use of native, wildlife-friendly plant species. Including fruit, seed and nut bearing species and nectar source plants will help attract insects and birds. Creation of ponds, dead wood habitats and loggeries provides further habitat diversity, enhancing the potential to support amphibians, invertebrates and small mammals.
- Retained, enhanced and newly created habitats and habitat features should be appropriately managed in the long term so as to maintain and improve their ecological value. Habitat management plans should be used where required.
- Sustainable Drainage Systems (SuDS) should be considered as part of the new development. The sustainable drainage scheme should be designed, wherever practicable, to encourage wildlife and contribute to biodiversity enhancement.

### Drainage

Thames Water advise that there are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval must be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

### Contamination

The applicant is advised that a guidance document relating to land contamination is available in the Council's website:

<http://www.dacorum.gov.uk/default.aspx?page=2247>

### Access and Facilities

- Access for fire fighting vehicles should be in accordance with Section 5 of The Building Regulations 2000 Approved Document B (ADB).
1. Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 15 tonnes.

2. Turning facilities should be provided in any dead-end route that is more than 20m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 20 in section B5.

### Water Supplies

3. Water supplies should be provided in accordance with BS 9999.
4. The Fire Service would consider the following hydrant provision adequate:
  5. Not more than 60m from an entry to any building on the site.
    - Not more than 120m apart for residential developments or 90m apart for commercial developments.
    - Preferably immediately adjacent to roadways or hard-standing facilities provided for fire service appliances.
    - Not less than 6m from the building or risk so that they remain usable during a fire.
    - Hydrants should be provided in accordance with BS 750 and be capable of providing an appropriate flow in accordance with National Guidance documents.
    - Where no piped water is available, or there is insufficient pressure and flow in the water main, or an alternative arrangement is proposed, the alternative source of supply should be provided in accordance with Section 5 of Approved Document B.
- In addition, buildings fitted with fire mains must have a suitable hydrant sited within 8m of the hard standing facility provided for the fire service pumping appliance.

### Hemel Hempstead Public Footpath 24

Hertfordshire County Council Officers have in the past assessed the legal line of this path and it was found to be obstructed by fencing from number 89 Sunnyhill Road. A diversion will be required unless adequate provision can be found to accommodate the legal extent of this path.

### Noise on Construction/Demolition Sites

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites. Best practicable means of minimising noise will be used. Guidance is given in British Standard BS 5228: Parts 1, 2 and Part 4 (as amended) entitled 'Noise control on construction and open sites'.

### Construction of hours of working – plant & machinery

In accordance with the Councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: 0800hrs to 1800hrs on Monday to Friday 0800hrs to

1230hrs Saturday, no works are permitted at any time on Sundays or bank holidays.

### Dust

Dust from operations on the site should be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, Produced in partnership by the Greater London Authority and London Councils.

### Bonfires

Waste materials generated as a result of the proposed demolition and/or construction operations shall be disposed of by following the proper duty of care and should not be burnt on the site. Only where there are no suitable alternative methods such as the burning of infested wood should burning be permitted.

### Ground Water Source Protection

You should be aware that the site is located within the groundwater Source Protection Zone (SPZ) corresponding to Marlowes Pumping Station. This is a public water supply comprising a number of chalk boreholes operated by Affinity Water Ltd.

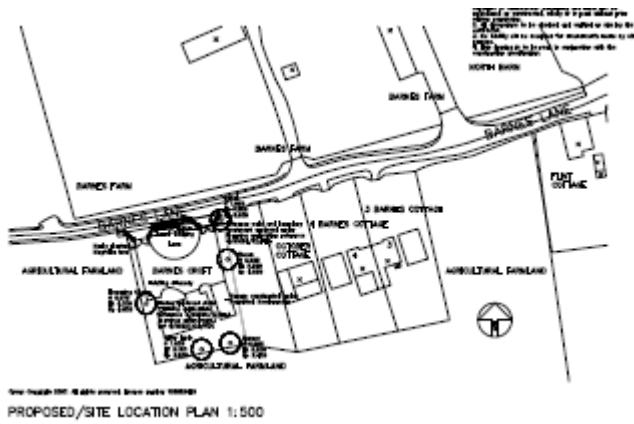
The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the sites then the appropriate monitoring and remediation methods will need to be undertaken.

For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".

## ITEM 5.03

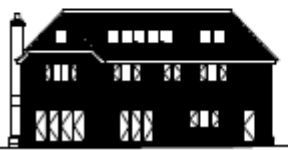
### 4/00421/15/ROC- VARIATION OF CONDITION 4 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/00866/13/FHA (EXTENSION AND ALTERATIONS).

BARNES CROFT, BARNES LANE, KINGS LANGLEY, WD4 9LB

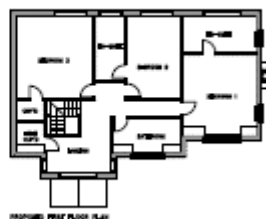


Plans currently being considered:

1168/15C



Elevations



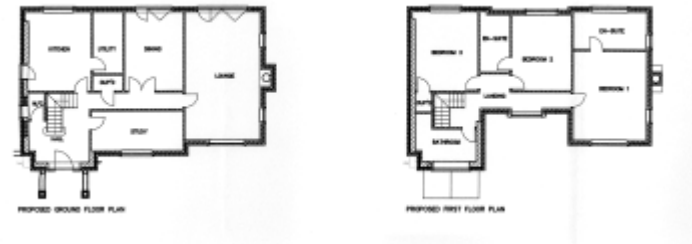
Floor plans

Agreed Fallback approval 4/0627/14/ROC

1168/08



Elevations



Floor Plans

**4/00421/15/ROC - VARIATION OF CONDITION 4 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/00866/13/FHA (EXTENSION AND ALTERATIONS)..  
BARNES CROFT, BARNES LANE, KINGS LANGLEY, WD4 9LB.  
APPLICANT: Mr & Mrs Neal.**

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[Case Officer - Elspeth Palmer]

## **Summary**

The application is recommended for approval. A previous planning permission allowed for modifications that would result in a gross external floor area of somewhere between 258.8 and 262.2 square metres (depending on how you interpret the plans). This proposal will result in a gross external floor area of 260.9 square metres. The proposal will not result in any increase in floor area and will not involve any reduction in the openness of the Green Belt when compared with the previously approved plans.

## **Site Description**

The application relates to a residential property located on the southern side of Barnes Lane, Kings Langley. The site comprises a partly demolished and partly rebuilt two storey dwelling and detached garage. The area is rural in character and is located in the Green Belt. The site has agricultural farm land to the north, west and south and residential dwellings to the east. Barnes Croft is the last house on Barnes Lane as it leaves the village. The house is located on a prominent site as the lane dips down into a valley.

## **Proposal**

The application seeks the following additional amendments to the proposals granted planning permission under 4/00866/13/FHA (extension and alterations) and 4/00627/14/ROC.

1. The front gable has been moved to the right and incorporates windows in its sides at ground and first floor level. The first floor window facing east is noted as being fixed shut and obscure glazed.
2. The roof has been further modified, as there were inconsistencies in the depiction of the roof on approved drawing 1168/08.
3. The small recess (187 mm) to the first floor rear elevation has been omitted and a half hip with tile hanging to the first floor below has been introduced at one end to retain articulation.

The previous plans contained inconsistencies which made construction of the approved scheme extremely difficult (see Appendix 1 for detailed explanation).

## **Referral to Committee**

Based on the Parish Council Comments the Assistant Director, Planning, Development and Regeneration considered the application should be decided by the Development Control Committee.

## **Planning History**

4/00627/14/RO VARIATION OF CONDITION 4 (APPROVED PLANS) ATTACHED

C TO PLANNING PERMISSION 4/00866/13/FHA (EXTENSION AND ALTERATIONS).  
Granted  
21/05/2014

4/00394/14/DR DETAILS OF MATERIALS REQUIRED BY CONDITION 2 OF  
C PLANNING PERMISSION 4/00866/13/FHA (EXTENSION AND ALTERATIONS).  
Granted  
25/04/2014

4/01860/13/FH DETACHED GARAGE BLOCK  
A  
Refused  
05/12/2013

4/00866/13/FH EXTENSION AND ALTERATIONS  
A  
Granted  
03/07/2013

4/01431/12/LD DEMOLITION OF PARTLY COMPLETED EXTENSIONS AND  
P CONSTRUCTION OF SINGLE STOREY SIDE AND REAR  
EXTENSIONS AND FRONT PORCH. SOLAR THERMAL PANELS  
TO REAR ROOF SLOPE. DETACHED GARAGE AND GARDEN  
STORE TO SIDE OF DWELLING  
Granted  
25/09/2012

4/01004/12/FH CONSTRUCTION OF WALL AND GATES  
A  
Granted  
30/08/2012

4/00385/13/PR EXTENSION AND ALTERATIONS  
E  
Unknown  
25/04/2013

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
Circular 11/95



### Adopted Core Strategy

NP1 - Supporting Development  
CS5 - The Green Belt  
CS10 - Quality of Settlement Design  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design

### Saved Policies of the Dacorum Borough Local Plan

Policies 10, 12, 13, 15, 18, 19, 21, 22, 23,...  
Appendices 1, 2, 3, 4, 5,6,7.

### Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)  
Water Conservation & Sustainable Drainage (June 2005)  
Energy Efficiency & Conservation (June 2006)  
Accessibility Zones for the Application of car Parking Standards (July 2002)  
Landscape Character Assessment (May 2004)

### Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

### **Summary of Representations**

#### Kings Langley Parish Council

#### Original Plans

Noted.

#### Amended Plans

The Council OBJECTS to this application as:

- a) building under "permitted development" should not be allowed, per the original planning permission
  - b) the Council has still not seen a new application for the amended proposed development, as had been agreed.
- This advice was received on 2/9/15.

Subsequent advice was received from the Parish stating they had removed their objection - received on 29/9/15.

#### Response to Neighbour Notification

#### Original Plans (1168/15)

October Cottage - Objects: dated 26 February, 2015

- previous approval based on the permitted development "fall back position";

- the original property has been demolished so the fall back position of permitted development used to justify VSC for the original planning permission no longer exists and this should no longer be a material consideration;
- the fall back position is now the approved planning permission;
- the proposed development would lead to an increase in excess of 181.5% of the original dwelling;
- the existing garage is unlawful so cannot be used as an argument to make the development acceptable.
- the increase of the extensions are not compact and are not well related to the original dwelling;
- the extension is not well designed and does not retain sufficient space around the building to protect its setting and the character of the countryside;
- the applicant seeks to extend up to the extent of their site boundary and has left only a very small area of garden to the rear of the property;
- the setting is open countryside with views over the surrounding open fields. Previously Barnes Croft was a small scale modest residential building (like its neighbour);
- the proposal will allow for a large scale building which is not in keeping with its surroundings and which has a significant negative impact on the openness of the Green Belt;
- the partly constructed building is already affecting the perception of openness from October Cottage
- the alterations to the rear are not 'de minimis' as stated by the applicant as they substantially encroach on the Green Belt and reduce the openness that was previously apparent; and
- the approved ground floor plans could incorporate the required facilities if reconfigured.

#### Amended Plans (1168/15A)

October Cottage - objects: dated 6th May, 2015

- the amendments result in a minor and immaterial reduction to the proposed additional bulk of what is already a large and bulky building;
- the proposals appear to be over 2.7 metres wider at ground floor level and over 1m wider at first floor level than the approved scheme;
- the proposals retain inappropriate visual bulk;
- The extension to the rear ground floor is incongruous and is an uncomfortable projection. It is also not accurately represented in the front elevation as it appears to stand to a height of 4m, well above the flat roof;
- changes to rear elevation will increase the bulk and overdevelopment;and
- the proposal would result in a development with floor area approximately 120% of the approved plans resulting in a building approximately 250% larger than the original dwelling.

#### Amended Plans (1168/15B)

October Cottage - objects: dated 21 August, 2015

- the amended plans show changes to the elevations but result in only a minor reduction at ground floor level - this does not make it "appropriate" development.
- the proposal is still wider at ground floor and first floor level than the approved

scheme. There is no justification or very special circumstances demonstrated for further increasing the house by this size in the Green Belt;

- at first floor level the infilling to the front facade to create a bathroom creates an increase in bulk. This additional bulk should not be considered appropriate.
- the site location plan gives the impression that the land ownership includes the land between Barnes Croft and October Cottage. This land is not owned by the applicant and as such should not be viewed as amenity space in association with the dwelling.
- The proposed dwelling is still over 1 metre closer to October Cottage than detailed in application 627/14/ROC; and
- The proposal would have the appearance of having over double the width of the original house.

The Granary, Barnes Farm - supports

We feel the proposal would enhance our lane and be a compliment to the surrounding properties. Many of the properties have extended doubling the size of the original property and added buildings and garages. One particular property known as Windy Ridge has actually trebled in size over the years and is now a 6 bedroom house with large detached double garage.

No objections to the proposal and feel that planning permission should be granted.

South Barn - supports

Wish to fully support the application. The amendments proposed would be a great advantage to the property as the original house was very dilapidated and lacked design aesthetics. The proposals would bring the property up to the quality of construction and design and size to that of the remaining properties within Barnes Lane.

Amended Plans (1168/15C and legal advice)

October Cottage - objects: dated 4th December, 2015

- the latest plan iterations create a further increase in floorspace, increase the width of the building as well as introducing various elevational changes;
- any further increase of floorspace e.g. through increasing the width of the building will result in development with floor area over 200% larger than the original dwelling (now demolished) with no justifiable 'very special circumstances' case for inappropriate development within the Green Belt;
- to approve the scheme would be to set clear precedent for allowing inappropriate development in the Green Belt;
- the November planning statement states the figure of 258.8 square metres is the most logical floorspace when interpreting the incorrect plans. This floorspace should be compared with the floorspace which the Council assumed they permitted in planning permission Ref: 4/00627/14/ROC, which was approximately 246 square metres (ie. plan 1168/08 as drawn without the 'missing' room);
- an increase in depth as now proposed must be a material change requiring a fresh approach to determining the material impact on the Green Belt;
- further changes from 1168/08 include: further changes to the elevations and floor plans and most importantly further increases to the building's floorspace un-related to the inclusion of the room;
- they also intend to increase the width of the property for which there is no justification, by what our client has measured as being in excess of of 1 metre. In

total, our client considers the most recent plans to have a GEA of 274 square metres. This is not the same as 1168/08 plan plus the 'omitted room' which totals approximately 258 square metres (as per the applicant's planning statement) or the 260.9 square metres the planning statement claims 1168/15C to be;

- the legal opinion provided merely suggests that the permission approved with drawing ref. 1168/08, is not void and is a relevant fall back. The legal opinion states that against the backdrop, proposal 1168/15C 'seems fairly reasonable'. This is not a legal opinion which gives the Council clear evidence on whether to approve or not;
- If the applicant wants to build what they already have approval for plus the omitted room then this objection would be removed but the additional amendments which change the scale, bulk and massing of the proposal including additional width, windows and altered profile and roof scape cannot rely on the previous consent;
- even allowing for the 1168/08 (plus omitted room) scheme, 1168/15C results in a material increase in floorspace (understood to be approx. 16square metres) increasing the scale, bulk and mass without justification; and
- to approve the scheme would be to set clear precedent for allowing inappropriate development in the green belt.

## **Considerations**

### Policy and Principle

The site lies within the Green Belt where limited extensions to existing buildings will be permitted provided it has no significant impact on the character and appearance of the countryside and it supports the rural economy and maintenance of the wider countryside.

### Green Belt

As the site is located in the Green Belt it is important to consider the five criteria within saved Policy 22 of the DBLP. In this respect it is considered that:

- a) the scheme is compact and well-related in terms of the already approved dwelling, principally because it infills the small recess at the rear of the dwelling and infills the gap first floor above the study.
- b) the site would have a relatively small rear garden but there is land to the front of the dwelling which ensures maintenance of the approved spacious setting of the plot.
- c) based on the already approved plans the new scheme would not be any more visually intrusive on the skyline or the open character of the surrounding countryside.
- d) the current scheme would not prejudice the retention of any significant trees or hedgerows.
- e) the proposal can be considered limited in size.

Legal advice has been sought by the applicant to support the argument that drawing 1168/08, despite being incorrect, is still the fallback position in terms of floor space already approved. This legal advice has been considered by the Council's own solicitor who agrees with their interpretation of the law.

Drawing 1168/08 granted under planning application 4/00627/14/ROC established a fallback position against which this application can be assessed. There are two ways in which the approved elevations can be interpreted. The one which would result in the least number of inconsistencies is that the wall between the front wings sits over the footprint of the study below, as illustrated in Figure 1. The other is that the wall between the wings is flush with the front wall to the bedroom, as illustrated in Figure 2.

Depending on which interpretation is followed the established fallback has a gross external floor area of  $(133.5 \text{ m}^2 + 116.2 \text{ m}^2 + 9.1 \text{ m}^2)$  258.8 m<sup>2</sup> or  $(133.5 \text{ m}^2 + 116.2 \text{ m}^2 + 12.5 \text{ m}^2)$  262.2 m<sup>2</sup> respectively but the first interpretation is more logical and, therefore, carries greater weight.

The proposed modifications to the design of the house will result in a gross external floor area of 260.9 m<sup>2</sup>, which falls between the two floor area figures that can be justified.

The proposal will not result in any increase in floor area and will not have a detrimental impact on the openness of the Green Belt when compared with the established fallback position.

#### Effects on appearance of building

As the building is currently half built and has the appearance of a building site this is difficult to assess. However when the proposal is compared with that which already has approval it is considered that the proposal will be similar in character to that already approved.

#### Impact on Street Scene

The proposal will result in a dwelling far larger than its neighbours to the east but as a similar sized dwelling already has approval under 4/00627/14/ROC it is difficult to state that the proposal will have a significantly greater impact than the approved dwelling.

#### Impact on Trees and Landscaping

There are no significant trees in proximity to the proposal.

#### Impact on Highway Safety

The means of access is not changing so there will be no impact on highway safety.

#### Impact on Neighbours

October Cottage to the east is the only neighbour in close proximity to the site.

There will be no loss of privacy for neighbours as any side windows facing east will be obscure glazed and permanently fixed.

The proposed development is not close enough to the nearest neighbour to result in a significant loss of sunlight and daylight.

RECOMMENDATION – That planning permission be GRANTED subject to the following conditions:

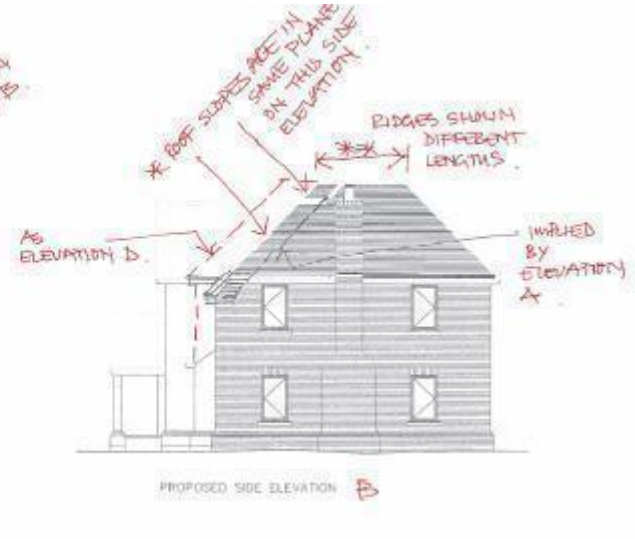
## Appendix 1

The Agent's interpretation of the discrepancies on the approved plans.

Whichever way the elevations are interpreted the first floor element between the front wings must be a wall set further forward than indicated on the first floor plan and the window cannot be in a dormer. I have marked up the approved first floor plan showing where I consider the front wall is when the approved side elevations are considered. I have also drawn elevations showing my interpretation of what was actually approved.

It is not that the approved plans cannot be built but a question of interpretation given the discrepancies that exist. The two approved side elevations show a different position for the front roof slope for the section of roof between the two wings but if either were to be followed the front wall would be further forward than shown on the approved first floor plan. If the roof plane shown in Elevation B were to be followed it would mean that there would be a further hip in the main roof that is not shown and if Elevation D is followed it is clear that the first floor wall must be where shown on the elevation drawing I have produced. The repositioning and slight increase in the width of the front gable is simply a deviation from the approval but its repositioning takes it further away from the neighbour. The proposal as now submitted reduces the height of the front eaves and the bulk of the building when compared to the drawing I have produced that demonstrates what I consider has already been approved.

In my comments on the objection letters I noted that "If a logical interpretation is made an additional 9.1 m<sup>2</sup> was granted increasing the floor area of the fall-back position to 133.5 m<sup>2</sup> + 116.2 m<sup>2</sup> + 9.1 m<sup>2</sup> = 258.8 m<sup>2</sup>. In fact based on the attached plan the granted floor area of the fall-back position is 133.5 m<sup>2</sup> + 116.2 m<sup>2</sup> + 12.5 m<sup>2</sup> = 262.2 m<sup>2</sup>. The application proposal has a floor area of 270.2 m<sup>2</sup>, an increase of only 7.8 m<sup>2</sup> or 4.4% when compared with the fallback position but has a reduced volume, if my interpretation of the approved drawings is accepted, of around 20 m<sup>3</sup>. When compared to the original floor area of 133.5 m<sup>2</sup> I confirm that the increase is 102%, compared with an increase of 96% for the fallback position.





RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 **The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match in size, colour and texture those used on the existing building.**

Reason: To ensure a satisfactory appearance to the development and to comply with CS 11 and 12.

- 3 **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority:**

**Schedule 2 Part 1 Classes [A, B, C, D, E, F]  
Part 2 Classes [A, B and C].**

Reason: To enable the local planning authority to retain control over the development in the interests of safeguarding the residential and visual amenity of the locality and to preserve the openness of the Green Belt and comply with CS 11,12 and CS 5.

- 4 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

1168 15C Proposed Plans and Elevations  
Planning Statement November 2015  
Legal Advice from IVY Legal Limited dated 5th November, 2015

Reason: For the avoidance of doubt and in the interests of proper planning and to comply with CS 11,12 and 5.

**Article 35 Statement:**

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and

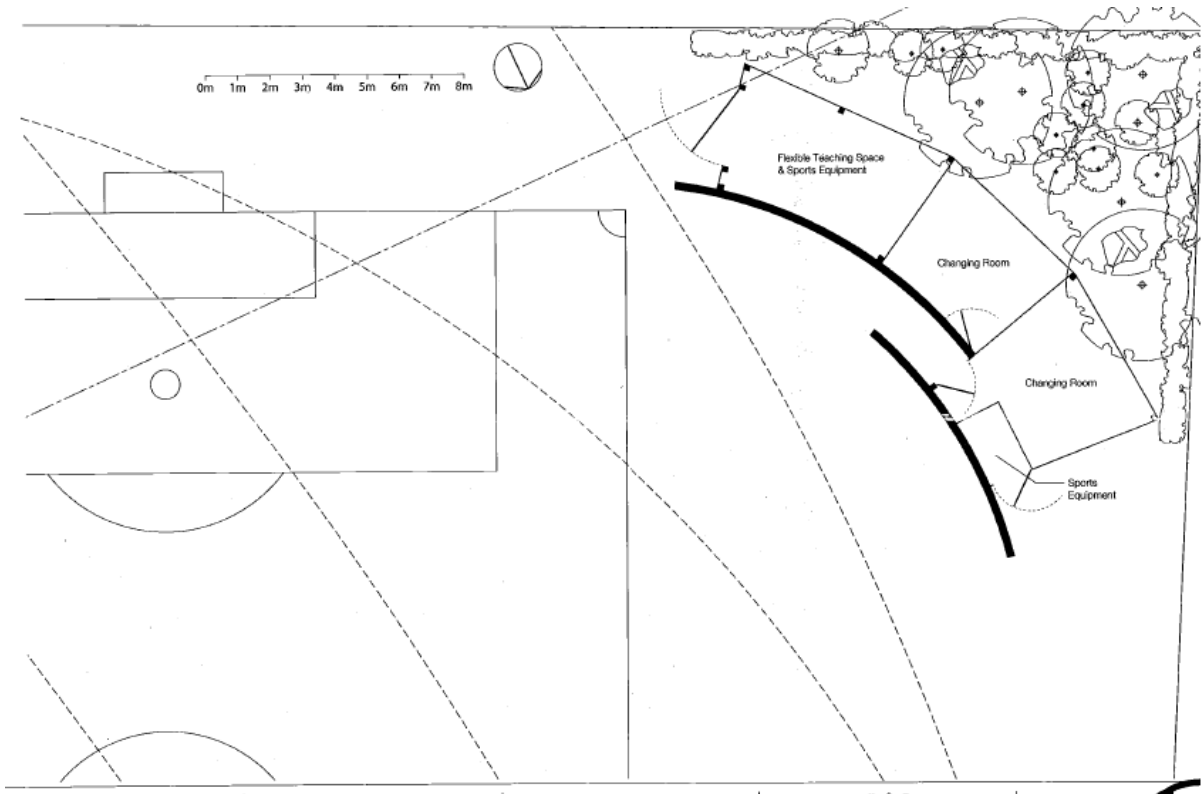
Country Planning (Development Management Procedure) (England) Order 2015.

## ITEM 5.04

### 4/00366/15/FUL- CONSTRUCTION OF A NEW STORAGE/CHANGING ROOM BUILDING

BERKHAMSTED CRICKET, SPORTS & SOCIAL CLUB, CASTLE HILL, BERKHAMSTED, HP4 1HE

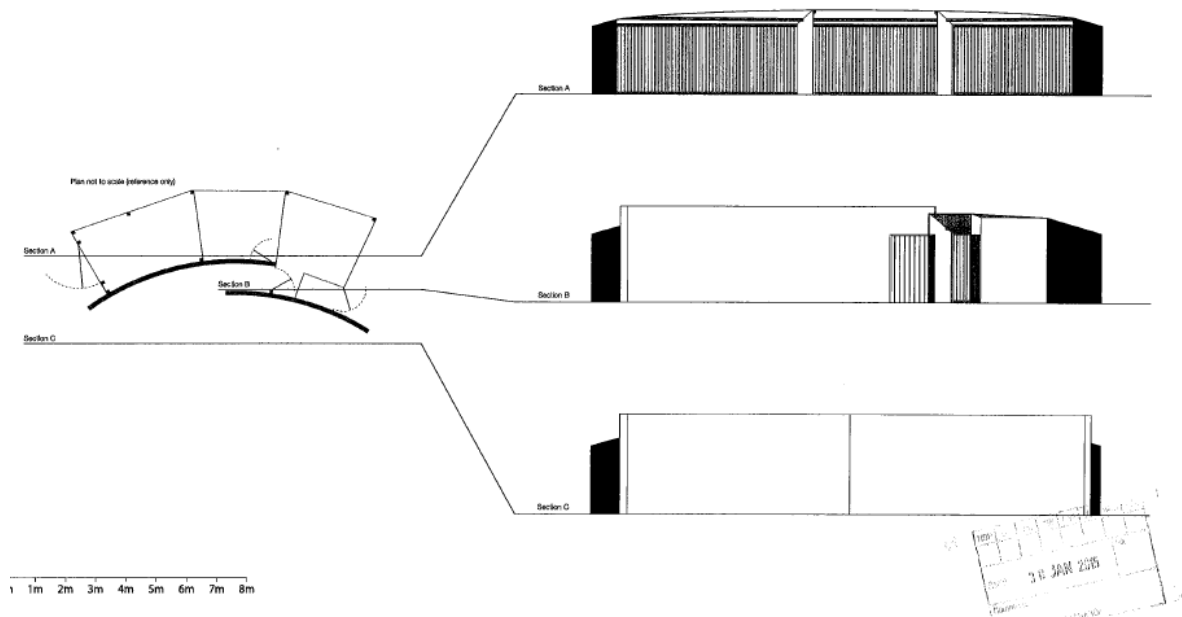




**ITEM 5.04**

**4/00366/15/FUL- CONSTRUCTION OF A NEW STORAGE/CHANGING ROOM BUILDING**

**BERKHAMSTED CRICKET, SPORTS & SOCIAL CLUB, CASTLE HILL, BERKHAMSTED, HP4 1HE**



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**4/00366/15/FUL - CONSTRUCTION OF A NEW STORAGE/CHANGING ROOM BUILDING. BERKHAMSTED CRICKET, SPORTS & SOCIAL CLUB, CASTLE HILL, BERKHAMSTED, HP4 1HE.**

**APPLICANT: MR I MERRETT.**

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[Case Officer - Nigel Gibbs]

## **Summary**

The application is recommended for approval.

The site comprises part of an existing established cricket club. It occupies a prominent location in the Green Belt and Chilterns AONB, close to Berkhamsted Castle, the edge of Berkhamsted Conservation Area and Castle Hill housing.

The land forms part of the valley bottom acting as a transitional point between Berkhamsted's defined urban edge and the countryside beyond. It is commonplace for sports pitches and associated ancillary facilities to occupy such 'urban fringe' locations. Such locations are often designated as Green Belt wherein sport and recreation is supported. The small scale ancillary building represents appropriate development in the Green Belt.

There are no overriding design, detailed environmental, layout or access objections.

## **Site Description**

The site forms part of Kitcheners Fields located to the north of Berkhamsted Railway Station and the Castle (an Ancient Monument) beyond the town's defined built up edge.

Access to the Cricket Club is via a roadway just to the north of the Castle Hill-Brownlow Road junction. A parallel roadway, also a designated footpath, leads to the Bowls Club and Berkhamsted School's long established playing fields, changing room/pavilion, tennis courts and car park.

The site is within the Green Belt, AONB, Area of Archaeological Significance no.21 and is close to Ancient Monument no.88. All the land is contained within the Landscape Character Area 119 (Berkhamsted Castle Farmland). The Club's ground occupies a prominent position within the valley bottom in relation to the much higher land to the north.

Due to their location within the valley and open position the Kitcheners Fields playing facilities form a fundamentally important visual/ physical 'urban fringe' transition between the built up edge of Berkhamsted and the open countryside beyond.

## **Proposal**

This is for a 67sq m pavilion located in the western corner of the cricket pitch. The single storey curved building will be finished in timber walls complemented by a flint finished spine wall with an artificial grass flat roof, incorporating a removable match day tented canopy.

It will provide changing rooms , secure storage for grounds maintenance and sports equipment, with an option to use part of the building for teaching.

The pavillion is part of a two fold scheme to upgrade BCC's facilities involving the major refurbishment of the main clubhouse.

### **Important Background to the Proposal: Need for Upgrading Facilities/ Additional Accommodation at Berkhamsted Cricket Club/ BCC Improvement Strategy in Support of the Application**

The Club has provided sports facilities for the local community for over 30 years with an average of 50,000 visitors per year. BCC 's facilities have remained largely unchanged for many years . BCC considers that visitors are using facilities not fit for purpose.

In the Winter the site is used by Berkhamsted Raiders Football Club.

BCC have confirmed:

- Currently some of BCC's existing sporting equipment is stored outside in a number of wooden garden sheds. Other sporting equipment is either permanently stored adhoc throughout the clubhouse, or within the existing cramped changing rooms,creating a hazardous and environment.
- Sporting members using the more remote areas of the grounds do not have easy access to secure changing or storage,shelter whilst playing sport, or a welcoming and enhancing experience to congregate before, during or after sport.
- It does not have the capacity to meet current playing field demand, and the worsening condition of the existing facilities means that BCC is at 'a critical juncture'
- Identified Operational Issues: Summary

The Club has identified several key issues in continuing to operate from the site:

- The facilities dangerous condition and poorly performing standards.
- The failure to meet existing demands for gender, ability and age.
- The need for safe and secure storage of sports equipment and grounds maintenance equipment.
- The viability to market the facilities thus risking economic resilience.

As tenants, the Club has worked over the past 3 years in researching and stakeholder consultation to develop a robust and pragmatic solution to preserve the established community facility.

- BCC 's Projects Core Principles

The remodelling of the existing clubhouse's interior and the provision of a second pavilion to support the two cricket pitches at Kitcheners Field will provide:

- Increased changing room capacity and flexibility to accommodate both male and female users simultaneously,
- Increased storage capacity for sports equipment and to make the storage secure,
- Provision of disabled facilities to support the function and activities of all stakeholders,
- Increased operational capacity and improve the marketability of the facilities,
- Support the opportunity to play sport at all levels,
- Support for the large and wide ranging community events held at the ground,
- Long term economic security, and
- Additional cultural benefit to the town of Berkhamsted and respond to its important heritage.

- BCC 's Approach to Upgrading Facilities: The Proposed Pavilion

The supporting information confirms :

‘The second Pavilion is about enhancing the experience for existing users, providing better resources, and to enable the facilities to meet current demand. The new pavilion is about bringing Kitcheners Field up to standard and securing its future through a flexible facility that enables the existing tenants to play sport by providing a secondary facility that does not require the hiring or use of the main clubhouse and offering segregated changing’.

The new Pavilion will deliver:

- Secure storage for sports equipment.
- Segregated changing rooms.
- Support for annual sporting events.
- Flexible teaching space.
- Improved marketability of the playing fields and their facilities, and raise the profile of the Town.
- Exceptional design and quality whilst significantly reducing costs in relation to similar buildings.
- Opportunities to function independently of the main clubhouse to enable greater operational flexibility for both buildings, and minimising running costs.

- BCC's Approach to the Refurbishment of the Clubhouse Interior

This remodels the existing 4 changing rooms to accommodate 2 main changing rooms based upon the size specified by Sport England. The changing rooms would accommodate adjustable seating and demountable benches and overhead storage. This will enable the changing rooms to be quickly transformed into flexible meeting rooms, teaching spaces and community club spaces.

BCC has confirmed that the refurbished fully inclusive Clubhouse design would provide:

- Improved changing facilities to meet Sport England guidelines for size and



occupancy.

- Separate umpires accommodation /flexible changing.
- Segregated shower areas.
- A disabled toilet and changing facilities and a new entrance with a disabled ramp.
- Increased functionality through flexible changing/meeting rooms.
- Upgraded facilities to meet Building Regulations in terms of safety.
- Capacity and viability for increased teaching space, meeting rooms and space for Community Clubs.
- Increased secure storage.
- Replacement of the dangerous viewing deck.

#### • Design Considerations: Problems of Extending the Existing Clubhouse

BCC has considered an extension which is not feasible due to:

- The existing Clubhouse's building fabric and structure which would not support a second storey without major structural intervention.
- The AONB location makes a second storey a less preferred option.
- Extending the Clubhouse beyond the existing changing rooms is compromised by:

- a).The emergency Services site access route,
- b).The roof joist orientation would require additional intrusive structural intervention,
- c).The sloping site would result in major ground works and below ground drainage intervention, and
- d).The location of cricket nets to Clubhouse.

- Extending the Clubhouse beyond the existing bar area is compromised by:

- a).The roof joist orientation would require additional intrusive structural intervention,
- b).The existing sewage tank and associated below ground services would need relocating, and
- c).The prohibitive costs due to the need for the complete remodelling of existing interior.

#### • The Project's Community Engagement

Note: The supporting information confirms BCC's engagement with a very wide range of community stakeholders including:

- Castle Hill Residents Association,
- Berkhamsted Town Council – Planning Committee,
- The Rotary Club of Berkhamsted and Bulbourne,
- Lions Club of Berkhamsted,
- Berkhamsted Raiders Community Football Club and the FA,
- Sportspace, Dacorum Sports Trust ,
- Herts Sports Partnership ,
- Berkhamsted Sports Ground Charitable Association,
- The Chilterns Conservation Board,
- England Cricket Board (ECB) ,
- Hertfordshire Cricket,
- Hertfordshire Junior League, and

- Sport England.

### **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

### **Site History : Summary**

There is a substantial site history involving the cricket pitch and existing clubhouse. In recent years there has been a grant of permission for cricket nets. An allowed appeal restricted the site's user to only cricket.

### **Other Relevant Recent History at Kitcheners Fields**

There have been refusals for the formation of all weather non floodlit pitch for Berkhamsted School (dismissed appeal) and additional sports pitches for football and a wooden cabin for Kitcheners Bowls Club (allowed appeal).

### **Procedural Issues**

Following the receipt of Berkhamsted Town Council's initial response (see Representations below) the LPA's liaised with BCC (see Representations below)..

In summary BCC responded by providing additional information to the LPA and engaging with BTC.

In BTC's second consideration of the application BTC advised that the Planning Department did not provide the additional information. According to the Department's Planning Registration Team records this was sent to the BTC.

Annex A provides Berkhamsted Cricket Club's response to issues raised by Berkhamsted Town Council.

### **Policies**

#### National Policy Guidance

National Policy Planning Framework

#### Dacorum Core Strategy

- NP1 - Supporting Development
- CS1 - Distribution of Development
- CS4 - The Towns and Large Villages
- CS5 - The Green Belt
- CS8 - Sustainable Transport
- CS9 - Management of Roads
- CS10 - Quality of Settlement Design
- CS11 - Quality of Neighbourhood Design
- CS12 - Quality of Site Design
- CS13 - Quality of Public Realm

CS23 - Social Infrastructure  
CS24 - Chilterns Area of Outstanding Natural Beauty  
CS25 - Landscape Character  
CS26 - Green Infrastructure  
CS27 - Quality of the Historic Environment  
CS29 - Sustainable Design and Construction  
CS31 - Water Management  
CS32 - Air, Water and Soil Quality

Dacorum Borough Local Plan (Saved Policies)

Policies 51, 54, 58, 61, 62, 63, 67, 73, 79, 86, 89, 97, 99, 100 and 113

Appendices 5 and 7

Supplementary Planning Guidance

Dacorum Landscape Character Assessment  
Chilterns Design Guide  
Environmental Guidelines

**Representations**

Berkhamsted Town Council

- Initial Response .Object.

*Policy*

Dacorum Borough Local Plan Policy 97 for the Chilterns Area of Outstanding Natural Beauty relevant to this application states that:

A development must not be intrusive in terms of noise, light pollution, traffic generation and parking.

Structures must be sympathetic sited and designed having regard to natural contours.

Intrusive illumination is not acceptable.

*The Site*

Although it is described as being of a temporary style wood structure or even just a 'timber shed', the new building will be a permanent structure. The proposed building is not sympathetically sited; it is intrusive; and it will adversely impact on the as yet uncluttered and open view across the Area of Outstanding Natural Beauty in which it would be situated.

The proposed building is not designed with regard to natural contours of the land. Nor would it be in harmony with the significant sloping hillside.

The front wall will be built of breeze blocks faced with flints to echo the walls of the Castle, but the foundations will necessitate digging into AONB land and possibly levelling the contours of the site.

The proposed new pavilion would be 'under the canopy of mature trees clustered within the corner of the field providing year round visual obstruction to the residents living on Castle Hill'. Therefore the trees are essential to the application, but no Tree Survey has been provided in accordance with the requirements of the application form.

### *Design Features*

Despite this proposal being in the Chilterns AONB, the application does not demonstrate any awareness of, or how it might be in accord with, the recommendations in the Chilterns Conservation Board *Chilterns Buildings Design Guide*, as advised in Paragraph 1.21 of that Guide.

Many aspects of this proposal are contrary to the design specification such as avoiding prominent skylines, open slopes and flat roofs, and being in harmony with the landscape.

The proposal attempts to make a curved 'natural' design using flint, but this is not consistent with the *Chilterns Building Design Guide*. We also object to the canopy roof to the building in winter, which would be visually intrusive and incongruent in the AONB (photograph from pre-application meeting attached).

The plans appear to show a footpath leading from the car park to the new structure and a possible paved area around the pavilion. There is no mention of materials to be used or whether they would be sympathetic to the environment. In any event, the footpath and paved area would be visually intrusive and impact on the view across the AONB

The breeze block wall is said to be necessary to support an artificial grass roof. This proposed flat roof would be inappropriate in the AONB, and contrary to the *Chilterns Building Design Guide*, as would the proposed artificial turf, which refused on appeal in an adjacent part of the AONB (Kitcheners Field 4/00875/11/MFA).

The site is a part of the AONB where illumination, whether permanent or portable, is not acceptable.

We would not support any proposal for any portable lighting/ illumination to be used at the site.

The plans indicate that lighting is not applicable in this application, consistent with Saved Local Plan Policy 97. However, without lighting it is difficult to see how the rooms could be used for players, their partners and children when, in the absence of windows, they would be without any natural light.

Our concern over illumination is heightened given the proposals provided for outdoor film shows at the pre-application meeting (photograph from pre-application meeting attached).

### *Uses for the building*

The stated aim is 'to construct a timber shed for secure storage and over spill changing facilities on match days.

The proposal tries to justify the new building and expansion beyond cricket to other sporting activities and a wide range of community activities beyond sporting and associated social activities.

Opening hours for the new building would be am – 11.30 pm (Mona – Saturday) and 8 am – 11 pm (Sundays and Bank Holidays) throughout the year. This is excessive.

This goes against a previous Inspector's view that they should limit themselves to 'small town cricket' given they are in the AONB.

Such proposals for increased use and extensive opening hours would also mean the proposed development would be highly intrusive in terms of noise, light pollution, traffic generation and parking.

Contrary to the National Planning Policy Framework and Saved Local Plan Policy 97 and without regard to the *Chilterns Buildings Design Guide*.

• Additional Information. Object.

The original objection remains.

Contrary to the National Planning Policy Framework and Saved Local Plan Policy 97 and without regard to the *Chilterns Buildings Design Guide*. No details of the amendment had been submitted. It was noted that the Case Officer had ongoing discussions with the architect about the nature of the building and that the flint wall cause difficulties for the players. One of the rooms was being used as a training facility and may need hard roadway access.

Strategic Planning

The application site is located in the north of Berkhamsted town centre, immediately to the north of the site of Berkhamsted Castle. Access to the existing cricket club and playing pitches is gained off Castle Hill and is located at the end of a long access road.

In terms of planning designations, the site is situated within the Green Belt and Chilterns AONB) The site is also just outside an Area of Archaeological Significance which encompasses Berkhamsted (no. 21) and close to a Scheduled Ancient Monument relating to the site of Roman buildings north of Berkhamsted Castle (no. 88).

*Principle and Green Belt:*

The proposed development would include the construction of a single storey, flat roofed building, covering 67.5m<sup>2</sup>, in the south-west corner of the playing fields. This would be utilised as an equipment store and over spill changing facility from the clubhouse and in association with the existing use of the site for sport and recreation. Core Strategy Policy CS5 states that small-scale development will be permitted within

the Green Belt including buildings for the uses defined as appropriate in national planning policy.

Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate development in the Green Belt with the exception of, inter alia, the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

The proposed development would seek to provide a building which is considered to be ancillary to an established sport and recreation site and therefore acceptable in principle as an appropriate facility for outdoor sport. In terms of openness, the building would be sited at a corner of the site which appears to benefit from mature tree cover and would be constructed with a relatively low profile in terms of height and massing. Whilst this would result in a new structure in an otherwise open part of the site, the impact upon the openness of the Green Belt is not considered to be significantly adverse, particularly when considered against the purposes of including land within the Green Belt.

This impact is partly mitigated by the existence of mature trees to the rear of the proposed building which would screen views from visually sensitive receptors such as the residential properties on Castle Hill. This can be further enhanced by the addition of landscape planting which can be secured by planning condition if appropriate. However, siting the building in closer proximity to the existing clubhouse at the site would further reduce any impact upon the openness of the Green Belt.

Nevertheless, the principle of the proposed development within the Green Belt is considered to be acceptable and, on balance, the impact of the development on the openness of the Green Belt is not considered to be significantly adverse.

#### *Design and the Chilterns AONB:*

Core Strategy Policy CS24 supports application of the policies and actions set out within the Chiltern Conservation Board's Management Plan and the Chilterns Building Design Guide. Saved Local Plan Policy 97 states that the prime planning consideration is the conservation of the beauty of the area but the economic and social well-being of the area and its communities will also be taken into account. Specifically for new buildings (a), any development must:

- Not be intrusive;
- Be sympathetically designed having regard to contours, landscape, planting and other buildings; and
- Colours and materials used must fit in with the traditional character of the area.

The proposed development is considered to accord with the above principles and policies of development within the Chilterns AONB by virtue of its proposed design, construction and use of materials. Specifically, the proposal seeks to utilise materials which would reinforce local distinctiveness, namely the use of flint on the curved outer wall to emulate Berkhamsted Castle and timber cladding on the more subordinate facades to reflect the surrounding agricultural character. The building would also have a low-profile in terms of scale, massing and height, with the highest element being the curved wall at just over 3 metres high. As such it would not be overly obtrusive within,

or harm the scenic beauty of, the Chilterns AONB, particularly considering existing landscape vegetation and the fact that this can be improved with additional screen planting.

*Historic Environment:*

Although not sited within any designated heritage asset, the proposed building's design is considered to be sympathetic to the setting of nearby designated heritage assets and incorporates elements which contribute, and visually link, to the site's surroundings. This includes the use of a local flint stone panel to the front which emulates the materials which are/would have been synonymous with the Norman Berkhamsted Castle. This is considered to accord with paragraph 80 of the NPPF (in respect of Green Belt) insofar as the proposed building design would preserve the setting and special character of a historic town. The proposal also complies with national planning policy in regard to the historic environment, including paragraph 131 which states that local planning authorities should take account of the desirability of new development making a positive contribution to local character.

In terms of any archaeological heritage assets (known or as yet undiscovered), SP note that the County Council's Historic Environment Advisor has provided comments on the planning application recommending two conditions to be attached to any forthcoming planning permission.

*Other Considerations:*

SP also wish to also highlight the technical work currently being completed by the Strategic Planning Team as part of the early partial review of the adopted Core Strategy (as advised by the Planning Inspector at Examination) and in preparation for a new single Local Plan. An element of this evidence gathering includes completion of an Outdoor Leisure Facilities Assessment Report (published September 2014) and subsequent Playing Pitch Strategy and Action Plan which is due to finalised and published by mid-May 2015.

This work has so far highlighted that there is a Borough-wide shortage of cricket pitches and concern that the quality of ancillary facilities are preventing the maximised use of existing sites. Also, sport-by-sport demand trends identify that participation in women's and girl's cricket is a national priority which highlights the need to ensure clubs provide segregated changing facilities to support that growth in participation.

*Conclusion:*

In summary, the proposed development is considered to be acceptable in principle and would not have a significantly adverse impact upon the openness of the Green Belt. In terms of design and the impact upon the Chilterns AONB, the proposed building would be relatively low-key and sympathetic to this designated landscape and respects the policies and principles advised by the Chilterns Conservation Board. Finally, with historically sensitive and designated heritage assets surrounding the application site, the proposal is considered to acknowledge and contribute positively to the local historic environment. Therefore, the Strategic Planning Team raises no objections.

Conservation & Design

- Initial Response

Concern with the proposed location of the pavilion with respect to the sports pitches and specifically as indicated in the layout plan that of the adjacent football pitch the corner of which would only be around 2 metres from the proposed curving flint spine wall of the pavilion. As such the close proximity to the football pitch of the pavilion at that point is considered to be potentially dangerous for players (being pushed off the pitch or sliding off) and could even prove to be a hindrance to players taking corner shots/throw in's. This is would be even more likely to be the case were there to be the need for some form of surface treatment proved necessary. This could easily be resolved by either moving the building slightly to the north or shortening the length of the pavilion.

With respect to the flat roof design of the pavilion it is considered there are at least two areas of concern, not least the proposed use of an artificial grass covering for the roof. One of the concerns here is the appropriateness of a flat roof form given the proposal to site the structure below the canopy of existing mature trees as there would appear to be without regular maintenance drainage issues especially in the autumn when the trees shed their leaves, a situation likely to be further exacerbated by the proposed use of an artificial grass covering. The use of artificial grass for a roof covering may well help camouflage the pavilion's roof during those months when the trees are in leaf but is equally likely to be very conspicuous when there are no leaves on the trees.

It is suggested that given the height of the spine wall the pavilion structure behind could easily take a low mono pitched roof which with the right covering say a lead substitute or rubberised covering would be more likely to be recessive in character.

Curved flint screening walling – it is noted that the suggestion is that the use of this material is a reference to the material of the nearby ruined castle where the flint to be seen is actually the course flint rubble core to once dressed stone walling, the stone have long since been robbed. Whilst Conservation and Design appreciate the proposed curved spine walling to the pavilion do however believe a flint wall would be quite stark and prominent feature set against the existing vegetation and tree canopy. There is also concern given the very limited information as to the means and form by which this flint wall would take.

It is believed that a vertical timber walling would provide a more in keeping and recessive form than the hard and prominent flint wall.

It is considered that the positioning of the two changing room door so close to each other and taking into account the spine walling directly opposite the doorways creates a somewhat awkward and potentially dangerous pinch point for those entering and leaving. It is considered to be a missed opportunity here to have a greater degree of separation between the entrances to the changing rooms and an opportunity for people to use both end of the most forward of the curved spine walls to get to and from the changing rooms.

It is believed given the likely usage of the pavilion throughout the year that there would be a need for some sought of surface treatment around the entrances to avoid the ground being eroded or becoming muddy and worn.



Lastly the submitted drawings do appear somewhat basic and do not provide the necessary level of details with respect to the form of the spine wall , exterior doors or drainage and ventilation, all of which would have a bearing on the quality and appearance of the finished building.

It is believed if the above were to be addressed then Conservation and Design would be likely to no longer have concerns over this proposal.

- Further Advice

There has been a review of the overall design following a site meeting and the receipt of additional information.

The conclusion is that there remains a fundamental concern regarding the proposed artificial grass roof.

This can be entirely addressed by the use of an alternative substitute material such as lead or artificial / synthetic lead.

#### Building Control

No adverse comments.

#### Trees & Woodlands

Notwithstanding the need for extra storage facilities it seems unfortunate that the development is pushing out into the green space when perhaps it could be included within the existing cluster of buildings.

If the proposed development goes ahead in the current position please include usual protection for the corner trees.

#### Rights of Way

No response.

#### Scientific Officer

- Initial Response

The site is not located within the vicinity of potentially contaminative former land use; as such I have no comments to make in respect of contamination.

- Further Response

No specific comments to make in respect of the notification of amended and/or additional plans/information.

In reference to the application proposals in general, it is understood that Kitcheners Fields were used for military purposes during World War 2. There exists the slight

possibility that this activity may have affected the application site with potentially contaminated material. Therefore, would it be possible to amend my original response to recommend that the developer be advised to keep a watching brief during ground works on the site for any potentially contaminated material. Should any such material be encountered, then the Council must be informed without delay, advised of the situation and an appropriate course of action agreed.

#### Noise/Pollution

No response.

#### Food/ Hygiene / Health & Safety

No response.

#### Hertfordshire County Council: Historic Advisor

The site lies within Area of Archaeological Significance No.21, within 180m of the Scheduled remains of a Roman building (SM HT88). The potential for regionally and nationally important heritage assets extends well beyond the Scheduled areas, including into the proposed development site.

The position and details of the proposed development are such, that it should be regarded as likely to have an impact on significant heritage assets. It is therefore recommended that the following provisions be made if the LPA grants planning permission:

- The archaeological evaluation of the proposed building footprint by means of strip, map and sample methodology.
- Construction of access, service runs, landscaping etc. should be archaeologically monitored.
- A contingency for the archaeological investigation of any remains encountered during the monitoring programme
- The analysis of the results of the archaeological work and the production of a report and archive.
- Such other provisions as may be necessary to protect the archaeological interest of the site.

These recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal.

These recommendations closely follow the policies included within National Planning Policy Framework (policies: 135, 141 etc.), and the guidance contained in the Historic Environment Planning Practice Guide.

In this case two appropriately worded conditions on any planning permission relating to these would be sufficient to provide for the level of investigation that this proposal warrants. The following are recommended:

#### Condition A

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research

questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Condition B

i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition (A).

ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

#### Hertfordshire Ecology

The application site impacts upon an existing sports field which is regularly used. HE has no records for the site and Hertfordshire Ecology has no reason to consider that there is any significant ecological interest associated with the application site.

The scrub in the corner of the site will not be affected by the proposals. Some additional scrub planting next to the building may help to reduce its immediate visual impact locally, or perhaps new hedgerow planting along the existing adjacent field boundaries may further soften any new building feature. Any additional planting would provide some local ecological enhancement at the site level.

However currently the area is generally largely open and a view may need to be taken on the impact of a hedge in this area if the open character is to be maintained. Notwithstanding this, the sports pitches do represent very visible formal leisure facility in an otherwise significant open valley environment.

There is no reason to object to the proposals on the grounds of ecology and there is no reason to consider there are any other ecological issues associated with this proposal.

#### Hertfordshire Fire & Rescue Service

##### • Initial Response

Based upon the examination of the drawing HFRS note that the provision for hydrants or access does not appear to be adequate.

- The nearest hydrant is outside no. 6 Castle Hill some 200m + from the existing building and 400m+ from the proposed structure.

- The access road appears to finish at the existing building (unless the red line on the plan indicates a new access road).

Access and facilities. Access for fire fighting vehicles should be in accordance with The Building Regulations 2000 Approved Document B (ADB), section B5, sub-section 16. Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 15 tonnes. Turning facilities should be provided in any dead-end route that is more than 20m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 20 in section B5.

Water supplies. These should be provided in accordance with BS 9999.

Hydrants. This authority would consider the following hydrant provision adequate:

- Not more than 60m from an entry to any building on the site.
- Not more than 120m apart for residential developments or 90m apart for commercial developments.
- Preferably immediately adjacent to roadways or hard-standing facilities provided for fire service appliances.
- Not less than 6m from the building or risk so that they remain usable during a fire.
- Hydrants should be provided in accordance with BS 750 and be capable of providing an appropriate flow in accordance with National Guidance documents.
- Where no piped water is available, or there is insufficient pressure and flow in the water main, or an alternative arrangement is proposed, the alternative source of supply should be provided in accordance with ADB Vol 2, Section B5, Sub section 15.8.

Other. Buildings fitted with fire mains must have a suitable hydrant sited within 18m of the hard standing facility provided for the fire service pumping appliance.

The comments made by this Fire Authority do not prejudice any further requirements that may be necessary to comply with the Building Regulations.

#### • Second Response

HFRS held a meeting with the applicant on 9/9/15 to discuss other arrangements for the proposed new changing rooms at the . The following issues were discussed:

- The nearest fire hydrant is 400m from the proposed building and 200m from the existing one.
- Access to the proposed building is not possible for a fire appliance as there is approx. 200m of rough ground between the existing building and the proposed one.
- The above factors would cause a delay in the commencement of tackling any fire at the proposed and existing building.

Bearing these factors in mind the following course of action was agreed:

- The proposed building would be considered to be sacrificial.
- The two changing rooms *could* be fire separated (to a 30 minute standard) to

restrict the growth and spread of fire.

- An Emergency Water Storage Tank could be added straight away or at a later date which would benefit the proposed and existing buildings.
- This tank must be *at least* 6m from any existing structure so that it remains usable in the event of a fire in that structure.
- In this case the tank must have a minimum capacity of 25,000 litre's and be charged from a mains water supply.
- In the meantime (or if the tank is not added) there must be a robust evacuation strategy in place to ensure both buildings are cleared of persons prior to the arrival of the fire service due to the difficulty of putting a water supply in place.

The comments made by this Fire Authority do not prejudice any further requirements that may be necessary to comply with the Building Regulations.

#### Hertfordshire Constabulary: Crime Prevention Design Advisor

Whilst not against the proposed development, it is advised:

1. Recess areas: There are recess areas by the various access doors. HC would advise these should be removed, so as to not provide any hiding areas. Also this will aid natural surveillance over the proposed building from the club house.
2. Height of building: Being single story it will be important that the roof will be high enough to deter youths trying to climb on top, as well as not having any bins at the side or similar that could be used as an informal climbing aid.
3. Alarm: If anything valuable is stored within the building, then consideration should be given to fitting an alarm.

It is hoped the above is of use to the LPA in its deliberations and will help the development achieve that aims of the National Planning Policy Framework: Para 69 – re safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion and Decorum Core Strategy Policy CS12: safe access, layout and security.

#### Chilterns Conservation Board

It will not be commenting on the planning application.

The Board recommends that the decision-maker takes into account the following:

- The Chilterns AONB Management Plan.
- The Chilterns Buildings Design Guide and Supplementary Technical Notes on Chilterns Building Materials (Flint, Brick and Roofing Materials).
- The Environmental Guidelines for the Management of Highways in the Chilterns.
- The Board's Position Statement on Development Affecting the Setting of the Chilterns AONB.

#### Environment Agency

This site is in Flood Zone 1 and is under a hectare. Therefore cell F5 of the

consultation matrix applies and there's no need for consultation.

The main flood risk issue at this site is the management of surface water run-off and ensuring that drainage from the development does not increase flood risk either on-site or elsewhere.

The Environment Agency recommend the surface water management good practice advice in cell F5 is used to ensure sustainable surface water management is achieved as part of the development.

If the Council has identified drainage problems at this site through your Strategic Flood Risk Assessment or Surface Water Management Plan, the LPA may want to request a formal Flood Risk Assessment from the applicant in line with Flood Risk Assessment Guidance Note 1.

#### English Heritage/Historic England

Clarification upon response awaited.

#### EDF Energy

No response.

#### Sport England

##### • Initial Advice

The consultation is statutory as it affects a playing field. Unfortunately, SE is not currently in a position to make a substantive response to the consultation because insufficient information has been provided to allow SE to make an informed assessment of whether the proposal would accord with SE's playing fields policy, A Sporting Future for the Playing Fields of England [www.sportengland.org/facilities-planning/planning-for-sport/development-management/planning-applications/playing-field-land/](http://www.sportengland.org/facilities-planning/planning-for-sport/development-management/planning-applications/playing-field-land/) and paragraph 74 of the NPPF . In order to allow SE to carry out a fully informed assessment SE request the following information to be provided: regarding Playing Pitch Impact:

Site plans (to scale) showing the existing winter (football) and summer (cricket) playing pitch layouts on the playing field where the changing facility is proposed.

An existing site plan has not been provided to allow an informed comparison to be made.

An issue of potential concern is the run-off area (safety margin) around the football pitch. The FA recommend a minimum of 3m around the perimeter of the whole pitch which is clear of obstructions but the proposed site plan indicates that the run off area around the corner of the existing pitch may be less than 2m. Ideally the proposals would allow the recommended 3m but as an absolute minimum 1.83m should be provided. It would therefore be helpful if the plans could confirm the extent of the run-off area, both existing and proposed. In the event that the proposed plans show that

an insufficient run-off would be provided, it is advocated that this be addressed through minor amendments to the extent of the proposed spine wall or re-aligning the football pitch without reducing its dimensions. This information is requested to allow an informed assessment to be made of the impact of the proposals on the use of the playing field.

The above information has been requested to allow an informed assessment to be made of the proposals against our playing fields policy. .

Until then, Sport England's interim position on this proposal would be a holding objection. This would be removed following receipt of the requested information. The provisions of The Town and Country Planning (Consultation) (England) Direction 2009 would apply if the Council were minded to resolve to approve the planning application (i.e. the application would need to be referred to the Secretary of State) before the requested information is provided.

As SE is currently unable to make a substantive response, in accordance with the Town and Country Planning (General Development Procedure) (Amendment) Order 2005, the 21 days for responding to the consultation will not commence until I have received the information requested above.

- Main Advice

No objection as a statutory consultee. The principle is supported as a non statutory.

- Comments made as a statutory consultee

The site forms part of, or constitutes a playing field as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No. 2184). The consultation is therefore statutory and Sport England has considered the application in the light of the National Planning Policy Framework (in particular Par 74) and its policy to protect playing fields, 'A Sporting Future for the Playing Fields of England (see link below).

<http://www.sportengland.org/facilities-planning/planning-for-sport/development-management/planning-applications/playing-field-land/>

Essentially Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one of 5 exceptions applies.

The proposal is for a small changing and storage pavilion that would be sited in the corner of Berkhamsted Cricket Club's second cricket ground. The rationale for the facility is explained in detail in the Design & Access Statement. In summary, additional changing facilities would support the development of ladies cricket on the second ground, support the development of short cricket formats such as Kwik and limited overs cricket and provide facilities to support the growth in the need for the second ground to accommodate more cricket matches and training on the site.

The existing cricket pavilion facilities do not have the capacity for meeting these needs and are not well suited for serving the second ground. The changing facilities would also be used by football and lacrosse clubs that are based on the site which use the

outfield of the cricket pitch in the winter. The storage facilities would provide secure equipment storage for the sports that are played on the site. This would help ensure that the football and lacrosse clubs stay on the site which would contribute to the overall sustainability of the cricket club facilities.

In terms of the impact on the playing field, while SE have not visited the site, the new pavilion would be sited in the south west corner of the cricket ground and would partially be under the canopy of mature trees. While the building would slightly encroach onto the playing field, the cricket pitch outfield area would not be affected. Whilst the siting would reduce the run-off area around the corner of the existing football pitch that is marked out in winter, it is understood that the pitch can be moved slightly to ensure that the minimum run-off area is maintained.

As the development would provide enhanced ancillary playing field facilities to meet the needs of the sports users of the site, the proposals would be clearly ancillary to the principal use of the site as a playing field.

In this instance, Sport England is therefore satisfied that the proposal meets exception E2 of the above policy, in that the development is ancillary to the principal use of the site as a playing field and does not affect the quantity or quality of existing pitches, or adversely affect their use. This being the case, Sport England **does not wish to raise an objection** to this application as a statutory consultee.

- Comments made as a non-statutory consultee

#### *Principle of the Development*

Sport England has assessed the application in the light of its Planning for Sport Aims and Objectives Guide (2013) [www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives/](http://www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives/) which is consistent with the NPPF. This Guide's Objective 2 relates to ensuring that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable. This includes encouraging new and wider provision on existing sports facility sites.

The proposal would provide a significant enhancement to the ancillary facilities that support the use of the playing field by Berkhamsted Cricket Club and other community sports clubs which would help grow and sustain participation in sport and assist with sustaining the facilities over a long term period.

It should be emphasised that modern pavilion facilities are considered to be essential to support the use of community playing fields. Without such facilities being provided this can reduce the quality of the overall playing field facility and can be less attractive to potential playing field users, particularly from groups in the community that are less likely to participate in sport.

The development would clearly accord with Sport England's Planning for Sport objective 2. Sport England would therefore wish to confirm its **support** for the principle of this planning application.

Also in according with Sport England's planning policy objectives, Sport England consider that the proposal would accord with the relevant aspects of Government



planning policy in the NPPF. In particular, the proposal would accord with paragraph 70 which in order to deliver the social, recreational and cultural facilities and services the community needs, advises planning decisions to plan positively for the provision of community facilities (which specifically includes sports venues).

### *Green Belt Policy*

When assessing proposals on playing field sites in the Green Belt, attention often focuses on the acceptability of the ancillary facilities that support playing fields especially pavilion/changing room buildings. The Government's policy in paragraph 89 of the NPPF is that while new buildings in the Green Belt are generally inappropriate, an exception to this relates to the provision of appropriate facilities for outdoor sport. The need for the replacement pavilion has been explained in detail in the planning application documents. A small building with a set of team changing rooms and an equipment storage area is considered to be necessary and appropriate in scale to support the scale of activities that take place on the site.

### *Principle of the Development*

Sport England has assessed the application in the context of its Planning for Sport Aims and Objectives Guide (2013) [www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives/](http://www.sportengland.org/facilities-planning/planning-for-sport/aims-and-objectives/) which is consistent with the NPPF.

The Guide's Objective 2 ensures that the best use is made of existing facilities in order to maintain and provide greater opportunities for participation and to ensure that facilities are sustainable. This includes encouraging new and wider provision on existing sports facility sites.

The proposal would provide a significant enhancement to the ancillary facilities that support the use of the playing field by the Cricket Club and other community sports clubs which would help grow and sustain participation in sport and assist with sustaining the playing field over a long term period.

It should be emphasised that modern pavilion facilities are considered to be essential to support the use of community playing fields. Without such facilities being provided this can reduce the quality of the overall playing field facility and can be less attractive to potential playing field users, particularly from groups in the community that are less likely to participate in sport.

The development would clearly accord with Sport England's Planning for Sport objective 2. Sport England would therefore wish to confirm its **support** for the principle of this planning application.

In addition to according with Sport England's planning policy objectives, the proposal would accord with the relevant aspects of the NPPF. In particular, the proposal would accord with paragraph 70 which in order to deliver the social, recreational and cultural facilities and services the community needs, advises planning decisions to plan positively for the provision of community facilities (which specifically includes sports venues).

## 6 Castle Hill

The planned increase in capacity at the site will result in increased activity, more people and more cars, and the site does not have sufficient infrastructure to support this.

The submitted photographs to illustrate the irresponsible nature of the Clubs current activity and the impact it has on the surrounding residential area. The Club does not have sufficient parking capacity at present and uses the approach road and Castle Hill. This problem will be exacerbated by adding additional changing facilities.

Traffic parking measures were introduced some years ago to ensure parking on Castle Hill was restricted, This restriction applies only to weekdays, but Clubs activities would justify extending this restrictions to the weekends. The area was not designed to accommodate hundreds of vehicles and there is often congestion at the entrance to the club, on the bend on Castle Hill, which creates a traffic hazard.

In addition to the noise and nuisance factor to local residents that this area of countryside has already been over developed. Plans by Berkhamsted School (4/02338/11/MFA) to develop their own sports field were rejected by the Council, and at appeal, because it was considered visually intrusive and it would have a “detrimental impact on an Area of Outstanding Natural Beauty and the associated Green Belt area”.

The Council considered this area of Berkhamsted to be of extreme importance to the town, and confirmed that they had an obligation to preserve it from development, both now and for generations to come.

This application by BCC should be considered in exactly the same ways as Berkhamsted School’s application. The principle is the same, and the Council should reject this application in order to ensure a consistent approach and to save the area from incremental erosion.

### **Considerations**

#### Policy and Principle:Green Belt

Core Strategy Policy CS5 and the National Planning Policy Framework policies support opportunities for outdoor sport and recreation. The NPPF explains that provision of appropriate facilities for outdoor sport / recreation are not inappropriate development and therefore acceptable in the Green Belt. This is so long as they preserve the openness of the Green Belt and do not conflict with the purposes of including the land within it. Moreover, the NPPF supports the delivery of sports, social and recreational facilities for community needs in 'Promoting Healthy Communities'. The proposal is community orientated.

The Green Belt's 5 purposes are:

- To check the unrestricted sprawl of large built areas,
- To prevent neighbouring towns merging,
- To assist safeguarding the countryside from encroachment,
- To preserve the setting and special character of historic town, and
- To assist in urban regeneration, by encouraging the recycling of derelict and other land.

The NPPF confirms that once defined LPAs should plan to positively enhance the beneficial use of the Green Belt. This includes opportunities to provide access and outdoor sport and recreation, to retain and enhance landscapes and in the interests of visual amenity and biodiversity.

The 'starting point' in this case is that the proposal will be on the site of an existing sporting facility within the Green Belt.

Policy CS5 confirms that small-scale development will be permitted within the Green Belt including buildings for the uses defined as appropriate in national planning policy. Paragraph 89 of the NPPF states that the construction of new buildings should be regarded as inappropriate development in the Green Belt with the exception of, inter alia, the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

The proposal is a building ancillary to an established sport and recreation site and therefore acceptable in principle as an appropriate facility for outdoor sport. Sport England considers that the proposal accords with Green Belt policy – 'a small building with a set of team changing rooms and an equipment storage area is considered to be necessary and appropriate in scale to support the scale of activities that take place on the site'.

In terms of openness, the building's location benefits from the existing vegetation and is relatively low profile in terms of height and massing. Whilst this would result in a new structure in an otherwise open part of the site, the impact upon the openness of the Green Belt is not significantly adverse, particularly when considered against the purposes of including land within the Green Belt. The effect of the new canopy would be limited to match day uses.

Therefore there are no objections to the principle of the development.

Design/ Visual Implications by Day: AONB / Visual Amenity of the Green Belt/ Setting of Berkhamsted Castle/ Arboricultural- Soft Landscaping Implications

This is with due regard to the site's very sensitive setting, the specialist advice of the technical consultees and the raft of relevant NPPF, Core Strategy and saved DBLP policies which aim to safeguard the natural and built environment/ heritage.

*BCC's Approach to Design*

The supporting statement confirms the following approaches to the pavilion's design:

- The new small pavilion is about enhancing the experience for existing users, improving resources, and delivering operational flexibility.
- Siting the pavilion in its corner location shelters the timber structure under the mature tree canopy and out of view from the residents of Castle Hill.
- This location provides the maximum shelter from prevailing winds through the valley and avoids prominent skylines. With the playing fields being so large, the proposed pavilion provides a 'destination' to visitors and crowds who have come to watch sport, whilst providing some of the best views through the valley.
- The design directly responds to its location. With Berkhamsted Castle located close by, the flint wall directly reflects the building materials used at the Castle and in many of the historic buildings around the Town and surrounding Hertfordshire. The pavilion's curved form directly follows the land's topography. The three elements of location, form and construction material will minimise the buildings impact whilst harmoniously enhance its surroundings.
- The removable 'match day' canopy with a double pitch design refers back to a historical sporting past when marquees were used. Its ability to be demounted and remounted means that the pavilion footprint is minimised in comparison to a traditional pavilion viewing 'deck' or 'balcony' when it is not in use. However, when mounted, optimises the location to provide an iconic building that celebrates the theatre of sport.
- The natural materials and the buildings temporary form helps to compliment and not distract attention from the function of the Main Clubhouse, but instead, provides an overall positive addition to the playing fields.
- In addition to extensive consultation and engagement with the wide range of stakeholders, Berkhamsted community and governing bodies in developing the designs in the construction of a new storage/changing room building and the refurbishment of the existing Clubhouse, BCC has developed its design under the 'Chiltern Building Design Guide' (Para 1.22), and the 'Chiltern District Local Plan – Recreational Provision' (Chapter 10). It has also sort 'design leadership' from the Chilterns AONB Dunstable Downs Visitor Centre for what is acceptable within the Chiltern landscape. There has also been specific design reference to surrounding buildings which overlook Kitcheners Field. These include an Art Deco house on Castle Hill and the Headlands House on Shenstone Lane.

### *Policy Context*

Core Strategy Policy CS24 supports the application of the policies and actions set out within the Chiltern Conservation Board's Management Plan and the Chilterns Building Design Guide.

Saved DBLP Policy 97 states that the prime planning consideration is the conservation

of the beauty of the area but the economic and social well-being of the area and its communities will also be taken into account. Specifically for new buildings any development must:

- Not be intrusive;
- Be sympathetically designed having regard to contours, landscape, planting and other buildings; and
- Colours and materials used must fit in with the traditional character of the area.

### *Assessment*

This is with due regard to the Conservation Officer's very recent specialist advice, that from Strategic Planning and that Chilterns Conservation Board has not decided to provide a detailed response.

At this typical transitional point close to the urban edge featuring established sports pitches there is an inevitable demand for associated recreational facilities such as changing rooms/ pavilions.

The proposed building accords with the approach towards new development in the AONB by reason of its proposed design, construction and use of materials. Specifically, the proposal seeks to utilise materials which would reinforce local distinctiveness, namely the use of flint on the curved outer wall to emulate Berkhamsted Castle and timber cladding on the more subordinate facades to reflect the surrounding agricultural character. The building would also have a low-profile in terms of scale, massing and height, with the highest element being the curved wall at just over 3 metres high.

The building will be clearly visible within the landscape in this prominent and isolated location. The collective effect of its low profile form, levels and its setting in relation to existing planting and the rising land behind have all been taken into account in softening its assertiveness but providing a strong and not overly obtrusive presence with key references to the historic context and local materials, reinforced by the temporary demountable tented structure only used on match days.

The AONB can support contemporary designs in prominent locations, so aptly demonstrated by the Dunstable Downs Centre. Rather than the 'standard' utilitarian timber clad shed' the pavilion's innovative and different design represents a refreshing change .

There is a need to use an alternative material to the proposed artificial grass roof which is addressed by a recommended condition. On this basis the building can be supported in association with soft landscaping conditions with no harm to the AONB's scenic beauty.

### Impact upon Residential Amenity

This is in the context of Dacorum Core Strategy Policy CS12 and the NPPF's paragraph 133. There is a longstanding relationship between the nearby housing and

the sports facilities in the immediate locality.

The use of the building as an ancillary facility to the main Clubhouse should ensure that the current harmonious relationship/ coexistence between the housing and sports facilities can be maintained, with no resultant harm to the residential amenity of locality. This with regard to noise / disturbance and privacy.

#### Highway Safety/ Access/ Emergency Access/Parking/ Traffic Generation/ Sustainable Location /Inclusive Access/ Access for Persons with Disabilities

Traffic Generation. As the building's use is to be ancillary to the main Clubhouse, and with due regard to the information provided by BCC, it is not considered that there would not be resultant traffic generation issues. A recommended condition addresses the use of the building for teaching to take into account the traffic implications.

Fire Access. Currently there is a safe access and an associated turning facility between Castle Hill Avenue and the existing Clubhouse and its car park. However, HFRS initially identified fundamental problems with the lack of a safe fire access between the Clubhouse and the proposed building. Based upon the Club's subsequent site meeting with HFRS, the HFRS considers that the proposal can be supported without the provision of the normal fire access requirements.

Parking. Additional parking is not necessary given the building's ancillary use.

Sustainability. The site is a sustainable location. A Green Transport Plan is recommended, consistent with the approach towards new approved additional facilities serving the Borough's sporting facilities. Recent examples include Hemel and Kings Langley Football Clubs, Berkhamsted, Bovingdon/ Flaunden Tennis and Long Marston Tennis Clubs.

Access for Persons with Disabilities/ Inclusive Access. The overall approach to upgrading BCC's site is to improve its facilities at Berkhamsted Cricket Club in a wholly inclusive way.

#### Ecological Implications/ Biodiversity

There are no adverse ecological implications. Biodiversity benefits will result from new hedge/ tree planting.

#### Flood Risk/ Drainage/ Contamination

There are no fundamental flood risk, drainage or contamination objections. A recommended informative addresses the need for a watching brief for contamination.

#### Crime Prevention/ Security

Hertfordshire Constabulary Crime Prevention Design Officer has expressed some significant concerns regarding its design and by implication its vulnerability in this relatively isolated location.

The Club is aware of these concerns and is confident that there are no overriding

problems. This has been further discussed with Hertfordshire Constabulary. As HC has not recommended refusal and there is not a high level of crime in the area, there would not be a case to resist the proposal based upon crime/ security issues. However, an informative recommends that the Club liaises with the Hertfordshire Constabulary to maximise site security. The use of natural lead as an alternative roofing material is not considered appropriate due to the building's relative vulnerability.

#### Exterior Lighting/ Light Pollution/ Visual Impact at Night

In this very sensitive location there is the need to ensure the strict control of external lighting. There is no proposed external lighting . With regard to the impact of internal lighting there are no windows. A restrictive lighting condition is recommended.

#### Archaeological Implications

Conditions are recommended.

#### Sustainable Construction

A condition is recommended which can address sustainable drainage.

#### Article 35

There has been dialogue between the local planning authority and the agent in accordance with normal Article 35 procedures.

### **Conclusions**

The Council is very supportive of the provision of sporting and community facilities within the Borough.

The proposal will provide a very important complementary / ancillary small scale facility to serve the Club to enable it to consolidate and diversify its very inclusive community role at the site with full support from Sport England.

The building's design principles in making references to the town's heritage provides the historic context. Its design is innovative and different and will make a significant positive 'visual statement' at a prominent location within the AONB with its low profile form, set against the retained boundary planting and the rising land behind. The retention of existing vegetation complemented by additional planting will facilitate the 'visual fusion' of the building within the landscape.

In recommending permission there are now no design objections raised by the Conservation and Design Team, with significantly no adverse response from the Chilterns Design Board, with a comprehensive supportive approach from Strategic Planning. It is fully acknowledged that due to the building's location the issues of fire

access and site security are far from ideal, however neither Hertfordshire Fire and Rescue Service or Hertfordshire Constabulary have recommended refusal

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 The building hereby permitted shall only be used as ancillary to the main clubhouse on the land edged blue on the location plan for changing rooms and storage unless the use for teaching rooms is in accordance with full details submitted to and approved in writing by the local planning authority.**

Reason: The submitted application form specified use for the building is changing rooms and storage. It has been wholly on this basis that the local planning authority and technical consultees have considered the application. The use for classrooms/ teaching would need an associated assessment of the various implications. This is with regard to Policies CS5, CS9, CS12 , CS24, CS25 , CS29 and CS32 of Dacorum Core Strategy with regard to the various environmental , access and highway implications.

- 3 Notwithstanding the submitted details this planning permission does not extend to the use of artificial grass for the roof of the building hereby permitted and no development shall take place until details of an alternative roof material(s) to be used in the construction of the roof and other external surfaces (including samples) of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.**

Reason: To safeguard the character and appearance of the Chilterns Area of Outstanding Natural Beauty in accordance with Policy CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 4 No development hereby permitted shall be commenced until an arboricultural method statement is submitted to the local planning authority. This statement shall show precisely how the development shall be constructed in relation to the existing vegetation including reference to the identified roots, ground conditions, foundations, method of construction ( hand and or machine excavation) and how the vegetation will be safeguarded/ protected during construction. The development shall be carried out fully in accordance with the approved details.**



Reason: To ensure that there is a long term compatible relationship between the development and the adjoining vegetation to accord with to accord with the requirements of Policies CS7, CS10, CS24, CS25 and CS27 of the Dacorum Core Strategy .

- 5 **Within the first planting season following the first use of the building hereby permitted full details of all proposed planting and a scheme to retain existing retained planting (including planting times) shall be submitted to the local planning authority. All the approved planting shall be be carried out in accordance with those details fully in accordance with the approved details. For the purposes of this condition the planting season is between 1 October and 31 March.**

Reason: To safeguard the local environment in accordance with the requirements of Policies CS12, CS24, CS25 ,CS26 and CS29 of the Dacorum Core Strategy.

- 6 **If within a period of 5 years from the date of the planting of any tree, shrub or section of hedge, that tree, shrub or section of hedge or any section of hedge planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), another tree, shrub or section of hedge of the same species and size as that originally planted shall be planted at the same place in the next planting season, unless the local planning authority gives its written consent to any variation.**

Reason: To safeguard the local environment in accordance with the requirements of Policies CS12, CS24, CS25 ,CS26 and CS29 of the Dacorum Core Strategy.

- 7 **There shall be no exterior lighting installed at the building.**

Reason: To safeguard the local environment in accordance with accord with the requirements of Policies CS24 , CS24, CS25, and CS32 of the Dacorum Core Strategy and Polices 97 and 113 and Appendix 8 of the saved Dacorum Borough Local Plan.

- 8 **Before the commencement of the development hereby permitted a Sustainable Design and Construction Statement shall be submitted to the local planning authority. The development shall be constructed and maintained in accordance with approved scheme.**

Reason: To ensure the sustainable development of the site in accordance with Policy CS29 of the Dacorum Core Strategy.

- 9 **No Development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:**

1. **The programme and methodology of site investigation and recording**

2. **The programme for post investigation assessment**
3. **Provision to be made for analysis of the site investigation and recording**
4. **Provision to be made for publication and dissemination of the analysis and records of the site investigation**
5. **Provision to be made for archive deposition of the analysis and records of the site investigation**
6. **Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.**

Reason: To safeguard the site archaeology to accord with the requirements of Policy CS27 of the Dacorum Core Strategy.

- 10 **Development shall take place in accordance with the Written Scheme of Investigation approved under Condition 8 and the development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 9 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.**

Reason: To safeguard the site archaeology to accord with the requirements of Policy CS27 of the Dacorum Core Strategy.

- 11 **Within two years of the date of the first use of the building hereby permitted a Green Travel Plan shall be submitted to the local planning authority for its approval in writing. The Travel Plan shall provide details of measures for reducing car dependency, the need to travel to site by car whilst promoting alternative modes of transport such as walking, cycling and use of public transport. The approved Travel Plan shall then be implemented in accordance with the approved details within 3 months of the date of its approval in writing by the local planning authority. The Travel Plan shall then be operated for at least 5 years from the date of its first implementation. During this period the effectiveness of the Travel Plan shall be monitored by the operator. At the end of this period results of the monitoring shall be submitted to the local planning authority in writing, and modified, if necessary, in accordance with the local planning authority's approval.**

Reason: To accord with the principles of sustainable transportation in accordance with Policy CS8 of the Dacorum Core Strategy.

- 12 **Subject to the requirements of other conditions of this planning permission the development hereby permitted shall be carried out in accordance with the following drawings:**

**Location Plan No1  
Proposed Floor Plan No2  
Axonometric No3  
Proposed Front Elevation No4  
Proposed North Elevation No 5**

**Roof/Block Plan No 6**  
**Proposed Floor Plan No 7**  
**Proposed South Elevation No 8**  
**Proposed Sections No 9**

Reason: For the avoidance of doubt and in the interests of proper planning.

NOTE 1:

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.

**Informatives**

Liaison with Hertfordshire Constabulary Crime Prevention Team

It is recommended that the Club liaise with Hertfordshire Constabulary Crime Prevention Design Advisor/l Crime Prevention Design Service, Hertfordshire Constabulary, Police Headquarters, Stanborough Road, Welwyn Garden City, Hertfordshire AL8 6XF

Site Contamination

There exists the slight possibility that this activity may have affected the application site with potentially contaminated material. The developer should keep a watching brief during ground works on the site for any potentially contaminated material. Should any such material be encountered, then the Council must be informed without delay, advised of the situation and an appropriate course of action agreed.

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**ANNEX 1: Berkhamsted Cricket Club's responses to concerns raised by Berkhamsted Town Council**

Concern 1: The development must not be intrusive in terms of noise, light pollution, traffic generation and parking.

- Cricket is played during the day, there are no windows in the new temporary pavilion to stop any light pollution from the changing rooms.
- The number of games played over the weekend will not change. During the week, BCC would like to see a small increase in the field use to ensure the playing fields financial future, but BCC are not a profit making business.

- With two playing fields, peak attendance numbers to the site will not increase.

Concern 2: Structures must be sympathetically sited and designed having regard to natural contours.

- BCC believe that it has selected the most appropriate position on the site to minimise visual impact to residence, shielding it almost in its entirety by trees from the residence of Castle Hill. The single storey design with a flat roof is shallower than a traditional pitched roof pavilion design. The building design follows exactly the contours of the site and the choice of materials are chosen due to their local reference, of high quality and finished detail.

Concern 3: Foundations will necessitate digging AONB land and positively levelling the contours of the site.

- Minimal foundations are planned, with screw piles used in the main.
- No landscaping is planned in the proposal. The land at the proposed site is suitably level.
- Mitigations to preserve the land would be taken under professional advice and guidance.
- The natural slope of the site will be retained (as seen in the planning drawings).

Concern 4: Tree survey not provided.

- Advice will sought from The Council's Trees & Woodlands Team and the Environment Agency, who are technical consultees.

Concern 5: Does not demonstrate any awareness of, or how it might be in accord with the recommendation in the Chiltern Building Design Guide (para 1.21).

- BCC has developed our design under the Chiltern Building Design Guide para 1.22. Consulting extensively to develop a proposal that meets all of the Chiltern Building Design Guide's recommendations with sympathy.

Concern 6: Many aspects of this proposal are contrary to the design specification such as avoiding prominent skylines, open slopes and flat roofs, and being in harmony with the landscape.

- BCC believe the proposal is not contrary to the design specifications.
- Single storey flat roof avoids prominent skyline intrusion.
- The building seeks to be in harmony and enhance its landscape.

Concern 7: Canopy

- This roof will only be installed during match days during the summer minimising the overall buildings impact when it is not being used.
- The flint wall is the local stone as is directly responsive to the local vernacular / surrounding building such as the Art Deco building on Castle Hill.

Concern 8: The plans appear to show a footpath to the site and around the building.

- This is not a new path, it just shows reference to site access from the road during construction.

Concern 9: The breeze block wall is said to be necessary to support the grass roof.

- This is agreed. The breeze block wall will be clad in flint and is both structural and visual to respond to Berkhamsted's historical heritage and to fit in with the Chilterns traditional building material and local vernacular.

Concern 10: The site is part of the AONB where illumination is not acceptable.

- The planning application does not refer to any external lighting and there is no plans for sports flood lighting.

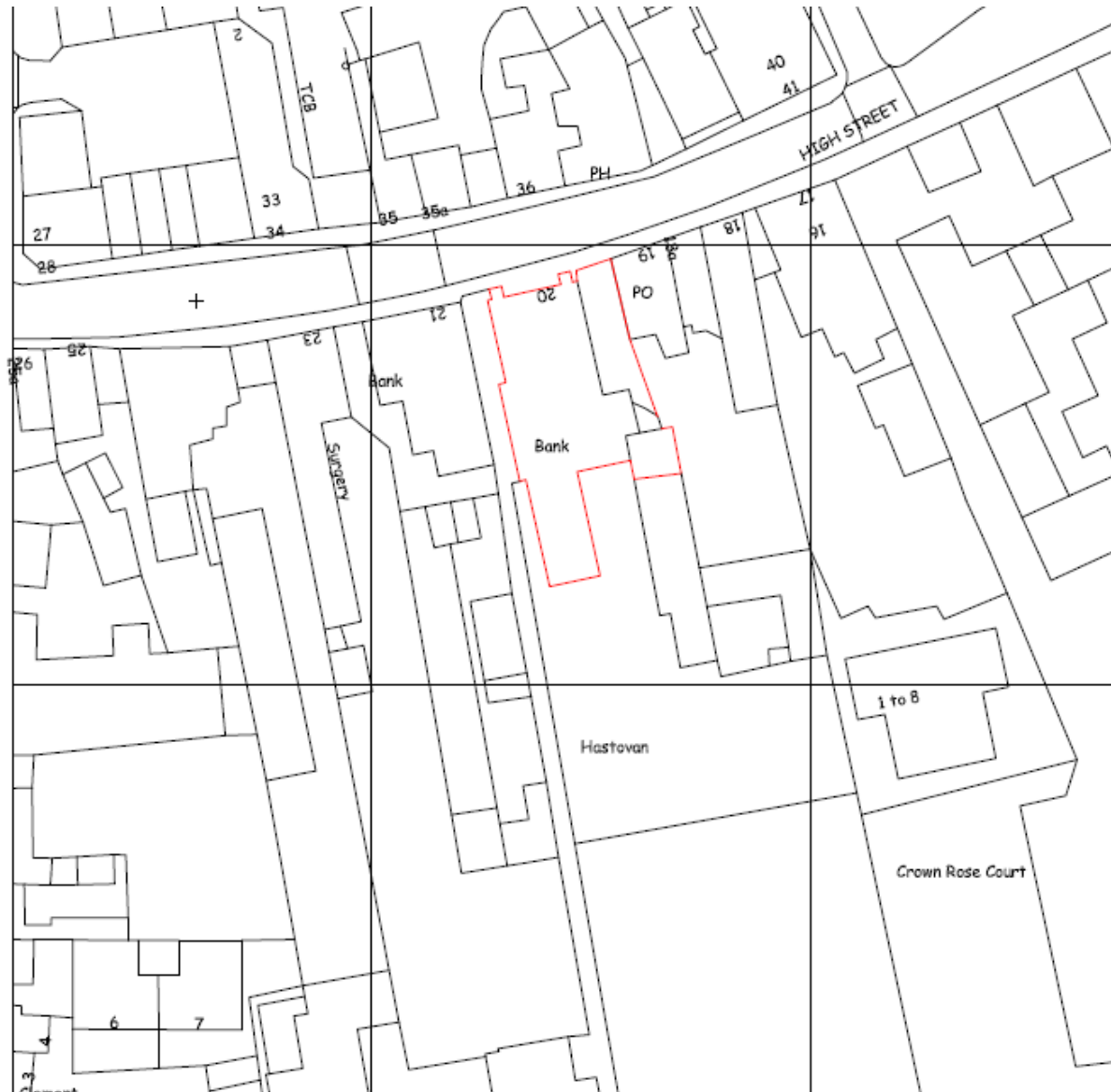
- The proposed pavilion has been designed specifically without glazing to prevent any light pollution coming from the building.

# Agenda Item 5e

## ITEM 5.05

**4/02711/15/FUL- CHANGE OF USE OF FIRST FLOOR ACCOMMODATION AND GROUND FLOOR LOBBY, FROM B1 OFFICE TO C3 RESIDENTIAL, CREATING THREE SELF-CONTAINED FLATS**

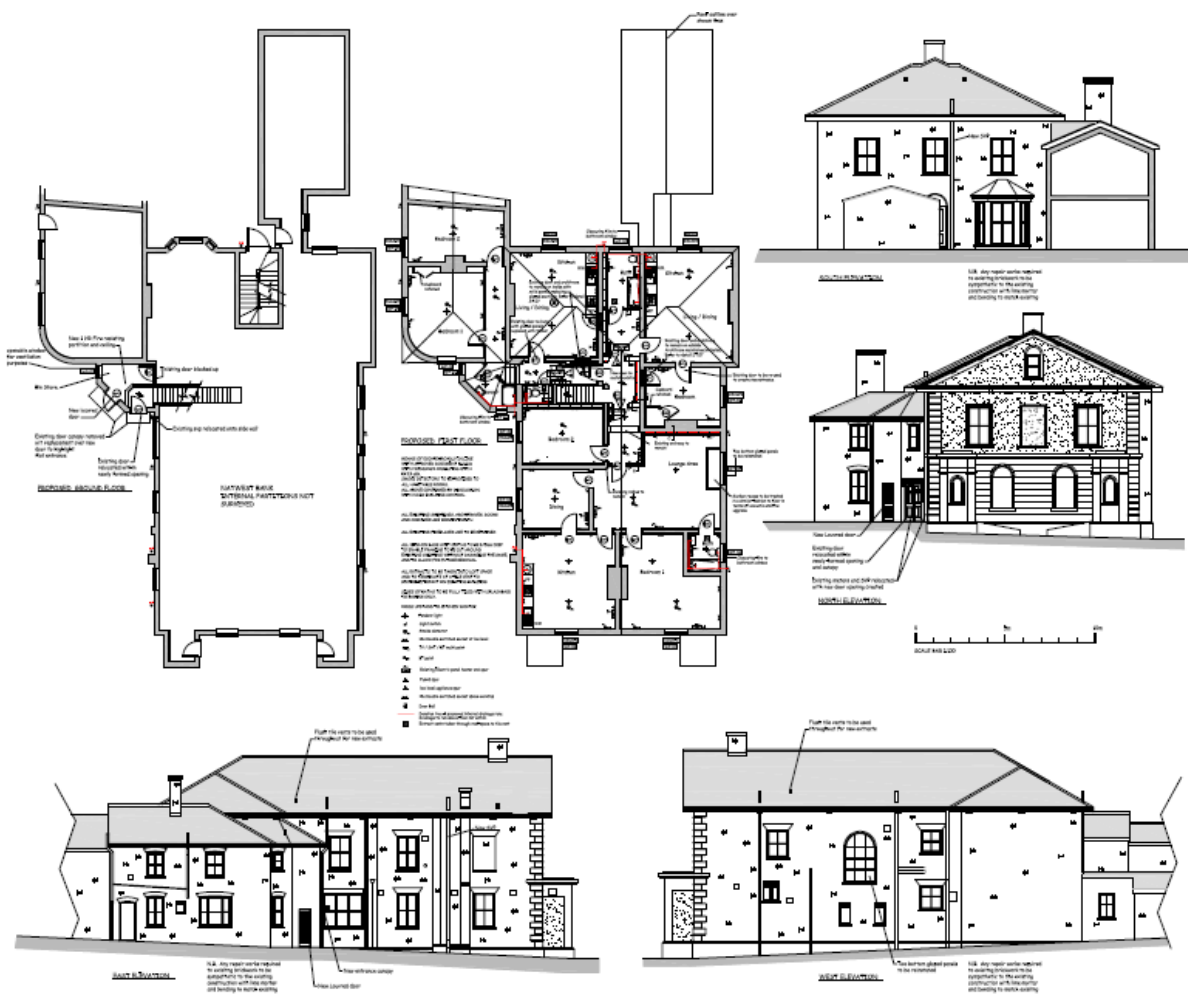
**20 HIGH STREET, TRING, HP23 5AP**



**ITEM 5.05**

**4/02711/15/FUL- CHANGE OF USE OF FIRST FLOOR ACCOMMODATION AND GROUND FLOOR LOBBY, FROM B1 OFFICE TO C3 RESIDENTIAL, CREATING THREE SELF-CONTAINED FLATS**

**20 HIGH STREET, TRING, HP23 5AP**



**ITEM 5.05**

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**20 HIGH STREET, TRING, HP23 5AP**





**4/02711/15/FUL - CHANGE OF USE OF FIRST FLOOR ACCOMMODATION AND GROUND FLOOR LOBBY, FROM B1 OFFICE TO C3 RESIDENTIAL, CREATING THREE SELF-CONTAINED FLATS.**

**20 HIGH STREET, TRING, HP23 5AP.**

**APPLICANT: HOWMAC HOMES LTD.**

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[Case Officer - Nigel Gibbs]

## **Summary**

The application is recommended for approval.

The principle of new residential development is acceptable in accordance with Policies CS1 and CS4 of the Dacorum Core Strategy, with no objection to the loss of the office use.

The proposal provides an opportunity for a beneficial reuse of the vacant listed building, revitalizing this part of Tring Conservation Area.

Following a range of modifications there are no fundamental detailed objections to the conversion which accords, where feasible, with the detailed expectations of saved Policy 19 of the Dacorum Borough Local Plan.

## **Site Description**

The application site is a 19<sup>th</sup> Century Grade 2 vacant office building located to the rear of the Nat West Bank which fronts the High Street. Other than the pedestrian entrance the building is at first floor above the existing offices serving the bank.

The pedestrian access is from a narrow private roadway linking the High Street with a range of commercial and residential units. The roadway is part cobbled and part tarmac. There is no curtilage parking serving the offices.

The site is within the defined Tring Town Centre and Conservation Area and its Area of Archaeological Significance no.10.

## **Proposal**

This is for the building's conversion into 3 two bedroom flats served by a new ground floor pedestrian entrance and a separate essential internal refuse bin store. This store is to be formed through the proposed internal physical subdivision of the existing entrance lobby into two areas.

The slightly modified front elevation involves replacing the existing ground floor pedestrian entrance door with a timber louvered door to serve the new bin store. The existing pedestrian entrance canopy will be removed.

A new pedestrian entrance will be formed and served by the re used existing pedestrian door complemented by a new entrance canopy. The associated changes entail the relocation of a soil vent pipe and external meter boxes. There will be three vented flush tiles installed on the roof.

The conversion focuses upon minimising changes to the building's internal layout. All

existing skirting boards, doors, architraves, cornices and fireplaces will be retained.

The bin store will accommodate 4 bins enabling a mix of the standard general waste and recycling and food waste with room for the small food waste caddies.

There will be associated repairs to the existing external brickwork which are specified to be 'sympathetic to the existing' with the use of lime mortar and bonding to match the existing. Two bottom glazed panels of the main window on the west elevation are to be reinstated.

Note: The application drawings exclude changes to the roof void. The agent has recently confirmed that any associated works to facilitate the conversion - as recently observed by the Conservation Officer and Building Control - are requested to be considered entirely outside the remit of this application.

Background History: Previous Conversion Applications for Planning Permission 4/00539/14/FUL and Listed Building 4/00540/14/LBC, Appeals to the Planning Inspectorate and the Background to the Current Applications for Planning Permission and Listed Building Applications

The applicant's submitted earlier respective planning and listed building applications to convert the building into 4 flats. Although the principle of the conversion was acceptable there were fundamental objections due to the harm to the listed building and its setting and a detrimental effect upon the character and appearance of the Conservation Area, with a lack of an essential refuse facility and problematical internal fire access issues. There were no parking or highway safety objections.

Rather than refusing both applications for very robust heritage and layout reasons officers sought to address these issues. This culminated in the reduction of the number of flats to 3 and the provision of an internalised refuse facility. Despite this there remained unresolved issues safeguarding the listed building, the provision of an acceptable refuse facility and internal fire access safety.

This coincided with the applicants appeals to the Planning Inspectorate on the grounds on non-determination of both applications. This was for non planning contractual reasons regarding the applicant's purchase of the building. The site is currently in receivership.

The LPA would have refused both the planning and listed building applications if jurisdiction had been retained by the local planning authority.

Following the submission of the appeals the applicant then submitted the current respective planning and listed building applications. Consultation was limited with technical consultees given the background history. Yet again the Conservation and Building Control Team representatives identified a series of significant inadequacies and ambiguities in the proposals.

The Planning Inspectorate has arranged to visit the site on 15 December 2015, with decision expected after the meeting of the Development Control Committee.

These appeals are in tandem to the current respective planning and listed building applications. If the LPA grants the current applications before the DCC the appeals will

be withdrawn.

## **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Tring Town Council.

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)

National Planning Guidance Notes

### Adopted Core Strategy

NP1 - Supporting Development

CS1 - Distribution of Development

CS4 - The Towns and Large Villages

CS8 - Sustainable Transport

CS9 - Management of Roads

CS10 - Quality of Settlement Design

CS11 - Quality of Neighbourhood Design

CS12 - Quality of Site Design

CS13 - Quality of Public Realm

CS17 - New Housing

CS19 - Affordable Housing

CS27 - Quality of the Historic Environment

CS28 - Renewable Energy

CS29 - Sustainable Design and Construction

CS31 - Water Management

CS32 - Air, Water and Soil Quality

### Saved Policies of the Decorum Borough Local Plan

Policy 12

Policy 19

Policy 43

Policies 57 & 58

Policy 119

Policy 120

Appendices 1, 2, 3, 4, 5 and 8

### Supplementary Planning Guidance / Documents

Area Based Policies: Tring

Environmental Guidelines (May 2004)

Water Conservation & Sustainable Drainage (June 2005)

Energy Efficiency & Conservation (June 2006)

Accessibility Zones for the Application of car Parking Standards (July 2002)

Note: The Area Based Policies for Tring does not address in any detail the Conservation Area. The approach is limited to conserving the historic core and preserving Tring's character of a small country market town.

### Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Refuse Storage

## **Representations**

### Tring Town Council

Refuses this application on the grounds of there being no provision for parking and inadequate and dangerous access onto the High Street.

### Strategic Planning

There is no objection in principle. This takes into account that if the building was not listed the conversion would constitute permitted development.

### Conservation

#### *Initial Response*

The Conservation and Design Team has no objection to the proposal subject to some minor changes and points of clarification. These are necessary to ensure the significance and appearance of this listed building is retained. The following are recommended:

- Bin store door. The existing door should be removed and used in the newly created opening for the flats. A new part louvered door (or pair of doors) for the bin store should be installed to provide natural ventilation and clearly demarcate this bin store entrance from that to the flats. The open bracketed canopy should be removed, so as to more clearly demarcate this is no longer the entrance.
- New entrance opening for the flats; accuracy of the drawings.
- Open porch canopy over the newly formed entrance doorway. This should give emphasis to being the flats entrance.
- Eaves ventilation. Based upon discussions with Building Control and having regard to the visual effect of having the new ventilators set into the underside of the soffit the ventilators should be over fascia type, placed on the fascia board, up behind the line of the guttering which should mean these vents should be 'virtually invisible' when viewed from the ground.
- In order to minimise harm to the historic fabric and features of the first floor rooms and their proportions the introduction of acoustic upgrading to the existing wall should be limited to just those walls between the flats.

Through liaison with Building Control there are further details for requiring clarification to ensure compatibility with the building's fabric and historic significance.

The issues address fire protection between the different levels and the residential units: -

- Fire breaks in the roof space – how this is to be achieved?. Given the limited access there is to the roof space there are concerns as to practically how the insulation of the ceiling and the fire breaks could be achieved without there being a requirement to make new openings in the historic ceilings. ,
- Fire protection measures for the proposed doorways etc and compatibility with

- the timber architrave detailing / door frames etc.
- The means of fire protection between the first floor and ground floor.

Bin Store/ Lobby Entrance Modifications. It is acknowledged that this is the only credible solution to the need to provide refuse facilities within the application site. It is however a somewhat awkward solution that is far from ideal and visually may appear incongruous with restricted access to the flats that has implications for being able to get furniture in and out of the property.

Overview. On the basis that the plans can either amend in accordance with the above points or additional supporting information is provided then it should be possible to approve the application subject to certain conditions.

### *Response 2: Detailed Design Amendments*

The scheme is now very close now to achieving a good conversion scheme that respects the significance, features and appearance of this important listed building.

Noise Insulation .The changes with respect to the internal noise insulation between the units and the means by which the roof would be vented through the eaves would appear to be acceptable as they accord with the suggested alterations Conservation and Design Team recommended with advice from Building Control. However, the drawing showing the fire proofing should be made clearer in terms of denoting (in accordance with the advice given) which side of the external wall the fire proofing is to be added.

Bin Store etc the design should amended with respect to the louvre door to the bin store area. The provision of a single open canopy over the new entrance is a welcomed. The changes give greater clarity to the use of the different doorways. The proposed re-use of the existing entrance door in the proposed new location is supported but there is concern that this can actually be achieved

Sealing off a number of the internal doorways. Whilst keeping the door architrave and frame the proposal shown in drawing no. 239-06-P3 from a conservation point would be acceptable given the wooden frames continues through the fire protective materials it is unlikely that this approach would comply with Building Regulations.

Fire separations within the roof space. Due to the layout and limitations of this building it is questionable what is being suggested could be achieved or even desirable. There is only one access hatch into the roof space located in the corridor towards the rear staircase (all materials etc would have to be access through this) and there would be a strong resistance to forming any new loft hatches in the ceilings of the principle rooms. Given the form of the building's roof (ie trusses orientated in the same direction as the front elevation of the building) it is necessary to know the position of the roof trusses and in so doing devising a scheme given the limited access to the into the roof space that takes into account the trusses and their position.

### *Response 3: Unresolved fire and noise insulation measures*

Ideally these matters should be resolved before determining the scheme to ensure the proposed conversion can actually be accomplished without there being any adverse impact on the historic fabric and significance of the listed building.

There is a danger if left to condition that whilst permission is given to convert the upper floor of the property to three flats there is however not an acceptable means of providing the required noise insulation and fire protection measures to satisfy Building Regulations. There is a real concern that the LPA would have to accept measures that would be considered far from what would normally be considered acceptable for a listed building.

*Note: This was followed by a note of clarification that the meeting in early September 2015 between the Conservation Officer and applicant considered a range of issues. . This addressed the need for additional information with respect to the refuse/lobby design , the eaves vents and the matter of the noise insulation and fire protection measures to the doors and roof space, flues and vents for the kitchen and bathrooms. Any new vents or flues (potentially for gas boilers or air extraction etc.) through the exterior walling or through the roof would need to box in the pipework through the rooms and potentially visually impacting on the shape and form of the rooms. The developer would need to consider electric central heating systems and electric cookers to overcome the fact that any new external vents would not be supported.*

#### *Final Advice*

Noise Attenuation. The proposed noise insulation treatment to the floors and walls, t now meet the higher standard of noise insulation being now set by the Environmental Health Unit should be achievable with little need, if any, for further disruption to the historic fabric/significance of the building beyond that already being proposed. As such there is no need at this late date to seek additional information from the applicant on how this high level of noise insulation would achieved. The matter can be adequately addressed through a condition.

#### Building Control

Based upon the latest discussions and plans the provision of the separate pedestrian access and refuse facility are acceptable, resolving the previous significant shortcomings.

The applicant appears not to have addressed issues of compartmentalise within the roof space, which will be subject to Building Control approval with respect to fire separation and will have an influence on sound attenuation also. As this has only been identified recently, it is understandable that the issue of bat protection has only now been raised. This is something the contractors would have responsibility regardless and it would appear to be sensible to address it before work proceeds.

#### Noise and Pollution

Having reviewed the additional information provided any planning permission requires the provision of additional floor covering to impact insulation class and to increase sound insulation from 45dB to 50dB e.g carpet, cork or laminate flooring with acoustic underlay.

Walls should provide 50dB insulation between the units.

Reason: To ensure that adequate precautions are implemented to avoid noise nuisance, in accordance with the Policies and procedures of Dacorum Borough Council.

The Council has not received any information in relation the prevention of sound insulation from the Public House.

#### Hertfordshire County Council: Historic Environment

No response.

#### Hertfordshire Ecology

The building does have some potential for bats – it is old, there are bat records along Mansion Drive to the east and the grounds at the back of the property (outside of the application site) are heavily scrubbed and have mature trees, providing good bat foraging habitat locally despite this urban location. Consequently there is a possibility that bats are using the building, although the photographic evidence suggests the roof and associated features are in good condition (good condition slate tiles and clean, flush soffit areas) which limits visible opportunities for bats.

The proposals themselves do not impact upon the roof other than the introduction of a small number (four) of flush tile vents, as shown on drawings 239-03 and 239-06. Whilst these could change the conditions within the roof, given they are attached by a pipe to the living spaces below, HE consider they are highly unlikely to have a significant impact, if any, on the existing roof void. The works to place them in the existing roof will also be very limited in extent. Consequently HE consider the impact of the proposed works to the roof in respect of any possible bat roost, to be negligible.

In respect of the above, HE consider that the likelihood of a bat roost being present is low, and that the impact on the roof is also very low. Consequently HE believe the risk to bats to be negligible and that this falls below the threshold that an LPA would normally require to be met regarding the *reasonable likelihood of a protected species being present and affected by the proposals*, in order to justify a bat assessment.

On this basis HE would not advise that the LPA should require a bat assessment prior to determination, and therefore there should be no reason to require one as a condition. In any event, requesting bat surveys by condition do not follow accepted guidance. This requires that sufficient information should be provided as part of the planning proposals to enable a determination to be made with full knowledge of any impact and compensation requirements, in order to satisfy the Habitat Regulations. Equally, LPAs are not supposed to delay the planning process unnecessarily when considering biodiversity issues.

However, the potential for impact on bats cannot wholly be ruled out and so HE would advise that an informative is attached to any permission advising that:

- *If bats or any evidence of them is discovered during the course of any works, works should stop immediately and advice sought as to how to proceed. This may be obtained from: A suitably qualified ecological consultant; Natural England: 0845 6014523; The UK Bat Helpline: 0845 1300228 or Herts & Middlesex Bat Group:*

Comments received from local residents/ Response to Site Notice/ Newspaper Advertisement

*5 Bank Mews*

Support. However, with regard to the access road it is highly dangerous for pedestrians . Parking could also be an issue.

*19c High Street*

The access is not a good one, being so close to a very busy pedestrian crossing e.g. leads to Dolphin square and a collection of shops including Marks and Spencers . The post office , public house, funeral directors , 2 major banks, building society, plus recently added congestion from extensive building work adjacent to said public house make this perhaps ' the worst bottleneck' in not only Tring but arguably one of the worst in the borough council district. There is already constant movement of vehicles in the 6 or so commercial parking spaces in the mews, plus several further residential properties have recently been created and that this proposed additional load could become a greater traffic hazard. Some of these properties will undoubtedly have deliveries.

Some of the objections to the previous application 4/00539/14/FUL remain valid:

Refuse Storage. Potential residents of these proposed flats are unlikely to keeping rubbish inside until bin collection day, especially during the summer months. The writer can foresee a pile of rubbish bags being left outside in the mews further hampering access in and out and encouraging rats and foxes into this area or coping with not being able to get a car to their entrance (or indeed a removal van when they move in/out).

Access .Access to the building for works to be carried out would presumably be through the mews between the bank and the post office. This narrow alley way is currently used by pedestrians gaining access to the flats at the back of the old Rose & Crown Hotel, the people in the converted flats at the back of the mews, by the existing flat residents and by all employees of our company. This mews is also used for vehicular access to the car park for the converted flats, the existing flats and offices.

If plant and machinery is to be coming and going through this alley way there would be major disruption to traffic on the High Street. Larger vehicles would be unable to access through the narrow space and could block access completely or damage the building façade as was the case recently when a removal van attempted to negotiate the tight space into the High Street. There appears to be a finite quantity of the hand-held remote controls for the barrier with the resultant noise and disruption of constant associated with the barrier's use n.b. barrier no longer in use.

Please see Appendix 1 for

*Important Background Note: Relevant Technical Responses to Application 4/00539/14/FUL: Original Scheme for 4 Flats*

*Important Background Note: Relevant Technical Responses to Application 4/*



## **Considerations**

### Policy and Principle

Core Strategy Policy CS1 supports new housing within Tring. This is subject to it being of a scale commensurate with the town's size and with the range of local services and facilities, helps to maintain Tring's vitality and viability and causes no damage to its existing character.

Under Policy CS4 (Towns and Villages) a mix of uses are acceptable in the Borough's town centres. These include shopping, compatible leisure, business, residential and social and community uses. It is expected that retail, business and residential uses will be controlled to enable a broad range of uses to be maintained/ achieved.

Under saved DBLP Policy 19 the conversion of non residential buildings to incorporate flats or houses will be permitted in the Borough's town centres, subject to an appropriate mix and balance with other uses being achieved.

Set against this background the principle of the conversion is acceptable. Within the site's vicinity there will remain a wide variety of uses and there is no robust case to retain the offices with due regard to these policies and the now established national approach supporting the conversion of the offices to residential normally as permitted development.

### The Layout Expectations of saved DBLP Policy 19: Conversions to Residential

- The Policy

Policy 19 expects that all conversions are be designed to a high standard, taking full account of the character of the area. Conversions which would adversely affect the architectural or historic character of a listed building and/or its setting will not be acceptable.

In particular where flats are provided, the policy expects that the following criteria must also be satisfied:

- (i) flats should be self-contained;
- (ii) flats should have a reasonably convenient layout, having due regard to neighbours;
- (iii) the layout should include adequate amenities, such as refuse disposal facilities, drying areas and proper access to outdoor amenity space: outdoor amenity space should be provided wherever possible, and most particularly where houses would be converted;
- (iv) flats should have a reasonable amount of internal space;
- (v) flats should be adequately insulated to limit the transmission of noise; and
- (vi) unless the building is within easy walking distance of a wide range of facilities, services and passenger transport, convenient

off-street car parking should be provided in accordance with the guidelines set out in DBLP Appendix 5. It must be done without detracting from the amenity and character of the property itself or the neighbouring properties.

- Reasons for Policy 19

These include, where relevant:

1. Older, larger, underused or redundant buildings can be renovated and brought into more effective use through conversions. The more effective use of these buildings and land can reduce the need for development elsewhere, in particular at less sustainable greenfield locations.

2 Converted properties are a significant source of new homes. They are often available at lower prices than newly built houses and flats; they may provide a first rung on the housing ladder for young people and/or suit the needs of small households.

3 However they do need to be controlled. A balance needs to be struck between different sizes and types of accommodation and the stock of single family dwellings protected. Important services used by residents should normally be retained, for example social and community facilities (ref. Policy 68) and local shops. The character and appearance of different parts of the Borough should be protected. Harmful effects on individual neighbours through noise, disturbance, etc, can be avoided by carefully designed layouts and attention to detail. Careful design will have the added benefit of ensuring a reasonable standard of accommodation for future occupiers of the dwellings.

- Background to Policy 19

Issues relevant to this case include:

1. The Council expects converted flats to provide the new occupier(s) with a reasonable standard of living space. Environmental Health standards recommend the minimum size of flat should not be less than 22 sq. m of habitable floor area (habitable floor area is the internal measurement of all living and kitchen areas, excluding toilets, bathrooms and circulation areas).

2. Parking is normally provided with residential development, taking account of existing circumstances. Guidance is given in Appendix 5. Particularly accessible areas lie within 400 m walking distance of shops and services and passenger transport and are defined by Accessibility Zones 1 and 2 in Supplementary Planning Guidance referred to in Appendix 5 under 'Accessibility Zones for the Application of Car Parking Standards'. Criterion (vi) enables parking provision to be relaxed in these locations, because occupiers will have less need to own and use a car.

#### Assessment of the Form of the Development /Layout: DBLP 19 Criteria: Summary

The flats comply with criteria (i), (ii), (iii) in respect of refuse disposal and (iv). The issues of amenity space, noise transmission and parking provision are addressed

below.

Impact upon the Listed Building /Layout/Character and Appearance of the Conservation Area

This is with due regard to Policies CS 10, CS11, CS12, CS13 and CS 27 and saved DBLP Policies 19, 119 (Development affecting Listed Buildings) and 120 (Development in Conservation Areas) and its relevant Appendices.

The outcome of very extensive, necessary and prolonged specialist input by various members of the Conservation Team and Building Control has culminated in a far more acceptable conversion scheme than earlier approaches. Subject to the imposition of conditions the proposal is acceptable. The proposal will rejuvenate this deteriorating listed building in the Conservation Area resulting from the site's ongoing vacancy, with a positive effect upon the Area's character and appearance.

Unlike the original proposals the scheme's bin storage facility ensures that there is no external refuse storage on the roadway which would have been seriously and permanently detrimental to both the setting of the listed building and the character and appearance of the Conservation Area. Currently external storage is regularly visible within roadway associated with longstanding premises in the immediate locality with a resultant but unavoidable harmful effect due to the lack of refuse storage facilities.

Highway Safety (Vehicle/ Pedestrian), Sustainable Location/ Parking / Traffic Generation/ General Access/ Fire Access/ Access for Persons with Disabilities- Inclusive Access/

Highway Safety/ Access/ Traffic Generation. The access is very poor in terms of its width and closeness to such very busy section of the High Street with an extremely high level of pedestrian movements. However, as there is no parking associated with the development this is an overriding benefit resulting from the conversion as the additional vehicular movements would be limited to servicing. On this basis a case to refuse the proposal due to the adverse highway safety implications/ narrow access facility could not be substantiated.

Fire access. Despite the roadway's restricted width a fire tender can park close to the building within 45 metres of all parts of flats. A dry riser could be also be installed.

Sustainable Location. The site's Town Centre location is a really excellent sustainable location. There are a wide range of facilities/ services very close to the site, with nearby main bus stops for all the main routes serving local and wider destinations.

Parking. In this highly sustainable location with due regard to saved DBLP Policy 58 the provision of no parking is acceptable. For clarification saved Dacourm Borough Local Plan Policy 58 (Private Parking Provision) addresses 'Residential Development' under page 186:

'Parking needs, calculated by reference to the parking guidelines in Appendix 5 of the Plan, will normally be met on site.

Car free residential development may be considered in high accessibility locations. Parking provision may also be omitted or reduced on the basis of the type and location of the

development (e.g. special needs/affordable housing, conversion or reuse in close proximity to facilities, services and passenger transport)'.

**Inclusive Access/ Access for Persons with Disabilities/ Limited Mobility.** A negative element of the scheme is the lack of access for wheelchair access to the first floor. It is also difficult to install an internalised stair lift. For clarification under Building Regulations involving residential conversions the standards are less for access for persons with disabilities.

#### Impact upon Residential Amenity of the immediate Locality/Relationship with Adjoining Commercial Units / Amenity Space/ Noise Attenuation

It has been taken into account that historically there has for many years a close coexistence of the cluster of courtyard buildings involving a mix of uses with windows close to each other. Moreover it is understood that the first floor was originally residential. In this context the 'window - window standard privacy' standard should not be applied and there has to be a recognition that in this typical town centre location the background noise levels are materially different where ambient noise is higher than a residential area.

In this context there is no case to refuse the application based upon no demonstrable harm to nearby dwellings in terms of privacy, noise and disturbance.

Despite the noise levels associated with such a town centre location due to the implications of minimising the effect upon the listed building's fabric there may be some need to adopt a flexible approach to sound insulation for the floor which is above the offices. The applicant has accepted that double glazing is not supported by the Conservation Team in this High Street location. A noise attenuation condition is recommended.

There are significant benefits arising from the provision of the internalised refuse storage facility. This avoids the adverse environmental hazards associated with external bin storage in an area with a high density cluster/ mix of residential and commercial uses.

Although there is no amenity space serving the flats this is common in town centre locations with public open spaces nearby.

#### Ecological Implications/ Biodiversity

The submitted application involves minimal external works to the roof. The agent and applicant have fully acknowledged the issue/ implications of the presence of bats. An informative is recommended in accordance with Hertfordshire Ecology's advice.

#### Crime Prevention/Security

The re use of the longstanding vacant building is a resultant benefit. There will be improved natural surveillance of the access road/ yard. The provision of a lockable bin store avoids the crime problems associated with refuse left in semi/ public areas.

#### Approach to Sustainable Construction

Given the need to reconcile the respective listed building and building regulation requirements it has not been feasible to address all the requirements expected through Dacorum Core Strategy Policy CS29. A condition is recommended.

#### Drainage/ Contamination

There are no objections with due regard to the previous advice of Thames Water and the Council's Scientific Officer.

#### External Lighting

Subtle additional lighting in the courtyard would be beneficial in enlivening the link between the site and the lit High Street and in the interests of crime prevention. A condition is recommended.

#### Archaeological Implications

Archaeological conditions are recommended in accordance with Hertfordshire County Council's Historic Advisor.

#### Affordable Housing / Planning Obligation

There is no requirement.

#### Environmental Impact Assessment

This is not necessary.

#### Conditions

A range of conditions are appropriate.

#### Community Infrastructure Levy

A contribution is necessary.

#### Article 35

Without the very extensive expert specialist advice by three Conservation Officers and Principal Building Control Officer the conversion could not be supported.

The respective officers have individually and collectively guided the applicant and the applicant's own advisors in a positive way resulting in the modification of the initial application from four to three units. This necessary approach has addressed the very significant difficulties in reconciling the safeguarding of the listed building's important features and providing a robust workable layout with regard to fire access/ safety and refuse storage. Their exhaustive and constructive technical input has sought solutions at all times.

The balance has now been achieved in securing a positive way forward. Any works to the roof which will require separate consideration outside the remit of the application's submission.

## Conclusions

This 3 unit proposal offers an ideal opportunity to reuse the listed building for an acceptable alternative, with no fundamental objection to the loss of the vacant former offices. It will reinvigorate this part of Tring Conservation Area. The latest scheme is the outcome of positive dialogue between the applicant and LPA.

In this highly sustainable location there is a very robust case to substantiate the grant of permission without any parking. The resultant benefit is that the additional vehicular movements will be very limited, restricted to servicing vehicles. It is concluded that although there is no parking or amenity space with adequate refuse storage the proposal is acceptable providing three 'sizeable' new dwellings.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990 as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

- 2 Notwithstanding the submitted details no development hereby permitted shall commence until a full schedule of all materials and finishes to be used in the external changes to the building shall have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 3 Any replacement rainwater gutters downpipes and soil vent pipes shall be of metal, of the same design and painted black.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 4 Prior to the occupation of any of the flats hereby permitted full joinery details of the canopy to the new entrance shall be submitted to and approved in writing by the local planning authority. The canopy shall be**

**installed fully in accordance with the approved details.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 5 **Notwithstanding the details shown by Drawing No. 239-03 Rev P14 the new pedestrian entrance and canopy hereby permitted shall be provided before any of the flats are first occupied fully in accordance with the details shown by Drawing No. 239 -04 P6 and these shall be thereafter retained at all times served by a level threshold . All of the full height internal wall separating the new entrance with the separate refuse store subject to Condition 6 shall be retained at all times.**

Reason:To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 6 **Notwithstanding the details shown by Drawing No. 239-03 Rev P14 the three flats hereby permitted shall be served by the approved communal refuse storage shown by Drawing No. 239-04 which shall be provided fully in accordance with the approved details before any of the flats hereby permitted are first occupied and thereafter shall be retained at all times and shall only be used for refuse storage. The refuse store shall be served at all times by a level threshold.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 7 **Notwithstanding the submitted details before the commencement of the development hereby permitted a scheme for noise insulation shall be submitted to the local planning authority. The scheme shall be installed fully in accordance with the approved details before the occupation of any of the flats hereby permitted.**

Reason: To address noise insulation with due regard to the requirements Policy 19 of the saved Dacorum Borough Local Plan.

- 8 **Before the commencement of the development hereby permitted a Sustainable Design and Construction Statement shall be submitted to the local planning authority. The development shall be constructed and maintained in accordance with approved scheme.**

Reason: To ensure the sustainable development of the site in accordance with Policy CS29 of the Dacorum Core Strategy.

- 9 **Before the first use of any of the flats hereby permitted an exterior lighting scheme shall be submitted to the local planning authority. The approved exterior lighting scheme shall be installed and thereafter retained and maintained fully in accordance with details submitted to and approved in writing by the local planning authority.**

Reason: To safeguard the local environment in accordance with accord with the requirements of Policies CS12, CS27, CS29 and CS32 of the Dacorum Core Strategy and Policy 113 and Appendix 8 of the saved Dacorum Borough Local Plan.

- 10 **Before the first occupation of any of the flats hereby permitted a scheme shall be submitted confirming how the roof void is to be used, altered and maintained.**

Reason: To ensure that the roofs future is clarified in the carrying out of the development to accord with Policy CS27 of Dacorum Core Strategy.

- 11 **No works of alteration or development shall take place until the applicant, or their agents or successors in title, has/have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.**

Reason: In order to ensure investigation and preservation of archaeological findings in accordance with Policy CS27 of the adopted Core Strategy.

- 12 **All the bathroom and shower windows shall be permanently fitted with obscure glass.**

Reason: In the interests of Policy CS12 of Dacorum Core Strategy.

- 13 **No additional external vents, flues or other form of opening other than those hereby permitted shall be installed at the site.**

Reason: To ensure that the development is compatible with the existing listed building and the character and appearance of Tring Conservation Area to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy and the saved Policies 119 and 120 of the Dacorum Borough Local Plan.

- 14 **The development shall be carried out fully in accordance with a Construction Management Plan which shall be submitted to the local planning authority before thy commencement of the development hereby permitted.**

Reason: In the interests of safeguarding the residential amenity of the locality and in the interests of highway safety to accord with the requirements of Policy CS12 of the Dacorum Core Strategy.



- 15 **Subject to the requirements of other conditions of this planning permission the development hereby permitted shall be carried out in accordance with the following drawings:**

**Location Plan  
239-02 Rev P7  
239-03 Rev P14  
239-04 Rev P7  
239-05 Rev P3  
239-06 Rev P3  
SK 2**

Reason: For the avoidance of doubt and in the interests of proper planning.

NOTE 1:

Article 35 Statement

Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012

INFORMATIVES

Bats

Notwithstanding the content of the e mail dated 3 December 2014 the local planning authority regarding bats :

UK and European Legislation makes it illegal to:

Deliberately kill, injure or capture bats;  
Recklessly disturb bats;  
Damage, destroy or obstruct access to bat roosts (whether or not bats are present).

If bats or any evidence of them is discovered during the course of any works, works should stop immediately and advice sought as to how to proceed. This may be obtained from: A suitably qualified ecological consultant; Natural England: 0845 6014523; The UK Bat Helpline: 0845 1300228 or Herts & Middlesex Bat Group: [www.hmbg.org.uk](http://www.hmbg.org.uk)

Removal of Asbestos

Prior to works commencing the applicant is recommended to carry out a survey to identify the presence of any asbestos on the site, either bonded with cement or unbonded. If asbestos cement is found it should be

dismantled carefully, using water to dampen down, and removed from site. If unbonded asbestos is found the Health and Safety Executive at Woodlands, Manton Lane, Manton Lane Industrial Estate, Bedford, MK41 7LW should be contacted and the asbestos shall be removed by a licensed contractor.

### Construction

Best practical means should be taken at all times to ensure that all vehicles leaving the site during the construction of the development are in a condition such as to not emit dust or deposit mud, slurry or other debris on the highway to minimise the impact of construction vehicles whilst the development takes place.

All areas for storage and delivery 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 use of the public highway; in the interest of highway safety and free and safe flow of traffic.

The highway authority requires that all new vehicle crossovers are constructed by approved contractors. All works must be undertaken by approved contractors so that the works are carried out to their specification and by a contractor who is authorised to work in the public highway. The applicant will need to contact [www.hertsdirect.org](http://www.hertsdirect.org) or telephone 0300 1234 047 for further instruction.

## ***Appendix 1***

### ***Important Background Note: Relevant Technical Responses to Application 4/ 00539/14/FUL: Original Scheme for 4 Flats***

#### Tring Town Council

No objection, however there are concerns regarding the S shaped narrow lane and access issues.

#### Conservation

##### *Main Response*

Number 20 High Street Tring is an early 19<sup>th</sup> C Grade II listed building located within Tring Conservation Area.

The application seeks to convert the upper floors into four flats.

Although the ground floor of this building has in areas more significant decorative features nevertheless great care and attention has been applied by the architect to the upper floor even though these would have been considered perhaps less important non-public areas. This concurs with this being a public building where its very nature would have required it to both impress and encourage clients of a certain social status.

However, even on first floor the sense of spaciousness and subtle attention to detail is apparent. The classical proportions and detailing offers an elegant composition which is reflected in the cornice detailing; windows; fireplaces; remaining original doors and other small but significant minutiae.

The proposal to vertically subdivide the building to form 4 flats would greatly alter the interior and the sense of space of the interior. It would compromise areas of the building's interior detailing. The historic plan form which contributes significantly to its listing would be subsumed by the amount of sub-division proposed, and the status of rooms would be lost. The historic plan form can be one a heritage's most significant features. Together these proposed changes and their invasive nature would fail to preserve the special architectural interest of the listed building and have an adverse effect of the historic character or appearance of the interior.

Paragraph 132 of the National Planning Policy Framework states that great weight should be given to the conservation of heritage assets, as they are irreplaceable and any harm should require clear and convincing justification. The harm would be substantial.

The applicant says little about the changes to the interior: No detailing regarding pipe runs, central heating or electrical schematics have been supplied and this would be required for a listed building application. Also the existing lobby area and external features have also not been included.

However for the above reasons it is recommended this application for refusal.

### *Response to 3 Flats*

Reducing the units to three puts less pressure onto the building and retains the existing room form virtually pretty much intact which is positive.

However there are the following concerns :

- There are no schematics detailing internal pipe runs for facilities and kitchen
- There are no external pipe runs supplied on elevations.
- An annotated working drawing showing all of the features in each room should be cross-referenced to actual images – these need to be itemised as part of a schedule identifying the features located in each room.
- There is no details regarding fire control, noise reduction or insulation.
- Any Building Regulations that will effect either the internal or external fabric will require submission through the listed building details of fitting of stud wall (i.e., the bathroom and passage by arched details) that ensure this will be undertaken in such a way as to cause no damage to historic plasterwork etc., and that it is confirmed in writing are totally reversible.
- There has been no details of storage of waste/recycling supplied despite this being drawn to the applicants attention on numerous occasions.
- A schedule of repairs (i.e., to damage to ceilings hidden by suspended ceiling) will need to be supplied
- Blocked fireplaces need to have investigative works undertaken to establish whether any features remain – where there are features (not entirely clear) these need to be exposed where possible whether fireplaces are to be used or not
- Floor coverings or exposed floorboards – whichever details will need to be supplied
- Details of any lighting or electrical wiring scheme involving additional fittings will need to be supplied along with new fittings
- The photographic evidence supplied is helpful but not all of the images have been identified and need to be for clarity
- If it is intended to obscure bathroom windows details (which should be reversible) of how this is going to be achieved need to be supplied
- Door schedule detailing (by numbering) doors which are being relocated, fixed shut or removed (details of how the permanently shut doors are going to be dealt with form both elevations)
- Can the gas fire be removed from the art deco fireplace without further damage? How is the existing damage planned to be repaired?
- I presume all existing fixed cupboards will be retained (excluding modern kitchen fittings)
- Central heating or heating to individual apartments – how is this going to be achieved and what method? (gas? Radiators etc?) Any external fittings proposed for boilers and their location needs to form part of any application.

- Regarding radiators all of the pipe runs will require to be surface mounted.

## Hertfordshire County Council: Highways

### *Initial Advice*

This proposal is offering no off street parking provision. Whilst accepting that the site is in the town centre which is highly sustainable, with good alternative transport modes and links to the main line train station at Tring, the level of off street parking provision this proposal should generate will need to accord with the local authority's parking policy and the supplementary planning guidance in terms of confirmation that zero off street parking is acceptable.

The applicant will also need to confirm in writing how the works to convert the B1 office to C3 residential use will be managed when it appears that they do not have access to the yard behind and the service road. It follows that building materials and contractors parking, etc, will not be permitted to obstruct the High Street to facilitate this proposal. The highway authority looks forward to receiving confirmation and further details on the two points above.

### *Additional Comment*

Since the Hertfordshire County Council's Structure Plan was superceded some years ago and the 10 borough/districts were awarded SPA status, HCC do not have a parking policy for 'off' street parking and 'on' street for that matter and rely on the 10 borough /districts policies for guidance. All off street parking and on street is managed and controlled by DBC in accordance with your parking policy and enforcement via Vinci Park.

If the LPA is content with zero parking as part of this proposal then the highway authority would have little grounds for supporting a recommendation for refusal.

## Scientific Officer

No comments regarding contamination.

## Building Control

There has been very extensive dialogue including a site meeting.

In summary in order to provide an internalised refuse facility there is requirement to provide a separate refuse area from the pedestrian access. This is with regard to fire safety and health reasons.

## Noise/ Pollution

Where the development is within a mixed use development or close to neighbouring properties:

### *Noise Insulation*

Due to the neighbouring property being a pub, before construction works commence a scheme providing for the insulation of the building against the transmission of noise and vibration to the building is necessary.

*Examples where condition may be applied: An industrial unit with plant/machinery, a building converted for use as a child play centre/sport centre or place of worship (especially if amplified music).*

#### *Noise on Construction/Redevelopment/Demolition Sites*

The applicant 's attention to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites. And the best practicable means of minimising noise should be used. Guidance is given in British Standard BS 5228: Parts 1, 2 and Part 4 (as amended) entitled 'Noise control on construction and open sites'.

#### *Construction of hours of working – plant & machinery*

In accordance with the Councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: 0800hrs to 1800hrs on Monday to Friday 0800hrs to 1230hrs Saturday, no works are permitted at any time on Sundays or Bank holidays.

#### *Asbestos*

Prior to works commencing the applicant is recommended to carry out a survey to identify the presence of any asbestos on the site, either bonded with cement or unbonded. If asbestos cement is found it should be dismantled carefully, using water to dampen down, and removed from site. If unbonded asbestos is found the Health and Safety Executive at Woodlands, Manton Lane, Manton Lane Industrial Estate, Bedford, MK41 7LW should be contacted and the asbestos shall be removed by a licensed contractor.

#### *Bonfires*

Waste materials generated as a result of the proposed demolition and/or construction operations shall be disposed of with following the proper duty of care and should not be burnt on the site. Only where there are no suitable alternative methods such as the burning of infested woods should burning be permitted.

#### Refuse Controller

Current residents present their waste onto the High Street in bags but new developments have the opportunity to make a provision for the storage of waste and in all cases domestic waste should remain separate to commercial.

Although not ideal it is preferred that if there is not enough room for individual

receptacles then they should have shared facilities. Four flats would need 1 x 1100ltrs eurobin emptied on a weekly basis. However with the new waste strategy it would be preferable to have enough storage for 2 x 770ltr eurobins so that they would have the possibility to recycle.

Residents are expected to keep their waste within their boundary until collection day so on this basis it would be expected that they contain it within their flat if there is no separate storage. This area like many others is subject to vermin so to encourage residents to put bags out on the High Street would only make matters worse.

If the premises already comprises a number of flats and if feasible maybe this would be the opportunity to include their waste storage needs to improve the area.

As usual there should be no steps between the storage area and the collection vehicle which is typically a 26 ton rigid freighter and consideration should be given to its size and manoeuvrability.

#### Hertfordshire County Council :Historic Environment

The following advice is based on the policies contained in the National Planning Policy Framework (NPPF).

The site of the proposed development lies in Area of Archaeological Significance No 10. This notes that Tring is a medieval village, and that the parish church of St Peter & St Paul dates from the 14<sup>th</sup> century. The structure subject to the proposed development is Grade II. The earlier elements of the building are believed to date from the 18<sup>th</sup> century, with substantial early 19<sup>th</sup> century additions. Such Industrial Age structures 1760-1960 have been identified as being of particular interest and as facing a high rate of loss (through redundancy, conversion, and demolition) in regional research agendas (East Anglian Archaeology occasional paper 8, 2000).

Therefore the following provisions be made, if planning permission is granted:

1. The archaeological recording of the standing structures in their present form, and the subsequent archaeological monitoring of any structural interventions.
2. The archaeological monitoring of all ground works associated with the proposed development, including underpinning, foundation trenches and service trenches.
3. A contingency for the archaeological investigation of any remains encountered during the monitoring programme.
4. The analysis of the results of the archaeological work and the production of a report and archive.

These recommendations are both reasonable and necessary to provide

properly for the likely archaeological implications of this development proposal. These closely follow the policies included within National Planning Policy Framework (policies:132, 133, 134, 135, 141 etc.), and the guidance contained in the Historic Environment Planning Practice Guide.

In this case two appropriately worded conditions would be sufficient to provide for the level of investigation that this proposal warrants.

#### *Condition A*

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

#### *Condition B*

i) Demolition/development shall take place in accordance with the Written Scheme of Investigation approved under condition (A).

ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

#### Thames Water

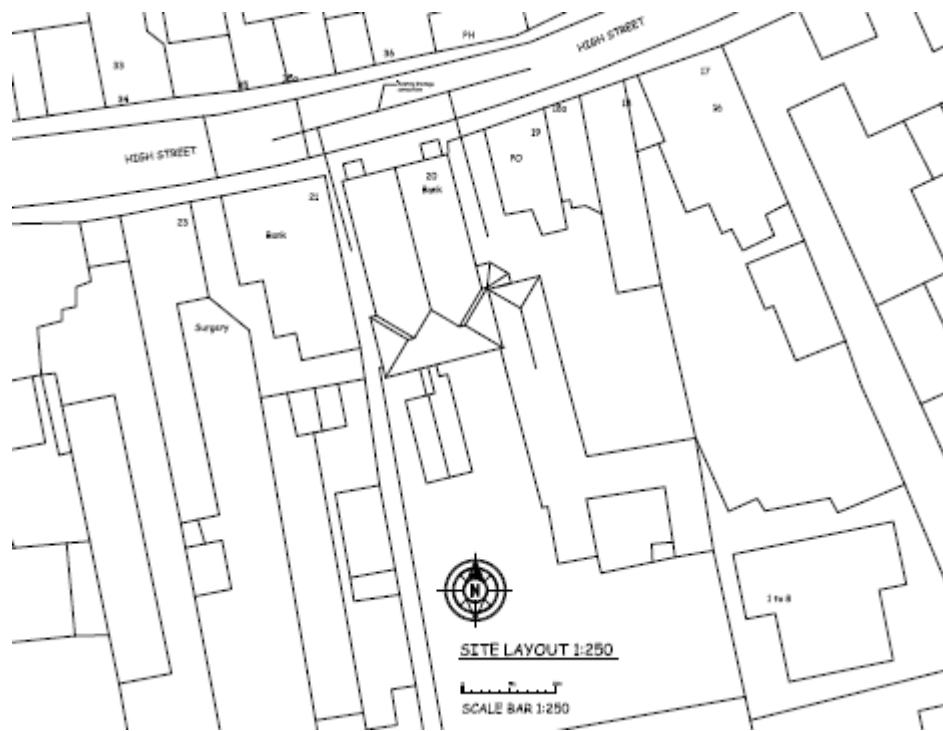
No sewerage objections.



## ITEM 5.06

**4/02712/15/LBC- CHANGE OF USE OF FIRST FLOOR ACCOMMODATION AND GROUND FLOOR LOBBY, FROM B1 OFFICE TO C3 RESIDENTIAL, CREATING THREE SELF-CONTAINED FLATS**

**20 HIGH STREET, TRING, HP23 5AP**



**4/02712/15/LBC - CHANGE OF USE OF FIRST FLOOR ACCOMMODATION AND GROUND FLOOR LOBBY, FROM B1 OFFICE TO C3 RESIDENTIAL, CREATING THREE SELF-CONTAINED FLATS..**

**20 HIGH STREET, TRING, HP23 5AP.**

**APPLICANT: Howmac Homes Limited.**

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[Case Officer - Nigel Gibbs]

### **Summary**

The application is recommended for approval.

The proposal provides an opportunity to reuse this empty listed building. There will be some resultant inevitable but acceptable change to its internal and external character through the subdivision which is acceptable subject to the imposition of conditions.

### **Site Description**

See Report 4/02711/15FUL.

### **Proposal**

See Report 4/02711/15FUL.

### **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Tring Town Council regarding the parallel Planning Application.

### **Planning History**

See Report 4/02711/15FUL.

### **Policies**

#### National Policy Guidance

National Planning Policy Framework (NPPF)

#### Adopted Core Strategy

CS27 - Quality of the Historic Environment

#### Saved Policies of the Dacorum Borough Local Plan

Policy 119

#### Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)

### **Representations**

#### Tring Town Council

See Report 4/02711/15/FUL.

## Conservation & Design

See Report 4/02711/15/FUL.

## Response to Publicity / Site Notice

See Report 4/02711/15/FUL.

## **Considerations**

This focuses upon the effect upon the character and appearance of the listed building. It is with due regard to the expectations of Policies CS 27 and saved DBLP Policy 119.

The building's subdivision and resultant reinvigoration of the site has been supported in principle by the Conservation Team for a long period. However, a pivotal conundrum has been reconciling maintaining the building's key character with Building Regulation requirements (especially fire access), providing a refuse facility and the issue of noise insulation.

The key issues/outcome resulting from the extensive dialogue is a positive workable scheme for the provision of three flats served by an acceptable modified pedestrian access, served by a usable refuse facility and resolution of fire access issues, limiting the effect upon the building's internal and external character.

As clarified any associated and facilitating works for the roof will require separate consideration.

## **Conclusion**

The proposal is acceptable subject to the imposition of a range of conditions.

RECOMMENDATION - That Listed Building consent be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The works for which this consent is granted shall be begun before the expiration of three years from the date of this consent.**

Reason: To comply with section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 2 **Notwithstanding the details submitted no works of alteration shall be commenced under the hereby approved scheme until a full schedule of materials (and finishes) in conjunction with samples (where applicable) to be used externally and internally in the refurbishment and alteration of the listed building have been submitted. The works shall be carried out fully in accordance with the approved details.**

Reason: To ensure that the works are compatible with the existing listed building to accord with the requirements of Policy CS27 of the Dacorum Core

Strategy and the saved Policy 119 of the Dacorum Borough Local Plan.

- 3 **Any replacement rainwater gutters, downpipes and soil vent pipes shall be of metal of the same design and painted black.**

Reason: To ensure that the works are compatible with the existing listed building to accord with the requirements of Policy CS27 of the Dacorum Core Strategy and the saved Policy 119 of the Dacorum Borough Local Plan.

- 4 **Prior to the occupation of any of the flats hereby permitted full joinery details of the canopy to the new entrance and any new internal or external doors (including door frame details) shall be submitted to and approved in writing by the local planning authority. The works shall be installed full in accordance with the approved details.**

Reason: To ensure that the works are compatible with the setting of the existing listed building to accord with the requirements of Policy CS27 of the Dacorum Core Strategy and the saved Policy 119 of the Dacorum Borough Local Plan.

- 5 **Notwithstanding the submitted details no works of alteration to the roof void shall be carried out unless fully in accordance with a scheme approved in writing by the local planning authority.**

Reason: To ensure that the roof's future is clarified in the carrying out of the development to accord with Policy CS27 of Dacorum Core Strategy.

- 6 **All existing fireplaces and their surrounds shall be retained.**

Reason: To retain key features of the listed building to accord with the requirements of Policy CS27 of the Dacorum Core Strategy and the saved Policy 119 of the Dacorum Borough Local Plan.

- 7 **No works shall be carried out to form the new ground floor entrance to the flats hereby approved until a schedule detailing the means by which the new opening would be formed shall have been submitted to and approved in writing by the Local Planning Authority. The works to form the new entrance shall then be carried out fully in accordance with the approved details.**

Reason: To ensure that the works are compatible with the existing listed building to accord with the requirements of Policy CS27 of the Dacorum Core Strategy and the saved Policy 119 of the Dacorum Borough Local Plan.

- 8 **All new or altered external surfaces shall be finished or altered to match those of the existing building.**

Reason: To safeguard the character and appearance of the Listed Building

in accordance with Policy CS27 of the adopted Dacorum Core Strategy.

- 9 **Subject to the requirements of other conditions of this listed building consent the works hereby approved be carried out in accordance with the following drawings:**

**239-02 P7  
239-03 P14  
239-04 P6  
239-05 P3  
239-06 P3  
239-07 P1  
298-08  
SK 2**

Reason: For the avoidance of doubt and in the interests of proper planning.

Informative

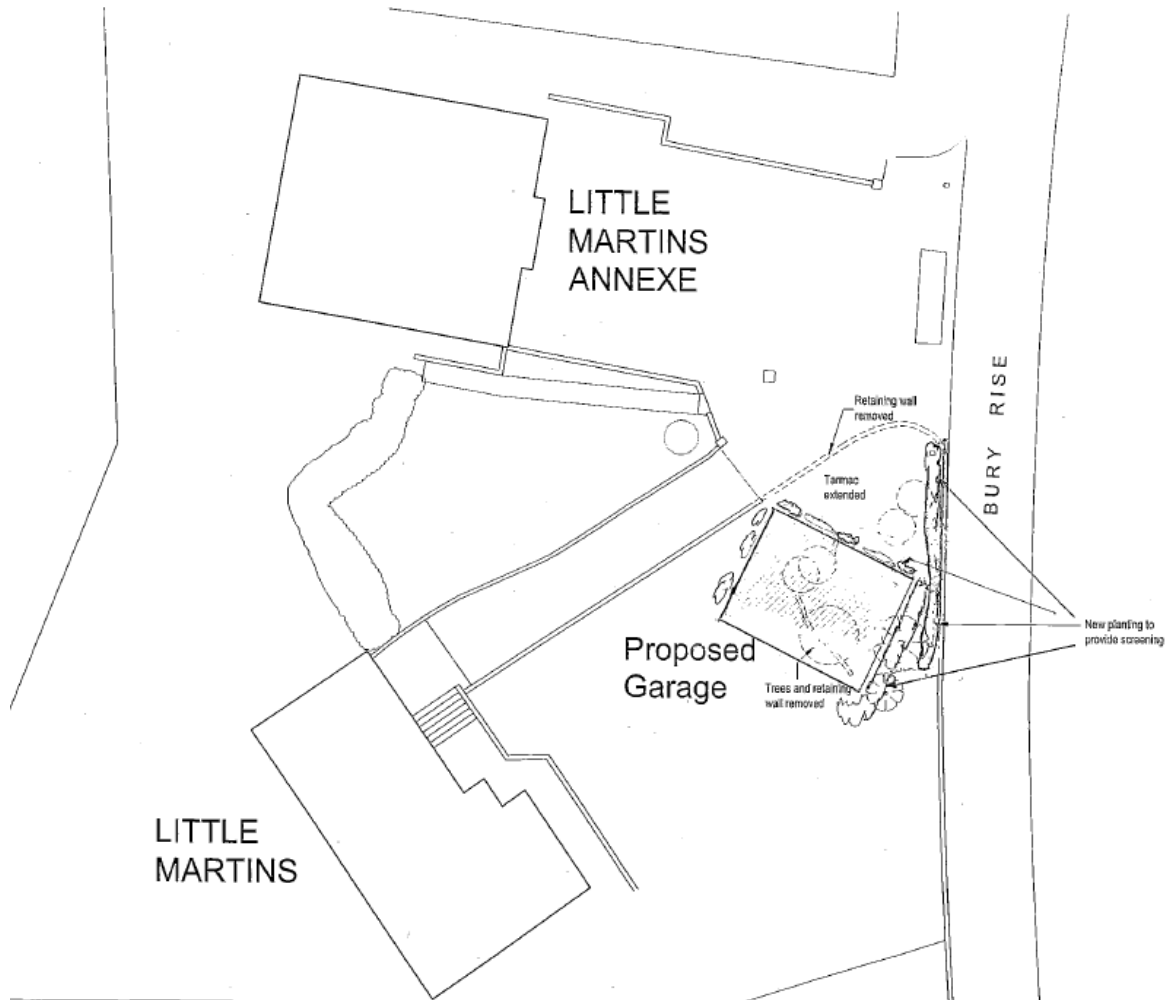
Any internal works to the existing roof other than repairs will require separate listed building consent.

# Agenda Item 5g

## ITEM 5.07

4/03614/15/ROC- VARIATION OF CONDITION 3 (APPROVED PLANS)  
ATTACHED TO PLANNING PERMISSION 4/02151/13/FHA (CONSTRUCTION OF  
NEW GARAGE)

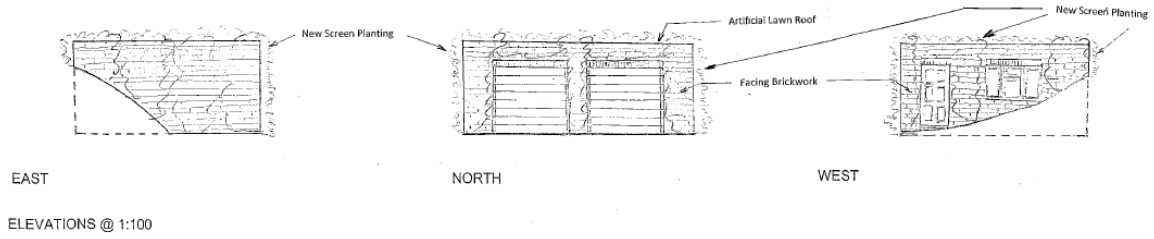
ANNEXE AT, LITTLE MARTINS, BURY RISE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0DN



**ITEM 5.07**

**4/03614/15/ROC- VARIATION OF CONDITION 3 (APPROVED PLANS)  
ATTACHED TO PLANNING PERMISSION 4/02151/13/FHA (CONSTRUCTION OF  
NEW GARAGE)**

**ANNEXE AT, LITTLE MARTINS, BURY RISE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0DN**



**4/03614/15/ROC - VARIATION OF CONDITION 3 (APPROVED PLANS) ATTACHED TO PLANNING PERMISSION 4/02151/13/FHA (CONSTRUCTION OF NEW GARAGE). ANNEXE AT, LITTLE MARTINS, BURY RISE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0DN.**

**APPLICANT: Mr Tosar.**

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[Case Officer - Rachel Marber]

## **Conclusion**

This application is recommended for approval for the following reasons:

The proposed variation of Condition 3 (approved plans of planning permission 4/02151/13/FHA) is considered to consist of minor amendments which would not adversely impact upon the openness of the Green Belt, visual amenity of the immediate street scene, or the residential amenity of neighbouring residents. The proposed minor material amendments therefore remains in accordance with saved appendixes 3 and 7 and policy 22 of the Dacorum Local Plan (1991), policies CS5, CS11, CS12 of the Core Strategy (2013) and the NPPF (2012).

## **Site History**

Little Martins Annexe is a detached dwelling which was originally constructed as a large garage to serve the neighbouring property, Little Martins. An application for a Lawful Development Certificate was granted in 2011 (4/01186/11/LDP) for the use of the detached garage as an independent dwelling, with associated amenity space. Subsequently, two separate dwellings reside on the plot which share an access drive, but have defined individual residential curtilages. Both properties however, remain under the same ownership.

A condition preserving the ancillary use of the detached garage has been attached to this permission to safeguard against use as an independent unit, and a history repeat.

## **Site Description**

The application site is located on Bury Rise, which is a private road in Bovingdon, and resides within the designated metropolitan Green Belt. The site comprises of a detached dwelling with a long front drive. On-site parking provision is available to the front of the dwelling house and would be sufficient to accommodate at least four domestic cars.

The surrounding area is characterised by residential dwellings situated on large plots. Each property is varied in regards to material, build line, character, size and height. However, each dwelling features a generous front garden, giving the area an open, verdant character.

## **Proposal**



Consent is sought to vary Condition 3 of planning permission 4/02131/13/FHA, which relates to the granted plans for the construction of a new garage. Condition 3 reads as follows:

*“The development hereby permitted shall be carried out in accordance with the following approved plans:*

110B  
100A  
200C  
201C  
Drawing D

*Reason: For the avoidance of doubt and in the interests of proper planning.”*

The proposed variation seeks the following revisions to the detached garage:

- Insertion of a window and door;
- Amendments to landscaping;
- Location and placement within plot; and
- Size increase of 5.6m<sup>2</sup>

As witnessed from the Case Officer’s site visit on the 25<sup>th</sup> November 2015, these amendments have already been implemented.

### **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Bovingdon Parish Council.

### **Planning History**

4/03457/15/NMA	NON-MATERIAL AMENDMENT TO PLANNING PERMISSION 4/02151/13/FHA - CONSTRUCTION OF NEW GARAGE Withdrawn 06/11/2015
4/02151/13/FHA	CONSTRUCTION OF NEW GARAGE. Granted 28/02/2014
4/01186/11/LDE	USE OF DETACHED GARAGE AS INDEPENDENT DWELLING (USE CLASS C3) TOGETHER WITH ADJACENT GARDEN AND HARD STANDING Granted 10/08/2011

### **Policies**

## National Policy Guidance

National Planning Policy Framework (NPPF)

## Dacorum Core Strategy (2013)

CS5 - Green Belt

CS11 - Quality of Neighbourhood Design

CS12 - Quality of Site Design

## Saved Policies of the Dacorum Borough Local Plan (1991-2011)

Policy 13 - Planning Conditions and Planning Obligations

Policy 22- Extensions to Dwellings in the Green Belt and the Rural Area

Appendix 3- Gardens and Amenity Space

Appendix 7 - Small-scale House Extensions

## **Summary of Representations**

### Hertfordshire Highways

#### **No Objection**

*"Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.*

*Bury Rise is shown as a private road. Hertfordshire County Council as highway authority has no jurisdiction over this section of road and considers that the proposal to build a new detached garage will not have an unreasonable impact on the safety and operation of the adjoining highway. However, during construction there may be the risk of mud and other detritus being deposited or escaping onto Bury Rise, which then in turn could be washed down onto Box Lane. The applicant should therefore consider measures to prevent this occurring.*

*I recommend inclusion of the following Advisory Note (AN) to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.*

*Mud on highway AN\*) 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 <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047."*

**N.B This informative has not been added to the grant permission due to works having already been completed.**

Bovingdon Parish Council

### **Objection**

*"Should comply with original planning permission granted against Planning Application No. 4/02151/13/FHA."*

### **Comments received from local residents:**

Little Martins, Bury Rise

#### **Objection (as summarised)**

- Concerns have been raised by the neighbours in regards to the previous erection of a double garage which turned into a two storey dwelling.
- Laurels and associated landscaping hides the unnecessary details for a double garage
- A condition should be attached preventing no other than a garage use.

#### **Constraints**

Established residential area of Bovingdon

- Green Belt
- Special Control for Advertisements

#### **Key Considerations**

Principle of Development

The main issues to the consideration of this application relate to the impact of the garage upon the character and appearance on the Green Belt, immediate street scene and residential amenity of neighbouring properties.

Effect on openness of the Greenbelt and visual amenity of immediate area

The application site is located within the Metropolitan Green Belt where there is the presumption against inappropriate development, as advised by The National Planning Policy Framework (2012). Inappropriate development is, by definition, harmful to the Green Belt unless a case of special circumstances can be demonstrated which would outweigh this harm. Para 89 of the NPPF advises that development need not be inappropriate or result in disproportionate addition, over and above the size of the original building. Policy CS5 of the Dacorum Borough Council Core Strategy (2013)

and saved policy 22 of the Local Plan (1991) reinforce this guidance measure.

The principle of altering a dwelling house within the Green Belt would be acceptable subject to conditions relating to floor space of the proposed dwelling in order to ensure that extensions are not materially larger than a 130% increase. The proposed minor material amendment is subject to Green Belt considerations due to a proposed size increase of 5.6m<sup>2</sup>. This has increased the proposal to a 118.6% size increase in floorspace, compared to the original dwelling (a minor increase from the +116.4% originally approved).

Therefore, the proposed variation has resulted in a nominal size increase which would remain appropriate development in the Green Belt; well below the 130% size increase permitted in policy 22 of the Local Plan.

This size increase has resulted in the slight plot repositioning of the proposed garage. The garage has subsequently been shifted 1 metre away from the driveway serving neighbour property, Little Martins, and 0.38 metres closer to the boundary (only at the front elevation). This has made the proposed more visible from the street scene and resulted in less of garage being submerged into the land bank.

As a result of this plot repositioning, the proposal has also sought approval to vary the approved landscaping. The heavy boundary treatment (meant to shield the proposed and in turn mitigate concerns from the Parish Council) has been reduced, in order to accommodate the revised position. However, the structure would remain partially dug into the ground and some landscaping has also been retained. The garage has also been covered and surrounding in additional screening provision in order to mitigate any externality which may have resulted from the amendments. Therefore, it is considered that the proposed minor variation in landscaping and position of the garage remains sufficient to assimilate the proposed into the surrounding landscape; no harm to the openness of the Green Belt or visual amenity of the area has resulted.

In sum, the minor variations would not further impact upon the character, appearance or openness of the Green Belt and immediate street scene.

#### Effect on Amenity of Neighbours

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Appendix 3 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact upon neighbouring properties and their amenity space. Thus, the proposed should be designed to reduce any impact on neighbouring properties by way visual intrusion, loss of light and privacy. Moreover, appendix 7 of the Local Plan advises that alterations should be set within a line drawn at 45 degrees from the nearest neighbouring habitable window.

The variation in size and plot position would have a nominal impact upon the outlook of neighbouring property, Little Martins due to the variation in topography levels and set in of the garage (which would remain at the rear elevation). Such a situ prevents the proposed from being overtly visible to neighbouring residents. Furthermore, the insertion of a window and door into the west elevation would not result in any loss of privacy to neighbouring residents; hence no further impact upon the amenity and privacy of neighbouring residents would result.

## **Summary**

No impact upon key planning considerations has resulted from the proposed material amendments. As a result the proposed variations are all interrelated and considered minor in nature.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The garage hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as Annexe At, Little Martins.**

Reason: To ensure that the detached garage is not severed from the main dwelling to provide a self-contained dwelling unit, since this would be out of character with the area, and contrary to the provisions of policy CS5, CS11 and CS12 of the Core Strategy (2013).

- 2 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

CST 1 rev A  
CST 2 rev A

Reason: For the avoidance of doubt and in the interests of proper planning.

### **Article 35 Statement:**

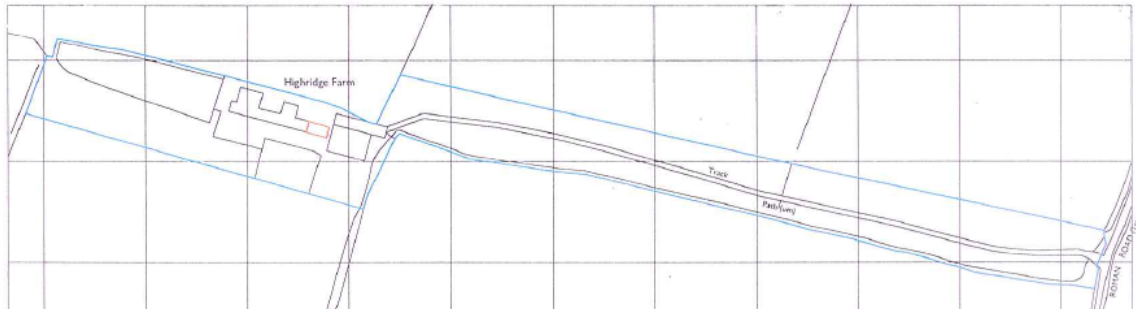
Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015

# Agenda Item 5h

## ITEM 5.08

### 4/00862/15/FUL- REPLACEMENT OUTBUILDING ON SMALLHOLDING FOR STORAGE

HIGH RIDGE FARM, ROMAN ROAD, FRITHSDEN, BERKHAMSTED



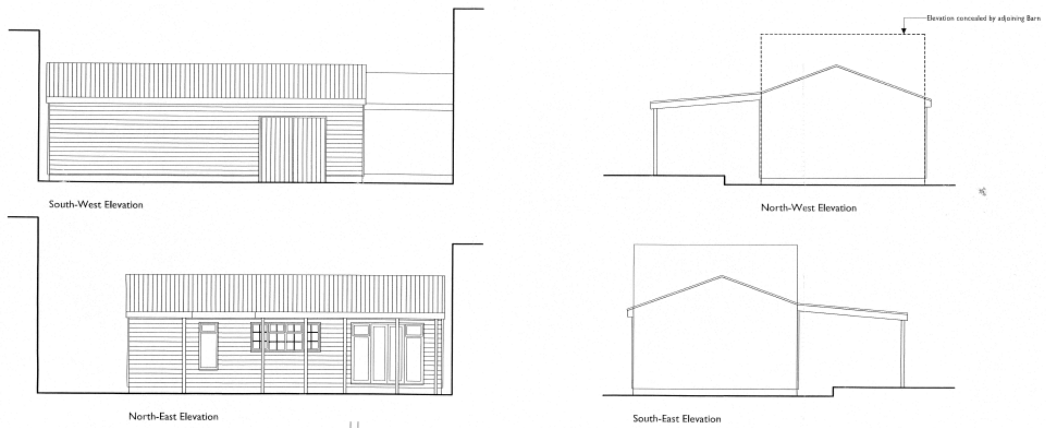
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**ITEM 5.08**

**4/00862/15/FUL- REPLACEMENT OUTBUILDING ON SMALLHOLDING FOR STORAGE**

**HIGH RIDGE FARM, ROMAN ROAD, FRITHSDEN, BERKHAMSTED**



**4/00862/15/FUL - REPLACEMENT OUTBUILDING ON SMALLHOLDING FOR STORAGE.  
HIGH RIDGE FARM, ROMAN ROAD, FRITHSDEN, BERKHAMSTED.  
APPLICANT: MR N KIRKHAM.**

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[Case Officer - Rachel Marber]

**Summary:**

This application is recommended for approval.

The retrospective outbuilding through size, position and design would not adversely impact upon the openness of the Rural Area, visual amenity of the existing small holding, immediate street scene, AONB, or the residential amenity of neighbouring residents. The proposal is therefore in accordance with saved appendixes 3 and 7, policies 22 and 97 of the Dacorum Local Plan (1991), the NPPF (2012), and policies CS7, CS11, CS12 and CS24 of the Core Strategy (2013).

**Site Description**

The application site is located on the West side of Roman Road, Frithsden. The site comprises of an agricultural smallholding which is accessed from a long private track off Roman Road. The site falls within a designated Rural Area and the Chilterns Area of Outstanding Natural Beauty. The site comprises of a number of outbuildings, including a small dwelling house.

The surrounding area is rural characterised by a natural valley and surrounded by open fields and farm lands which also form part of the Chilterns AONB. Roman Road is situated within relatively Close Proximity to Berkhamsted Town Centre.

**Proposal**

This application seeks retrospective permission for a replacement outbuilding within the north curtilage of the smallholding; the functionality of the outbuilding is for agricultural storage.

**Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Nettleden with Potten End Parish Council.

The following reason was provided:

In isolation this looks quite straight forward, however given it's on the same site as application 4/00864/15/LDE and given that it looks like it's designed to be a dwelling, (not sure why you need french doors on a Barn) then it's an objection.

**Relevant Planning History**

4/00864/15/LD DOMESTIC DWELLING  
E

Delegated



4/01426/99/RE SINGLE STOREY OFFICE AND STORE  
T BUILDING.REPLACEMENT BARN  
Refused  
30/03/2000

4/01428/99/LD USE OF BUILDINGS FOR STRIPPING OF WOOD AND METAL  
E ARTICLES (LAWFUL DEVELOPMENT CERTIFICATE EXISTING  
USE)  
Refused  
15/06/2000

4/00025/94/FU USE OF LAND AND BUILDING AS BASE FOR PONY TREKKING  
L  
Granted  
17/03/1994

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
National Planning Policy Guidance

### Dacorum Core Strategy (2013)

CS4 - The Towns and Large Villages  
CS7- Rural Area  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS24- The Chilterns Area of Outstanding Natural Beauty

### Saved Policies of the Dacorum Borough Local Plan (1991-2011)

Policy 13 - Planning Conditions and Planning Obligations  
Policy 22 – Extensions to Dwellings in the Green Belt and the Rural Area  
Policy 97- Chilterns Area of Outstanding Natural Beauty  
Appendix 3 - Gardens and Amenity Space  
Appendix 7 - Small-scale House Extensions

## **Summary of Representations**

### The Chiltern Society

## **Objection**

*“The Chiltern Society is concerned about this site which lies on a very visible and prominent ridge within the Chilterns Area of Outstanding Natural Beauty. The site location plan indicates very limited land relating to the application (within the blue line) and the amount of existing buildings appears disproportionate to this area. Further building on this site should only be permitted if strictly required for the purposes of agriculture, and, given the limited extent of land shown, and that the building appears more akin to residential use rather than farming, the Society must object.”*

Nettleden with Potten End Parish Council

## **Objection**

*"In isolation this looks quite straight forward, however given its on the same site as application 4/00864/15/LDE and given that it looks like its designed to be a dwelling, (not sure why you need french doors on a Barn) then its an objection."*

## **Constraints**

Rural Area of Frithseden, Berkhamsted.

- Chilterns Area of Outstanding Natural Beauty

## **Considerations**

### Principle of Development in a Rural Area

The application site resides within a Rural Area where Policy CS7 of the Core Strategy (2013) advises that small scale development for agricultural use and farm diversification is acceptable.

The outbuilding has an approximate depth of 5.2 metres, width of 10 metres and height (to ridge) of 3.8 metres; thus a total floor area of 52m<sup>2</sup>. This is considered a proportion development which is appropriate within a Rural Area due to agricultural use, contributing to the local economy.

Furthermore, the retrospective outbuilding has replaced a previously dilapidated outbuilding of identical dimensions and thus the proposed would not contribute to a size increase. Similarly, policy CS7 of the Core Strategy (2013) states that replacements of existing buildings for the same use is an acceptable development within a Rural Area.

Consequently the proposed is not considered to have a detrimental impact upon the openness and visual amenity of the surrounding Rural Area; adhering to Policy CS7 of the Core Strategy (2013).

### Principle of Development in the Chilterns AONB and Impact on Visual Amenity

The application site is also located within the Chilterns Area of Outstanding Natural

Beauty wherein the principle of development is subject to prime planning considerations which give regard to conservation of the beauty in addition to the economic and social well-being of the area and its communities. Thus, development is permitted subject to its satisfactory assimilation into the landscape and accordance with saved policy 97 of the Local Plan (1991) and policy CS24 of the Core Strategy (2013).

In addition, saved appendix 7 of the Dacorum Local Plan (1991), policies CS11 and CS12 of the Core Strategy (2013) and the NPPF (2012) all seek to ensure that any new development/alteration respects or improves the character of the surrounding area and adjacent properties in terms of scale, massing, materials, layout, bulk and height.

In accordance with the submitted retrospective application, the outbuilding is constructed from feather edge boarded walls, which would be stained black with a green profiled metal cladded roof. These materials are considered acceptable for this type of outbuilding and in-keeping with the traditional agricultural surroundings and AONB.

Furthermore, due to the agricultural storage function of the replacement outbuilding the retrospective application is not considered to be intrusive in terms of noise, disturbance, light pollution, traffic generation or parking.

Additionally, the impact of the retrospective outbuilding upon the surrounding area is further mitigated by the fact the smallholding is not visible from a public highway, but located off a private track and surrounded by other outbuildings. Thus, the retrospective outbuilding is considered to be sympathetically sited in the centre of the smallholding, and designed with regard to natural contours, landscape, planting and other buildings. As a result the outbuilding does not have an adverse effect on skyline views or the AONB.

Accordingly, the outbuilding is considered to have nominal impact upon the visual appearance of the surrounding small holding, AONB and street scene; observing the requirements of the NPPF (2012), saved policy 97 of the Local Plan (1991) and policy CS11, CS12 and CS24 of the Core Strategy (2013).

#### Lawful Development Certificate (Existing)

A Lawful Development Certificate has been submitted for a residential dwelling within the curtilage of the smallholding. This application has been recommended for approval based on evidence that such a unit has been in residential use for more than 4 years. Although, the replacement outbuilding would be located immediately adjacent to the residential dwelling, it would be utilised for agricultural purposes. To ensure appropriate development within the Rural Area the outbuilding should maintain agricultural use and not transgress into a separate self-contained unit for purposes incidental to the approved dwelling house. Subsequently, a condition ensuring agricultural use only has been imposed on the grant permission (in turn mitigating Parish Council concerns).

## Effect on Amenity of Neighbours

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Appendix 3 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact on neighbouring properties and their amenity space. Thus, the proposed should be designed to reduce any impact on neighbouring properties by way of visual intrusion, loss of light and privacy. Moreover, appendix 7 of the Local Plan advises that alterations should be set within a line drawn at 45 degrees from the nearest neighbouring habitable window.

Due to the outbuilding being located within a Rural Area, and within a smallholding no neighbouring residential properties reside within the immediate vicinity. As a result the retrospective application does not impact upon neighbouring residential amenity and is acceptable in terms of the NPPF (2012), appendixes 3 and 7 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013).

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The replacement outbuilding hereby permitted shall not be occupied at any time for purposes other than agricultural use.**

Reason: To safeguard and maintain the character appearance of the Rural area and AONB as expressed in LPA policies' CS12 and CS24 of the Core Strategy (2013) and policies' 22 and 97 of the Saved DBLP 1991-2011.

- 2 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

145 SU 1.02 (at A4)

145 SU 1.02 (at A2)

145 pa2.01

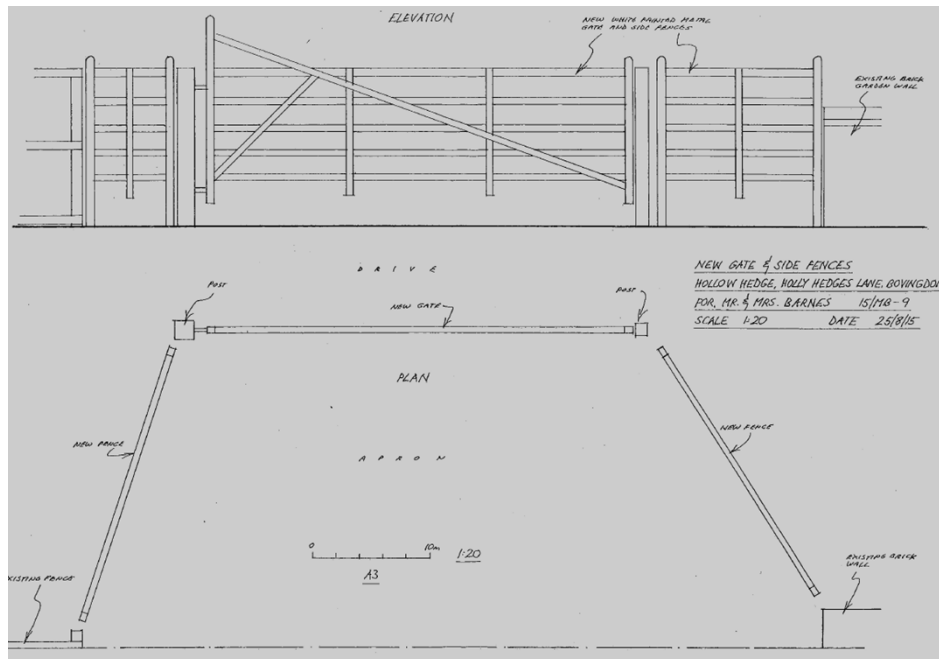
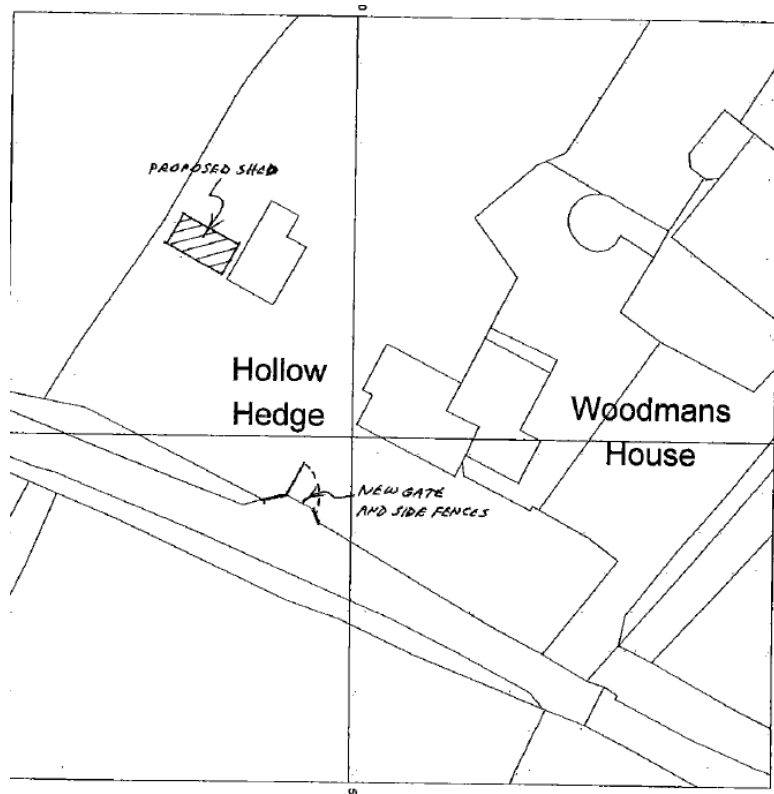
145 pa2.04

Reason: For the avoidance of doubt and in the interests of proper planning.

ITEM 5.09

4/03034/15/FHA- RETENTION OF DETACHED SHED AND REPLACEMENT GATE AND SIDE FENCES

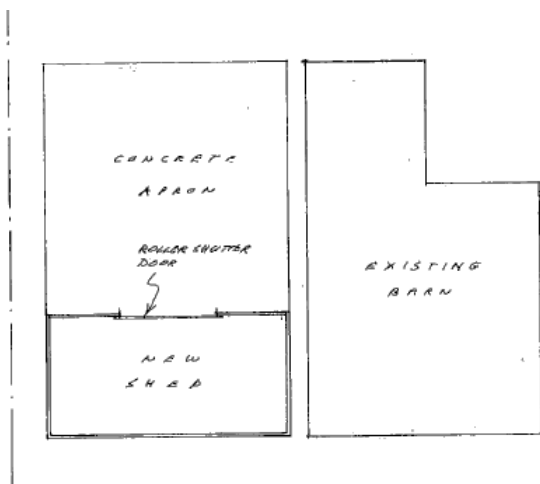
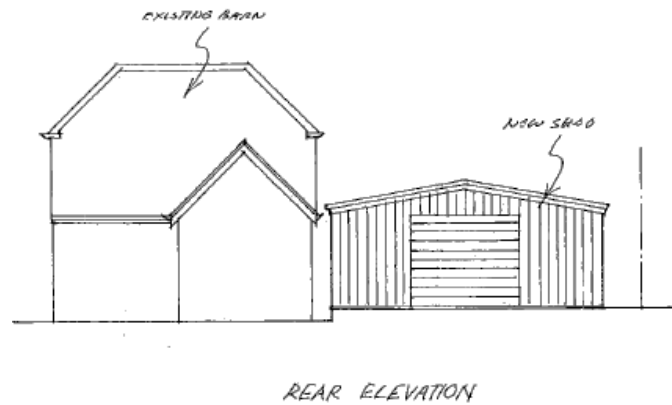
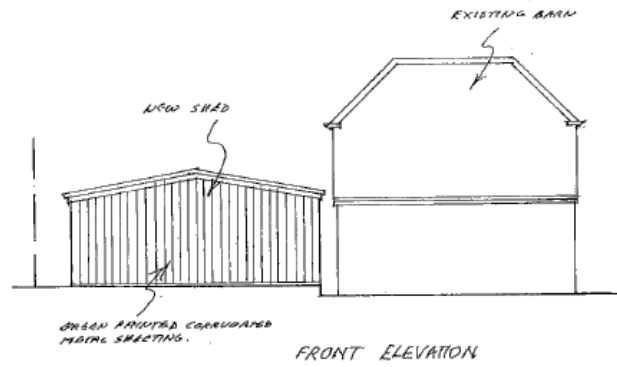
HOLLOW HEDGE, HOLLY HEDGES LANE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0PE



ITEM 5.09

4/03034/15/FHA- RETENTION OF DETACHED SHED AND REPLACEMENT GATE AND SIDE FENCES

HOLLOW HEDGE, HOLLY HEDGES LANE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0PE



**4/03034/15/FHA - RETENTION OF DETACHED SHED AND REPLACEMENT GATE AND SIDE FENCES.  
HOLLOW HEDGE, HOLLY HEDGES LANE, BOVINGDON, HEMEL HEMPSTEAD, HP3 0PE.  
APPLICANT: MR BARNES & MS TERRY.**

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[Case Officer - Philip Stanley]

**ADDENDUM TO REPORT PUBLISHED FOR DCC 26/11/15**

This application was heard by the Development Control Committee on 26 November 2015 where it was resolved to defer a determination of the development to allow for the provision of further information regarding enforcement investigations, details of how the building is currently being used, and details regarding the hardstanding/associated drainage and whether it falls within permitted development limits.

The purpose of this addendum is to provide the additional information requested at that meeting. The main report (site and proposal descriptions, considerations, etc.) are retained as per the previously published report.

**Enforcement investigations**

The site has been subject to a recent planning enforcement investigation (ref: E/15/00253) where a complaint was received on 16 July 2015 that 'this Listed Building now being used for an oil tank business'. As such the site was visited by a Planning Enforcement Officer on 21 July 2015, who noted the use of part of the site for the storage of oil tanks. The owner (the present applicant) was, therefore, informed that this represented a breach of planning control and requested that the tanks were removed from the site within three months.

It should be noted firstly that this matter related to the storage of oil tanks. There was no evidence that the site was being used as an oil transfer station and the applicant has assured Enforcement Officers that he would have no intention of commencing such a use as this is his family home with young children. Furthermore, since the applicant was advised of the breach the applicant has endeavoured to provide alternative accommodation for the oil tanks. The applicant has contacted the Enforcement department with updates (rather than trying to 'hide away') and has kept Officers up to date with his progress. For example on 03 November 2015 the applicant informed Planning Enforcement that his first proposed relocation site had fallen through but that his second site (in Amersham) should be completed by the end of that week. Two further visits by Planning Enforcement have confirmed that the oil tanks are no longer being stored at the site.

It should further be noted in respect of Enforcement action that the site will continue to be monitored by Officers and should there be any repeat of the use of the site for commercial purposes then the Council can take the appropriate action at that time.

Finally, a further condition has been added to the recommendation preventing the commercial use of the building and hardstanding.

**Details of how the building is currently used**

The building subject to this application (the detached metal shed) is currently being used for storage purposes ancillary to the residential use of the site. At the time of the

Officer's site visit the building was being used to store the applicant's drive-on lawnmower, as well as other equipment and tools that can reasonably be expected for the maintenance of the house and gardens. The shed also contained an old diesel tank that is in the process of being restored (but not used as a diesel storage tank). The applicant also explained that the building could also be used to store the children's play equipment that were immediately outside the shed at the time of the Officer's site visit.

There is no evidence that the building itself is, or has ever been, used for commercial purposes. It must be noted that the applicant has explained his need for the metal shed in three aspects. Firstly, it must be emphasised that Hollow Hedge sits within substantial grounds, which contain large lawns, hedges and trees. It is therefore not unreasonable to expect the applicant to wish to store the machinery required to maintain these grounds. Secondly, this garden equipment, such as the drive-on lawnmower, are petrol driven, and therefore a metal container was preferred on fire and safety grounds. Thirdly, as a listed building it is not possible to attach such storage requirements to the listed building, or even to modify the listed building internally to create such a storage area.

### **Details regarding the hardstanding/associated drainage and whether it falls within permitted development limits**

In respect of the hardstanding this consists of a concrete pad 5m by 7m to the rear of the metal shed. The applicant has stated that this concrete pad is a replacement for an earlier concrete hardsurface, which had started to break up.

It must be emphasised that the hardstanding does not form part of this application and therefore does not fall to be considered by the Council. This application solely seeks the retention of the detached metal shed and a replacement gate with side fences.

In addition it is worth noting that this hardstanding did not require planning permission or listed building consent. In respect of hard surfaces Schedule 2, Part 1, Class F of the 2015 GPDO permits hard surfaces without the need for a planning application providing they are incidental to the enjoyment of the house. The only exception to this is areas of hardstanding in excess of 5 square metres to the front of a property (where it fronts a highway), and even in these cases a planning application is not required if some form of on-site drainage is provided. The purpose of this restriction is to prevent surface water from running off onto the Highway.

In this particular case the concrete hardstanding is located to the side of the house and as such would be permitted development under Part 1, Class F of the 2015 GPDO. There is anyway no possibility of water running off the site and onto the highway due to the hardstanding being located to the rear of the metal shed. Furthermore, water can run-off the concrete pad and onto the surrounding permeable gravel within the site. Finally, there is no evidence to suggest that the concrete pad was laid to facilitate an unauthorised use of the land, i.e. for the storage of oil tanks. The concrete pad was laid to create ease of access to the metal shed and the residential items stored within it.

### **Conclusion**

Taking into account the further research undertaken since the last Committee, Officers



consider that the recommendation to grant this application should remain unchanged.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The trees and shrubs immediately to the south of the storage shed shall be retained in perpetuity.**

Reason: To ensure that the setting of the listed building is protected in accordance with Policy CS27 of the Dacorum Core Strategy.

- 2 **The detached metal shed hereby permitted (and associated hardstanding) shall only be used for purposes ancillary to the residential use of the dwelling known as Hollow Hedge, and shall not be used for any business or commercial use.**

Reason: For the avoidance of doubt and to safeguard the rural character of the area in accordance with Policy CS1 of the Dacorum Borough Core Strategy (2006-2031).

- 3 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**15/MB-8  
15/MB-9  
Site Location Plan**

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 statement

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) Order 2015.

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**Report published for DCC 26/11/15**

**Summary**

The application is recommended for approval because it would not have a harmful impact on Green Belt objectives or the setting of the listed building.

**Site Description**

Holly Hedges is a Grade II Listed timber frame house, with an 18th century brick front and substantial rear extensions dating to the mid 20<sup>th</sup> century. The attached neighbouring dwelling (Woodmans House, formerly known as Cats Cradle) at one time formed a part of Hollow Hedges, but following extensive enlargements and alterations, the original house was split into two separate dwellings in the 1970s. Only Hollow Hedges is statutory listed.

The site lies within the Metropolitan Green Belt and forms part of a group of four dwellings on the north side of Holly Hedges Lane. The site is well screened on the boundary by mature trees and hedges apart from the boundary directly in front of the front which comprises a low brick and flint boundary wall. The access is formed of a five-bar gate and side fences.

Permission was granted in 1996 for a detached timber double garage with store room approximately 12.5 m to the north west of the house, which is partially screened from the highway.

### **Proposal**

The application is for a metal storage building sited between the timber garage and the site boundary, and a steel entrance gate and fencing to either side. The development has already been carried out without benefit of planning permission.

### **Referral to Committee**

The application is referred to the Development Control Committee due to the contrary views of Bovington Parish Council.

### **Planning History**

4/01112/15/FHA	DEMOLITION OF PART OF EXISTING REAR EXTENSION AND CONSTRUCTION OF PART SINGLE/PART TWO STOREY/PART FIRST FLOOR REAR EXTENSION. FORMATION OF NEW CHIMNEY AND INTERNAL ALTERATIONS Granted 23/10/2015
4/01114/15/LBC	DEMOLITION OF PART OF EXISTING REAR EXTENSION AND CONSTRUCTION OF PART SINGLE/PART TWO STOREY/PART FIRST FLOOR REAR EXTENSION. FORMATION OF NEW CHIMNEY AND INTERNAL ALTERATIONS Granted 23/10/2015
4/00683/10/LBC	PAINT FRONT AND WEST SIDE OF HOUSE Refused 17/06/2010
4/00972/09/RET	NEW FENCING Granted 22/10/2009

4/00566/09/FUL	BARN CONVERSION AND CHANGE OF USE TO RESIDENTIAL ANCILLARY TO LISTED COTTAGE Refused 15/06/2010
4/02043/08/FUL	BARN CONVERSION AND CHANGE OF USE TO RESIDENTIAL Refused 12/03/2009
4/00018/96/4	ERECTION OF GARAGE AND STORE Granted 05/03/1996
4/01060/95/4	DEMOLITION OF EXISTING GARAGE AND OUTBUILDINGS AND ERECTION OF GARAGE/WORKSHOP/STABLE Withdrawn 13/10/1995

## **Constraints**

Listed Building  
Metropolitan Green Belt

## **Policies**

### National Policy Guidance

National Planning Policy Framework (NPPF)  
Planning Practice Guidance

### Adopted Core Strategy

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS5 - The Green Belt  
CS12 - Quality of Site Design  
CS27 - Quality of the Historic Environment

### Saved Policies of the Dacorum Borough Local Plan

Policy 119  
Appendix 3

### Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)

## **Summary of Representations**

Bovingdon Parish Council

Object. Inappropriate development in the Green Belt.

### Conservation and Design

Holly Hedges is an early C17th timber frame house (or possibly older), with an 18th century brick front and rear extensions which are mid 20<sup>th</sup> century.

The former white painted timber gate and side fences were recently replaced with white painted metal gate and side fences of a similar design and appearance; the replacements are acceptable in this rural area and preserve the setting of the listed building.

The application is also for the retention of a detached green corrugated metal shed located to the side of the timber clad garage, located a little way north-west of the house. The shed is in a discrete location and is not considered to harm the setting of the listed building, Hollow Hedge.

Recommend approval, the proposals are considered to preserve the setting of the grade II listed property Hollow Hedge.

A listed building application has been submitted in addition to the planning application however the LB application is not required.

### Hertfordshire Highways

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission.

Decision: Hertfordshire County Council (HCC) has no objection to the proposed development.

Description of the Proposal: Hollow Hedge is a semi-detached property is located within the Green Belt.

The proposal is for the retention of a detached shed and replacement front gates and fences. These have already been carried out at the property.

The proposed gate and fences are located at the entrance from Holly Hedges Lane and replaced the existing dilapidated timber fences and gates which were there before and were of a similar style.

The site is located on Holly Hedges Lane which is a local access road with a 30mph speed limit.

Analysis: The applicant has provided a Design and Access Statement (DAS) to support the application.

Impact on Highway Network Road Safety: There are no reported incidence's within the near proximity of the site.

Highway Layout: The applicant has indicated that no changes shall be made to the existing access arrangement to the site.

Parking: The proposal will not impact on the existing parking arrangements.

Planning Obligations/ Community Infrastructure Levy (CIL): It is not considered that any planning obligations are considered applicable to the proposed development.

Woodmans House, Holly Hedges Lane - Object:

Adding a large green metal storage facility within curtilage of a grade 2 listed building and on Green Belt land is not acceptable. This is especially true when: there is already a very large detached double+ garage with an office to the side; there are further separate plans to extend an already significantly extended house; there is a industrial business run from this residential garden and it is most probable that the storage facility will be used for the oil business and not for domestic purposes. This is demonstrated by the present use for oil tank storage and diesel transfer. The concrete plinth also covers further green belt land and provides further hard standing for trucks and tanks. How can this possibly be considered as domestic use only.

This house is a private residence on a quiet country lane used by a young family. It is adjoined by our home which was bought to enjoy the countryside and not to be situated next to an industrial unit which causes noise and smell nuisance. The safety of the families in the area must also be considered in the running of a diesel storage and transfer unit and allowing a large metal 'shed' to be built is fundamentally wrong.

The fact that no respect was shown for the Listed environment by building this facility without consent shows that it is only the council that can be relied upon to protect our heritage and Green Belt land by ensuring it is removed. "Hiding" the building behind some shrubs does not make this storage unit acceptable and only shows what the owners are prepared to do to flout the law.

Regarding the gates. The owners have been aware for some years that the present gates were not in keeping with the setting instead, choosing to believe that a lick of white paint makes them acceptable. They are obviously of steel construction and look nothing like a wooden 5 bar gate with matching fencing leading to it. We are pleased that the amber flashing light was removed a little while ago although this was probably a necessary safety feature for such automatic gates. The plans provided show what is there at the moment but nothing has been done to make this feature blend in with a grade 2 setting. The plans alone do not show how obviously out of place this gate is and it is time for it to either be replaced to suit the setting or to be professionally upgraded and a vintage effect created.

## **Considerations**

### Policy and Principle

Policy CS5 and the NPPF set out types of development that will be considered acceptable within the Green Belt. Ancillary residential development does not strictly fall within one of the acceptable categories of development; however, weight must be given to householder permitted development rights within the Green Belt. Householder permitted development rights under Class E (incidental buildings and enclosures) are no more restricted within the Green Belt than within towns, and this consideration that has been given great weight in this application.

### Impact on Green Belt

The site in question, Hollow Hedges, by virtue of it being statutory listed does not benefit from Class E permitted development rights. The purpose for this restriction of development is to ensure that the setting of the listed building is protected. Having regard to householder permitted development rights within the Green Belt, the key consideration for the construction of the storage shed is whether or not the building would cause harm from a heritage perspective.

#### Impact on the Setting of the Listed Building

The proposed storage building measures 6 metres by 3 metres in size, with eaves 2 m high and a ridge height of 2.8 m. The building faces into the site, having a single up-and-over door. It is constructed of dark green corrugated metal with a shallow pitched roof, and is sited discretely between the large timber garage and the site boundary, so that it is not visible from the listed dwelling. There is mature planting within the site, behind the building, and on the boundary, fully screening it from public view and screening it from most perspectives within the site. The building is of a dark muted colour that is well camouflaged in its surroundings and is not considered to have a detrimental impact on the setting of the listed building.

The gate and fencing at the entrance of the house, while not constructed of timber, are a white five-bar design of a character and appearance that are not at odds with their setting. They are not considered to be harmful to either the rural character of the area or the setting of the listed building. The conservation officer has raised no objections on heritage grounds.

#### Impact on Highway Safety

There is no change proposed to the access and no objection is raised on highway safety grounds.

#### Impact on Neighbours

The development is located away from adjoining properties and would have no impact on the residential amenity of neighbours.

#### Other Matters

The adjoining occupier has raised objection to the building being used in connection with the applicant's business. The lawful use of the building would be an ancillary residential use, with any other use requiring formal planning permission. The business activities on site have been subject to an enforcement investigation, and are not a material consideration for the current application. The building is presently used for the secure storage of a lawn mower and other residential paraphernalia.

#### **Conclusions**

The proposed building would not cause material harm to the openness or appearance of the Green Belt and neither the gates/fence or the building would harm the setting of the listed building. The development is acceptable in terms of policies protecting the Green Belt and Built Heritage.

RECOMMENDATION - That planning permission be **GRANTED** for the reasons referred to above and subject to the following conditions:

- 1 **The trees and shrubs immediately to the south of the storage shed shall be retained in perpetuity.**

Reason: To ensure that the setting of the listed building is protected in accordance with Policy CS27 of the Dacorum Core Strategy.

- 2 **The detached metal shed hereby permitted (and associated hardstanding) shall only be used for purposes ancillary to the residential use of the dwelling known as Hollow Hedge, and shall not be used for any business or commercial use.**

Reason: For the avoidance of doubt and to safeguard the rural character of the area in accordance with Policy CS1 of the Dacorum Borough Core Strategy (2006-2031).

- 3 **The development hereby permitted shall be carried out in accordance with the following approved plans:**

**15/MB-8**

**15/MB-9**

**Site Location Plan**

Reason: For the avoidance of doubt and in the interests of proper planning.

Article 35 statement

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) Order 2015.

# Agenda Item 6

## 6. APPEALS

### A. LODGED

None

### B. WITHDRAWN

None

### C. FORTHCOMING INQUIRIES

4/02263/15/ENA      HAMBERLINS FARM - MR G EAMES  
APPEAL AGAINST ENFORCEMENT NOTICE  
LAND AT HAMBERLINS FARM, HAMBERLINS LANE,  
NORTHCHURCH, BERKHAMSTED, HP4 3TD  
[View online application](#)

### D. FORTHCOMING HEARINGS

4/00424/15/MOA      Ediston Properties Ltd on behalf of Tesco Pensions Trustees Ltd  
CONSTRUCTION OF CLASS A1 RETAIL DEVELOPMENT (TO  
INCLUDE CONVENIENCE AND COMPARISON RETAIL  
FLOORPLACE AND ANCILLARY CAFE) AND CLASS A3  
DRIVE-THRU CAFE/RESTAURANT UNIT (WITH ANCILLARY  
TAKEAWAY) TOGETHER WITH ACCESS, CAR PARKING,  
SERVICE YARD AND ASSOCIATED WORKS  
JARMAN PARK, JARMAN WAY, HEMEL HEMPSTEAD  
[View online application](#)

### E. DISMISSED

4/00413/15/OUT      Mr P Bird  
CONVERSION OF EXISTING GARAGES INTO A NEW  
DWELLING  
GUBBLECOTE FARM COTTAGE, GUBBLECOTE, TRING,  
HP23 4QG  
[View online application](#)

The Inspector concluded that the change of use would result in significant harm to the overall character and appearance of the area contrary to Policy CS7 of the Core Strategy of the Dacorum Core Strategy 2013, which among other things, seeks to



protect and enhance the rural area.

In addition the Inspector concluded that the proposed development would harm the living conditions of the occupiers of Gubblecote Farm Cottage with particular regard to privacy and the prospective occupiers of the dwelling with particular regard to privacy and outlook, contrary to Policy CS12 of the Core Strategy and saved Policy Appendix 3 of the Local Plan which seek to ensure a quality of site design by avoiding visual intrusion and lack of privacy.

4/03601/14/FUL      The Estate of the Late D Ronald & Frances Ronald Will Trust  
DEVELOPMENT OF 2 NEW DETACHED DWELLINGS ON  
LAND ADJOINING OLD FISHERY HOUSE WITH ACCESS  
ROAD AND SINGLE GARAGE ATTACHED TO EACH  
DWELLING  
OLD FISHERY HOUSE, OLD FISHERY LANE, HEMEL  
HEMPSTEAD, HP1 2BN  
[View online application](#)

The main issues are the effect of the proposed dwellings on the character and appearance of the area; the effect on the significance of the non-designated heritage asset (Old Fishery House); and the effect on the living conditions of occupiers of adjoining residential properties, having regard to outlook and privacy.

The design characteristics of the proposed dwellings, their substantial scale, close-knit relationship and the extensive use of hardsurfaced areas would be inconsistent with and cause harm to, the semi-rural character and appearance of the area. In particular, the proposed dwellings would fail to enhance the spaces between buildings and the general character of an area, would not preserve the existing attractive streetscape and would not avoid a significant part of the appeal site being dominated by car parking. Moreover, the proposed dwellings would not contribute to a strong sense of place, reflect the identity of the local surroundings and materials and would not promote or reinforce local distinctiveness.

The secluded private garden of the House comprises part of its setting; the garden forms part of the surroundings within which the House is experienced and is an aspect of its historic evolution, also forming the principal private space and the outlook from main rooms. The proposed dwellings would result in fragmentation of the garden, eroding its historic associations with the House. The scale and physical presence of the proposed dwellings would also substantially erode the secluded character of the remaining garden. Taken together with the design characteristics of the proposed dwellings referred to above, I consider this would harm the setting of the House.

The proposed dwellings would be sited well away from the common boundary, at a slightly lower level and would not result in any significant loss of outlook to adjoining occupiers. The proposed dwellings have been designed so that any significant overlooking and loss of privacy from first floor windows would not occur, largely as a result of the distances involved together with use of obscure glazing. In my view therefore, the proposed dwellings would not harm the living conditions of occupiers

of adjoining residential properties through significant loss of outlook or privacy.

**F. ALLOWED**

None

## **CHANGE OF SCHEME OF DELEGATION WITH RESPECT OF ADVERT AND PLANNING CONTRAVENTION NOTICE PROSECUTIONS**

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(Case Officer- Philip Stanley)

### **Summary**

The prosecution of individuals / companies in respect of breaches of planning control is time consuming and resource intensive. However, in cases where all other avenues for planning enforcement action have been exhausted, commencing prosecution proceedings is often the final option to ensure compliance with the requirements of a Notice or to send a strong message to repeat offenders. A strong planning regime requires a robust enforcement element. Without an adequate and proportionate deterrent the planning process will be undermined.

In respect of prosecution proceedings in respect of breaches of advertisement controls and failure to respond to a Planning Contravention Notice, the level of punishment (upon a successful prosecution) is limited to a fine. These are generally low level cases that have conflicting demands where there is the need to act promptly, but not to use staff resources in a way that is disproportionate to the harm caused by the breach in planning controls.

As such it is recommended that the authority to prosecute in respect of the above are delegated to the Assistant Director (Planning, Development & Regeneration), Group Manager (Development Management & Planning), Team Leader (Specialist Services), or Team Leader (Planning Casework).

### **Purpose of Report**

To recommend Council to amend Part 3, section 2.3 of the Council's Constitution, relating to the delegation of powers and functions to Officers from the Development Control Committee.

More specifically authority is sought to amend sub-section 2.3.4 and 2.3.44 (enforcement of planning control) to allow the delegation to Officers the power to commence prosecution proceedings in respect of advert and planning contravention notice breaches.

### **Breaches of advertisement controls**

#### Background

An advertisement is a poster, placard, a fascia sign, a projecting signs, pole signs, canopy signs, models and devices, advance signs and directional signs, estate agents boards, captive balloon advertisements (not balloons in flight), flag advertisements, price displays, traffic signs and place name signs. Memorials and railway signals are not advertisements.

The standard conditions in the regulations for all advertisements is that they are kept clean and tidy and in a safe condition. They must have the permission of the site owner including the Council on highway land. They must not block the view of road, rail, waterway or aircraft signs and they must not be so permanent that they cannot be removed if required.

The definitive rules relating to advertisements are complex and contained within the Town and Country Planning (Control of Advertisements Regulations 1992) (as amended). In brief there are three different groups of outdoor advertisement covered by the regulations:

1. Advertisements which are deliberately excluded from control. Adverts in enclosed sites like a sports stadium, adverts displayed on a moving vehicle, and national flags are three examples that would fall into this group.
2. Advertisements which have 'deemed consent' meaning an application is not needed provided certain rules and limitations are complied with. There are 14 Classes of adverts that fall within this group.
3. Advertisements for which an application is always needed, i.e. they need express consent.

### What are the Offences?

Adverts and fly-posts that have been displayed without the required advertisement consent have committed a criminal offence.

Under s.224 of the Town & Country Planning Act and Reg.30 of the Control of Adverts Regulations 2007 prosecution can be brought against either the owner/occupier of land on which it is displayed or the person whose goods/trade/activity are advertised by the advertisement.

In accordance with s.224 (3) any person found guilty of an offence will be liable on summary conviction to a fine not exceeding level 4 on the standard scale (presently £2,500) and, in the case of a continuing offence, £250 each day during which the offence continues after conviction.

The only defences available at trial are that the advertisement was displayed without the owner/occupier's knowledge, or that s/he took all reasonable steps to prevent display or secure the removal of the advertisement. Even the threat of prosecution can be a useful tactic whilst other processes run their course. Larger corporate advertising companies in particular, cannot afford the reputational risk of convictions. It should be noted that all it takes to make out an offence is a photograph of one illegal advertisement on one day.

### **Considerations**

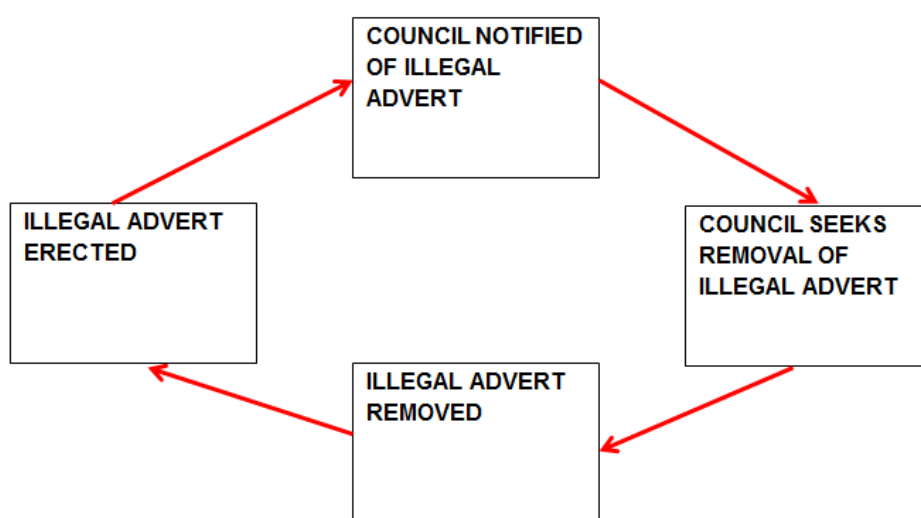
The illegal siting of advertisements, such as banners and Estate Agent Boards, is an on-going problem for this Council, with breaches being brought to our attention by both members of the public and Councillors. Similarly certain areas of the Borough's Town Centres, are periodically subject to fly-posting.

In dealing with these breaches of planning controls Planning Enforcement has to take into account competing demands.

On the one hand there is the need to act promptly. Usually the illegal advert is causing visual harm and is also often a distraction to motorists (the advert being displayed in a prominent position in the roadside) and is therefore a danger to highway safety. Furthermore, every day the illegal advert is left in situ the business / advertiser benefits from this illegal activity and would therefore be encouraged to repeat this activity in the future.

On the other hand the Council's Local Enforcement Plan states that cases involving the illegal display of advertisements are the lowest priority (priority 3). This takes into account the limited resources of the planning enforcement function and the need to deal with potentially irreversible breaches first (priority 1 cases such as works to a listed building or a preserved tree) and matters having a serious adverse impact to third parties second (priority 2 cases such as an unauthorised extension).

In respect of advertisements the planning enforcement team has historically had an approach whereby the breach was either dealt with directly (such as Officers removing fly-posting) or by contacting the advertiser asking them to remove their banner or estate agent board within a prescribed period (usually 48 hours). While this approach is almost always successful in securing the removal of the illegal adverts, it does not break the following vicious circle:



It has been demonstrated by the fact that the problem of illegal advertisements persists that simply dealing with the signs, banners, boards, etc. themselves is insufficient to prevent some individuals / businesses from re-offending.

It is appreciated that the Council has signed up to be 'open for business' and that there are circumstances where an error has been made (for example, a board company may not have followed an Estate Agent's clear instructions). As such it considered appropriate to take a proportionate response. This involves looking at the business concerned and their recent history in terms of planning enforcement. Overall, the response of planning enforcement is determined by the number of breaches recorded against that business in a three year period:

- 1 breach – deal with breach / send out advisory letter.
- 2 breaches – invite the individual into the Council for an informal discussion / send out final warning letter.
- 3 breaches – potentially invite for a PACE interview / issue Caution or Prosecute.
- 4 breaches – commence prosecution proceedings.

The above approach ensures that individuals and businesses are treated in a consistent manner. However, it also necessitates that the Council ultimately 'shows its teeth' in dealing with repeat offenders.

As such the Council has recently taken the step to commence prosecution proceedings and in the last six months the Council has successfully prosecuted The Manor Gym (for the prolonged display of a large banner on the side gable of a residential property) and SureSale (for persistent breaches of the regulations relating to the display of estate agent boards). The Council is also in the process of taking a second estate agent (Sterling) to the Magistrates Court for continually displaying estate agent boards on land that is not for sale or for rent.

However, in order to commence prosecution proceedings, the Officers at present need Members approval in accordance with the Scheme of Delegation within the Council's Constitution. This involves the preparation of a Part II report, the preparation of a presentation for Members and Officer attendance at Development Control Committee, as well as the administrative functions of keeping the offender and complainant informed of the Council's actions. It is considered that this work is disproportionate to the seriousness of the matter (priority 3) and the level of punishment that the Courts could decide to give (a relatively small fine). Furthermore, this work runs counter to the need for the Council to act promptly in dealing with breaches of advertisement control, due to the inherent three-weekly cycle of committee dates. It should also be borne in mind that the Council has a six-month period in which to seek prosecution of advertisement breaches and therefore a delay in starting this process could result in the Council no longer being able to take action against an offence.

Finally, it must be noted that research undertaken one month ago by East Herts District Council revealed that six local authorities already had delegated powers in respect of prosecuting for breaches of the advertisement regulations. The three local authorities that do not have delegated powers are East Herts (who are likely to change their Scheme of Delegation as part of their work in creating their Local Enforcement Plan), St. Albans (who provided no response) and Dacorum.

### Conclusion

A balance needs to be struck between the need for Officers to act promptly when dealing with breaches of the advertisement regulations, the need to send out the right message regarding a robust enforcement function, and also the need to use Officers' limited resources in a manner that is proportionate to the maximum penalty that can be given for the offence.

The delegation to Officers to commence prosecution proceedings in respect of advertisement offences under Section 224 of the Town and Country Planning Act 1990 would enable Officers to deal with continued breaches of the advertisement regulations in a more timely, efficient and proportionate way.

## **Breaches of the requirements in respect of Planning Contravention Notices**

### What is a Planning Contravention Notice (PCN)?

Planning Contravention Notices are a useful tool planning enforcement officers can use at the early stages of a planning enforcement investigation. It is a means of

obtaining information about an alleged breach of planning control; it also has the benefit of giving a clear warning that further action is being considered. The PCN will usually set out a list of questions about the site/development.

A planning contravention notice may only be served when it appears to the local planning authority that a breach of planning control may have occurred and they want to find out more information before deciding what if any enforcement action to take. It should not be used to undertake an investigative trawl just to satisfy the local planning authority about what activities are taking place on a parcel of land.

This is a discretionary procedure – the local planning authority need not serve a planning contravention notice before considering whether it is expedient to issue an enforcement notice or to take any other appropriate enforcement action.

It should be noted that a PCN is not available for use where there are suspected breaches of listed building or conservation area control, hazardous substances control or control of protected trees. This is because breaches in these matters are an Offence under the Act and therefore the offender has a right to silence.

#### What are the offences?

There is no right to silence with regards to a PCN. A failure to complete or return the PCN within 21 days is an offence under Section 171D (1) of the Town and Country Planning Act 1990. In accordance with sub-section (5) it shall be a defence for a person charged with this offence to prove that he had a reasonable excuse for failing to comply with the requirements of the PCN. A person found guilty of an offence of not complying with the requirements of the PCN is liable on summary conviction to a fine not exceeding level 3 on the standard scale (presently, therefore, a maximum fine of £1,000).

The provision of false or misleading information on the notice which he knows to be false or misleading is a further offence under Section 171D (5) of the Town and Country Planning Act 1990. A person found guilty of this offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale (presently, therefore, a maximum fine of £5,000).

#### Considerations

The Planning Enforcement team regularly use the power to serve a PCN where they suspect that there has been a breach of planning controls. The answers being sought provide Planning Enforcement with the information they need to make an informed decision on what is the most appropriate course of enforcement action.

For example, without knowing the ownership details of the land, or those who have an interest in the land, then it is possible for the Council to incorrectly serve an Enforcement Notice. Equally, the basis for serving the Enforcement Notice can be undermined if information is provided at the appeal of an Enforcement Notice stage, when that information should have been provided within a PCN response.

Therefore, the failure of an individual to respond to a PCN causes Planning Enforcement with some difficulties in deciding what steps to take next.

It must also be noted that the failure of the Council to deal with non-return of a PCN has an impact on the external reputation of the Council and its planning enforcement functions. An authority will be known as one that does not prosecute for PCN

offences and this has the knock-on effect of encouraging even more recipients of PCNs not to provide the answers Planning Enforcement are seeking.

In 2014 Planning Enforcement served 27 PCNs out of which nearly 20% (5) were not returned. In 2015 Planning Enforcement have served 23 PCNs out of which over 26% (6) have not been returned.

In addition to the above it is worth emphasising the Officer time spent chasing PCN responses. In several of the cases referred to in 2014 and 2015 a response to the PCN was received some considerable time after the deadline for a response and after staff resources had been spent repeating requests for a response to the PCN. Importantly, this slows down the speed in which Planning Enforcement can deal with a breach of planning control.

At this stage Planning Enforcement has not chosen the option of prosecuting for non-return of a PCN. In part this is due to the additional hours and resources that would be required in preparing a Part II report seeking Members' authorisation to commence prosecution proceedings. If there were a policy in place seeking to prosecute for non-return of the PCN, this would have necessitated 11 additional Part II reports since the beginning of 2014 for matters where the maximum penalty upon a successful prosecution is £1,000.

### Conclusion

A balance needs to be struck between the need for Officers to receive the required site and development information regarding a breach of planning control, the need to send out the right message regarding a robust enforcement function, and the need to use Officers' limited resources in a manner that is proportionate to the maximum penalty that can be given for the offence.

The delegation to Officers to commence prosecution proceedings in respect of an offence under Section 171D (1) of the Town and Country Planning Act 1990 would enable Officers to deal with the failure to receive a response to a PCN in a more timely, efficient and proportionate way.

### **Quarterly Report for Members**

It is proposed as part of this change to the Council's Scheme of Delegation that a Quarterly Report is prepared for Members that outlines all cases that have gone to prosecution. This Report would inform Members of what stage these cases are at and what progress has been made.

### **Recommendation**

Authority is therefore sought to amend Part 3, section 2.3 of the Council's Constitution, relating to the delegation of powers and functions to Officers from the Development Control Committee.

More specifically authority is sought to amend sub-section 2.3.4 and 2.3.44 (enforcement of planning control) to allow the delegation to Officers the power to commence prosecution proceedings in respect of advertisement and planning contravention notice breaches.



# Agenda Item 9

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted