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DEVELOPMENT CONTROL AGENDA

THURSDAY 23 FEBRUARY 2017 AT 7.00 PM
COUNCIL CHAMBER, THE FORUM

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 Whitman
Councillor Clark	Councillor C Wyatt-Lowe
Councillor Conway	Councillor Fisher
Councillor Maddern	Councillor Tindall
Councillor Matthews	Councillor Imarni

For further information, please contact Katie Mogan - 01442 228221 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 declare their interest at the beginning of the relevant agenda item and it will be noted by the Committee Clerk for inclusion in the minutes.

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

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

- 4/02937/16/FUL - CONVERSION OF AGRICULTURAL BARN TO FORM A PAIR OF SEMI DETACHED DWELLINGS COMPRISING A TWO-BEDROOM UNIT FOR A STABLE MANAGER WITH ASSOCIATED TACK STORAGE, LOCKABLE OFFICER AND A ONE-BEDROOM DWELLING FOR OPEN MARKET HOUSING - BARN 2, FLAUNDEN HOUSE STABLES, FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PW (Pages 5 - 41)

- (b) 4/02514/16/FUL - CHANGE OF USE FROM SHOP (A1) TO MIXED SHOP/DRINKING ESTABLISHMENT (A1/A4) USE - 104 HIGH STREET, BERKHAMSTED, HP4 2BL (Pages 42 - 82)
- (c) 4/02528/16/FUL - CONSTRUCTION OF FOUR DETACHED DWELLINGS WITH NEW ACCESS FROM BULBOURNE ROAD - GAMNEL FARM, BULBOURNE ROAD, TRING, HP23 5HF (Pages 83 - 109)
- (d) 4/02467/16/FUL - TWO BED DWELLING - 52 RIDGEWAY, BERKHAMSTED, HP4 3LD (Pages 110 - 120)
- (e) 4/02526/16/FHA - PROPOSED DOUBLE GARAGE - BLUEBELLE, HOGPITS BOTTOM, FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PX (Pages 121 - 131)
- (f) 4/03441/16/FHA - DEMOLITION OF EXISTING CONSERVATORY AND REPLACEMENT TWO STOREY SIDE EXTENSION AND SINGLE STOREY REAR EXTENSION - 25 WINDMILL WAY, TRING, HP23 4HH (Pages 132 - 139)
- (g) 4/02842/16/FUL - NEW DWELLING - 16 COBB ROAD, BERKHAMSTED, HP4 3LE (Pages 140 - 152)
- (h) 4/03392/16/FHA - SINGLE STOREY REAR EXTENSION. SINGLE STOREY SIDE EXTENSION WITH TERRACE OVER AND RENDER CLADDING TO FRONT - 2 COPPINS CLOSE, BERKHAMSTED, HP4 3NZ (Pages 153 - 158)

6. APPEALS UPDATE (Pages 159 - 166)

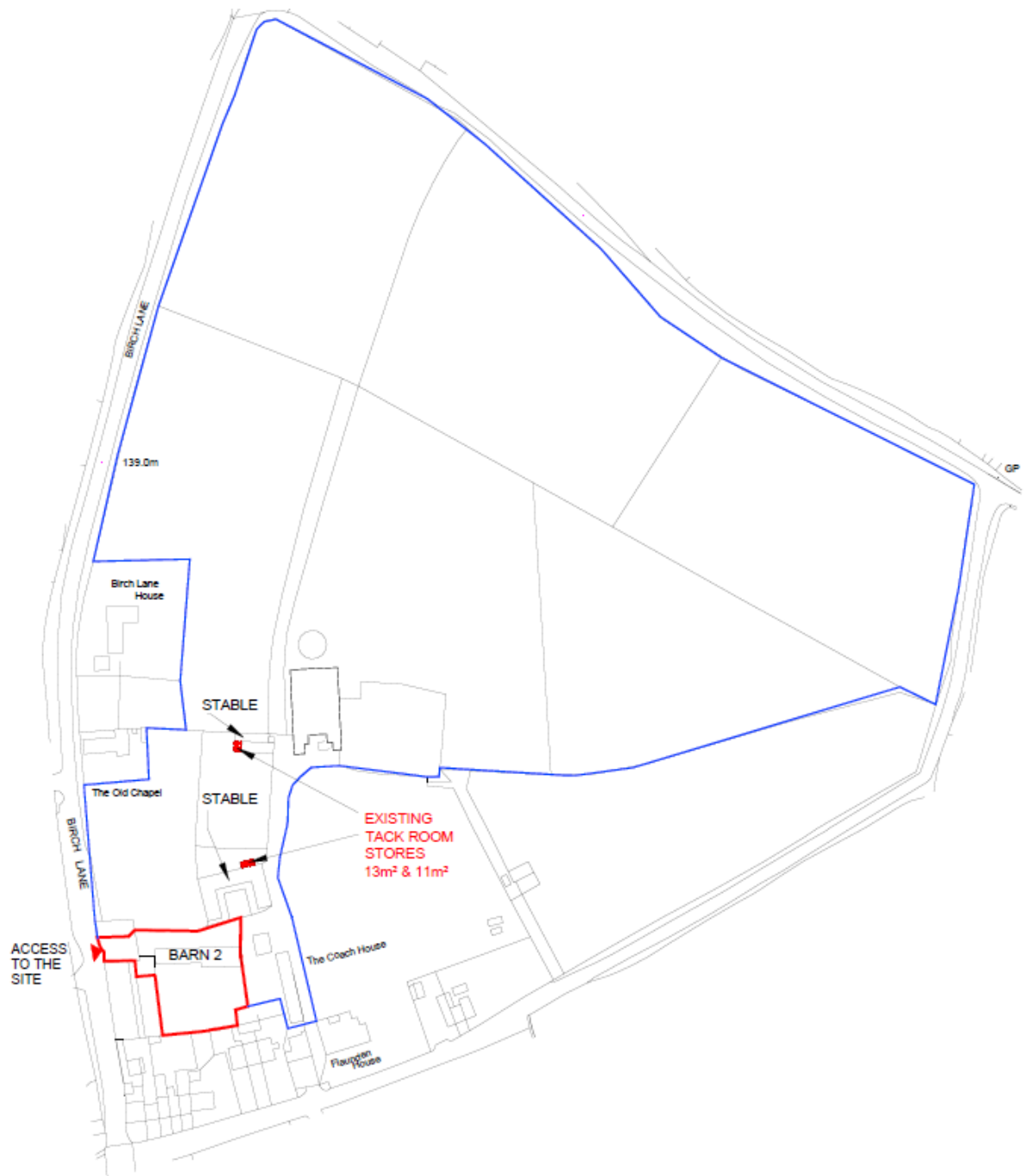
7. EXCLUSION OF THE PUBLIC

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 5a

4/02937/16/FUL - CONVERSION OF AGRICULTURAL BARN TO FORM A PAIR OF SEMI DETACHED DWELLINGS COMPRISING A TWO-BEDROOM UNIT FOR A STABLE MANAGER WITH ASSOCIATED TACK STORAGE, LOCKABLE OFFICE AND A ONE-BEDROOM DWELLING FOR OPEN MARKET HOUSING.

BARN 2, FLAUNDEN HOUSE STABLES, FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PW



Item 5a



**4/02937/16/FUL - CONVERSION OF AGRICULTURAL BARN TO FORM A PAIR OF SEMI DETACHED DWELLINGS COMPRISING A TWO-BEDROOM UNIT FOR A STABLE MANAGER WITH ASSOCIATED TACK STORAGE, LOCKABLE OFFICE AND A ONE-BEDROOM DWELLING FOR OPEN MARKET HOUSING..
BARN 2, FLAUDEN HOUSE STABLES, FLAUDEN, HEMEL HEMPSTEAD, HP3 0PW.
APPLICANT: Mr Smyth.**

[Case Officer - Elspeth Palmer]

Summary

The proposals are considered to be acceptable for approval as the proposed conversion of existing agricultural barn to 2 semi-detached dwellings comprising a two bedroom unit, a stable Manager's one bedroom dwelling and a Manager's Office complies with CS5 Green Belt, CS11 Quality of Neighbourhood Design, CS12 Quality of Site Design and CS27 Quality of the Historic Environment. The recommendation is that determination of the application be delegated to the Group Manager, Development Management with a view to approval subject to the amendment and signing of the Unilateral Undertaking by the relevant parties.

The principle of conversion of this building from agriculture to residential has already been established under a previous planning permission (4/03481/15/MFA) see history below.

There will be no impact on the openness or character of the Green Belt as the footprint and bulk of the building will not be changing from the existing. Via the previously signed unilateral undertaking this conversion will not have a detrimental impact on the rural economy. The UU will be amended to ensure that despite this application there will still be provision of a Manager's office and accommodation in this building.

The design of the proposal will be in character with the existing building and surrounding countryside. The design and materials of the proposal will also be in character with the adjacent Flaunden Conservation Area.

Summary of information submitted following the Development Control meeting held on 12th January, 2017

At the Development Control Committee meeting on 12th January 2017 the committee discussed the application for the following:

- conversion of an existing agricultural building to form a pair of semi-detached dwellings comprising a two bedroom unit, a stable Manager's one bedroom dwelling and a Manager's office. The Manager's Office will include a desk area, a kitchenette, a rest area, tack store and W.C.

The members raised the following two concerns:

1. There seems to be inadequate provision of tack room facilities for an equestrian facility of this size.
2. The size of the accommodation for the Manager of the equestrian use was too small and would be unlikely to attract a suitably qualified tenant manager.

Members also asked for an independent equestrian expert to give advice to the Committee.

The members recommended to defer the application so that more information could be obtained regarding the two concerns raised above.

The applicant has reviewed their application based on the above concerns and has amended the proposal to be:

- **Conversion of agricultural building to form a pair of semi-detached dwellings comprising a two bedroom unit for a stable manager with associated tack storage, lockable office and a one bedroom dwelling for open market housing.**

Please note that the Manager's accommodation is now a two bedroom dwelling thus allowing the person managing the site to be either single or to have a family (as raised at the last DCC meeting).

New plans and information has been submitted and sent out to consultees for their comments.

Two equestrian experts will speak and be available for questions at the next meeting. One representative from the British Horse Society who was asked to comment on earlier applications by the local community and one who has provided expert advice to the applicant during the preparation of the recent applications.

Summary of Representations

Flaunden Parish Council

Flaunden Parish Council recommend REFUSAL of this amended application for the following reasons:

The whole of Barn 2 should remain tied to the management of the equestrian land in order to ensure that the viability of the business is not affected. The condition of a tie to barn 2 was an important factor in the granting of planning permission for the whole site. The Unilateral Agreement, which formed a crucial part of the conditions of approval states that (16, b, iii) 'Not use or permit the use of the Tie Barn 2 other than as a Manager's Cottage'. The future viability of the business was fundamental in the approval of the original planning application for the whole site. We believe that these proposed amendments would adversely affect the future viability of the business.

Flaunden Parish Council believe that the long term Equestrian Tie which was transferred from the Coach House to Barn 2 should remain on the entirety of the property. The proposed amendments would put the re-opening and operation of this livery yard at risk for reasons of viability and safety.

The latest application seeks approval for a self-contained 'open market' dwelling, with no tie to equestrian use. This dwelling is in the centre of the livery yard with a front door opening immediately into an area of danger – namely the most practical space on the livery yard used for the loading and unloading of horses. The aspect of safe loading areas and horsebox parking as previously agreed are clearly shown in detail on the site plan for the approved application and the business plan but not on the current application site plan.

Selling such a unit in the middle of the livery yard to someone who may have little or no knowledge of horse behaviour provides the potential for creating a very dangerous situation. The livery yard manager and horse handlers will need to ensure controls and safety procedures are followed for the loading and unloading of horses in order to keep at a safe distance residents or visitors who will use the area in front of the dwellings as the only access route to the other dwellings on site. We believe these proposals would result in a failure to meet the minimum standards of DEFRA and the BHS as required and defined in the previously approved application conditions.

The British Horse Association has consulted with local livery yard owners who, in their professional opinion, consider the proposal to sell a small domestic unit in the centre of an active livery yard with no say or control over the occupants to be an unacceptable risk. It is highly likely this would also be the conclusion by any suitably qualified potential tenant or buyer

for the business and would therefore affect the future viability of the business.

At the last Development Control Committee, the Committee asked that independent advice be sought. Initially Mr John Rugg (on behalf of the British Horse Association) was asked to speak at the DCC but this request was withdrawn by the Planning Officer. We consider it important that the DCC have the opportunity to listen to the advice of the British Horse Association.

The application addresses the issue of insufficient space being allocated to the storage of tack and equipment, by showing two separate wooden storage areas attached to stables. However, the buildings referred to in the latest proposal are not suitable for housing high value tack. The applicant has submitted a simplified 'revised site plan', which shows the locations of the proposed additional tack store. However, we believe the DCC should consider these locations in relation to the approved site plans for 4/03481/15/MFA (as attached), which indicates, not just the location of the tack storage areas, but all of the facilities, and which clearly illustrates the congested and potentially hazardous nature of the site.

British Horse Society - objects

The BHS objects to the proposed removal of a long established Equestrian Tie in order to provide for private sale a single bedroom open market self-contained domestic dwelling to be located in the middle of the livery yard business accommodation unit and work activity area.

The associated risks within this application, if approved, may jeopardise the re-opening and continuing existence of this livery yard as required under the decision notice for 4/03481/15/MFA.

Selling an "open market" domestic unit in located in the middle of the main livery yard operations area to someone who may have little or no knowledge of horse behaviour is potentially extremely dangerous, as explained in more detail in the accompanying appendix. We welcome the agreement for the 2 bedroom accommodation for the proposed livery yard manager, or an eventual owner of the livery yard, and an improved tack room but must in the interests of safety continue to recommend the total area of domestic accommodation in Barn 2 retains the agreed equestrian tie.

We believe it is vital the DCC understands the implication of the potential risk and danger to horses, the proposed resident, any children and public. We therefore felt it necessary to seek further advice and obtain an independent opinion from a member of the Chartered Institute of Environmental Health specialising on assessing risks for horse riding and livery yard businesses.

Dr. M. Sinclair-Williams is a director of a large international company and he co-authored the publication *Health & Safety in Horse Riding Establishments and Livery Yards*, published by the Chartered Institute for Environmental Health, and available through the central government website under the heading of

He was provided with access to copies of the current application and Barn 2 building plans plus the "Proposed site plan 15.149.P7C.001", is aware of the contents of the business viability plan and agrees with our view in that this simply establishes what can be achieved and that the complex is capable of again being commercially viable.

He also notes the business plan is not supported by any operating detail or design or management plan to identify potential hazardous areas on the site with the issues to be considered and taken into consideration within the design to eliminate hazards and minimise risks. It appears a manager of the livery yard will be unlikely to have any enforceable controls over an owner or visitors entering or leaving the 'open market' accommodation in Barn 2 and no safe zone for them as pedestrians, who may be children, to walk through a work area that will regularly contain horses and handlers.

In his opinion the current design and location of the open market accommodation indicates a serious potential hazard and area of risk. If established as proposed the findings of a risk assessment alone is likely to result in a failure to meet the minimum standards of the BHS Livery Yard Approval Scheme.

It is unfortunate that the BHS recommendations in writing in March 2016 were not followed: *'We feel very strongly that a professional designer would be a good first step for the applicant to consider. It would be helpful to all if they were also to provide a business plan and ideally an outline management plan'*.

A professional designer would include a management plan along with a design for accommodation, stables and work areas for a commercial livery yard, identify the potential hazards, recommend safety management controls. And reinforce the need to ensure compliance with a duty of care as required by Health & Safety at Work legislation for the protection for staff, residents, and visitors and in particular pedestrians who may often be children.

As the BHS previously indicated (Nov 2016) having two accommodation units within Barn 2, with both units retaining the buildings current Equestrian Tie, could be of great benefit to this business as the smaller one could be rented on a Shorthold Tenancy Agreement to either a groom/employee. Or perhaps consider, with the written consent of the Council, renting this to a client using the livery yard stables to keep their horse/s. This would enable the yard manager to ensure any occupant both agrees with and complies with the livery yards safety and risk management systems.

Appendix A.

Safety & Risks.

1. An important safety feature for this site within the approved application 4/03481/15/MFA ensures the location of buildings to be converted to domestic dwellings, and sold on the open market, are to remain separated from the majority of the livery yard operational activities. A need for a sensible vehicle traffic control scheme has been suggested in the business plan.
2. The latest application seeks approval for a self-contained open market dwelling in the centre of the main livery yard with a front door opening immediately into the road and an area of danger – namely the most practical remaining space on the livery yard available for the loading and unloading of horses. The horsebox and trailer parking areas are shown on the equestrian proposed use site plan as required in the approved application but not on the current application site plan.
3. As indicated, selling such a freehold or leasehold unit in the middle of the livery yard to someone who may have little or no knowledge of horse behaviour provides the potential for creating a very dangerous situation. If they or a visitor or a child simply opens the front door at the wrong moment, this is most likely to startle a horse being loaded or unloaded close by and cause it to rear up or kick, break loose and cause a serious injury to someone or damage itself or something.
4. Health and Safety legislation requires the manager, owner or eventual proprietor of the livery yard has a duty of care to protect employees, clients, any residents, visitors and contractors etc. They will be required to undertake assessments and have systems in place to manage safety and minimise risks generated by the equestrian activities, communicate the controls and make sure they are understood and agreed by all involved.

5. The livery yard manager and horse handlers will need to minimise risks by ensuring the agreed controls and safety procedures are always strictly followed for the loading and unloading of horses in order to keep at a safe distance residents or visitors on foot who may use the main livery yard as an access route.

Kernon Countryside Consultants Limited - supports

Approved plan 15.149.P7.301 Rev. D shows Barn 2 converted to form a two bedroomed dwelling and a tack room, toilet and washroom for riders. The dwelling would be limited to occupation by a person working solely or mainly at the equestrian centre at Flaunden House Stables, under Condition 9 of permission 4/03481/15/MFA.

The floor area of the approved dwelling was approximately 168 sq m, internally, and the floor area for the rider / tack area was approximately 24 sq m.

Although not shown on approved plan 15.149.P7.301 Rev. D, the dwelling would contain an office for business use associated with the equestrian centre. In order to provide a separate, lockable room in which the worker would keep all necessary documents related to the keeping of horses and running an equestrian business, I assume the office would be provided in the second bedroom. It would be impractical to maintain an office in the open-plan living area, as it would not be particularly secure and the worker would probably wish to undertake paperwork and correspondence in a quiet environment, if not living alone.

The provision of an office in the second bedroom on the approved plans would provide a discrete, secure working environment for the management of the equestrian centre. The approved worker's dwelling would, in actual fact, become a one bedroom dwelling.

The current application seeks to amend the approved plan.

The inclusion of a separate office provides a secure, private place in which the equestrian manager can work without the distraction of a housemate, partner or family. Confidential documents relating to the operation of the equestrian business (equine passports, livery agreements, employment contracts, supplier details etc.) can be stored securely in the office.

The office also provides a private area for meetings. The office is easily accessible via the front door of the dwelling, so prospective or current clients or suppliers need not walk through and domestic areas to reach a meeting.

Whilst the floor area of the dwelling has been reduced from the approved plans, the internal layout offers a more practical and professional approach to the management of the equestrian yard.

The floor area of the tack room has increased slightly from the approved plans, which will inevitably be useful. There are also other storage areas across the yard and a rug room is proposed in one of the main stables.

Response to Neighbour Notification

Birch Lane House - Objects

1. The holistic plan (Ref 4/03481/15/MFA) first submitted by Relic homes and approved included transferring the existing tied detached Coach House to a similar detached new barn conversion (Barn 2) for the purpose of ensuring that adequate accommodation for the management of the ongoing commercial equestrian activities was maintained. In addition the development was to increase the number of residential dwellings on the site from one to three houses alongside the equestrian activities on the site. This latest proposal, in what has been

an endless stream of amendments to this plan, now seeks to increase the number of separate residences on the site to five and, in the process, reduce the residential property tied to the commercial activities to a smaller semi-detached property of 99 sq metres.

2. At the start of this process much emphasis was placed by both local residents, Flaunden Parish Council, Dacorum Planning, the British Horse Society and the Development Control Committee members on trying to ensure that the equestrian activities would both re-open and also be viable and sustainable. By reducing the quality and size of the tied residential property the viability and sustainability of the stables will be further eroded.

3. The need to have a reasonable sized detached house attached to the equestrian activities, which is proportional and appropriate to the commercial activity, has already been accepted by Dacorum Planning in allowing the original Coach House to be extended (Ref 4/02292/03/FUL). If a detached unit larger than the one being proposed was previously accepted as not adequate why would you now accept that this smaller semi-detached one is?

4. Additionally, having a non-equestrian tied property (the proposed one-bedroom open market unit) so close to the very heart of a busy commercial working stables with the associated horse movement and traffic activity right outside of the front door, on the only access to the commercial stables complex, cannot be sensible or safe.

5. Ultimately the stables will be put on the market and marketed by Relic Homes, who are property developers not equestrian professionals. The smaller semi-detached 'tied' residence, together with the inappropriate adjoining 'non-tied' configuration of the other part of Barn 2, will negatively impact the attractiveness of this site to professional equestrian buyers, as the accommodation will be both unsafe and disproportionate to the 16 acres of commercial equestrian land and buildings. At which point Relic Homes will return with a new application to develop the remaining stables buildings on the grounds that the business was unsaleable and therefore 'non-viable'. This whole scenario will have been cleverly engineered, one amendment at a time, until what is left bears no resemblance to the original holistic plan. The importance of an adequate infrastructure and accommodation required to sustain a successful equestrian activity on the site will have been completely undermined.

6. This latest proposal is inappropriate as it puts commercial profitability and the desire to create an additional saleable residence above both safety (horses and people) and the required protection of the rural economy.

7. I do not believe there is anything within planning guidelines to dictate that the 'tied' status has to be lifted on the detached barn, as approved within the current 106 Agreement. As such I would ask that you refuse this application and maintain the current 106 Agreement tie and the requirement therein that the entirety of Barn 2 'be used for commercial equestrian purposes only'.

8. The last DCC committee meeting also rightly questioned the layout of the Tack Room and its wholly inadequate size at 26 sq metres to service 16 horses in a professional commercial equestrian yard. This latest proposal misleadingly claims that additional storage of 24 sq metres, is available on the site for tack storage.

Based on the above, I am therefore objecting to this application.

Planning Considerations

Policy and Principle

The principle of residential conversion of this building was approved under 4/03481/15/MFA which included a holistic approach for the whole site at Flaunden House Stables.

The Development Control Committee at its meeting on 7th April, 2016 recommended that the above application be delegated to the group manager with a view to approval subject to the signing of a Unilateral Undertaking which would bind the property and every part thereof to carry out and comply with the obligations.

The obligations are:

- that the existing stables be only used for commercial uses;
- Barn 2 will be the Manager's cottage;
- the land (except for that shown on the Master Plan - ownership map) which will belong to the dwellings approved under this development will be used for equestrian stables and associated equestrian use.

The Unilateral Undertaking is to ensure that a commercial equestrian use is re-established on the site by tying the two bedroom dwelling, the 16 stables and associated land together for sole use of the equestrian activity;

This subject site is within the area covered by the Unilateral Undertaking.

The Unilateral Undertaking will need to be reworded and resigned to allow the changes proposed under this proposal.

Suggested amendment is to Clause 16(b)ii of the sec. 106 Agreement to read, 'Not use nor permit the use of the two bedroom unit in Barn 2 other than as a manager's dwelling (unless granted through a further specific planning permission)'.

The current proposal

The main differences between that already approved under the MFA and that now proposed are:

- two separate dwellings;
- minor changes to the outward appearance; and
- amenity space has been reduced by being shared between two dwellings.

Analysis of information:

Tack Room facilities:

Under the planning approval 4/03481/15/MFA the area provided for a tack room in Barn 2 was 24 square metres.

The current proposal shows an area measuring 26 square metres for the following:

- a tack store;
- rest area;
- kitchenette;
- WC;
- shelving for first aid equipment.

The original plans have been amended by moving the office from the tack store to the manager's dwelling so it will be lockable and provide adequate privacy.

Plans have also been provided showing provision of tack room facilities elsewhere on the

larger site of 24 square metres thus making a total area for tack of 50 square metres (see No. 15.149.P7.200E and 16.149.P10.000C).

As the provision of a 24 square metres tack room was considered adequate and approved under the previous planning permission it is not now reasonable to state that more room is required.

Size of Manager's Accommodation:

The Manager's accommodation approved under the MFA approval was 168 square metres.

The two bedroom unit has now been allocated to the Manager and will measure 99 square metres.

At the last Development Control Committee meeting it was considered necessary that the Manager's accommodation allowed for the Manager to have a family and that two bedrooms were considered essential for this to be possible.

The one bedroom dwelling to be sold on the open market will measure 63 square metres. National Space Standards state the minimum size of a one bedroom dwelling is 39 square metres. A study published by the Royal Institute of British Architects (RIBA) in 2011 found that the average size of a one bedroom home in England is 46 square metres.

Mixed Use of the site

One of the main issues raised by the BHS is the mixed use of the site. The principle of the mix of residential and equestrian use on the site was accepted under the original MFA approval.

Operational Plan

Saved Policy 81 Equestrian Activities of the Dacorum Borough Local Plan 1991-2011 states that small scale facilities will normally be permitted in the Green Belt and Rural Area provided they meet certain criteria. None of these criteria include a Business Plan or an Operational Plan.

There are no planning policies which require the submission of Business Plans or Operational Plans for Equestrian Uses. The main planning issues are related to minimising any impacts on the openness of the Green Belt and assimilation into the rural area and any established rights of way for equestrians.

The Dacorum Borough Council approves numerous stables/riding school developments throughout the Borough and never require such a plan as it was not deemed to be necessary.

Dr. M. Sinclair-Williams noted that "the business plan is not supported by any operating detail or design or management plan to identify potential hazardous areas on the site with the issues to be considered and taken into consideration within the design to eliminate hazards and minimise risks."

The planning permission granted under 4/03481/15/MFA for " Conversion of existing agricultural barn to form a 4 bed detached dwelling, conversion of existing agricultural barn to form a 2 bed detached dwelling with Manager's Office, single storey rear extension to Coach House and refurbishment and improvement of existing stables" does not have a condition requiring an operational plan.

Paragraph 206 of the NPPF states that "Planning Conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

Based on the above policies and national guidance it cannot be said that provision of an Operational Plan is a reasonable condition to place on a planning permission.

The other planning matters assessed in the previous report eg. impact on neighbours, car parking, amenity space have not changed so are not reproduced in this report.

RECOMMENDATION - That determination of the application be DELEGATED to the Group Manager, Development Management with a view to approval subject to the amendment and signing of the Unilateral Undertaking by the relevant parties, and 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 development hereby permitted shall match in size, colour and texture those used on the existing buildings.**

Reason: To ensure a satisfactory appearance to the development and to comply with CS 11,12 and 27.

- 3 **No development of the buildings hereby approved shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. 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;**
- **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);

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted.

Reason: To ensure a satisfactory appearance to the development and to Safeguard the visual character of the immediate area and to comply with CS5,11,12 and 27.

- 4 **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.

- 5 **All remediation or protection measures identified in the Remediation Statement referred to in Condition (4) 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.

Informative:

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

6 Prior to the commencement of development the refurbishment of the stables as described in the application and listed below must be completed.

- **Replacement and renewal of worn felt roof on the stables;**
- **Replacement of rotten stable doors with new stable doors;**
- **Repoint loose bricks to the bottom of wall; and**
- **Renew / seal leaking rainwater goods.**

Reason: To ensure that the stables are refurbished and that they are available for the re-establishment of the equestrian use on the site and therefore complies with CS5 with particular reference to supporting the rural economy.

7 Prior to the commencement of development plans showing the layout of the equestrian use shall be submitted for approval by the local planning authority to demonstrate the stables, supporting buildings and infrastructure for the operation of the livery yard, provide for horse and pedestrian safety and will support the rural economy in terms of a sustainable equestrian facility.

Reason: to ensure the proposed use supports the rural economy and maintenance of the wider green belt countryside as well as highway safety in accordance with policies CS5 (Green Belt), CS9 (Management of roads) of the Core Strategy 2013, Policy 51 (Development and transport Impacts), Policy 81 (Equestrian activities) of the Dacorum Borough Local Plan 2004 and the NPPF.

8 Detailed proposals for the fire hydrants serving the development as incorporated into the provision of the mains water services for the development whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and in accordance with the approved details thereafter implemented prior to occupation of any building forming part of the development.

The development shall thereafter be implemented in accordance with those approved details.

Reason: To enable appropriate development to occur, ensure a safe, sustainable form of development which provides for its own infrastructure for fire emergencies in

accordance with core strategy policies CS1, CS4, CS12 & CS29.

- 9 **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 and G]

Part 2 Classes [A, B and C].

Part 6 Class A

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.

Reason: In the interests of safeguarding the openness of the Green Belt; the rural character of the building and the site; and the visual amenity of the surrounding countryside. The proposed development comprises of the conversion of two agricultural buildings in a rural area and it is important for the local planning authority to retain control over certain future development which would normally represent permitted development, in order to safeguard the rural character of the surrounding countryside.

- 10 **The occupation of the two bed conversion shall be limited to a person solely or primarily working at the stables located immediately north-east of the dwelling or a widow or widower of such a person and to any resident dependants.**

Reason: For the avoidance of doubt and to ensure that the stables opposite will be retained and offered to local people for the stabling of their horses. The two bed conversion will help support the rural economy and maintenance of the wider countryside. To ensure compliance with CS 5.

- 11 **Where the proposed materials for Barn 2 do not match the existing, no development shall take place until details of the external materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. Samples shall be made available to inspect on the site. Development shall be carried out in accordance with the approved details.**

Reason: To ensure a satisfactory appearance to the development and to preserve the character and appearance of the Conservation Area and to comply with policies CS27 and CS 11 and 12.

- 12 **Prior to commencement of development a Business Plan for the equestrian use must be submitted to and approved by the local planning authority.**

Reason: To ensure the viability of the equestrian business and to comply with CS5 with particular reference to supporting the rural economy.

- 13 **All materials and equipment to be used during the construction shall be stored within the curtilage of the site unless otherwise agreed in writing by the Highways Authority prior to commencement of the development.**

Reason: In the interest of highway safety and free and safe flow of traffic.

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

CIL

Site and Location Plan 16.149.P10.000 Rev C

Proposed Floor & Elevation Plan 16.149.P10.002 Rev C

Existing Floor and Elevation Plan 16.149.P10.001

Revised Planning Statement, 24th January 2017.

Amended Application Form

Unilateral Undertaking - tying the two bedroom dwelling and tack room within Barn B and all land not under the ownership of the one bedroom dwelling in Barn B, Barn A and The Coach House to the stables for the equestrian use.

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 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.

Informatives:

Welfare of animals

Please refer to the DEFRA Code of practice for the Welfare of Horses, Ponies, Donkeys and Hybrids, NEWC Compendium for the Welfare of Horses, Ponies and Donkeys and the BHS Approval Criteria for Livery Yards. This guidance sets out minimum standards to ensure a level of appropriate well-being at an equestrian use which will ensure the longevity of the business and in turn supports the rural economy in accordance with CS5.

Highways

1. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

2. 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.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

AN1. The applicant is advised that storage of materials associated with the development should take place within the site and not extend into within the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary further details can be obtained from the County Council Highways via either the website <http://www.hertsdirect.org/services/transtreets/highways/> or telephone 0300 1234047 to arrange this.

AN2. The developer should be aware that the required standards regarding the maintenance of the public right of way and safety during the construction. The public rights of way along the carriageway and footways should remain unobstructed by vehicles, machinery, materials and other aspects of construction works.

Transport maintained and available on site should emergency veterinary treatment be required.

(Reason - the provision of a trailer and towing vehicle and or horse box is a welfare requirement for the transportation to a Veterinary hospital for sick animals requiring urgent lifesaving surgery if diagnosed by a veterinary surgeon or other competent person).

Protected Species

- "Bats and their roosts remain protected at all times under National and European law. If bats or evidence for them is discovered during the course of works, work must stop immediately and advice sought on how to proceed lawfully from Natural England (Tel: 0300 060 3900) or a licensed bat consultant."
- "Site clearance should be undertaken outside the bird nesting season, typically March to September (inclusive), to protect breeding birds, their nests, eggs and young. If this is not possible then a search of the building/surrounding vegetation should be made by a suitably experienced ecologist and if active nests are found, then works must be delayed until the nesting period has finished."

It is possible that bats may be using areas of the existing building.

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 evidence of them are found to be present a licence will be required before any relevant works can be undertaken and this will involve preparation of a Method Statement to demonstrate how bats can be accommodated within the development.

If bats are discovered during the course of any works, work must stop immediately and Natural England (0300 060 3900), Bat Conservation Trust Helpline (0845 1300 228) or the Hertfordshire & Middlesex Bat Group Helpline (01992 581442) should be consulted for advice on how to proceed.

Thames Water

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.

Appendix 1 - Previous Development Control Committee Report

Summary

The application is recommended for approval as the proposed conversion of existing agricultural barn to 2 semi-detached dwellings comprising a two bedroom unit, a stable Manager's one bedroom dwelling and a Manager's Office complies with CS5 Green Belt, CS11 Quality of Neighbourhood Design, CS12 Quality of Site Design and CS27 Quality of the Historic Environment.

The principle of conversion of this building from agriculture to residential has already been established under a previous planning permission (4/03481/15/MFA) see history below.

There will be no impact on the openness or character of the Green Belt as the footprint and bulk of the building will not be changing from the existing. Via the previously signed unilateral undertaking this conversion will not have a detrimental impact on the rural economy. The UU will be amended to ensure that despite this application there will still be provision of a Manager's office and accomodation in this building.

The design of the proposal will be in character with the existing building and surrounding countryside. The design and materials of the proposal will also be in character with the adjacent Flaunden Conservation Area.

Site Description

The site is located on the eastern side of Birch Lane, Flaunden. This site is set back from the lane and reached via an unnamed access lane which also serves a number of stables and a dwelling. The site comprises a timber clad agricultural building on the southern side of the lane and a stable building opposite with a large area of land to the north which is predominantly fields with some dividing fences.

The building has internal partitions and has been predominantly used for storage.

The agricultural building is located to the rear of a number of dwellings which are clustered around the intersection of Birch Lane and Flaunden.

The site is located in the Flaunden Conservation Area and the Green Belt.

Proposal

The proposal is for the conversion of an existing agricultural building to form a pair of semi-detached dwellings comprising a two bedroom unit, a stable Manager's one bedroom dwelling and a Manager's office. The Manager's Office will include a desk area, a kitchenette, a rest area, tack store and W.C.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Flaunden Parish Council.

Planning History

4/02298/16/DRC DETAILS REQUIRED BY CONDITIONS 3 (HARD AND SOFT LANDSCAPING), 4 (PHASE 1 REPORT), 6 (LAYOUT OF EQUESTRIAN USE), 7 (FIRE HYDRANTS), 10 (EXTERNAL MATERIALS), 11 (EXTERNAL MATERIALS) AND 12 (BUSINESS PLAN) ATTACHED TO PLANNING PERMISSION 4/03481/15/MFA - CONVERSION OF

EXISTING AGRICULTURAL BARN TO FORM A 4 BED DETACHED DWELLING; CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A 2 BED DETACHED DWELLING WITH MANAGER'S OFFICE; SINGLE STOREY REAR EXTENSION TO COACH HOUSE; AND REFURBISHMENT AND IMPROVEMENT OF EXISTING STABLES.
Delegated

4/01658/16/FUL CONVERSION OF EXISTING AGRICULTURAL BARN TO 2 SEMI DETACHED DWELLINGS.
Granted

4/03481/15/MFA CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A 4 BED DETACHED DWELLING; CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A 2 BED DETACHED DWELLING WITH MANAGER'S OFFICE; SINGLE STOREY REAR EXTENSION TO COACH HOUSE; AND REFURBISHMENT AND IMPROVEMENT OF EXISTING STABLES.
Granted
05/07/2016

4/02986/15/FUL CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A DETACHED TWO BEDROOM DWELLING
Withdrawn
26/09/2016

4/02895/15/FUL CONVERSION OF EXISTING AGRICULTURAL BARN TO FORM A DETACHED FOUR BEDROOM HOUSE WITH HOME OFFICE AND STABLES (AMENDED SCHEME).
Withdrawn
04/11/2015

4/01123/15/FUL CONVERSION OF AN EXISTING STABLES TO FORM A SINGLE FOUR BEDROOM HOUSE WITH GARAGE AND WORKSHOP (REVISED SCHEME).
Refused
21/08/2015

4/00201/15/FUL CONVERSION OF EXISTING STABLES TO FORM A FOUR BEDROOM HOUSE WITH GARAGE AND WORKSHOP
Withdrawn
17/03/2015

4/01569/05/FUL STATIONING OF CARAVAN FOR SAFETY AND WELFARE OF HORSES
Refused
20/09/2005

- 4/02292/03/FUL EXTENSION TO COTTAGE AND CONVERSION OF ADJOINING STABLES. DEMOLITION OF TACK/FEED ROOM
Granted
18/12/2003
- 4/00567/03/FUL DEMOLITION OF EXISTING TACK AND FEED ROOM, CONVERSION OF STABLES AND EXTENSION TO ACCOMMODATION
Refused
09/05/2003
- 4/02089/01/CAC REMOVAL OF BARN
Refused
01/03/2002
- 4/02088/01/FUL REPLACEMENT OF EXISTING BARN WITH NEW DWELLINGHOUSE
Refused
28/02/2002
- 4/00848/01/CAC DEMOLITION OF BARN
Refused
28/08/2001
- 4/00821/01/ ONE DWELLING
Refused
28/08/2001
- 4/03435/15/FUL Conversion of agricultural barn to B1a office space

CASE WITHDRAWN
Unknown
- 4/03688/15/FUL PART DEMOLITION OF EXISTING AGRICULTURAL BARN AND CHANGE OF USE TO A DAYTIME COMMUNITY CENTRE AND WARDEN'S OFFICE. CHANGE OF USE OF EXISTING PARKING AREA TO 7 TRAVELLER AND GYPSY PITCHES INCLUDING 7 DAY UNITS
Unknown

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
Circular 11/95

Adopted Core Strategy

NP1 - Supporting Development
CS5 - The Green Belt
CS7 - Rural Area
CS8 - Sustainable Transport
CS9 - Management of Roads
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS14 - Economic Development
CS17 - New Housing
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

Saved Policies of the Dacorum Borough Local Plan

Policies 13, 81,110.
Appendices 3 and 5.

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)
Planning Obligations (April 2011)

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Summary of Representations

Flauden Parish Council

Flauden Parish Council recommend **REFUSAL** of this application for the following reasons :

The whole of Barn 2 should remain as a single dwelling tied to the management of the equestrian land in order to protect the conditions of the Unilateral Agreement and to ensure the viability of the business is not affected.

The details of this application make no mention of the condition which ties this dwelling to the management of the equestrian centre. This condition was an important factor in the granting of the original application for the whole site. By changing the approved Tie Barn 2 to two properties, one of which we assume would not be tied to the management of the land. This application is in breach of the Unilateral Agreement which formed part of the approval for application 4/03481/16/MFA which states that (16,b, iii) 'Not use or permit the use of the Tie Barn 2 other than as a Manager's Cottage'.

Breach of conditions of Application 4/03481/16/MFA which was approved with the condition that the viability of the business would not be affected. We believe these plans show, yet

again, how Relic Homes show very little consideration and understanding of what is required to run an equestrian business. We believe that this application if successful, will impact on the viability of the business as it would be highly unlikely that someone wishing to run a 16 acre stables complex would consider it possible to run the business without the provision of an adequately sized Tack Room (which should include rest area, washing and kitchen facilities) and a completely separate and secure office area. We also consider that by reducing the size of the manager's dwelling to 65 sq m the dwelling which is too small for its stated purpose and would be unlikely to attract someone in the role of site Manager. This would affect the viability and sustainability of the business, thus breaching the conditions of the Unilateral Agreement.

Inappropriate layout and insufficient space allocated to Manager's residence. Prior to Relic Homes' purchase of Flaunden House Stables, the 'Coach House', a property still on site, was tied to the management of the stables. The Coach House was originally a one bedroom property, which in 2003 (4/2292/03/FUL) was approved for extension to two bedrooms. Dacorum Council accepted this as being appropriate to support the commercial activity of the stables. Application 4/02481/15/MFA transferred the tie to the **2 bedroom barn** conversion for the purpose of ensuring that adequate accommodation for the management of ongoing equestrian activities was maintained. We do not consider that reducing this to a 1 bedroom property is appropriate to support the commercial activity of the stables.

Inadequate size of Tack Room and no provision of Manager's Office. 4/03481/MFA requires there to be a Manager's Office and Tack Room. Details required by conditions 4/02298/16/DBC, include a Business Plan which states (2.10) The dwelling will include an office area (2.1) a secure tack room is to be provided within the same building as the worker's dwelling but kept entirely separate. Flaunden Parish Council considers that a Tack Room of 12 square metres is inadequate for the storage of equipment for 16 horses. Again, offering a limited amount of space for this essential part of the business will affect the viability of the business. The area allocated to 'manager's office' includes a kitchenette and rest area for staff, which in total has an area of 10.6 sq m we consider this highly inadequate. The Manager's Office should be entirely separate from the rest area and kitchenette provided for staff. (The British Horse Association's comments detail further the facilities which should be provided).

Impact on safety. By adding another dwelling to the site, this changes the originally approved 4/03481/MFA for the whole site from 3 properties to 5 properties. By increasing the number of dwellings the amount of traffic entering the site will also increase. This further accentuates comments made on all previous applications for this site, by both Flaunden Parish Council and the British Horse Association, regarding safety for all due to the congested nature of the site, which shares access with pedestrians, horses, commercial and private vehicles.

Strategic Planning

The site falls within the Green Belt (Policy CS5). Policy CS5 (in accordance with national policy in the NPPF (para. 90)) allows for the appropriate reuse of permanent and substantial buildings in the Green Belt. We note that the conversion and change of use of the existing barn has already been approved under 4/03481/15/MFA. Furthermore, the Government has recently introduced new permitted development rights to allow the conversion of certain agricultural buildings to housing through a prior approval process. Therefore, the principle of subdividing a barn to create 2 new dwellings is generally acceptable in this location.

Policy 110 provides further detail on the conversion of agricultural buildings in order to achieve a high quality of development. While it does point to a preference for non-residential over residential use of buildings, given the above points, we would advise to give this approach less weight. However, the policy does point to the need for care to be taken in terms of the conversion itself, fencing, parking and access, etc. (bullet points (d)-(f)).

Parking should be provided at 2.75 spaces (saved DBLP Appendix 5) and we note that 3

spaces are proposed.

Amenity space to a minimum of 11.5m should also be provided (saved DBLP Appendix 3) and it appears that this can be achieved in the case of both of the units.

Conservation and Design

Conservation and Design were satisfied with the previous proposal and the external appearance has not changed significantly from that already approved.

Thames Water

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

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. The contact number is 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

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 subject to the following conditions:

Hertfordshire County Council as Highway Authority considers that the proposal would not have an increased impact on the safety and operation of the adjoining highways and does not object to the development, subject to the conditions and informative notes below:

CONDITIONS

1. All materials and equipment to be used during the construction shall be stored within the curtilage of the site unless otherwise agreed in writing by the Highways Authority prior to commencement of the development.

Reason: In the interest of highway safety and free and safe flow of traffic.

2. Road deposits. Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway.

Reason. To minimise the impact of construction vehicles and to improve the amenity of the local area.

INFORMATIVES

1. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the

public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

2. 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.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

COMMENTS The proposal is for CONVERSION OF EXISTING AGRICULTURAL BARN TO 2 SEMI DETACHED DWELLINGS AND STABLE MANAGER'S OFFICE. PARKING AND ACCESS No changes are proposed.

Birch Lane is an unnumbered classified "C" road, subject to a 30mph speed limit, with low pedestrian traffic. There has been one slight accident in the vicinity of the site in the last 3 years.

CONCLUSION

The proposals are considered acceptable to the Highways Authority subject to the conditions and informative notes above.

HCC Planning Obligations Officer

I refer to the above mentioned application and am writing in respect of planning obligations sought by the County Council towards fire hydrants to minimise the impact of development on Hertfordshire County Council Services for the local community.

Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit. We reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.

Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.

The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.

Section 106 planning obligation clauses can be provided on request.

Justification

Fire hydrant provision based on the approach set out within the Planning Obligations Guidance

- Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link: www.hertsdirect.org/planningobligationstoolkit

The County Council seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

(i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

All developments must be adequately served by fire hydrants in the event of fire. The County Council as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).

(ii) Directly related to the development;

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

(iii) Fairly and reasonable related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

I would be grateful if you would keep me informed about the progress of this application so that either instructions for a planning obligation can be given promptly if your authority is minded to grant consent or, in the event of an appeal, information can be submitted in support of the requested provision.

British Horse Society

Original Comments

The BHS objects to the changes proposed in 4/02937/16/FUL unless the previously required occupancy restriction and Unilateral Undertaking continues to apply to the whole of Barn B for the reasons below. They welcome the proposed improvement of the tack room and provision of a W/C.

The proposed smaller 65 sq metre single bedroom unit and no office would be entirely inappropriate for an equestrian mangers dwelling but could potentially be ideal for a junior groom or employee.

The reduction in size to a 99 sq metre two bedroom accommodation as currently proposed is possibly adequate for an equestrian manager and her/his partner and possible child.

It is noticeable the current proposal to modify the plans for Barn B to reduce the size of the managers accommodation (as recently approved in application 4/03481/15/MFA) greatly reduces the size to below the established GIFA guidelines, previously defined in PPG7 as: The applicant's current application ignores the condition only recently discussed and approved by your Development Control Committee for Barn B to be converted to "form a 2 bed detached dwelling with Manager's office, protected by an agreed occupancy restriction.

The condition being a "Unilateral Undertaking to ensure that a commercial equestrian use is re-established on the site by tying the two bedroom dwelling, the 16 stables and associated land together for sole use of the equestrian activity; plus the associated land which is not directly in the ownership of The Coach House and Barn A".

It is important for the ongoing commercial viability of this enterprise that appropriate accommodation is provided for a professional and or knowledgeable person managing the equestrian use.

Comments on amendments

The BHS object to the latest amended plan for Barn 2 that retains a small single bedroom unit for the livery yard manager and family. In addition the amended plan layout of the combined rest room, kitchen and managers office space is inappropriate for such a business for the reasons stated below.

Our letter of 30 Nov requests the Officers consider that the manager's dwelling be retained as originally approved as a two bed dwelling of a similar size and consistent with decisions regularly determined in planning applications for rural workers. Plus the manager's office is also retained as an integral part of the two bedroom managers unit.

This application and the latest amended plan ignore the conditions stipulated when approval was granted for the conversion of Barn 2 in July 2016 (4/03481/15/MFA) in particular the Equestrian Tie requirements for t

Plus it overrides the Agricultural Consultant's viability report proposals clearly stating the need for the manager's office to be part of the dwelling and a tack room to be separate.

The area allocated for the manager's office on the latest plan is inappropriate being part of a single room to be shared with staff and clients who use the major part of the room as their rest area and kitchenette. The divided room now appears to have a tack area rather small for the size of yard.

The manager needs to be able to work in a secure office environment that can be locked and left secure when she/he is called away for say an emergency on the yard.

Attached as appendix A is a list of the typical records, documents and data for a livery yard that require protection, unlikely to be afforded in the proposed shared location for the manager.

The lack of a secure environment makes it difficult or even impossible for a manager to undertake a confidential conversation with a member of staff or a current/ prospective client particularly if documents or data need to be accessed during the meeting.

Councillor Objections:

Initial comments

The Tack, Saddle & Related Equipment Store MUST be inextricably linked to the adjacent 1 Bedroom Dwelling, which can ONLY be occupied by a (Full Time) Equestrian Centre Manager.

The two must NOT be allowed to be separated under any circumstances!

This appears to be confirmed within the Planning Statement at 2.1

N.B. A statement within this document at 5.1 appears to be incomplete. Something (grammatically) is missing.

Comments on amendments:

Under the circumstances, there are only two options available in connection with the current application. There are no others:

1) The applicant should withdraw the current application to carry out all the necessary design amendments to ensure the application is totally compliant with all conditions contained in the relevant approvals already granted and the Unilateral Undertaking.

I presume the applicant would still have time to carry out the necessary alterations and amendments - and re-submit amended (compliant) documentation for consideration at the DCC on 12th January 2017.

2) However, If the applicant is not prepared to withdraw and carry out the necessary amendments as stated in Item (1) above - and insists the current application is put before the DCC on 12th January 2017 (Which is less than 4 weeks away), I trust you would have no alternative but to include within your report a recommendation for REFUSAL until such time that a totally compliant application is submitted.

Please confirm whether Item (1) or (2) will be applicable.

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

Birch Lane House - Objects

1. The holistic plan (Ref 4/03481/15/MFA) first submitted by Relic homes and approved included transferring the existing tied Coach House to a similar sized new barn conversion of 2056 sq ft for the purpose of ensuring that adequate accommodation for the management of the ongoing commercial equestrian activities was maintained. In addition the development was to increase the number of residential dwellings on the site from one to three houses alongside the equestrian activities on the site. This latest proposal, in what has been an endless stream of amendments to this plan, now seeks to increase the number of separate residences on the site to five and, in the process, reduce the residential property tied to the commercial activities to a substantially smaller one bedroom property of 695 sq ft.

2. At the start of this process much emphasis was placed by both local residents, Flaunden Parish Council, Dacorum Planning and the Development Control Committee members on trying to ensure that the equestrian activities would both re-open and also be viable and sustainable. By reducing the size of the tied residential property to the barest minimum possible the viability and sustainability of the stables will be further eroded.

3. The need to have a reasonable sized two bedroom house attached to the equestrian activities which is proportional and appropriate to the commercial activity has already been

accepted by Dacorum Planning in allowing the original Coach House to be extended (Ref 4/02292/03/FUL). If a unit larger than the one being proposed was previously accepted as not adequate why would you now accept that this one is?

4. Ultimately the stables will be put on the market and marketed by Relic Homes, who are property developers not equestrian professionals. If the attached 'tied' residence is only a very small 695 sq ft one bedroom semi detached unit it is highly unlikely that the sale of the 16 acres of commercial equestrian land, buildings and tied accommodation will find a buyer at the price this acreage in Flaunden would justify. At which point Relic Homes will return with a new application to develop the remaining stables buildings on the grounds that the business was unsaleable and therefore 'non-viable'. This whole scenario will have been cleverly engineered, one amendment at a time, until what is left bares no resemblance to the original holistic plan. The importance of an adequate infrastructure and accommodation required to sustain a successful equestrian activity on the site will have been completely undermined.

5. Relic Homes have already demonstrated their desire to sell this property independently of the equestrian activities, disregarding the planning approval which tied the barn to the equestrian activities, which you have previously been made aware of and sent the estate agents particulars for. This latest application is simply a further attempt to maximise their profitability at the expense of the equestrian business viability and sustainability.

6. I do not believe there is anything within planning guidelines to dictate that the 'tied' status has to be lifted on the detached barn, as currently approved, and as such I would ask that you refuse this application. It is wholly driven by profit maximisation through further residential development of the site to the detriment of the local economy. It is important, as was the intention of the original approval for this barn conversion, that a reasonable balance between residential development and protection of the local economy is maintained. This latest application goes significantly beyond that level.

Based on the above, I am therefore objecting to this application.

Flaunden House - Objects

1. Relic Homes are seeking to increase the number of separate homes at Flaunden House Stables to five, reducing the residential property tied to the commercial activities to a much smaller one-bed property of 695 ft².
2. By reducing the size of the tied residential property, the possibility and viability of an equestrian centre will be eroded further.
3. If a unit larger than the one being proposed was previously not deemed adequate and proportional, then surely this smaller one would not be either?
4. Relic Homes clearly seem to be setting up a scenario that will eventually render an equestrian business unmarketable and non-viable. This is not acceptable.
5. Relic Homes have already demonstrated their wish to sell this property independently of the equestrian activities, disregarding the planning approval that tied the barn to the equestrian activities - you have seen the estate agent's particulars for this.

Considerations

Policy and Principle

The principle of residential conversion of this building was approved under 4/03481/15/MFA which included a holistic approach for the whole site at Flaunden House Stables.

The Development Control Committee at its meeting on 7th April, 2016 recommended that the above application be delegated to the group manager with a view to approval subject to

the signing of a Unilateral Undertaking which would bind the property and every part thereof to carry out and comply with the obligations.

The obligations are:

- that the existing stables be only used for commercial uses;
- Barn 2 will be the Manager's cottage;
- the land (except for that shown on the Master Plan - ownership map) which will belong to the dwellings approved under this development will be used for equestrian stables and associated equestrian use.

The Unilateral Undertaking is to ensure that a commercial equestrian use is re-established on the site by tying the two bedroom dwelling, the 16 stables and associated land together for sole use of the equestrian activity;

This subject site is within the area covered by the Unilateral Undertaking.

The Unilateral Undertaking will need to be reworded and resigned to allow the changes proposed under this proposal.

Suggested amendment is to Clause 16(b)ii of the sec. 106 Agreement to read, '**Not use nor permit the use of Tie Barn 2 other than as a manager's Cottage unless granted through a further specific planning permission**'.

The current proposal

The main differences between that already approved and that now proposed are:

- two separate dwellings;
- minor changes to the outward appearance; and
- amenity space has been reduced by being shared between two dwellings.

Impact on Green Belt

As there is no increase in the footprint proposed when compared to the previous conversion scheme, and minimal changes to the exterior of the building there will not be an impact on the openness or character and appearance of the green belt or countryside.

Effects on appearance of building

There are only minor changes to the fenestration from the approved plans so no significant change to the character of the building.

Impact on Street Scene / Conservation Area

The proposal will not change the form of the building so will not have a detrimental impact on the street scene or the Flaunden Conservation Area.

Impact on Trees and Landscaping

No significant trees will be affected by the proposal.

Impact on Highway Safety

There is no change to the access to be used by the site.

Car Parking

The maximum parking standards in Appendix 5 of the Dacorum Borough Local Plan states that a 1 and 2 bedroom dwelling outside of Zones 1 and 2 must have 2.75 spaces. The provision of 3 car parking spaces complies with this standard. (1 bed 1.25 and 2 bed 1.5 spaces)

Impact on Neighbours

There will be no changes to the form of the building already approved so there will be no loss of sunlight and daylight.

The minimum garden depth of 11.5 metres will be retained and no side windows are proposed so there will be no loss of privacy as a result of the proposal.

Amenity Space

Appendix 3 of the Dacorum Borough Local Plan states that "private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5 metres. Ideally a range of garden sizes should be provided to cater for different family compositions, ages and interests."

The proposal will provide for a garden depth in excess of the 11.5 metres.

Other Material Planning Considerations

As this application is in effect an amendment to the previously approved 4/03481/15/MFA the relevant conditions placed on this approval to ensure the equestrian use is re-established on site have been applied to the current proposal.

If the conditions were not applied to this approval the current proposal could be built with no work being carried out towards the re-establishment of the equestrian use on the site which would be contrary to the MFA approval and the previous decision at DCC to refuse the original proposal to convert the building to residential.

Conclusions

RECOMMENDATION - That determination of the application be **DELEGATED** to the Group Manager, Development Management with a view to approval subject to the amendment and signing of the Unilateral Undertaking by the relevant parties.

RECOMMENDATION - That determination of the application be **DELEGATED** to the Senior Manager, Development Management, following the expiry of the consultation period and no additional material considerations being raised, with a view to grant for the following reasons.

- 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 development hereby permitted shall match in size, colour and texture those used on the existing buildings.**

Reason: To ensure a satisfactory appearance to the development and to comply with CS 11,12 and 27.

- 3 **No development of the buildings hereby approved shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. 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;**
- **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);**

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted.

Reason: To ensure a satisfactory appearance to the development and to Safeguard the visual character of the immediate area and to comply with CS5,11,12 and 27.

- 4 **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.

- 5 **All remediation or protection measures identified in the Remediation Statement referred to in Condition (4) 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.

Informative:

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

- 6 **Prior to the commencement of development the refurbishment of the stables as described in the application and listed below must be completed.**

- Replacement and renewal of worn felt roof on the stables;
- Replacement of rotten stable doors with new stable doors;
- Repoint loose bricks to the bottom of wall; and
- Renew / seal leaking rainwater goods.

Reason: To ensure that the stables are refurbished and that they are available for the re-establishment of the equestrian use on the site and therefore complies with CS5 with particular reference to supporting the rural economy.

- 7 **Prior to the commencement of development plans showing the layout of the equestrian use shall be submitted for approval by the local planning authority to demonstrate the stables, supporting buildings and infrastructure for the operation of the livery yard, provide for horse and pedestrian safety and will support the rural economy in terms of a sustainable equestrian facility.**

Reason: to ensure the proposed use supports the rural economy and maintenance of the wider green belt countryside as well as highway safety in accordance with policies CS5 (Green Belt), CS9 (Management of roads) of the Core Strategy 2013, Policy 51 (Development and transport Impacts), Policy 81 (Equestrian activities) of the Dacorum Borough Local Plan 2004 and the NPPF.

- 8 **Detailed proposals for the fire hydrants serving the development as incorporated into the provision of the mains water services for the development whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and in accordance with the approved details thereafter implemented prior to occupation of any building forming part of the development.**

The development shall thereafter be implemented in accordance with those approved details.

Reason: To enable appropriate development to occur, ensure a safe, sustainable form of development which provides for its own infrastructure for fire emergencies in accordance with core strategy policies CS1, CS4, CS12 & CS29.

- 9 **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 and G]

Part 2 Classes [A, B and C].

Part 6 Class A

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.

Reason: In the interests of safeguarding the openness of the Green Belt; the rural character of the building and the site; and the visual amenity of the surrounding countryside. The proposed development comprises of the conversion of two agricultural buildings in a rural area and it is important for the local planning authority to retain control over certain future development which would normally represent permitted development, in order to safeguard the rural character of the surrounding countryside.

- 10 **The occupation of the two bed conversion shall be limited to a person solely**

or primarily working at the stables located immediately north-east of the dwelling or a widow or widower of such a person and to any resident dependants.

Reason: For the avoidance of doubt and to ensure that the stables opposite will be retained and offered to local people for the stabling of their horses. The two bed conversion will help support the rural economy and maintenance of the wider countryside. To ensure compliance with CS 5.

- 11 **Where the proposed materials for Barn 2 do not match the existing, no development shall take place until details of the external materials to be used in the construction of the external surfaces of the development hereby permitted shall have been submitted to and approved in writing by the local planning authority. Samples shall be made available to inspect on the site. Development shall be carried out in accordance with the approved details.**

Reason: To ensure a satisfactory appearance to the development and to preserve the character and appearance of the Conservation Area and to comply with policies CS27 and CS 11 and 12.

- 12 **Prior to commencement of development a Business Plan for the equestrian use must be submitted to and approved by the local planning authority.**

Reason: To ensure the viability of the equestrian business and to comply with CS5 with particular reference to supporting the rural economy.

- 13 **All materials and equipment to be used during the construction shall be stored within the curtilage of the site unless otherwise agreed in writing by the Highways Authority prior to commencement of the development.**

Reason: In the interest of highway safety and free and safe flow of traffic.

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

CIL

Site and Location Plan 16.149.P10.000 Rev C

Proposed Floor & Elevation Plan 16.149.P10.002 Rev C

Existing Floor and Elevation Plan 16.149.P10.001

Revised Planning Statement, 24th January 2017.

Amended Application Form

Unilateral Undertaking - tying the two bedroom dwelling and tack room within Barn B and all land not under the ownership of the one bedroom dwelling in Barn B, Barn A and The Coach House to the stables for the equestrian use.

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 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.

Informatives:

Welfare of animals

Please refer to the DEFRA Code of practice for the Welfare of Horses, Ponies, Donkeys and Hybrids, NEWC Compendium for the Welfare of Horses, Ponies and Donkeys and the BHS Approval Criteria for Livery Yards. This guidance sets out minimum standards to ensure a level of appropriate well-being at an equestrian use which will ensure the longevity of the business and in turn supports the rural economy in accordance with CS5.

Highways

1. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

2. 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.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

AN1. The applicant is advised that storage of materials associated with the development should take place within the site and not extend into within the public highway without authorisation from the highway authority, Hertfordshire County Council. If necessary further details can be obtained from the County Council Highways via either the website <http://www.hertsdirect.org/services/transtreets/highways/> or telephone 0300 1234047 to arrange this.

AN2. The developer should be aware that the required standards regarding the maintenance of the public right of way and safety during the construction. The public rights of way along the carriageway and footways should remain unobstructed by vehicles, machinery, materials and other aspects of construction works.

Transport maintained and available on site should emergency veterinary treatment be required.

(Reason - the provision of a trailer and towing vehicle and or horse box is a welfare requirement for the transportation to a Veterinary hospital for sick animals requiring urgent lifesaving surgery if diagnosed by a veterinary surgeon or other competent person).

Protected Species

- "Bats and their roosts remain protected at all times under National and European law. If bats or evidence for them is discovered during the course of works, work must stop immediately and advice sought on how to proceed lawfully from Natural

England (Tel: 0300 060 3900) or a licensed bat consultant.”

- "Site clearance should be undertaken outside the bird nesting season, typically March to September (inclusive), to protect breeding birds, their nests, eggs and young. If this is not possible then a search of the building/surrounding vegetation should be made by a suitably experienced ecologist and if active nests are found, then works must be delayed until the nesting period has finished."

It is possible that bats may be using areas of the existing building.

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 evidence of them are found to be present a licence will be required before any relevant works can be undertaken and this will involve preparation of a Method Statement to demonstrate how bats can be accommodated within the development.

If bats are discovered during the course of any works, work must stop immediately and Natural England (0300 060 3900), Bat Conservation Trust Helpline (0845 1300 228) or the Hertfordshire & Middlesex Bat Group Helpline (01992 581442) should be consulted for advice on how to proceed.

Thames Water

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.

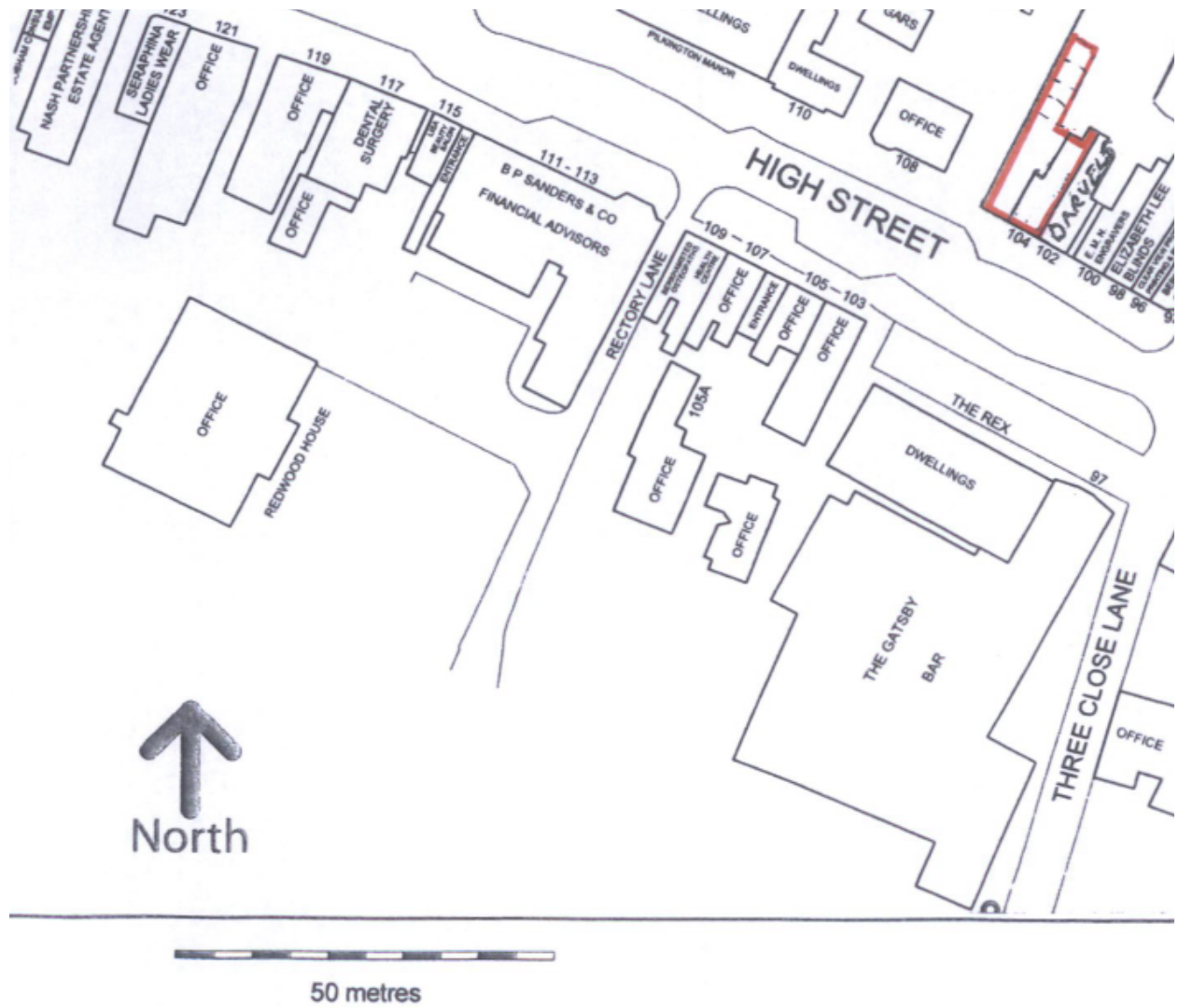
Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Agenda Item 5b

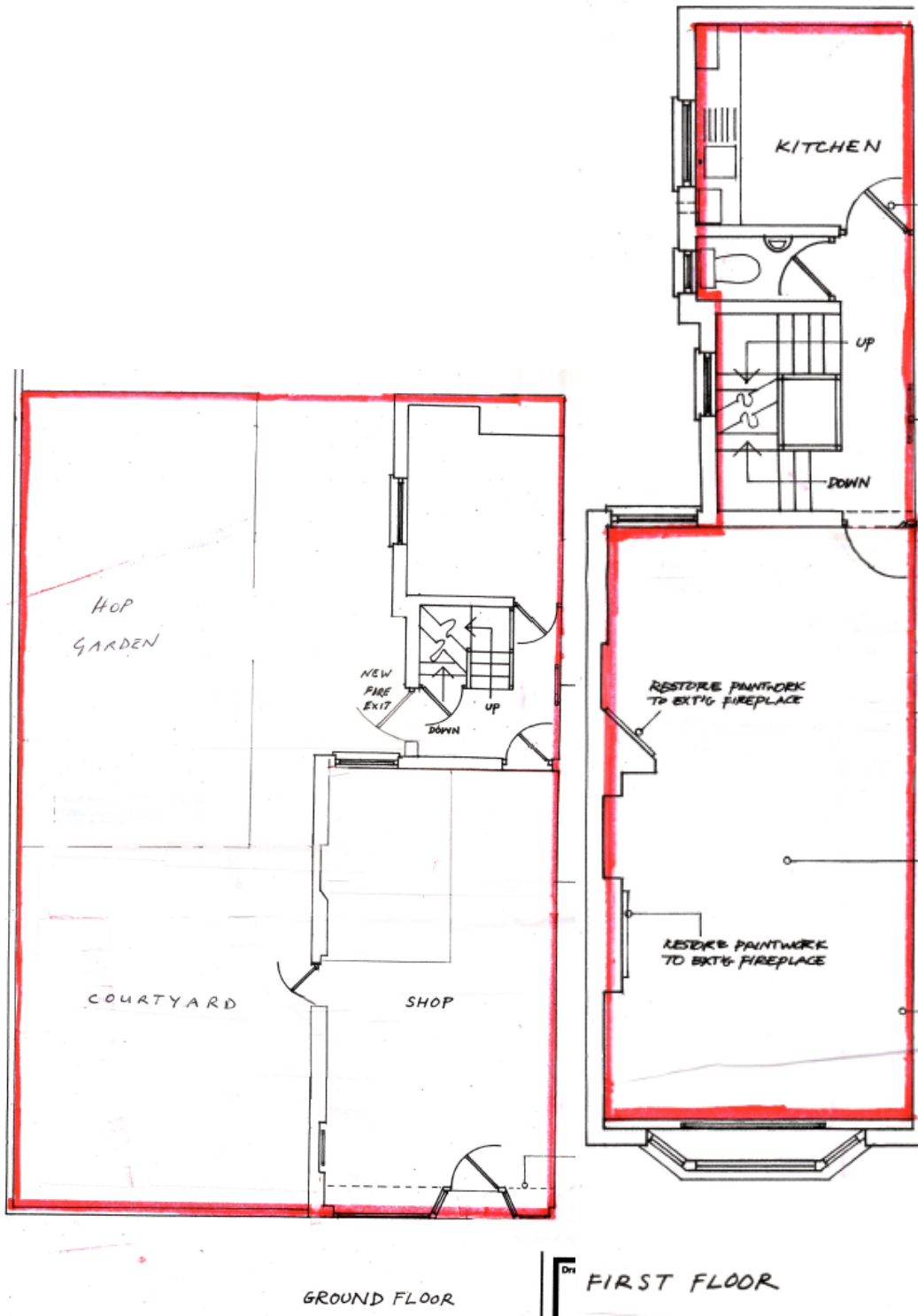
Item 5b

4/02514/16/FUL - CHANGE OF USE FROM A1 TO A1/A4

104 HIGH STREET, BERKHAMSTED, HP4 2BL



Item 5b



**4/02514/16/FUL - CHANGE OF USE FROM SHOP (A1) TO MIXED SHOP/DRINKING ESTABLISHMENT(A1/A4) USE.
104 HIGH STREET, BERKHAMSTED, HP4 2BL.
APPLICANT: Mr P Wright.**

[Case Officer - Jason Seed]

Summary

The application is recommended for approval as it is considered that the proposal complies with the National Planning Policy Framework (NPPF), Policies CS4, CS11, CS12, CS16 and CS27 of the Core Strategy and Saved Policies 63 and 120 of the Dacorum Borough Local Plan. It is considered that all 'A-class' uses (shops, financial and professional services, restaurants, pubs, take-aways, etc) are appropriate within town centres and contribute towards the vitality of the area which is positively encouraged by planning policy at all levels.

It is noted that no objection to the nature of the use was raised by Members in respect of the previous refusal.

Site Description

The application site comprises a two storey commercial unit which is situated on the northern side of Berkhamsted High Street. The surrounding area is largely commercial with residential accommodation present above a number of the commercial units.

The site is subject to the following relevant planning designations: Berkhamsted Conservation Area, Area of Archaeological Importance, Town Centre / Local Centre. The building is also designated a Locally Listed Building.

It is noted that the use has already commenced and as such, this application is retrospective.

Proposal

The proposal is described as a change of use from A1 (Shop) to a mixed A1 / A4 (Drinking Establishment) use.

Referral to Committee

The application is referred to the Development Control Committee (DCC) as it is a re-submission of a proposal which has already been refused by DCC.

Relevant Planning History

4/03329/15/FUL CHANGE OF USE FROM A1 TO A1/A4
Refused
21/01/2016

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance (NPPG)

Adopted Core Strategy

NP1 - Supporting Development

CS4 - The Towns and Large Villages
CS8 - Sustainable Transport
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS16 - Shops and Commerce
CS27 - Quality of the Historic Environment

Saved Policies of the Dacorum Borough Local Plan (DBLP)

Policy 42 - Shopping Areas in Town Centres
Policy 51 - Development and Transport Impact
Policy 63 - Access for Disabled People
Policy 120 - Development in Conservation Areas

Advice Notes and Appraisals

Conservation Area Character Appraisal for Berkhamsted

Summary of Representations

(Please note that the responses below are summaries only. The original responses received from the community are provided in their entirety in Appendix A of this report).

Berkhamsted Town Council

It was unanimously resolved that licensing hours in the premises' external and outdoor spaces should finish at 6pm each day. A vote was then taken on the change of use from A1 to A1/A4 to incorporate the above condition. This resulted in a majority of 4 councillors to 2 having no objection.

Conservation Officer

The proposed change of use would not harm the character of the locally listed building or the conservation area and as such would be acceptable.

County Fire Safety Inspector

Has been consulted on the application and has stated that the access for fire appliances and provision of water supplies is adequate to serve the development.

Historic Environment Unit

In this instance, my advice is unchanged from that provided by this office concerning the previous planning application submitted for change of use (ref: 4/03329/15/FUL) - i.e. although it would be useful to have more information about the age of the building concerned, the proposed works appear to be minor and do not involve any changes to the fabric of the building.

I therefore have no comment on the application.

The Rex, Berkhamsted

I have no objection to the Brewery shop having A4 permission to enable the sale of their craft ales for consumption on the premises.

Orchard Cottage, Bellingdon

The brewery shop is extremely popular and meets the growing demand for quality beers and wines in a contemporary setting, attracting all age groups and social mixes. I am a frequent customer.

40 Durrants Road, Hemel

Quite possible the best thing that has come into Berkhamsted, never any trouble here as opposed to "regular public houses".

173 Lawn Lane, Hemel

The Brewery Shop is a great asset to the area and should be fully supported by the council.

3 Gravel Path, Berkhamsted

The Brew Shop is a wonderful presence on the High Street. Their local brewery makes excellent quality beers and their shop offers an incredibly warm and inviting place to taste different ales and learn about craft brew - as well as meet friends in a polite and quiet atmosphere. I wholly support their application.

3 Highfield road, Berkhamsted

The best thing to happen in Berko for ages.

Homefield, Potten End

One of my favourite place in the world.

55 Durrants Lane, Hemel

Since the shop opened I have seen a revitalisation of this part of the town centre.

Andrea Tropea Dental Laboratory, Dover Mews, Berkhamsted

I've been working at Buckland House for the past two years and the Red Squirrel brewery shop is not causing any problem whatsoever. I am very often working late and I haven't noticed any problem from 104 high street shop.

Felden house, Dower Mews, 104 High Street, Berkhamsted

We have worked alongside the brewery shop now for over a year and a half and in that time both noise levels and general atmosphere has been very good. Some of our staff are patrons on Thursday or Friday nights and is a preferred venue to a lot of the pubs due to its great selection of beers and its friendly atmosphere. I think it would be a real shame if the shop was to lose its licence. It has slowly built a reputation around the town for a place to go for good unusual beer, something which is unique to the town currently.

Berkhamsted Citizens Association

At the meeting of its Townscape Committee on 18 October 2016 the Berkhamsted Citizens Association (BCA) expressed its deep concern at the implications of granting permission for a 'drinking establishment' at this location under current circumstances. However, if Dacorum Borough Council were minded to grant permission for the change of use, the BCA would wish to see greater restriction of its opening hours, better facilities for disabled access, and adequate toilet facilities.

The BCA recognises that regulation of the use of these premises, and indeed its designation, is a matter for the Licensing Authority.

102 High Street, Berkhamsted

I'm very surprised that as immediate neighbours and probably most effected by the brewery that we have not been contacted by the council. I object as I do not want my family living next to a pub, I don't want my young son hearing foul language, breathing in smoke or seeing strangers urinate in our back yard. Also the noise is still a problem.

1st Floor Office, Buckland House, Dower Mews, 108 High Street, Berkhamsted

Objects on the grounds of excessive noise, harm and disturbance to the neighbours

74 High Street, Berkhamsted

Objects on the grounds of cumulative impacts of A4 uses, disturbance, unsuitable toilet facilities and lack of disabled access, out of character with the area, parking problems.

35 Broadwater, Berkhamsted

Objects on the grounds that the application is not valid as it is not an accurate representation of how the business actually trades, lack of disabled access and inadequate facilities, insufficient plans provided, impact on business rates.

4, Church Street, Berkhamsted

Not a shop, is a pub, noise issues.

74 Ellesmere Road, Berkhamsted

Objects on the grounds of the business being a pub and not a shop, no appropriate access and provision for disabled people, the way the toilets on the ground floor are for male use only. No female could use them as they include urinals and it would be completely unacceptable for a woman to have to go past urinals to access a cubicle. This means that as a disabled woman I would have to climb a steep and narrow staircase to access the only other toilet on the premises. As presumably half the people using the premises are female and considering that there are three urinals and a sit down for men.

No1 Canal Side, George Street, Berkhamsted

Objects on the grounds of the proposal should be considered as an A4 use and not A1 / A4 mixed use. Considers that the proposal conflicts with a number of national and local planning policies as discussed in detail within the full representation which is provided within Appendix A of this report.

Kingsley Smith Solicitors

No means of controlling the courtyard / hop garden area, proposal no different from a pub, in terms of functional use of this land, proposal is a ruse to secure A4 consent, nothing proposed which is materially different from the previous application, outdoor drinking resulting in undesirable impacts on neighbours, no public benefit of the proposal.

The Gatsby, 97 High Street, Berkhamsted

The application is not significantly different from the previous version aside from a small area

of A4 being added to the "shop" to create an A1/A4 area where the bar is located. The last application was supported as it complied with policies found in the NPPF, the NPPG and CS4, CS11, CS12, CS16, and CS27 from the Core Strategy and saved policies 42, 51, 120 of the Dacorum Borough Local Plan. It would seem sensible to suggest that this application will be supported using the same policies. Certainly there are specific policies within the NPPF and Core Strategy which provide proof that this application should be rejected and there are certainly adverse impacts which outweigh the benefits. The obvious one being that the effect of the planning department suggesting the creation of a specific type of planning that permitted the business to trade in an identical manner to a public house while paying a fraction of the costs involved and avoiding the restrictions placed on public houses.

The evidence would suggest that the application is not supported by the policies that were previously used to support it.

Comments also provided in respect of inadequate toilet facilities and residential disturbance.

6 Manor Court, Berkhamsted

The unit is being used as a pub and not a shop, causes noise and upset, noise from live bands, were not asked if we wanted the development, why were we not consulted?

Flat C, 142 High street, Berkhamsted

This application will not provide the appropriate planning consent for the business to trade. This site is a drinking establishment and as such requires the entire premises to be authorised for A4 usage. The large outdoor space with seating everywhere is subdivided between the 'courtyard' with A4 planning and the rest of the decking and the 'hop garden' which have A1 planning. This is clearly a drinking establishment or public house, we were all duped and misled, everyone can see this so why can't you? The shelving is largely decorative and results in maybe 10% of the trading and I'm being extremely generous here. The point is that the A1 is irrelevant anyway as it could easily be conducted under A4s umbrella rights. The amount of A1 covered by A4 has never been quantified and here is minimal anyway.

Thornehill, Sugar Lane, Bourne End

Please consider this my formal complaint objecting to the application 4/02514/16/FUL for the granting of separate areas of A1/A4 planning permission to cover the premises trading as The Berkhamsted Brewery Shop which operates at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL. To be perfectly clear this business has always operated as a drinking establishment from the start. Whenever you go in there are people drinking throughout the premises and especially in the outside spaces. There are several areas of shelving and fridges but you hardly ever see anyone buying beer to take it away.

It should also be considered that if a fire broke out down stairs there is no possibility of anyone escaping from the upstairs rooms disabled or not. Especially when alcohol is being consumed. I would seriously question whether this is safe to use with only one existing exit.

The Berkeley Gallery's planning application to allow people viewing and buying the art to sample glasses of wine whilst perusing and was documented as a mixed use site. However in this case the applicant was never given any option other than A4.

Also raised matters in respect of disabled access.

Considerations

Previous Application

As detailed within the Planning History section of this report, a previously determined application for the proposal has already been refused for the following reason:

The Council considers the building will have inadequate access for all users (particularly disabled access) for the proposed use and will therefore be contrary to Policy CS12 (a) of the Core Strategy. In addition it is considered the proposed use is likely to result in noise disturbance and a loss of residential amenity to neighbouring properties contrary to Policy CS12(c).

Since this application was determined, the applicant has submitted additional information to accompany the current submission which is considered sufficient to address the previous reasons for refusal. Assessment of this information is provided within this report and it is considered that these matters should be the focus of the determination.

Policy and Principle

Policy CS4 of the Core Strategy states that in town centres, a mix of uses is sought including social and community uses. Mixed-use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. Policy CS16 of the Core Strategy states that development proposals that promote a diverse evening economy in the town centres will be supported provided that their social and environmental impacts are controlled.

Furthermore, paragraph 13.6 of the Core Strategy (contained within the pre-amble to Policy CS16) states that a lively and diverse evening and night time economy is an important part of the vitality and vibrancy of a town centre. However, there can be negative impacts in areas such as community safety, litter and noise. These impacts must be controlled for the evening and night time economy to have a positive effect in town centres.

Paragraph 70 of the NPPF states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of other local services to enhance the sustainability of communities and residential environments;
- guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs, and;
- ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community.

The proposal would provide a mixed retail / social use in an area of the town where such uses already exist and are encouraged. It is therefore considered that the principle of the proposal is acceptable, subject to the consideration of other planning matters.

Impact on Host Property, Locally Listed Status and Berkhamsted Conservation Area

96 to 104 (even) High Street is a 1930s purpose-built, architect-designed parade of 5 shops with accommodation over. Designed in Tudorbethan style, the building is two storeys with prominent attic storey, clay tile roof with large dormers and substantial brick stacks. The walls are false timber framing with white painted infill render. Shops at ground floor level feature timber shopfronts. This relatively unaltered parade of interwar shops / flats makes a positive contribution to the Berkhamsted Conservation Area and is included upon the list of locally important buildings.

Concerns have been raised in respect of the proposal's impact upon the Berkhamsted

Conservation Area and the Locally Listed status of the building. The Council's conservation Officer has been consulted on the application and has no objection, noting that the change of use does not require any significant alteration to the building internally or externally. It is therefore considered that the proposal will not adversely impact upon the heritage assets and designations of the site and as such, complies with Policy CS27 of the Core Strategy and Saved Policy 120 of the DBLP.

Impact on Neighbours

The applicant has stated that the opening hours of the facility are proposed as follows:

- Mon - Thurs: 12:00 - 21:00
- Fri: 12:00 - 21:30
- Sat: 10:00 - 21:30
- Sun and Bank Holidays: 11:00 - 18:00

It is noted that Berkhamsted Town Council stated in their consultation response that they had no objection to the proposal, subject to a condition requiring the premises' external and outdoor spaces should finish at 6pm each day. However, it is considered that given the site's location, such a condition is unnecessary and unreasonable and therefore fails two of the 'tests' as defined within Paragraph 206 of the NPPF which states that:

'Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects'.

It is considered that such opening hours, in a high street location (where examples of similar, more intensive operators such as The Gatsby), are acceptable and are securable by condition to ensure that the potential disturbance to occupiers of surrounding units is minimised. It should be noted that an 'A4 only' use would be equally acceptable in planning terms at this location which would have the potential to create a greater degree of local disturbance than the proposed A1/A4 use of lesser operating hours than that which might be expected of an A4-only use.

Representations have been received stating that live music has been played outside of the premises. The applicant has stated within their submission that this is not the case and should such matters arise in the future, it is considered that they would be policed by the appropriate Licensing and / or Environmental Health department(s).

Since the previous application was refused, the applicant has installed a layered acoustic wall to that which is situated immediately adjacent to No 102a High Street.

The submitted Design and Access Statement states that prior to submission, the agent for the application liaised with the local community and found that only one objection on noise grounds was raised, with the occupier of an office unit in Dover Mews stating that they were concerned about noise coming through an open window from the courtyard one summer's day. Whilst such a disturbance would not be sufficient grounds to justify a refusal of planning permission, the agent has confirmed that the staff at the shop have received enhanced training to ensure that such incidences are minimised and are instructed to monitor such matters and have been instructed to ask people to leave the premises, should this ultimately be required.

It is further considered that, given the nature of the use, the use of the courtyard area is likely to be limited during regular weekday office hours and as such, the impact of this part of the site on the occupants of the offices to the rear of 108 High Street will be minimal.

It is therefore considered that taking the above into consideration, the previous reason for refusal, in respect of noise disturbance and loss of residential amenity have been sufficiently addressed and any minor disturbance which may arise would be no greater than that which one would expect of a vibrant high street and is arguably lesser than that which could result from an equally acceptable A4-only use at the site.

Impact on Parking and Highway Safety

The applicant has stated that there are 4 existing parking spaces with 4 proposed. As such, there will be no difference in parking spaces as a result of the proposal which is considered acceptable within the context of the proposal sited within the Town Centre.

Disabled Access and Fire Safety

Representations have been received which state that the application does not make provision for disabled access to the toilet facilities. Additionally, the previous application was refused for the following reasons:

'The Council considers the building will have inadequate access for all users (particularly disabled access) for the proposed use and will therefore be contrary to Policy CS12 (a) of the Core Strategy.'

Whilst it is noted that such matters are a consideration in relation to Building Control, it is acknowledged that Policy CS12 as an adopted policy also refers to this matter and is therefore an important consideration.

However, it is noted from the applicant's submission and the Council's Building Control records that a letter confirming Building Control approval (ref: B/15/02082) for the creation of ground floor toilets to the rear of the building was issued on 24/08/2016 which confirmed that as far as the Council are able to ascertain, the requirements of the Building Regulations in respect of the application have been satisfied.

Since the previous refusal, a representative from the Council's Building Control department has visited the site with the Case Officer and the following conclusions were reached by the Building Control Officer:

- Access from the front of shop/bar to WC is restricted by raised threshold, therefore a removal ramp could be used to facilitate access.
- Ground floor WC can be improved, the door could be changed to open outwards, handrails added for ambulant disabled people. It would be possible for a unisex toilet arrangement to be created within the downstairs toilet in the event that a customer was unable to access the upstairs ladies toilets. Staff training would be improved in this respect.
- Staircase should have additional handrails, anti -slip protection and contrasting nosing's (to sufficient reflectance values).
- It was advised that a full assessment carried out by a registered access officer would be beneficial so that an access statement can be produced in compliance with approved Document M volume 2 and in conjunction with the Equality Act 2010. It is the view of the Building Control Officer that such compliance can be achieved and the access statement can be secured by condition.

It is therefore considered that the applicant will be able to provide appropriate measures to ensure compliance with Policy CS12 to an industry-recognised standard which will provide a level of disabled access which far exceeds the provisions which can be found within a number of public buildings within the local area. The applicant has confirmed that they would welcome a condition which ensures delivery of the improved disabled access provision to the site.

In respect of fire safety, the County Fire Safety Inspector has been consulted on the application and has stated that the access for fire appliances and provision of water supplies is adequate to serve the development.

Appropriateness of Mixed Use Development

Representations have been raised which have questioned the legitimacy of the proposed mixed A1/A4 use, stating that the operation should be classified as strictly A4. However, it should be noted that, in respect of the previous reasons for refusal, no objection was raised in respect of the principle of the change of use, only the particulars of the proposal in respect of residential amenity and disabled access.

This fact notwithstanding, it is the view of this Officer that the proposed mixed A1/A4 use is a legitimate and acceptable use due to several reasons which distinguish the operation as mixed use (rather than purely A4) as detail below:

- Revenue - The applicant has confirmed that the current revenue split average of 65/35 which falls in favour of off sales has been maintained since opening in May 2015. Periods of high trade such as Christmas, Easter and early summer can see off sales rise to as high as 73% of total revenue. It is further stated that the company continues to strive towards a higher percentage of off sales. Recent actions to increase off sales include dropping takeaway prices & introducing corkage fees on packaged products to drink in, the removal of ground floor seating in favour of an additional retail fridge, and take out only promotions. These are circumstances and characteristics which are akin to those which would be present within the operation of a shop (A1) rather use than a traditional A4 drinking establishment.
- Hours of Operation - The house of operation as detailed above are more closely aligned to those one would expect to see operating within a retail premises rather than a drinking establishment, where it is not uncommon for such premises to be open until 11pm and beyond.
- Operational Lay-Out - It is quite clear from the way in which the interior is laid out that the sales focus is on off sales with a clearly defined retail offering occupying a large proportion of the ground floor area which is readily evident when viewed from the street, providing the overall appearance of a shop.
- Additional Offerings - The applicant offers beer tutelage at the site as an ancillary offering which would not typically be found in a traditional pub.
- Lack of Live Music and Entertainment - The premises do not play live or any other type of music, and has none of the paraphernalia which one may witness in public houses and other drinking establishments such as television sets, pool tables, fruit machines, etc.
- Limited Choice of Beverage - Whilst it is acknowledged that not all licensed premises sell a large variety of beverages, the subject site does not sell a generic range of spirits, etc., focusing largely on the sale of its own produce for predominantly off site consumption.

The Courts have held that the first thing to consider in determining whether a material change of use has occurred (or will occur) is the existing primary use of the land. Each case will always be a matter for individual determination by fact and degree. In particular, local planning authorities will need to take into consideration more than just the amount of floor space occupied by the different uses. For example, in the case of a premises which incorporates restaurant use as well as pub or bar use, the local planning authority will need to determine whether the existing primary use of the premises is as a restaurant (A3), or as a drinking establishment (A4), or a mixed use. This will depend on such matters as whether customers come primarily to eat, or drink, or both. It is the main purpose of that use that is to be considered.

Taking all of the above into consideration, it is considered the proposed use is best described as a mixed A1/A4 use.

Other Matters

A number of representations have been received which refer to potential / perceived economic advantage of the proposed business due to matters in respect of the Licensing regime and business rates. It should be noted that these are not matters for consideration by the Planning Department.

It should however be noted that a competitive business environment and business growth / diversity is actively and positively encouraged via the NPPF and it is considered that the proposal accords with these objectives.

It is noted that there is an unauthorised awning which is attached to the subject property which does not form part of this application. The consideration of this awning is a matter for the Planning Enforcement Team and has not been considered as part of this application. Any future application to retain this awning will be considered upon its own merits.

Concerns have been raised in respect of the potential for an increase in crime / disorder as a result of the proposal. It is considered that the hours of operation combined with the nature of the business will limit the potential for such occurrences.

Conclusions

The application seeks permission for a change of use from retail (A1) to mixed-use (A1 and A4) in an acceptable town centre location. The planning matters associated with the proposal have been assessed and it is considered that with appropriate conditions in respect of hours of operation and disabled access, the proposal will result in an acceptable use which does not create an adverse impact upon surrounding units, their occupiers and other residential properties within the area.

Furthermore, the proposal will not adversely impact upon the Berkhamsted Conservation Area or the site's Locally Listed Building status and as such, is considered to comply with policies CS4, CS11, CS12, CS16 and CS27 of the Core Strategy and Saved Policies 63 and 120 of the Dacorum Borough Local Plan. The application is therefore recommended for approval.

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 carried out in accordance with the following approved plans/documents:**

Location Plan
Application Form
Ground Floor
First Floor

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

- 2 **Within three months of the date of this decision, a Disabled Access Statement (DAS), prepared by a registered access officer, will be submitted to the Local Planning Authority. Once approved, the recommendations contained within the DAS will be implemented within three months of approval and provided for the lifetime of the development.**

Reason: To ensure that disabled access arrangements are provided in accordance with Policy CS12 of the Core Strategy and Saved Policy 63 of the Dacorum Borough Local Plan.

- 3 **The premises shall only be open to customers and / or other patrons between the following hours:**

Mon - Thurs: 12:00 - 21:00

Fri: 12:00 - 21:30

Sat: 10:00 - 21:30

Sun, Bank and Public Holidays: 11:00 - 18:00

Reason: To protect the residential amenity of neighbouring occupants in accordance with Policy CS12 of the Core Strategy.

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) Order 2015.

INFORMATIVE

The applicant is advised that the awning which is affixed to the side of the proposal site does not benefit from planning permission and as such, you are advised to address this matter urgently, either by removing the awning and all associated fixtures and fittings and making good any resultant damage, or by submitting an application to the Planning Authority for its retention.

APPENDIX A

Community Comments in Full (Application Number: 4/02514/16/FUL – 104 High Street, Berkhamsted HP4 2BL)

Orchard Cottage, Bellingdon

The brewery shop is extremely popular and meets the growing demand for quality beers and wines in a contemporary setting, attracting all age groups and social mixes. I am a frequent customer.

40 Durrants Road, Hemel

Quite possible the best thing that has come into Berkhamsted, never any trouble here as opposed to "regular public houses".

173 Lawn Lane, Hemel

The Brewery Shop is a great asset to the area and should be fully supported by the council.

102 High Street, Berkhamsted

I'm very surprised that as immediate neighbours and probably most effected by the brewery that we have not been contacted by the council. I object as I do not want my family living next to a pub, I don't want my young son hearing foul language, breathing in smoke or seeing strangers urinate in our back yard. Also the noise is still a problem.

1st Floor Office, Buckland House, Dower Mews, 108 High Street, Berkhamsted

I am writing to formally document my objections to the planning application 4/02514/16/FUL for A1/A4 planning for the Berkhamsted Brewery Shop located at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL.

I operate a business in the offices in Dower Mews and have worked out of there since 2011. I can confirm that I have never met or been approached by anyone from The Brewery Shop or indeed anyone from the council. I do understand that one office was visited once by the applicants who spoke aggressively to one temp, who was not authorised to speak for that business before being asked to leave. The applicants expressed their views that we had no right to complain. Therefore any suggestion that the applicants tried to mediate or solve this problem in any serious way is completely wrong. The noise and disturbance caused by the applicant's use of the courtyard and the hop garden is horrendous, and chronic. It is completely disruptive to my business and a continuous daily nuisance to my life. The business I own often requires me to work late in to the night as a number of my customers and suppliers are based internationally and are based in different time zones. I often conduct business using FaceTime or the phone although a certain amount of my day is taken up by face to face meetings in the office. Since the applicants took over the lease began trading the noise level has been horrendous, shouting, smoking, swearing etc. As well as the general disruption associated with someone selling cheap alcohol, people visibly

drunk, even on occasion vomiting and urinating. They regularly have played loud recorded music and hosted live music events in their courtyard which begin when they open and always causes a serious amount of disturbance. Again the license application says that they won't be playing live or recorded music. I also know of at least one occasion when a co-workers wife was verbally abused by someone drinking in the garden and was so distressed that a complaint was made to the police. So there would be a record should you want to check. Taken as a whole the presence of this premises directly affects my business. The fact is that it doesn't appear professional or look good to have that sort of behaviour occurring in front of my door just 30 feet away. The clients and suppliers see and hear it and judge me accordingly. The inference that we should be forced to close our windows especially in summer is not appropriate.

The applicants should remember that the license application and the minutes of the meeting where the license was granted are public documents freely available on line. They clearly show that the committee sought to reduce the hours that the applicants asked for as the application originally applied for opening "traditional pub hours." The applicants are technically correct that their website currently shows that the hours that they trade are within what was asked for but a quick look at their social media shows that this is not normally true. This is only because they have temporarily reduced their hours to make their business seem more like a shop and less like the pub that it is while this planning permission is sought. Perhaps the committee could seek an assurance that these will always be the hours traded and use these to set definitive hours for the 'shop' to trade. Why does a shop need to sell beyond 6pm anyway?

The fact of the matter is that when my colleagues and I took over the leases on these offices 104, High Street was trading as a bridal shop. So apart from the occasional squeal of an excited bride, peace and quiet reigned. Then the applicants took over the lease. At first this didn't appear to be a problem as the license application clearly stated that it was to be "a craft beer and bottle shop supported by a tasting bar to inform the purchases" and that the upstairs and outdoor areas were to be used for "educational beer seminars and private functions." This clearly shows that they wanted to be seen as an off license. I cannot state strongly enough that this is not the business model that is trading today and so the inclusion of A1 is not appropriate and should be removed to leave only A4. This is being used as a pub with people drinking on site for hours at a time. If anyone is taking beer home you would never know. Nearly all the money taken is for pints of cheap beer or glasses of wine drunk on site. Believe me or pop round and ask customers yourself but no one drinking at this site is there for tutelage or an educational beer seminar. I would suggest that as this was clearly stated as the purpose that onsite drinking would take place that the fact that it never has would be a perfect reason to refuse this application and reduce it to the off license that it was supposed to be.

The applicants took over the property and created the outside space on waste ground next to the shop. This involved building decking and raising a platform to create a courtyard area with outdoor seating and later heat lamps and an awning were added. This decking was extended in the summer to include a hop garden with plenty of seating for drinking. Both of these two areas brought the onsite drinking to within feet of the offices and allowed the people drinking to look directly in to the office windows. To be clear, we were never asked to approve of this and no planning application was submitted for us to be consulted on. No one from the council has ever been to ask. It just appeared and this is the only time we have had to make our feelings known. I would suggest that viewed like this that the application should be rejected on the grounds of disturbance and noise to neighbours. The references sited could not be traced and don't seem to exist. But to counter the view that a site that is part of the town centre can expect activity up to 23.00. I would suggest that the applicants should acquaint themselves with Mokoko verses Patel, which showed that you cannot complain about a business that was trading before you took up residence. But by extension you may complain and affect a businesses trading if you were in residence before they opened. The applicants have arrived and created raised decking, used seating, heat lamps and an awning to ensure that people drink outside at all times. This has exasperated the problems and

disturbance. The idea that additional training would help is misguided. This cannot be controlled except by removing the decking and preventing its use. I notice that the Town Council has already sought to prevent the use of this area after 6pm. This suggests that the council accept that the problems I described are real and need to be prevented. But I would argue that the problem with noise and disturbance begins with the shop opening and that 6pm is a very arbitrary decision which doesn't take into account this complaint. After all according to the applicants they are running a shop and only 18% of the sales are consumed on site. This being the case, why do they need an outside area at all? This is not usual for a shop and so they should be fine if told not to use the area. After all, on site drinking according to the applicants this is a tiny part of their total sales. Perhaps you should focus as well on the unauthorised consumption of alcohol in an A1 area. To use a "tasting bar" for drinking in A1 it would need to be free, like Majestic Wine.

As a related issue why is the awning still there? The business was told in January to put in a planning application to address this or to remove it directly. Nothing has been done and this visible eyesore still remains. Allowing it has clearly damaged the building and large cracks are visible.

I would suggest that helping one neighbour is better than nothing but it does not begin to address the issue of the daily disturbance that the neighbours experience from the use of the premises. I suspect that the arguments put forward from the Core Strategy and the Development Plan would be exactly the same if we were discussing the opening of a public house. As such I suggest that this in itself is proof that even in the planning department's eyes that we are talking about allowing a public house to trade which is confirmation that the business is not trading as it stated that it would. I would also point out that under NPPF9 it states that the development is supposed to positively improve the conditions in which people live and work. And further I would suggest that the local circumstances of this application have not been taken into consideration as they should have under NPPF 10. The case can surely not be made that the Town needs another drinking establishment or would be enriched by it opening. The applicants themselves point out that there are other pubs in the area. Although as the others are on the other side of the High Street so they do not directly the immediate area in the way that this business has.

There is also a question of cumulative development as the applicants stated aim while crowdfunding was to expand quickly and then to sell at a profit. This would mean that the Town was left with a building that could trade as a public house in any way it wished i.e. a sports bar etc.

The application has been said to be supported by various policies drawn from National Policy Guidance, the Adopted Core Strategy and the saved policies of the Dacorum Borough Local Plan. I assume that the policies sited will be the same as the last time as it is basically the same application. The problem is that the policies you are using would be exactly the same if you were proposing that this was an A4 business. This shows that in policy terms you regard this as a drinking establishment or public house. Consequently you have accepted that the disruption of the neighbourhood is a result of this trade and is in no way mitigated by saying that it is a 'shop' or a 'crossover'.

I would suggest that considering the weight of evidence that you should reconsider supporting this application and recommend that it should be refused on the grounds that I have outlined above. Further I would argue that this application should be rejected by the committee as it does not reflect the type of business trading at this address and that the continued existence of it causes excessive noise, harm and disturbance to the neighbours. I would suggest that the committee should also begin enforcement to prevent the business trading beyond the A1 perimeters set out in the license application. Dacorum's own website states that businesses carrying on licensable activities will require both a license and appropriate planning consent before they are legally entitled to operate. This means that the license alone was never enough for the site to operate and therefore is invalid. As the applicants have never had Planning permission that they have never had a valid license and therefore were always subject to closure. The Council has been seriously negligent in allowing this to operate even after they were informed of its status. The disturbance and

harm caused to the neighbours that they endured for over a year should have been prevented.

I have been told that others have put in objections which have not been put up on the website and for this reason I have chosen to email directly. I would also prefer that my words were not edited.

Thornehill, Sugar Lane, Bourne End

I am writing with regard to the objection letter that I wrote concerning the planning application 4/02514/16/FUL for The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. Upon more research I have come to the conclusion that this application cannot be supported by the NPPF, Core Strategy or the Saved Policies and therefore should be rejected. To this end I would like to add the following arguments to my original objection letter.

The application for this site is to change an A1 site to a mixed A1/A4. Firstly this is a misleading statement as if you analysis the plans you will see that the concept is to grant segregated areas of A1 and A4 which only intersect in a small area of the "shop" which is where the bar is situated. Given that the presence of the A4 areas for the "courtyard" and upstairs "beer tutelage room," mean that it is accepted that drinking alcohol will occur on the premises then it must follow that that alcohol must be dispensed from a bar and carried to the areas where the drinking will occur. The law states that alcohol can only be purchased dispensed and consumed within an A4 area. The planning department accepted that this was true when they required the addition of the A4 to the A1 room labelled as a "Shop" to form the A1/A4 area. Incidentally this proves that the first application had it been successful would not have been adequate to authorised the sale of alcohol. However this still neglects the fact that people will be standing in an A1 area to order and purchase alcohol in an unsealed container and then either consume it there or travel through unplanned areas to reach the A4 areas. Some of the internal spaces presumably retain the A1 planning from the previous use, but this would not apply to areas that did not form part of the bridal shop, nor would it cover the external areas that have been created by the applicants and therefore have never been designated for any usage. This all contravenes the fact that a drinking establishment, where alcohol is sold for onsite consumption must have A4 planning permission to validate its license to allow it to operate. This means that the amount of onsite drinking is irrelevant, it is the fact that any alcohol is purchased and drunk on the premises that matters, not the number of drinkers. Similarly the ancillary use of take away sales, regardless of the percentage as it relates to turnover, should be handled under the A4 planning and not defined separately.

NPPF 1 details that proposals will be approved unless "material considerations indicate otherwise." The council will grant an application unless "policies in the NPPF or other material circumstances indicate otherwise." This is explained as "planning permission can be refused if there are specific policies in the NPPF which indicate that the development should be restricted or that there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole." There are specific policies within the NPPF which provide proof that the application should be rejected and there are certainly adverse impacts which outweigh the benefits. This would obviously cover the adverse impact of the planning department advocating a specific type of planning that permits this business to trade in an identical manner to a public house while paying a fraction of the business rates that are paid by their competitors. It is a published fact that this business paid minimal rates and was rated as a shop in 2015-16. They are still rated as a shop and as a small business will pay zero rates for 2016-17. Meanwhile every public house in town will see their rates increase as a result. The planning department maintain that this is not a valid objection and yet this would definitely seem to be the very definition of an adverse impact and therefore should be addressed under NPPF 1. Particularly as the planning

department have stated openly that the application would have been similarly supported if it was A4. This demonstrates that the planning department have no specific policies to support A1/A4. This admission also reveals that this application is viewed by the planning department as a public house while enabling it to avoid business rates.

The application has chosen to include NPPF 2 presumably because they feel that it should support the application. However I would suggest that this should be included as a reason for the rejection of this application. NPPF 2.23 states clearly that planning policies should, "promote competitive town centre environments." It continues, " local planning authorities should recognise that town centres are the heart of the communities and pursue policies to support their viability and vitality. Local planning authorities should retain and enhance existing markets..... ensure that the markets remain attractive and competitive." The whole of NPPF 2 can in fact be viewed as an argument that supports the existing businesses operating in the town centre. This is therefore a compelling case for arguing that this unique form of planning and the idea that the business is a shop proves that they could never contribute to the creation of a competitive and vibrant town centre. The reality is that this 'shop' has undercut prices and provided a venue for the consumption of cheap alcohol and preloading and if unchecked will lead directly to the closure of the towns public houses and the loss of many more jobs than the applicants could offer at their business. This again is an argument is relevant. The planning department should accept that this application is clearly not supported by NPPF 2.

The idea that this application would adversely impact the neighbourhood and outweigh its benefits is continued in CS12. CS12a states that the application should provide a safe and satisfactory means of access for all users. The original application was rejected by the councillors because of the lack of disabled access and facilities. This property was extensively refurbished and considerably altered, but at no time were the disabled considered which violates the council's policies for equality and disabled rights. CS12C stated that the application should avoid the visual intrusion, loss of sunlight and daylight loss of privacy and disturbance to the surrounding properties. The premises and especially the use of the outside space has caused an enormous amount of noise and disturbance.

CS27 concerned the developments responsibility to enhance the appearance and character of conservation areas. It is hard to see how the application could be said to have done that especially considering the installation of the awning and its prominent logo. This locally listed building has been extensively remodelled and stripped of all of its original character and charm. This has drastically altered the inside layout to completely change it from the neighbouring premises. The frontage of the building has been altered by the stripping off of the original iron work that supported an awning dated back to the buildings construction. This change has been exacerbated by the addition of a hanging pub sign. This is completely out of character for the area and should be removed at once. It is hard to see how this could be viewed as "only minor changes" considering that there is little of the original structure that remained unchanged. This would definitely suggest that this should form grounds to refuse the application. Regardless these alterations have not been "complementary and sympathetic to the established character of the building." And so would seem to go against Saved Policy 120.

The applicants have stated that all the toilets have been approved by building control. The toilets may well have been signed off but one cubicle is not enough for women to use. Either the applicants need to create another cubicle or they need to reduce the number of people allowed in to the premises to under 50. These are standard throughout the country. Every business that operates as a drinking establishment has to provide adequate toilet facilities.

There is a serious case for proving that this application should not be approved as the policies do not support it. The application has been badly constructed with many problems

and issues. Not the least of which is the failure to provide A4 planning for the entire premises. Therefore as the above objection stated, this application should be refused as it is opposed by the policies that were used to support it.

Flat C, 142 High street, Berkhamsted

I am writing to complain about the planning application known as 4/02514/16/FUL for the premises known as a The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL. This application has been poorly conceived and doesn't actually reflect the way this business has been trading.

Dacorum's own website states that

"a business carrying on licensable activities will require both a licence and appropriate planning consent before they are legally entitled to operate."

This application will not provide the appropriate planning consent for the business to trade. This site is a drinking establishment and as such requires the entire premises to be authorised for A4 usage. This application has divided the space up between A1 and A4 areas in some sort of arbitrary way and it appears that you have allowed them to do so. The large outdoor space with seating everywhere is subdivided between the 'courtyard' with A4 planning and the rest of the decking and the 'hop garden' which have A1 planning. Practically there is nothing in place to prevent anyone from buying a drink and wandering around in to an A1 area which isn't authorised. The upstairs room has A4 for the 'beer tutelage area' but not for the ancillary areas of the staircase, hallway, kitchen and toilets. The downstairs 'shop' is mainly A1 with a small area of A1/A4 which is tucked away in a corner of the room. You wouldn't know from the plans but this is where the bar is located. The addition of this little area of A4 with the A1 is the only significant difference between the two applications. This is very important as it is vital for the sale of alcohol. As without the A4 you are not authorised to sell alcohol for onsite consumption in unsealed containers from a bar in the A1 area. The important part is the fact that it was not there in the first application but the planning officers still swore that it wasn't necessary. So if the first application had been approved by the councillors then it would have broken the law. Remember that as I now discuss the fact that you cannot stand in an A1 area to order, purchase and consume alcohol from an unsealed container. The container either has to be sealed or the alcohol has to be free. This is how off licenses like Majestic Wine trade with A1 planning and a tasting bar. But this is not true of the applicants who charge for every fluid ounce of alcohol that they serve from their "tasting bar." Even if you they changed the A1 area to an A4 area that would not solve the additional problem that once you have purchased the alcohol legally you cannot take it Out of an A4 area in an unsealed container or consume it. The applicants have been poorly informed; every drinking establishment in the country has A4 planning and applied to have that extended over the entire premises, inside and out. This application has areas of A4, areas of A1, even a A1/A4 area but most importantly areas that have no planning applied for at all. This is bad practice and should have been corrected before the applications plans were submitted. As it stands now the basement with the male toilets cannot be used at all as the basement plans have not been submitted at all. The planning department spend a lot of time discussing the fact that this discussion of A1/A4 is a licensing issue and therefore nothing to do with planning. I take the point that the licence is equally flawed with equally spotty coverage which was obtained for a business model that doesn't exist. However that doesn't explain On the one hand they can select and actively promote a type of planning consent with segregated A1 and A4 areas that has never previously been approved by any council. While saying on the other hand that you can never

question him or his judgement. This is undeniably a planning matter as it concerns the use of a planning class (from the 1987, Town and Country planning order) to authorise the use of this premises for certain activities. It is unreasonable to suggest that the planning department's word is law and can never be discussed; I was unaware that we now live in a communist state! The fact that the planning department cannot provide any policy justification aside from those that they would put forward to advocate for a public house opening suggests that they're desire to support this application is nothing more than a vanity project that they must now defend at all costs.

The officers' actions are ill advised especially considering that they were equally convinced of their powers on the last application for this site and that confidence proved to be unfounded. Aside from any of the technical issues and legal implications a very basic problem with this application is the fact that the application proposed is not appropriate for the business that is trading on the premises. The application is not in any shape or form a shop. This is clearly a drinking establishment or public house, we were all duped and misled, everyone can see this so why can't you? The shelving is largely decorative and results in maybe 10% of the trading and I'm being extremely generous here. The point is that the A1 is irrelevant anyway as it could easily be conducted under A4s umbrella rights. The amount of A1 covered by A4 has never been quantified and here is minimal anyway.

This application came about because Ms Watson of Planning Enforcement visited the premises at the insistence of the Councillors and stated that the presence of the bar and the fact that one person was drinking beer at the bar meant that it was A4. Here Ms Watson is describing the 'shop' the main A1 area of the business. Her response is echoed on social media which is littered with photos of people drinking in the 'shop', what more proof do you need that we were all misled? A petition gathered 4,000 plus signatures for the councillors to grant A4 planning to let people drink in the 'tasting bar.' Then you have to consider the fact that when the Brewery Shop in High Wycombe proposed the same segregated areas of A1 and A4 and this was REJECTED by the planning department who told the applicants that

"In our view you need to apply for mixed A1/A4 use on the whole of the building and not divide the floor space up in to A1 or A4..... The mixed use also needs to cover the ancillary facilities i.e. WC's which are all to be used in direct convention with the mixed use of the building and therefore form part of the use." From an email from Sarah Nicholson on 22 April 2016 concerning application 16/05906/FUL.

The fact is that the weight of evidence does not support Mr Newton and his segregated areas of A1 and A4 planning and the idea of moving and flowing between different zones regardless of planning like they do at Costa! Not only has another counties planning department judged them illegal but his own council's enforcement officer has stated that the A1 area required A4 planning to authorise the activities occurring. The communication between branches of the planning department could be improved it seems!

This application would appear to have been created and pushed through without any serious consideration of the obvious mistakes that blight this submission. The plans themselves are a complete shambles and appear to have been created to advise the builders. They fail to show significant details of the application like the location of the bar which after all is a defining feature of this drinking establishment. Other features and areas are defined in green marker pen which is almost illegible. This does not seem to be a professional submission nor is it at all adequate for the task at hand. The application does not include plans for the basement area which contains the toilets that are presumably to be used daily as part of the business. However as it stands they should not be used as they will have neither the correct licence or planning for such inclusion. The application segregated certain areas for A1 and A4 planning but in doing so has left some parts of the business with no planning classification at all. The A1 planning is specifically to cover the 'shop' area which does infer that it did not exist already and should no longer be considered to cover the undefined areas of the building.

Further, as it stands the business has only declared the presence of a single toilet cubicle in the submitted plans. Setting aside the fact that it, and the hallway and stairwell, would require A4 planning which has not been applied for. It is not appropriate for a business that makes its money from onsite consumption of alcohol to not provide adequate toilet facilities for the public. The council will have guidelines for this but in line with accepted standards used for the other businesses in town there should be two or three urinals and a cubicle toilet for men and two or three cubicle toilets for women. Given that a new application can include the newly created "Gents" toilets in the basement that would still mean that the facilities for women are completely inadequate for the use of the premises and therefore the application should be rejected on these grounds.

The applicants took over and doubled the trading area of the business by converting waste ground into an extensive outside area. This extension, given that it was created to accommodate seating areas for outdoor drinking, inevitably caused huge issues and disturbance for the neighbourhood. This is against NPPF 10. This was previously a bridal shop and although there are other similar businesses in the area they are on the opposite side of the High Street and do not impact the area in the way that this business has. The onsite drinking and the subsequent problems associated with the consumption of cheap alcohol inevitably eroded what were previously quiet and disturbed hours of peace and quiet. It is nice that soundproofing helped out one neighbour but does little to mitigate the harm caused to others. The applicant's state that they close earlier than others doesn't excuse the disruption that they cause when they are. The applicants deliberately mislead by saying that they close at 8. In practice they often trade beyond 9 and often extend their hours to play live music and trade with pub hours. This application has not made a positive improvement to the quality of the people's lives which is against NPPF 9. The application has never been in the public interest.

This application should be rejected for the reasons that I have included in this email. I would suggest that the case for withdrawing your support is a compelling one and therefore should be acted on. Further as this is a retrospective application I would suggest that as I stated above that as the applicants have never had appropriate planning for their onsite drinking that as this voids their licence that enforcement should act to prevent the A4 activities from continuing.

6 Manor Court, Berkhamsted

I believe that you are the officer handling the application for the Brewery Shop in the High Street.

I have been in to the shop on several times and posed as a normal customer with friends and I can tell you that there is no question that this is a pub/bar

The Brewery Shop took over the lease of the shop and then extended outdoors to use the waste ground next to the building to build an area of decking. This later was doubled in size to accommodate even more people drinking.

I live a short distance away & behind this place but even here the noise can be really annoying, intrusive and upsetting. It is just there in the background all the time. You just don't get to have a break from it. This also gets much worse in the evening as more people go in and goes on late into the evening on most nights and sometimes you get the noise of the band that they've booked to play as well for additional disturbance and nuisance. This annoys me more than anything because we never had any noise or disturbance before this was allowed to open. No one ever asked us if we wanted this or if we were bothered by it, we simply were not consulted at any point. Surely you owe us a duty of care in this regard and to make sure we are not unnecessarily, unfairly and unduly inconvenienced? You seem to have decided unilaterally that our quality of life does not matter to you. I don't think that it's fair to let a pub pop up and not ask if everyone is ok about that. Why weren't we on the list of people to be contacted about this application? The people on the other side of the High Street were. We are the ones who live closest to it.

Please consider this as an objection to this application.

The Gatsby, 97 High Street, Berkhamsted

I am writing to you with regard to the formal objection to the planning application 4/02514/16 for the granting of A1/A4 planning for 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. I want to amend my original objection letter to include the following information regarding how the NPPF and the Core Strategy apply to this application. I trust that as one of those officials consulted that you would have no objection to including my further objections. To be clear this does not replace my original objection letter as it contains additional details which I would now like added to the record.

The application is not significantly different from the previous version aside from a small area of A4 being added to the "shop" to create an A1/A4 area where the bar is located. The last application was supported as it complied with policies found in the NPPF, the NPPG and CS4, CS11, CS12, CS16, and CS27 from the Core Strategy and saved policies 42, 51, 120 of the Dacorum Borough Local Plan. It would seem sensible to suggest that this application will be supported using the same policies.

NPPF 1 states plainly that, "proposals that accord with the development plan will be brought forward and approved unless material considerations indicate otherwise. If the development plan contains no policy relevant to the consideration of a planning application or policies are out of date the council will grant permission unless

- Policies in the NFFP, or
- Other material circumstances

Indicate otherwise.

The footnotes state that this means that

"Planning permission can be refused if,

-there are specific policies in the NPPF which indicate that the development should be restricted.

-there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole."

Certainly there are specific policies within the NPPF which provide proof that this application should be rejected and there are certainly adverse impacts which outweigh the benefits. The obvious one being that the effect of the planning department suggesting the creation of a specific type of planning that permitted the business to trade in an identical manner to a public house while paying a fraction of the costs involved and avoiding the restrictions placed on public houses. They have paid minimal rates since they opened in 2015. But the applicants will not pay any rates for this year as a small business whereas a drinking establishment of similar size would not be exempt. This is not a valid objection according to the planning department but it would appear that this would definitely be the definition of an adverse impact and therefore permitted under NPPF 1. Especially as the planning department stated in their own words that the application would have been similarly supported if it was A4. This proves that there are no specific policies that would support A1/A4. The fact that the planning department are admitting to supporting the application using policies for A4 provides evidence of how the application is viewed by the department, i.e. as a public house. The planning department have nothing in policy terms to support A1/A4, the only mention of a mixed use development comes in CS4.

The policy CS4 clearly states that, "a mixed use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. In all these areas ancillary uses will be acceptable and protected provided that they support the primary function of that area." 8.20 of the Core Strategy states that, "In many instances

land will not be used for a single use. Mixed use development involving a mix of compatible uses on a site and/or the mix of compatible uses in a building will be encouraged where it makes the most efficient and sustainable use of land." The actual CS4 does not specifically address the application as the term "mixed use development" is a term used to refer to a larger scale development which includes residential, commercial and industrial areas within the development. The 8.20, does apply that term to a specific building where the uses are compatible. This only legitimised the use of the premises as a drinking establishment and even permitted the use of the site for retail sales. The fact that this is permissible is not a surprise as it only details the exact way in which every pub trades. However nowhere in CS4 or 8.20 is the idea of A1/A4 or separating the activities previously considered as A4 stated. In fact the statement "does not conflict with other policies," would seem to rule out the A1/A4 concept. This idea definitely conflicts with The Town and Country Planning (Use Classes) Order 1987, which definitely states that the correct designation for a drinking establishment is A4 and that the ancillary activities are permitted under that designation. Therefore CS4 obviously does not provide the authorisation that the planning department suggests; in fact it refutes it entirely.

The NPPF provides further policies which demonstrate that the application should be rejected. The application includes NPPF 2 which seems to have been included to justify the application by suggesting that it is justified as it builds a vibrant and competitive town centre providing employment. However NPPF 2.23 states that planning policies should, "promote competitive town centre environments." It continues "local planning authorities should recognise that town centres are the heart of the communities and pursue policies to support their viability and vitality. Local planning authorities should retain and enhance existing markets...ensure that the markets remain attractive and competitive." There is an argument to be made that this entire section focuses on supporting the existing businesses operating in a town centre which this application would undermine by undercutting the existing businesses because of the zero rates. The unique form of A1/A4 planning means that this application can never create a competitive and vibrant town centre as the business has already traded in a favourable position to undermine the competition which will ultimately lead to the closure of the town's public houses and the loss of many more job opportunities than the applicants could offer at this site. Again the planning department suggest that these arguments are not relevant but not only do they ignore what is described in NPPF 2 but then attempt to use it to justify their position! If this is relevant then the planning department need to accept that a counter argument is equally acceptable to the discussion.

NPPF 7.57, 7.58e, and 7.59 would refer in part to the fact that the application should contribute positively to making places better for people by creating safe accessible spaces for all. This implies that disabled facilities should have been included. 7.67 refers to the negative impacts that poorly placed advertisements can have on the appearance of the built environment. This would suggest that the awning which has been widely criticised on both applications does not contribute positively to the idea of making places better for people. NPPF 7.67 details that Control over outdoor advertisements should be efficient, effective and simple in concept and operation. Considering the opposition to the awning under this section of the NPPF the committee would be able to reject the application.

Moving forward to NPPF 8 and the Promotion of healthy communities, 8.70 states that planning policies and decisions should plan positively for the provision and use of shared space, and community facilities such as public houses and to enhance the sustainability of communities and residential environments. Further that they should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the communities ability to meet its day to day needs. The NPPF echoes Government policy that public houses are valued community assets that are worthy of protection. This application undermines the idea of protecting and conserving these assets which is something that

Dacorum and by extension the planning department are required to promote. The practice of putting forward an alternative to A4 planning directly contradicts 8.70a and 8.70b.

The Core Strategy similarly described reasons for opposing the application. CS11a refers to the enhancing of spaces between buildings. When you consider that the applicants have used the outside area to create a large area of decking which is covered with extensive seating to accommodate outdoor onsite drinking. This can be used in all weathers and times of day because the applicants installed the awning and several heat lamps. This has become an area which is heavily populated with people drinking alcohol throughout the hours of operation. Considering that this is the use to which the space has been put and considering the noise and disturbance to the peace of this area it is dubious as to whether this has enhanced the space. The Hop Garden, which has been created by the applicants, has never been designated for any authorised use therefore although it contains seating and is clearly for onsite drinking the usage will be unauthorised as it has not been included in the A4 area. This too would not seem to be enhancing the space. CS11b details that the development should preserve an attractive streetscape which the applicants have failed to do when you think about the number of objections to the awning and the resentment that its prominent advertising logo has created.

The fact that the application would adversely impact the neighbourhood and outweigh the benefits of it being granted. This should therefore be rejected under CS12. CS12a states that application should provide a safe and satisfactory means of access for all users. The issue of disabled access and facilities was a reason for the application being rejected the first time and nothing has been done to address this. The applicants extensively rebuilt this building removing walls and adding doors and toilets so it is a mystery why the council's policies for equality and disabled rights were not enacted on. CS12c details that the development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties. The site and especially the use of the external areas has created a considerable amount of noise and disturbance which has been well documented and been the subject of several complaints from neighbours. These issues would suggest that CS16 should not be included in justification of the application as the complaints would prove that the social and environmental impact has not been controlled. The applicants state in their supporting letter that they do not trade for the hours that they have been given. This is not strictly true as they often serve beyond their hours and could be expected to apply for the pub hours that they originally applied for when they applied for their license.

The fact that CS27 has been included to justify this application is not an obvious choice as it concerns the developments responsibility to enhance the appearance and character of conservation areas. The evidence would suggest that the applicants have not enhanced the appearance and character of the conservation area as is proved by the opposition to the awning and its prominent logo. The extensive alterations to the building and the outdoor space also speak to a disregard for the principles of conservation. The applicants removed walls, created two doorways to the outside decking area that they built, extensively renovated and built a large bar. They removed the original iron work which had supported the original 1940's awning attached to the front of the building. This had been maintained by every other shop in the terrace and is now starkly out of keeping with the area. This locally listed building was stripped of any original character and is therefore substantially different from the other shops in the area. How this can have been approved as only minor changes is beyond belief. Short of knocking it down and rebuilding on the site it is hard to see what else they could have done to the building. Thus the idea of using CS27 to support the application is a little farfetched considering how the original character and charm of the building has been removed; therefore the evidence would suggest that it should be opposed on these grounds. Saved Policy 120 would seem to support my view discussing how alterations should be "complementary and sympathetic to the established character of the

building." It also states that "within a conservation area, applicants are encouraged to submit detailed planning applications. Planning permission may be refused if insufficient detail is provided to judge the impact of the proposed development on the conservation area. Does writing the plans with a green marker pen and leaving out the bar and the amount and location of the seating really provide sufficient details to assess the impact on the conservation area?

The applicants have continued to provide post-truth statements to support their application. At first they stated repeatedly "we have all the correct licences" although the fact was that they did not have the required planning permission. This also failed to mention that without the planning in place their license was never valid. Dacorum's website clearly states that a drinking establishment must have both to legally trade. They have consistently tried to mislead the public on the nature of how the business trades. Remember when it was only 18% of alcohol was drunk onsite? Ignoring the fact that if a single drop of alcohol is ordered and consumed on site that it needs to happen in an A4 area. They have stated that the premises is a shop although Facebook and social media prove that their customers remain on site from 45 minutes to two hours which is a long time to be in a shop! More recently they have stated that they frequently close early and do not trade as late as they are allowed to. This is not true and frequently the hours are extended. The fact that they originally wanted to operate traditional pub hours has been forgotten. As they attempt to appear more like a shop they are trying to pretend that they close early. They have begun to charge more to drink on site after the scale of the cheap drinking was revealed. This surcharge will stop as soon as the application has been granted as it has only ever been applied to Berkhamsted it is not company policy. They have claimed that they have A1/A4 planning permission for their businesses in High Wycombe and Amersham. This is not true. Amersham and Chesham still trade in a completely unauthorised manner under the A1 designation that they inherited with the property and High Wycombe does have A1/A4 but the entire premises has A4 all over. This is very different from the segregated areas proposed in this application. Then there is their statement to the Town Council that 70 jobs will be created. The Town Council questioned the validity of this and it was reduced to 4 jobs with a heavy use of zero hour contracts.

The fact that the toilets have been inspected by building control is not the point. No one suggests that they don't work; we are clearly stating that there are not enough of them. You cannot have a site where on site drinking is authorised and the number permissible on the premises is up to 100 and expect women to have only one toilet cubicle. This is not something that can be ignored.

The evidence would suggest that the application is not supported by the policies that were previously used to support it. It is an indisputable fact that although the idea of a building being used for more than one use is accepted that the idea of splitting the uses in planning terms is NOT authorised and as it clearly conflicts with other policies it therefore should not be approved. If this application is approved then it would form the subject of a formal complaint and ultimately will not stand up to scrutiny. I would suggest that I have clearly demonstrated that there are plenty of reasons to justify the refusal of this application as it is opposed by the NPPF and the Core Strategy and that the adverse impacts would outweigh the granting of the application.

No1 Canal Side, George Street, Berkhamsted

Objects on the grounds of the proposal should be considered as an A4 use and not A1 / A4 mixed use. Considers that the proposal conflicts with a number of national and local planning policies as discussed in detail within the full representation which is provided within Appendix A of this report.

I am writing to amend my original objection letter to include the following points that I want to raise as part of my objection to the application 4/02514/16/FUL for a change of use from A1 to A1/A4 for The Berkhamsted Brewery Shop that trades at 104, High Street, Berkhamsted, Hertfordshire. HP4 2BL.

The heart of my objection has always been that alcohol can only be dispensed in an unsealed container for consumption on the premises in an area which has A4 planning where the primary function of the business is to provide a venue for the alcohol to be consumed. The requirement for A4 planning permission is absolute and applied from the Consumption of the first drop of purchased alcohol. Due to this the hours of operation, the closing time or the amount consumed are irrelevant. Therefore this would still apply even if they were to close at 10pm, 8pm or even 6pm. This it is clearly the case with the above premises where the primary purpose is to provide an environment for the consumption of alcohol. This application was previously referred to as 4/03329/15/FUL and was presented to the Development Control Committee on 14th January 2015 with the full support of the Planning Department according to Mr Seed and Mr Newton who defended it to the committee. 4/03329/15/FUL was a zoned A1/A4 application which was proposing to cover the entire ground floor "shop" area, where the bar is located (but not shown on the plans), with A1 planning. This application was rejected by the Committee and was subsequently replaced by 4/02514/16/FUL. The only variation from the first application was the inclusion of a small area of A1/A4 in the corner of the "Shop" area where the bar is located (but still not shown). The inclusion of that little piece of A4 within this A1 area is very significant as it provided proof that the Planning Department now accept that a central tenant of my original objection was correct, namely that alcohol cannot be sold from a bar for onsite consumption in an A1 area and so A4 had to be included. However the current application still does not address the fact that you cannot order, purchase alcohol in an unsealed container and consume it onsite whilst standing in an area which has A1 planning. However, assuming that the Planning Officers will now "fully support" 4/02514/16/FUL then it must prove that they were wrong to back 4/03329/15/FUL. Obviously this was a significant mistake, and one that should lead to them admitting that 4/02514/16/FUL has similar errors and should not be supported as it does not provide the appropriate authorisation required for the premises given the way that it trades.

The Planning Department will doubtless point out that alcohol can be legitimately be consumed in other use classes such as A3 (restaurants) and D2 (nightclubs or concert halls). This of course I fully accept, however in both A3 and D2 the sale and consumption of alcohol is ancillary to the primary function of the business and more significantly no one has ever suggested that this business is being used as anything other than as a drinking establishment. It is important to stress that these are situations where alcohol is sold and consumed in an ancillary form rather than allowing the consumption of alcohol as a primary function of the businesses trade which would require A4. A business like Majestic Wine Warehouse may also allow alcohol to be dispensed in an unsealed container for consumption on the premises in an A1 area. This is because the alcohol is dispensed and consumed as a free sample to inform the purchase of a sealed bottle. Again this could not be applied to this business as every drop of alcohol dispensed in the unsealed containers is changed for directly before consumption.

The last application was supported by the Planning Department on the grounds that as both A1 and A4 or a combination of both uses are considered appropriate to authorise within a town centre location that numerous examples of each of these uses within Berkhamsted High Street. This statement draws heavily on CS4 and the supporting material organised under 8.20 in the Core Strategy, and will be dismissed as an argument later in this objection. However whilst it is true to say that A1 and A4 activities are present in numerous examples within the town it would be completely wrong to believe that there are any specific examples of combinations of areas of A1 and A4 coexisting in any business within the town. Off

licenses with tasting bars exist at Majestic Wine Warehouse with A1 planning permission. The Berkley Gallery operates as a mixed use business but under A4 Planning. Every single drinking establishment and public house performs both on and off sales but does so under A4 planning. And we can dismiss restaurants with alcohol licences as they trade under A3. Therefore the argument that this application is supported because the A1 and A4 activities are acceptable within the town does provide a precedent that the Planning Department suggests.

The Planning Department also referred to the fact that they believe that the proposed use of A1 and A4 are fluid and that it is inevitable that given the nature of the use that some crossover would be likely to occur between the various parts of the site. This would be true if the separate zones of A1 and A4 were to be authorised. However this situation has never occurred before because the A1 activities have always been addressed by being conducted under A4 planning permission. Therefore the fluid argument cannot be used as a justification for the application and as I will show cannot be authorised by CS4.

Precedent would seem to prove that the Planning Classes are absolute and provide coverage for, in this case, drinking establishments that operate primarily for the retail sale of alcohol for onsite consumption. Any flexibility comes after the granting of the required consents.

The previous form of this application, which as I said is almost identical to 4/02514/16/FUL, was presented to The Development Control Committee on 14th January 2015 by Mr Newton and Mr Seed. During that meeting they made several statements that I'm sure will be repeated when this application goes before the committee. They promoted the idea that it was not necessary to license the entire premises with A4 as the individual designation of an area doesn't matter because like Costa you can drift from one area to another. He repeated the claim that the Town was full of mixed use businesses but conveniently chose to ignore the fact that none of them sell alcohol or operate as the Brewery Shop does. He also drew heavily on the phrase that there was nothing in the Core Strategy to prevent it from being approved and so even if it was declined it would succeed on appeal. I have refuted the first two statements and will go on to discuss at length how the Core Strategy and other policies do not support this application at all. The first application was not appealed because it is a flawed application that would not stand up to scrutiny. Even the planning officers involved have to admit that there is no legitimate evidence to support it and instead they are forced to propose it using the same policies that they would have to use to support an A4 application. However the most worrying statement from Mr Newton concerned his statement that in other authorities such businesses have been allowed to trade under A1 planning permission. This suggests that a senior planning officer is saying that because other local authorities ignored the law and allowed alcohol to be sold and consumed without the correct authorisation that this has set a precedent that allows Dacorum to be similarly negligent in applying the law. Does the Council share Mr Newton's view that precedent can be created from negligence?

The applicants have allowed their other Brewery Shops in Amersham and Chesham to trade openly as bars with only A1 planning, in Chesham's case since 2013, in spite of being informed that their type of business required A4 planning. The applicants told Berkhamsted Town Council that they had been granted A1/A4 for the Amersham site and for their High Wycombe site. This was deliberately misleading as no planning application has ever been applied for the Amersham or Chesham sites and the Planning Officer at High Wycombe rejected an identical planning application to this one, based on the idea of separating the areas of A1 and A4 into different areas. Ms Nicholson, the Planning Officer for High Wycombe explained that the separation of A1 and A4 would not provide the required coverage for the premises. The applicants were also told that they were required to include the ancillary areas of the premises i.e. toilets, corridors etc. Therefore this proves that this application has already been rejected by one Council and judged inadequate by a different

Planning Department. This fact was withheld from Berkhamsted Town Council and should certainly be considered as a further reason to reject this application.

The idea that both A1 and A4 activities are acceptable in planning terms within the town will come as a great relief to every publican in the country as these comments accurately describe how they have operated our businesses for years.

The Planning Department also proposed the idea that the application is justified as it is a matter of fact and degree when assessing whether the business is operating as an A1 shop or an A4 public house. They have suggested that this is not clear cut and can depend on the layout of the premises in terms of the floor space dedicated to the respective shop and pub areas and the turnover of the business again in the proportions of the respective uses. However this position should be rejected as the evidence demonstrates beyond any doubt that the vast majority of the businesses revenue has been derived from the onsite consumption of alcohol. This was definitely revealed by over 4,000 people signing a petition to ensure that they could continue to be allowed to consume alcohol on the premises. Even the supporters of this application all state how much they enjoy drinking in The Brewery Shop. Considering then that the take away sales cannot amount to more than 10% of their trade. The Brewery Shop's own representatives at the Development Control Committee meeting on 14th January 2015, stated that customers can enter the premises and buy a drink to consume on site, stay for at least 45 minutes and leave without buying anything else to take away. Facebook and other social media confirm that the average amount of time that a customer spent at the Brewery Shop was between 45 minutes and 2 hours. The issue that the "shop" area is in fact the site of the bar and the only point of dispense for the alcohol sold in unsealed containers for onsite consumption must also be considered. This, as Planning Enforcement will confirm is a defining feature of a drinking establishment and the fact that this and a large amount of the onsite drinking occurs in the A1 shop area must mean that it requires A4 planning. This would mean that almost the entire premises would have A4 planning. Therefore the argument that it is a matter of layout or turnover can be easily dismissed. This would always have been a tenuous argument anyway considering that this was something that the government was asked to consider before ruling that Micro pubs required A4 planning consent. Given that the Planning Department have always previously stated that they cannot consider financial matters when determining planning consent it would seem odd that they would consider the turnover of the business. This would seem to be a matter that would be decided by the ratings department and the statement regarding the turnover would seem to be a statement borrowed from an explanation of how business rates are determined rather than a statement of how to work out planning designations. Moreover, historically public houses have always operated off sales when it is permitted under the premises license. While this has declined since the opening of off licenses and further with the government's decision to permit supermarkets to retail alcohol. Regardless the historical precedent remains unchanged and guarantees that any amount of off sales would be permitted under A4 planning. Therefore a business operating purchased on site consumption of alcohol may under A4 planning perform any amount of A1 activities without the need for A1 planning permission. If the Planning Department, and by extension Dacorum Council, are taking a different view of this then it would be useful to know what is the precise point where A4 planning is no longer adequate to authorise A1 activities? At what percentage of turnover would A4 not be adequate? I would like to press for a response to this question, as every landlord in the country whether a freeholder or a leaseholder has always viewed their A4 planning as providing the freedom to modify their business to include unlimited amounts of A1 and A3 activities. The freedom that this allowed has formed an intrinsic part of the value of those leases. Therefore many individuals, groups and companies who have a vested interest in pubs and the value of their leases and would want to be informed of any developments that might adversely affect the value of their investments.

This leads neatly on to a previous planning application (4/03754/15/FUL) which ran contemporary with the original Brewery Shop application. This was for The Berkley Gallery in Lower Kings Road, Berkhamsted, HP4 2AB. The application was applying for permission to become a mixed use business. This would authorise the owners to allow people to enjoy a glass of wine while they viewed the artwork. Even though Mr Seed, the planning officer recognised that this was a mixed use site, he chose to grant A4 permission for the entire premises under delegated powers. A1/A4 was not recommended although Mr Seed was simultaneously handling the Brewery Shop's application. In fact Mr Seed chose to support the gallery's application with a virtually identical set of policies to those that would be used to justify 4/03329/15/FUL. This proves that even the Planning Department and Mr Seed view the Berkhamsted Brewery Shop a A4 business but also that the Planning Department have no specific policies to justify their promotion of an A1/A4 application.

The treatment of The Berkley Gallery underscores a significant problem with the concept of A1/A4 planning. Given that the Planning Department would like to suggest that this is the future of planning in Dacorum it would seem astonishing that a gallery serving wine to a small number of discerning customers was forced to apply for A4 planning consent. In spite of the previous statements neither the layout of the premises or the turnover of the respective uses were considered at all. This application, 4/03754/15/FUL would seem to prove that that this concept is not being applied evenly on merit but has instead been created specifically to favour The Berkhamsted Brewery Shop over its rivals which would be in contravention of NPPF 1, NPPF 2 and NPPF 8.

Another central tenant of my objection is that because of the Planning Department's continued support for the idea that this business is a shop, even in the face of overwhelming evidence to the contrary, that the various departments consulted were seriously misled as to how the business would trade and as a result failed to judge it correctly. The upstairs room was originally stated as a space for educational beer seminars and even on the current plans is labelled as a beer tutelage area. This is deliberately misleading as the overwhelming majority of the usage has been as a room to facilitate onsite drinking. The fact that the room was created as a venue for customers to consume alcohol and possibly becoming increasingly impaired as a result is a salient point that should have been discussed by health and safety and the fire department. Obviously the rules and regulations are very different for a shop and a drinking establishment. The Council and the Planning Department have to explain why they have allowed this drinking establishment to operate with only one female toilet cubicle and no upstairs fire escape. No other drinking establishment has ever been allowed to act in this way. For example the Gents toilets have never been licensed, the plans for the basement containing them do not form part of this application which would mean that they could not be used as they would have neither of the required authorisations necessary for their legal use. I am sure that the Council will require that the applicants provide additional toilet facilities for women as a single cubicle would not be adequate for a drinking establishment. This would be in line with the toilet facilities required for every other drinking establishment in the town.

The Planning Department have been quite evasive in providing a detailed explanation of how A1/A4 planning is supported by legislation to support their belief that this is viable alternative to A4 planning. The planning department have stated that this is acceptable in principle according to the adopted Development Plan of Dacorum. This is revealing as what is acceptable in principle may not be acceptable in fact especially with the admission that the application would be supported using exactly the same policies regardless of whether it was an A4 or an A1/A4 application. However as no further detail has been provided, it has been easier to turn to the first version of this application and how that was supported as it complied with policies found in the NPPF and the NPPG, and CS4, CS11, CS12, CS16, and CS27 from the Core Strategy and the saved policies 42, 51, 120 of the Dacorum Borough

Local Plan. These upon closer scrutiny do not provide the grounds to prove that an A1/A4 application can be supported in policy terms.

NPPF 1 clearly states that an application should be brought forward and approved unless material considerations indicate otherwise. If the Development Plan contains no relevant in date policies then it would be granted unless either policies in the NPPF or other material circumstances indicate otherwise. Therefore an application should be rejected if "there are adverse impacts which would demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole." As there are certainly plenty of adverse impacts to outweigh the benefits. The most obvious one being the effect of the planning department suggesting the creation of a specific type of planning that allows a business to trade openly as a drinking establishment while being rated as a shop and therefore avoid paying any business rates at all for this year, having only paid minimal rates for 2015. The planning department argues that this is not a valid objection and Mr Doe states that

"the council is not entitled to take into consideration the effects any business might have on the success or otherwise of another business: that is a matter for the market and open competition to decide."

The fact is that the planning department does not have the right to create a situation which would deliberately favour The Berkhamsted Brewery Shop over its competitors, by allowing it to avoid its obligations to business rates through allowing it to be viewed as a shop, and then preventing people from objecting to their creation. Unless Dacorum Borough Council and its planning officers have decided to set aside democratic principles and dissenting views are banned. As such behaviour would obviously provide proof that the Council through its Planning Department had abandoned the principles of fair competition and free trade. Seen in this light I would suggest that this is the very definition of an adverse impact and exactly what is covered by NPPF 1. Especially considering that the planning officers have chosen policies that could equally provide specific support for an A4 application. This proves that the planning officers are choosing to accept that the business is trading as a public house with ancillary off sales but continue to support and promote the idea that it is a shop. To add insult to injury, the application even included NPPF 2 to support the application as building a vibrant and competitive town centre providing employment. This would be the antithesis of the true meaning of the policy. NPPF 2.23 states that planning policies should,

"promote competitive town centre enforcements....local planning authorities should recognise that town centres are the heart of the communities and pursue policies that to support their viability and vitality. Local planning authorities should retain and enhance existing markets... ensure that the markets remain attractive and competitive."

An argument could be proposed that the entire NPPF 2 is really about building and maintaining a vibrant and competitive town centre which would be undermined by undercutting the existing businesses because of the zero rates and leading to the closure of the town's public houses and the loss of many community facilities and places of employment.

These statements are echoed in NPPF 8 which concerns the promotion of healthy communities. 8.70 stresses that planning policies and decisions should plan positively for the provision and use of shared space and community facilities such as public houses and to enhance the sustainability of communities and residential environments. This continues to warn that they should guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day to day needs. This is in line with government policy that public houses are valued community assets and that they are worthy of protection. The protection and conservation of these assets are something that Dacorum through its planning department are required to promote. This

application would undermine the status of A4 planning and make a complete nonsense of the government policy of protecting pubs with ACV's, because it contradicts 8.70a and 8.70b.

The Council has already accepted that this business has been allowed to trade advantageously and has not been correctly rated. This has been proved by the fact that Mr Doe states that the council has reported the change of use at 104, High Street to the VOA. This is obviously a recent development but a welcome one. However it does require an explanation. If it is the responsibility of the Council to notify the VOA of a change of use then why was that not done when the premises opened or at least after Ms Watson visited? This business has been allowed to trade unauthorised and to avoid the burden of paying rates which has allowed it to sell alcohol at rock bottom prices to undercut the competition. This is a direct consequence of the Council's A1/A4 policy and the planning department's insistence that the business is trading as a shop. This is a direct violation of NPPF 2 and by extension NPPF 8

The policy CS4 documents that,

"a mixed use development will be supported where it supports the principles of sustainable development and does not conflict with other policies. In all these areas ancillary uses will be acceptable and protected provided that they support the primary function of that area."

Similarly 8.20 of the Core Strategy states that,

"In many instances land will not be used for a single use. Mixed use development involving a mix of compatible uses on a site and/or the mix of compatible uses in a building will be encouraged where it makes the most efficient and sustainable use of land."

CS4 itself does not specifically address this application, as the term 'mixed use development' is actually referring to the large scale developments that provide residential, commercial and industrial areas within the development. The point 8.20, does apply that term to a specific building where the uses are compatible. This is only providing authorisation to use the premises as a drinking establishment and even the ancillary use of the premises for retail sales. This should not come as a surprise as it only authorises the exact way that every public house trades. Still, this only covers the use of the building but nowhere does it state in CS4 or 8.20 that the planning department can separate the off sale activities previously included under A4 planning to create A1/A4. Actually the statement "does not conflict with other policies," absolutely rules out the A1/A4 concept which deliberately conflicts with The Town and Country Planning (Use Classes) Order 1987 that definitely states that the correct designation for a drinking establishment is A4 and that the ancillary activities are permitted under that designation. Considering this then CS4 does not provide the authorisation for A1/A4 that the planning department suggests, in reality it refutes it entirely.

The NPPF includes several other policies that applied to opposing the application. NPPF 7.57, 7.58e, and 7.59 refers to the fact that the application should contribute positively to making places better for people by creating safe, accessible spaces for all. CS12a states that the application should provide a safe and satisfactory means of access for all users. The inference being that disabled people should be provided for. According to Mr Doe the council's view is that the provision of disabled facilities and access will not meet the test of necessity and may not be relevant to planning. Dacorum should be ashamed of itself for this decision. The applicants ripped the building apart and created not one but two doors to the outside area, built decking throughout the outside area and remodelled the toilets. It is absolutely not acceptable that provision for the disabled was not a requirement in view of the

extensive building work. Is the council's view that accessing public houses is not a case of necessity? Is it Dacorum's view that it is doing the disabled a favour by denying them access and facilities? I cannot see why the doors could not have been built a little wider or the decking built with a ramp etc. The applicants, enabled by Dacorum and its planning department have taken the view that the disabled are not welcome on these premises. Considering the lack of access or facilities it is hard to believe that should anyone with a disability manage to get in that they would feel the love in the brewery shop.

NPPF 7.67 refers to the negative impact of poorly placed advertisements can have on the built environment. These should contribute positively to the environment and be efficient, effective and simple in concept and operation. This should be used in conjunction with CS11a to enhance the spaces between buildings. Considering that the applicants have used the outside space to create a large decking area, that they covered with an extensive amount of outdoor seating which they use to accommodate the large number of people indulging in the onsite drinking. This can be used in all weathers and times of the day because of the installation of a large awning, that has itself been the subject of a significant amount of scrutiny and objections. This has become an area which is heavily populated with people drinking alcohol throughout the hours of operation. The use of the space has created a significant amount of noise and disturbance to the peace of the area and generated many complaints. Planning Enforcement did state that the applicants would be required to either put in a separate planning application to authorise the awning or remove it at once. This was back in January and to date no application has been submitted and no enforcement action has been taken. The Hop Garden was created by the applicants to extend their drinking area. In spite of this it has not been included in the application although it has never existed before and therefore has never been given any planning designation, let alone A4. How has this enhanced the space? CS11B explains that the development should preserve an attractive streetscape. The applicants have failed to achieve this when you consider the number of objections to the awning and the resentment that its prominent logo advertising the business has created.

The application would adversely impact the neighbourhood and outweigh the benefits of it being granted permission, therefore it should be rejected under CS12. CS12c states that details that the development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties. The site and especially the external areas has created a considerable amount of noise and disturbance which has been widely documented and been the focus of several complaints by neighbours. This would obviously suggest that CS16 should not be used to support this application as it pertains to specifically proving that the social and environmental impact has been controlled which it obviously has not been. The applicants state in the supporting material that they only trade for limited hours. This is not strictly true as they often serve beyond their stated hours. When they were applying for the license they stated that they would never trade beyond 9pm however once they had a license that allowed them to open until 10.30pm suddenly that was the closing time. This would definitely suggest that the limited hours would only apply until planning permission is granted.

CS27 would also be considered an uncomfortable choice to support the application as it covers the developments responsibility to enhance the appearance and character of conservation areas. The complaints about that awning and its prominent logo should provide proof for that. The extensive alterations to the building and the outdoor space also reveal a disregard for the principles of conservation. The applicants removed walls, created two doorways to the outside decking area that they created, they extensively renovated and built a large bar. They stripped out the original ironwork that had supported the original awning that dated back to the 1940's. This original feature had been maintained by every other shop in the terrace and is now obviously absent. Considering the way that the original character

and charm of the building was stripped away it is amazing that this development was only viewed as minor changes.

Saved Policy 120 also discussed how alterations should be "complementary and sympathetic to the established character of the building." It also states that " within a conservation area, applicants are encouraged to submit detailed planning applications. Planning permission may be refused if insufficient detail is provided to judge the impact of the proposed development on the conservation area." The plans were written in green permanent marker pen which is difficult to read. The applicants have left out the bar and deliberately only zoned small areas of the business with A4 planning and deliberately used misleading labels like 'beer tutelage area', 'shop' and 'tasting bar.' This represents a deliberate attempt to conceal the true nature of the business and the true extent of the area and amount of onsite drinking that will occur. This has meant that the Hop Garden, and ancillary areas of the outside space have not been included in the A4 planning although they will be used for drinking. The basement which contains the Gents toilets has not been included in the application and so cannot be used. Large areas of the building have not been given any planning designation. Surely this should be considered a textbook example of an application that provides insufficient detail to judge the impact of the proposed development on the conservation area. The plans are certainly inadequate and in Mr Doe's words I would suggest that the extent of alterations required would represent a material change to the proposal and would require further consultation.

I have stated repeatedly that when alcohol is consumed in the way that the applicants business trades and the primary purpose is to provide a venue for the onsite consumption of alcohol that the only acceptable planning permission is A4. To discuss A3, and D2 is a deliberate attempt to undermine the argument and deflect from the facts of this particular case. Further I would suggest that this would be fully supported by the Town and Country Planning Act and the Use Classes Order. I also maintain that while the government has tried to invigorate town centres by easing the restrictions on A1, A2, and A3 and even A4 as it applied to turning closed pubs into something else but that the A4 has otherwise remained untouched and completely separate. This should mean that the A4 use class should still be the sole authorisation for a drinking establishment. Therefore in conclusion I would suggest that this application does not provide the correct authorisation for the way that the applicants choose to operate their site and should be rejected for that and the other objections that have been raised, not least because it cannot be supported by policies in its own right whilst all the valid objections can be fully supported by both facts and policies.

3 Gravel Path, Berkhamsted

The Brew Shop is a wonderful presence on the High Street. Their local brewery makes excellent quality beers and their shop offers an incredibly warm and inviting place to taste different ales and learn about craft brew - as well as meet friends in a polite and quiet atmosphere. I wholly support their application.

55 Durrants Lane, Hemel

Since the opening of the Red Squirrel shop in 2015 I have seen a revitalisation of Berkhamsted at this side of the town. Great products, great service, both adding terrific value and revitalising this section of the high street. Totally support this application.

Andrea Tropea Dental Laboratory, Dover Mews, Berkhamsted

I've been working at Buckland House for the past two years and the Red Squirrel brewery shop is not causing any problem whatsoever.

I am very often working late and I haven't noticed any problem from 104 high street shop.

Objections to Planning Application 4/02514/16/FUL in respect of 104 High Street Berkhamsted, change of use from A1 to A4

74 High Street, Berkhamsted

We continue to object to this change of use for reasons previously stated:

- There is already a number of late night outlets in this 200 metre radius of 104 High Street (Gatsbys, The Goat, Crystal Kebab takeaway, Bobbys off license, the Rex Cinema) and the cumulative effect of another licensed premises will seriously jeopardise this conservation and residential area of town.
- A4 use of this property will significantly contribute to the late night comings and goings and will exacerbate continuing problems experienced in this area at the weekend, relating to low level/non reportable disruption as well as more serious disturbances.

Additionally:

- The building is unsuitable for A4 use as it's essentially a narrow terraced property over 3 floors with narrow twisting stairs.
- It's out of character with the other properties on this parade which are shops and residential flats.
- It toilets facilities are not suitable for A4 use
- The property does not have proper disabled access or disabled facilities.
- It is a locally listed building located in a residential area of town.
- A4 use will exacerbate the already impossible parking problems for residents in this area - the car parking spaces the application refers to are not for customer use and are situated in a locked car park without public access.
- Finally, allowing this application will set a precedent for all other similar applications, impacting on the ability of the LA to control this type of development.

We would also like to point out that we have found previous planning and alcohol license applications from this company misleading - in earlier applications it claimed its upstairs lounge and outside areas would be for "educational seminars and functions" -this has clearly not been the case.

Red Squirrel has flouted current A1 restrictions and has been functioning as a bar since it opened so it's difficult to accept that once A4 use is granted the next step for this business will not be to the apply for extended drinking hours (regardless of what its application states), and so creating another late night drinking venue in this area.

Felden house, Dower Mews, 104 High Street, Berkhamsted

I am project Director for a company called Weedi that operates out of Felden house, Dower Mews behind 104 High Street in Berkhamsted. We recently heard that the brewery shops licence is under review and wanted to give our views. We have worked alongside the brewery shop now for over a year and a half and in that time both noise levels and general atmosphere has been very good. Some of our staff are patrons on Thursday or Friday nights and is a preferred venue to a lot of the pubs due to its great selection of beers and its friendly atmosphere. I think it would be a real shame if the shop was to lose its licence. It has slowly built a reputation around the town for a place to go for good unusual beer, something which is unique to the town currently.

I hope these comments will help in a positive way.

35 Broadwater, Berkhamsted

I am writing to formally register my opposition to the above application (4/02514/16/FUL) because of the following points.

1.) The planning application submitted is not valid as it is not an accurate representation of how the business actually trades which I know from visiting the premises and passing by the shop. The applicants say that it is a shop with tasting to help customers select items to take home and that the garden and upstairs are for educational beer seminars or tutelage however as a previous customer I can see that the majority of sales are (at peak times) for consumption on the premises. The applicants say that only 18 percent of sales are drunk in the shop however as a regular passer-by and previous customer I see the outside heaters on and I believe a recent local petition was put together by those who enjoy drinking in the shop with a considerable number of names behind it (over 4,000 I believe) which once again points to this operating as a pub.

2.) The large awning (as mentioned in point 1) with a prominent logo attached to the side of the building was the subject of four separate complaints last time the applicant submitted planning. The applicants were told to put in a planning application to cover this being put up. But they never have as far as I am aware. This and the heat lamps encourage people to stay and drink. The awning also adversely affects the street scape in the Berkhamsted Conservation Area. I have detailed these points in a photo taken at 15:30 on Saturday 22nd October 2016 which clearly show the issues with the awning, heaters (denoting the continued intention of the establishment to promote and encourage customers to sit outside and drink). The image also shows the location of the planning application notice which is located a considerable distance from the window (which could have been used to display this - they are promoting other events/notices in their window). The notice itself is wrapped around a narrow post with the text facing into the road and not the pavement - this could have been pointed towards the pavement on a laminated board to assist with visibility at the very least. I feel that the planning notice could have been more clearly displayed to let local residents, who may not have been contacted as part of the consultation, to be aware of the planning application.

3.) Despite extensive remodelling of the premises the applicants did not take the opportunity to make any alterations to the building to allow for disabled people to visit. Dacorum's website adopts national strategies and states that wherever development or refurbishment occurs opportunities to improve conditions arise and should be taken into account. Considering the scale of the changes to the building and how the building was treated it is not unreasonable to have included disabled access or toilets, level access etc.

4.) As the application states that the majority of the business is devoted to onsite drinking (A4) then the applicants should have to provide facilities to support this use. The business is widely accepted as a drinking establishment (as supported by the well supported petition) or bar both on social media and by the general public. There is only one toilet in a cubicle and one hand basin in the entire area. When their license application went before the committee Greg Blesson, The Director of The Brewery Shop Ltd. stated that they the number of people onsite will be 100. To accommodate that many drinkers you are required by building regulations to provide adequate toilet facilities. For a 100 people on site drinking you required to provide for men two urinals, a cubicle toilet and a hand basin, while for women you need to install at least three cubicle toilets and a hand basin assuming that half of the customers are female. The Berkhamsted Brewery Shop does not have enough toilets to be a drinking establishment.

5.) I also believe that the plans submitted do not provide sufficient detail with areas not defined and a new application with sufficient detail should be submitted.

6.) This is exactly the same application (with insufficient detail that is mentioned in point 5 above) as came before the Development Control Committee on 14th January 2016. It was rejected then and as it is practically identical apart from minor changes to the plans to extend the A4 area, it should be rejected now. Nothing has changed one way or another apart from work to a party wall to help one neighbour. All the other neighbours will still be disturbed, and the disabled facilities are still not included. The applicants had every opportunity to appeal the last decision to the Planning Inspectorate but didn't do so because the Inspectorate would have told them to apply for A4 only. The question is how long will they be allowed to trade as a bar while only resubmitting the same application. Surely it is time to for enforcement to do a proper visit on a Friday evening to observe the extent of drinking in the shop and to demand that it stops at once. Indeed there used to be videos on Social Media which showed the Chesham (the same business model) operating as a pub with the tagline of it being a "proper boozier". These videos, which were shown at an investor event which I attended have since been removed from YouTube. Previous comments on applications have mentioned that the Chesham Shop (which follows the same business model and mode of operation as the Berkhamsted site) is rated highly on TripAdvisor with reviews clearly indicating the true nature of the business with the vast majority of income coming from on-site drinking/sales and not off site as detailed in point 1.

7.) The council have already allowed this business to pay rates as a shop since they took over the lease in 2014. A shop pays rates based on the area of floor space but a bar of equivalent size pays rates based on turnover and how good its operator is. Berkhamsted's pubs that are the same size pay an additional £10,000 a year in rates and if they are bigger like The Gatsby directly opposite then it's even more. To make that £10,000 the pub has to take £100,000 in trade to pay their rates bill. Since discovering that the rates payable by The Brewery Shop, the issues with the licence it holds and the way it operates, I have stopped being a customer of the Brewery Shop, as I believe the way in which it trades and the applications it has submitted are dishonest and underhand.

8.) There are sufficient establishments in the town that provide the necessary choice for people to drink on site, including establishments that provide and promote craft ales and ciders which the Brewery Shop tries to promote as its unique appeal currently lacking in the town which is not the case with excellent award winning CAMRA pubs in the Town already. To this end I cannot see the need for planning to be granted for another licensed establishment in the town as in doing so this would go against national policy.

I thank you in advance for your consideration of the above points and hope that the Committee comes to the right and obvious decision in regard to the above application and refuses the application.

4, Church Street, Berkhamsted

I write with reference to the above planning application for A1 to A1/A4. I would like to inform you that as I live within close proximity to the shop that this is not a shop. It is definitely operating as a pub. If you go in, as I have on occasion, you just see people standing around and propping up the bar. No one does any shopping at all. I'm no expert but if I can walk in off the street, sit at the bar, buy a beer and drink it and then walk out without buying anything else, then I can't see what's different from going to a pub!

The noise from the beer garden and decking area is pretty continuous all day. Judging by the voices and shouting people drink for several hours at a time. The space is the same all day even in bad weather thanks to the heat lamps and the awning. I don't see why you would need an outside space for a shop. Could this awning not be taken down? It is very large with a huge logo and visible from the High Street. Which does spoil the view from the street.

This used to be a quiet, peaceful place to live. Now the noise is just always there. In the evening it just gets worse as more people use the space. The application says they stop at 8

but they often go on until 9 or 10 pm and often later. Sometimes they have live amplified music playing until late. I have tried phoning the Brewery Shop to complain about the noise several times. They either say that there's nothing they could do or once they laughed and put the phone down. This is not a business who take any responsibility or care about their obligations to their neighbours.

I know that there are other businesses locally that open later i.e. The Goat, The Gatsby, Crystal Kebabs etc. But we don't get any noise or disturbance from them as they are further away. This garden and pub backs on to us. There are no buildings to block the noise.

When this business opened we thought it was going to be a shop. That's what they said.

They said under 18% of drinking was done in the shop. No one said anything about building the decking or if letting people drink outside would upset anyone. It is hard to see how this has helped or benefited anyone who lives in the town. I feel that I was never asked about this before it happened and even now I remain uncontacted about it. I would have expected to be sent a letter to tell me about this application instead I had to learn about it from a friend who heard about it locally. Why would you ask the people in The Rex and not us? We live with that noise. They just watch it over the road!

Please consider this a strong objection to this application. I would be happy to discuss this further but unfortunately we will be away on holiday until 11th November.

74 Ellesmere Road, Berkhamsted

This is a letter to complain about the application that has been resubmitted to the grant A1/A4 planning permission to The Berkhamsted Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire HP4 2BL. Also called 4/02514/16/FUL.

The fact is that this business is not a shop it is a PUB. If you look in at any time of day you see people drinking everywhere. In the shop, the bar, in the garden courtyard and hop garden and probably upstairs. People drink in this pub for hours at a time and you never see anyone buying anything to take away or any shopping. The garden is popular with a large number of people and their largely unsupervised children. This creates a lot of noise from when the business opens. The applicants have said only 18% of alcohol is consumed on site. This I would suggest is far from true which is not only observable every day but also by the number of toilets constructed on site.

The main complaint I have against this application, the owners and the council, is that there has been no consideration at all for the needs of disabled people. No disabled access, no disabled toilets. No consideration given at all. As someone who is registered as disabled myself I am shocked, insulted and horrified that any business opening from scratch would not take these responsibilities in to account when planning a business. Or that any council would not insist on work being done when extensive building work is under taken.

The applicants attempt to explain away the needs of disabled customers as being unimportant, and in their application which was refused for lack of disabled access stated: "which is somewhat ironic given that not all licensed premises in Berkhamsted offer disabled access." They have a nerve - how insulting! Firstly they should be more concerned with their own business and making it a shining example of inclusion to allow disabled people to be welcomed in to their business. Secondly this shows how little they understand or care about disabled facilities. If their planning consultant knew his stuff he would have informed his clients that the law changed to require NEW businesses to provide disabled access and facilities but that legislation does not apply retroactively unless that business decides to do major renovations. The idea that we shouldn't do it because others haven't is morally reprehensible and really means 'we shouldn't spend the money on it because we don't care.'

Dacorum council has adopted The Town and Country Planning Act 1990 by which they accepted their obligation to draw attention to the provision for the Chronically Sick and

Disabled Persons Act 1970 and the British Standards Institute Code of Practice BS 5810(1979) relating to Access of the Disabled to Buildings. Under the Council's Environmental Guidelines the access to all buildings for the disabled is clearly stated as an important planning consideration. "As well as new buildings this would also apply in cases where a building is being refurbished." The stated policy of the council is that "appropriate access and provision for disabled people will be a requirement of ALL DEVELOPMENT PROPOSALS. Whenever development occurs opportunities to improve conditions arise and should be taken into account in decision making. The team at Dacorum Council's Planning, Development and Regeneration failed to ensure that Government and Council policy was adhered to when enforcing this application, supposedly referenced as B/15/02082.

The applicants have removed internal walls, created doors to the outside, built the outside area from scratch, remodelled the interior and added shelving and a large bar. Even in the applicants own words, "the proposed refurbishment, CREATION of GROUND FLOOR TOILETS and fit out of the building." Shows the extent of the building work undertaken. Yet, Dacorum's Planning, Development and Regeneration team did not require that a ramp was included to the outside area that was built from scratch nor did it suggest that while installing the ground floor toilets that one of them should be suitable for disabled use. This is a problem especially as the toilet that you have to use at the Brewery Shop is upstairs. As it stands and as a disabled person I do not believe that I would be able to exit the premises in the event of a fire.

I am sure that the work that was undertaken has been inspected and approved. But I maintain that the rights of disabled people have been ignored and by doing this the council deliberately chose not to apply Government and Council policy even though the building was all but gutted and rebuilt from scratch.

By the way the toilets on the ground floor are for male use only. No female could use them as they include urinals and it would be completely unacceptable for a woman to have to go past urinals to access a cubicle. This means that as a disabled woman I would have to climb a steep and narrow staircase to access the only other toilet on the premises. As presumably half the people using the premises are female and considering that there are three urinals and a sit down for men. I would suggest that by providing only one female (or unisex as it's the only toilet included in the application), toilet that this premises does not meet the criteria for providing the required number of toilets for women in a drinking establishment. The requirement assuming that the fire regulations restrict numbers to under a 100, is normally for two or three cubicle toilets for women but certainly never one. This is something, "that all licensed premises in Berkhamsted offer." Therefore it would seem given the clear difference between the way that men and women's needs are catered for here that the disabled are not the only minority discriminated against by Red Squirrel.

I would urge you to reject the application 4/02514/16/FUL for A1/A4 for the Brewery Shop at 104, High Street, Berkhamsted, Hertfordshire.HP4 2BL as the reasons I have outlined prove that it should not be granted and would be an insult to disabled people if you did.

I would be grateful if you would ensure that this email is up loaded to the application website and that it is seen by the required people.

My name and address are listed below and please feel free to contact me if you require any further details.

3 Highfield Road, Berkhamsted

The best thing to happen in Berko for ages.

Homefield, Potten End

One of my favourite place in the world.

The Rex, Berkhamsted

Thank you for consulting on this application for class A4 permissions well as A1. I have no objection to the Brewery shop having A4 permission to enable the sale of their craft ales for consumption on the premises.

Berkhamsted Citizens Association

At the meeting of its Townscape Committee on 18 October 2016 the Berkhamsted Citizens Association (BCA) expressed its deep concern at the implications of granting permission for a 'drinking establishment' at this location under current circumstances. However, if Dacorum Borough Council were minded to grant permission for the change of use, the BCA would wish to see greater restriction of its opening hours, better facilities for disabled access, and adequate toilet facilities.

The BCA recognises that regulation of the use of these premises, and indeed its designation, is a matter for the Licensing Authority.

In addition the BCA would like to remind the Conservation officer that the awning and advertisement currently attached to the side wall of the property are incompatible with its position in the conservation area, in particular on a locally-listed building and affecting the setting of a listed building (The Dower House) adjacent. An application for advertisement consent should be submitted as a matter of urgency.

Kingsley Smith Solicitors

Please see appendix B

[REDACTED]

Your ref – 13

Your ref –

Date 19 October 2016

Mr Jason Seed
Dacorum Borough Council
Planning and Regeneration
Civic Centre
Marlowes
Hemel Hempstead
Herts HP1 1HH
By email [REDACTED]

Dear Sirs

Application Reference: 4/02514/16/FUL
104 High Street Berkhamstead HP4 2BL

We have been instructed by concerned neighbours who object to the proposal for the reasons set out in this letter.

Under reference 4/03329/15/FUL the Council refused to grant retrospective planning permission for essentially the same proposal as now before it, a mixed use A1/A4, quoting failure to comply with policy CS12. There was no appeal. So the obvious question is why the outcome should be any different this time.

The application plans show a greater area edged red than hitherto (under the refused 2015 application). But the proposal still seeks retrospective material change of use from A1 to a mixed-use A1/A4, not just the building (now all its internal floor space) but all of its external land shown on the site plan that we are instructed had no earlier use, it was unfenced open land.

The external area marked A4 captures just "courtyard" but there is no practical means of control to prevent the "hop garden" and the rest of the outdoor space being put to that use.

In terms of the internal floor space, on the ground floor the small area to the rear of the shop marked "mixed A1/A4" is, we are instructed, in practice, the bar. Patrons buy their drinks here and either consume them internally anywhere they wish and/or go to outside. The first floor plans, with all the floor space again edged red, suggests that the front part will be "A4" only but the legend refers to "tasting tutelage" and "storage" (the former we are instructed is bogus). The reality entails the internal floor space within the whole of the building being put to A4 use. The same applies to the external space. We are instructed that the actual proportion of A4 and A1 in terms of functional use as witnessed are 90%/10% respectively. Lip-service is being given to A1 use. There would be no practical power to enforce any condition to function as a shop. Patrons holding drinks obtained from the bar go outside unless the weather is bad. This is no different to any other bar/pub in terms of the functional use of this land.

The reality on the ground is that this applicant, in seeking to continue A4 trading, is labelling it a mixed A1 use but it is a ruse to secure A4 consent. There is no proper justification before the Council to depart from its previous decision in reliance upon policy CS12(c). The concerns in respect of disturbance to surrounding properties is a real one – we are told of significant noise and disturbance from the outdoor use. The Applicant does not propose anything materially different in this application that would overcome the earlier finding of demonstrable significant harm. Moreover NPPF requires development be sustainable. NPPF9 states that development involves seeking *positive improvements to the quality of the built natural and environmental historic environment, as well as in people's quality of life including but not limited to improving the conditions in which people live, work, travel and take the leisure.* NPPF10 makes clear *plans and decisions need to take local circumstance into account so that they respond to different opportunities for an estate achieving sustainable development in different areas.*

On the facts, it cannot be said that the proposal to use open land for alcoholic consumption, outdoor music entertainment, the usual noise, fumes (smoking etc) taking place achieves sustainability requirements. The consumption of alcohol in an outdoor environment inevitably entails noise and disturbance. We are instructed that there is an awning erected and there are patio heaters. Accordingly the Applicant has demonstrated outdoor drinking and entertainment is part of their modus operandi. We are also instructed that the current outdoor uses in this heritage site have lasted late into late evening, far beyond the hours presented to the Council in the application form. It is not realistic to believe, with this applicant's gung-ho history to date, there would be adherence to the proposed hours, or even shop hours e.g. closing at 18:00 daily we understand the Town Council has suggested.

There is genuine concern that the LPA is sympathetic to this Applicant after spending out on noise insulation. But [1] that has no bearing on the outdoor use impacts and [2] that expense is merely part of the commercial risk in the same fashion as the un-authorised use. The application paints a false positive picture in respect of impacts. We are instructed that the noise is loud and persistent late on. It is difficult to discern any "public" benefit (NPPF 133-135) – only private benefit to the Applicant.

Given that this is a retrospective application for an unlawful use, if the current proposal is refused, the Council is requested to take enforcement action to secure the cessation of A4 use.

Item 5c

**4/02528/16/FUL- CONSTRUCTION OF FOUR DETACHED DWELLINGS WITH
NEW ACCESS FROM BULBOURNE ROAD**

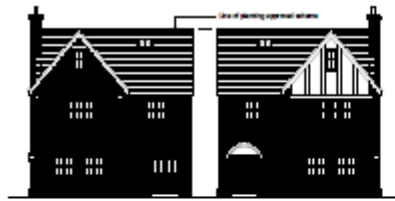
GAMNEL FARM, BULBOURNE ROAD, TRING, HP23 5HF



Item 5c

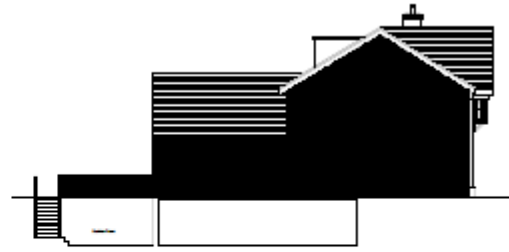


Item 5c

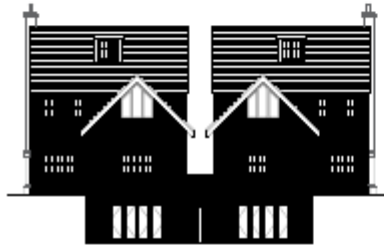


Front Elevation - Plot 2

Front Elevation - Plot 1

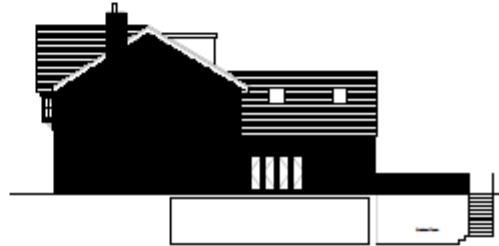


Side Elevation 1 - Plot 1

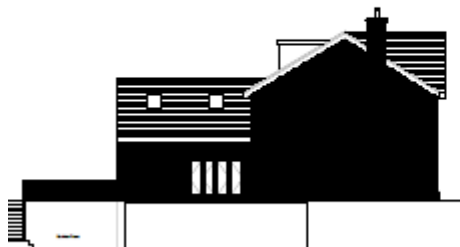


Rear Elevation - Plot 1

Rear Elevation - Plot 2



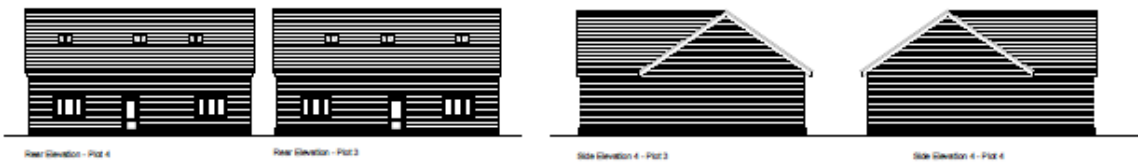
Side Elevation 2 - Plot 1



Side Elevation 1 - Plot 2



Side Elevation 2 - Plot 2



**4/02528/16/FUL - CONSTRUCTION OF FOUR DETACHED DWELLINGS WITH NEW ACCESS FROM BULBOURNE ROAD.
GAMNEL FARM, BULBOURNE ROAD, TRING, HP23 5HF.
APPLICANT: Millstone Homes Ltd.**

[Case Officer - Nigel Gibbs]

Summary

The application is recommended for approval.

The site is within the Green Belt. The proposed residential development is inappropriate development which is by definition harmful to the Green Belt . Very special circumstances are necessary to justify the proposal.

The site is subject to an extant planning permission for 2 dwellings with a modified access from Bulbourne Road. The principle of residential development on this site has therefore been accepted. This is the lawful 'starting point' / 'fallback position' for the LPA's consideration of the very special circumstances. The physical impact of the proposed development would not be materially different to the approved scheme, which in turn was considered acceptable on account of previous development at this site. On this basis and notwithstanding the increase in the number of dwellings it is considered that there is a case to grant permission with no other harm.

The revised design overcomes the design objections to the originally submitted scheme given the site's setting in relation to the Chilterns Area of Outstanding Natural Beauty.

Hertfordshire County Council Highways confirms there are no highway safety objections. There are no other detailed objections subject to the imposition of conditions.

Background

The application was considered at the Development Control Committee meeting on 2nd February 2017. The report is at Annex B.

Members deferred the decision to enable further consideration of the highway safety/ access issues/ implications. The Minutes are at Annex A.

Since the meeting Hertfordshire County Council Highways has confirmed that the stretch of road between the existing site access and that to the immediate north including the brow of the hill is 40mph. There is a 30mph speed limit between the existing access and the New Mill roundabout.

HCC Highways has also checked the accident records for the Bulbourne Road locality from 1 January 1980 and 30 September 2016:

- 23/02/2008. Time: 10.21 pm. This was just to the north of the existing access outside Alveston's frontage. One person died and three people were seriously injured. Two vehicles were involved. HCC Highways Manager's analysis has confirmed that no cause was attributed to the road layout, speed limit or other feature.
- 21/01/2008. This was just to the north of Tring Garden Centre. One person was seriously injured.
- Others: 2 at the New Mill Roundabout area and others beyond.

The HCC Highways Manager who advised the Members at the meeting on 2nd February has

confirmed:

'The proposed new site access is part of the scheme with DBC ref 4/01914/12/FUL that was granted planning permission on 24 Dec 2012 by Dacorum Borough Council. The highway authority was consulted on it and saw no reason why permission should not be granted on the basis of highways safety or congestion. The planning application currently under consideration is one that would only lead, as I said in the committee meeting, to a very small number of additional trips by *dint* (sic) of its consisting of 4 dwellings instead of the currently approved 2. The numbers are certainly too small for us to be able to link this level of additional development to the likelihood of severe residual impact (NPPF para 32) and we cannot, therefore, support a recommendation that permission is withheld on traffic impact grounds.'

In addition the Agent has clarified that the achievable sight line to the north of the proposed access/brow of the hill would be 118m as compared with 78m recommended by HCC Highways (over 50% above the requirement) and 125 m towards the New Mill roundabout. There is an associated submitted additional drawing (C01 A) showing the access, respective sight lines and speed limits.

Also at the meeting Members were informed that the archaeological implications/issues were being further considered with additional advice sought from Hertfordshire County Council Historic Environment Team. HCCHET has confirmed their originally recommended conditions remain applicable.

Considerations

- Highway Issues - Based upon Hertfordshire County Council Highways advice there is no highway safety objection to the application.
- Archaeological Issues. - There are no outstanding issues, with HCCHET reinforcing its original advice.
- Overview - With the highway safety and archaeological issues addressed by the respective specialist technical consultees the application is recommended for the grant of permission subject to the imposition of conditions.

RECOMMENDATION - As previous report to DCC on 2nd February 2017 and conditions as set out in Annex B. (Note : The drawings have been changed to include C01 A as referred to above).

ANNEX A

N Gibbs introduced the report and said it had been referred to committee due to the contrary views of Tring Town Council. N Gibbs updated members in relation to archaeology on the site.

Members were concerned over the access to the site. It was on a dangerous road where a fatality had happened previous.

N Gough from Herts Highways said they were aware of concerns on road safety and in the last five years there have been no reported collisions on this section of road so as far as Herts Highways are concerned, there is no evidence of significant problems.

Nigel Rose spoke in support of the application.

Councillor C Wyatt-Lowe said this was a 60mph road and would cars have time to see cars

exiting that junction.

Councillor D Collins asked N Gough if the speed limit could be changed.

N Gough said it wasn't as simple as that and a technical assessment would need to be undertaken as well as changes to the physical features on the road to change the environment.

It was proposed by Councillor Whitman but the officer's recommendation failed due to the lack of a seconder.

Councillor C Wyatt-Lowe said it was clear that members were not happy and proposed that the application be deferred for further discussion with planning officers, developer and Herts Highways regarding the access road. It was seconded by Councillor Guest.

Vote

For: 10 Against: 0 Abstained: 2

Resolved

That the application be deferred for further discussions regarding the access road.

ANNEX B

Summary

The application is recommended for approval.

The site is within the Green Belt . The proposed residential development is inappropriate development which is by definition harmful to the Green Belt . Very special circumstances are necessary to justify the proposal.

The site is subject to an extant planning permission for 2 dwellings with a modified access from Bulbourne Road. The principle of residential development on this site has therefore been accepted. This is the lawful 'starting point' / 'fallback position' for the LPA's consideration of the very special circumstances. The physical impact of the proposed development would not be materially different to the approved scheme, which in turn was considered acceptable on account of previous development at this site. On this basis and notwithstanding the increase in the number of dwellings it is considered that there is a case to grant permission with no other harm.

The revised design overcomes the design objections to the originally submitted scheme given the site's setting in relation to the Chilterns Area of Outstanding Natural Beauty.

Hertfordshire County Council Highways confirms there are no highway safety objections. There are no other detailed objections subject to the imposition of conditions.

Site Description

Gamel Farm is located in the Green Belt off the Bulbourne Road just to the north east of the built up edge of Tring, adjoining the Chilterns Area of Outstanding Natural Beauty. The former New Mill Social Centre now featuring 6 dwellings is to the south west separated by a field.

The site is subject to an extant planning permission for 2 dwellings (1517 sqm) and a new access as referred below under the Planning History.

The site is served by a longstanding main vehicular access linked to Bulbourne Road. The land has been cleared of all the original buildings serving Gamnel Farm which featured a two storey farmhouse. The site is now very visible from Bulbourne Road featuring chalk piles adjoining the higher dwelling known as Alverston to the immediate north. The gated access adjoins the now boarded rising site frontage to Bulbourne Road. The boarding was installed following the recent removal of a row of substantial conifer trees.

Gamnel Farm was of the mid-19th Century origin. In addition to the farmhouse it was apparently served by a range of brick built outbuildings, stables and barns. The land features an open barn used for the storage of construction equipment.

To the north of the site there is a significant area of additional land owned by the applicant.

Proposal

This is for the construction of 4 four bedroom detached dwellings of gable roof design with slate roof and timber clad, brick and stone finished dwellings served by a new centralised access off Bulbourne Road. The dwellings will be set back from the road frontage. The internal layout features a central shared access road with two dwellings to each side. The dwellings on the south west will be two storey. Those opposite on the north east will be three storey with basements. The proposed floor space is 1512 sqm. Each dwelling will be served with some curtilage parking and substantial gardens. The subdivision of the plot involves House 3 featuring a garden facing onto Bulbourne Road.

The proposed development follows a very similar building footprint to the approved extant scheme with no changes to the building heights and marginally less floor space.

The Original Scheme has been modified/ reconsidered by the Applicant/ Agent to address the Conservation & Design Team's response. The Agent has made the following observations in the submission / preparation of the Revised Scheme:

- Retention of the 2 proposed buildings as detached houses. This is because it is considered they will read as one building from most viewpoints.
- Removal of the undercover area from Plot 3.
- Removal of the chimneys.
- The increased height observed by the Conservation and Design Team . The ridge and eaves match exactly the approved scheme.

The Revised Scheme has been further changed to show indicative structural planting along the Bulbourne Road frontage and internally.

Referral to Committee

This is referred to the DCC as the recommendation is contrary to the views of Tring Town Council.

Relevant Site Planning History

Planning Permission 4/01914/12/FUL. December 2012.

Demolition of existing house, barn and stables and construction of two detached dwellings with new access and rear private paddock. The development included the closure of the two frontage accesses and the replacement with a new access.

Conditions imposed included pre commencement requirements (materials, levels, contamination, sustainable construction), sight lines, pedestrian splays, parking , the residential curtilages differentiation from an adjoining paddock, the withdrawal permitted development rights and compliance with the approved plans.

This permission is extant as explained below.

Decision 4/03773/15/DRC. October 2015.

The LPA discharged the conditions addressing materials, levels, contamination and sustainable construction.

Note: The Scientific Officer only recommended the partial discharge of the contamination condition no. 10 - parts (a) and (b). The condition also required the compliance with its parts (c) and (d) before commencement unless otherwise agreed. As Application 4/03773/15/DRC was submitted to discharge Condition 10 in its entirety and the LPA discharged this in full, it is concluded that there has been compliance with all the pre commencement conditions.

On this basis Planning Permission 4/01914/12/FUL is extant - the Agent has confirmed the commencement of development at the site and that work stopped on site pending the outcome of a pre application submission made in March 2016. The developer had concerns about the approved layouts and the commercial viability of the dwellings in their approved form.

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Practice Guidance

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS2 - Selection of Development Sites
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
CS17 - New Housing
CS19 - Affordable Housing
CS24 - Chilterns Area of Outstanding Natural Beauty
CS25 - Landscape Character
CS26 - Green Infrastructure
CS27 - Quality of the Historic Environment
CS28 - Renewable Energy
CS29 - Sustainable Design and Construction
CS30 - Sustainability Offset Fund
CS31 - Water Management
CS32 - Air, Water and Soil Quality
CS35 - Infrastructure and Developer Contributions

Saved Policies of the Dacorum Borough Local Plan

Policies 12, 13, 15, 18, 23, 51, 54, 58, 61, 63, 97, 99, 111, 113 and 118

Appendices 3 5 and 8

Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)
Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Landscape Character Assessment (May 2004)
Chilterns Buildings Design Guide and associated documents
Affordable Housing (Jan 2013)

Advice Notes and Appraisals

Sustainable Development Advice Note

Constraints

Green Belt
Adjoining Chilterns AONB
Former Land Use
Air Safeguarding Area
Community Infrastructure Levy Area 2

Representations

Tring Town Council

Tring Town Council recommend rejection of this application as currently set out on the grounds of road safety. The access to the site is one where there have been accidents including a fatality. The site is close to a bend towards the summit of the hill and is a frost pocket. Consequently, the access needs to be as close as possible to the New Mill boundary of the site.

Design & Conservation

Original Scheme

The Gannel Farm site currently has planning permission for 2 replacement dwellings, a dwelling replacing the existing 19th century farm house and a second property in the form of a barn. The site is adjacent to the Chilterns AONB so any impact upon the setting of the AONB will need consideration.

The previous scheme underwent extensive negotiation with planning and conservation officers to achieve a scheme which was considered suitable in this rural location – essentially reflecting the previous built form on the site of a large farmhouse and more subservient barn adjacent. The buildings were set back further into the site, thereby reducing their visual intrusion locally.

The revised scheme is considered to present some issues:

The barn-like dwelling (previously approved) is to be replaced by two properties – this in itself is acceptable however it is suggested that the properties more closely resemble barns and their design is simplified. Could the two separate dwellings adjoin rather than be separate? – this would provide a greater linear quality to the new development, more typical of farm barns. The ridge and eaves height of the proposed new dwellings (plots 3 and 4) looks to have been

raised? – thereby giving them more house-like proportions, the ridge / eaves heights should be lowered. The chimney stacks should be omitted. The projecting gables should be reduced in size and the open ground floor of house 3 (to give a covered area below the projecting gable) is not typical of barn like dwellings and should be amended.

It would be preferable if the proposed 'farm house' was one large building, subdivided; rather than two separate dwellings directly adjacent. Victorian / Edwardian properties would never have been built so close together in a rural location and many farm cottages were built as adjoining mirrored pairs; perhaps a semi-detached pair of houses would be more suitable in terms of design.

The proposed amendments are felt to have watered down the previously approved scheme, whilst there is scope for 4 dwellings instead of 2, it is suggested that the design and form, particularly of houses 3 and 4 are amended and the option of building semi-detached / adjoining units is considered.

Revised Scheme

The amendments give the new dwellings (plots 3 and 4) a more 'barn-like' appearance which is considered more appropriate in this rural area outside Tring. Recommend approval subject to a condition requiring details of materials to be submitted.

Building Control

Response awaited.

Scientific Officer

The site is located within the vicinity of potentially contaminative former land uses (farm land). Consequently there may be land contamination issues associated with this site. It is recommended that the standard contamination condition be applied to this development should permission be granted. For advice on how to comply with this condition, the applicant should be directed to the Councils website (www.dacorum.gov.uk/default.aspx?page=2247)

Hertfordshire County Council: Highways

Decision

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 subject to the following conditions:

- 1) Visibility splays of not less than 2.4m x 78m shall be provided, and thereafter maintained, in both directions from the new access onto Bulbourne Road, within which there shall be no obstruction to visibility between a height of 0.6m and 2m above the carriageway. *Reason: In the interest of highway safety.*
- 2) Pedestrian visibility splays of 2m x 2m shall be provided, and thereafter maintained, on both sides of all the access, within which there shall be no obstruction to visibility between 0.6m and 2m above the footway. *Reason: In the interest of highway safety.*
- 3) The development shall not be occupied until the access, car parking and turning areas have been constructed and surfaced. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time. *Reason: To ensure that adequate parking is provided at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highway, or the amenities and convenience of existing local residents and businesses.*
- 4) Best practical means shall be taken at all times to ensure that all vehicles leaving the

development site during construction of the development are in a condition such as not emit dust or deposit mud, slurry or other debris on the highway. *Reason: To minimise the impact of construction vehicles and to improve the amenity of the local area.*

5) Within 1 month of the new access brought into use all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb/removing the existing bell mouth/ and reinstating the footway to the same line, level and detail as the adjoining footway and highway boundary. *Reason: To limit the number of access points along the site boundary for the safety and convenience of the highway user.*

Highway informative

To ensure that work undertaken on the highway is constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the public highway. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments".

The costs incurred for the construction of the new vehicle access, the sealing up of any redundant crossovers not part of the final approved scheme, will be borne by the applicant.

Highway Comments

The above application is for the demolition of the existing farmhouse and stables and construction of two detached dwellings served by a new 5.0m wide access road. The connection onto Bulbourne road will be via a radius junction type, as shown on the submitted plan no 1C 912/11/2012

- *Access*

Access to the site will be from one new vehicle access as mentioned above. All existing crossovers onto Bulbourne Road that are not part of this new access are to be closed off. Bulbourne Road is a classified B road, secondary distributor. The access road leading to the properties will be a shared surface access road, 5.0m wide and it is not proposed to offer this road for highway adoption.

- *Parking*

The application form states that there are eight off street parking spaces within the site and that this will remain unchanged as part of this development

The Local Authority is the parking authority and they will ultimately determine the amount of off street parking that is required as per their parking standards. This will include requirements for disabled parking if appropriate.

Conclusion

The highway authority does not consider the proposal will result in a significant impact on the safety and operation of the adjacent highway consequently; it does not consider it could substantiate a highway objection to this proposal. Therefore, the highway authority has no objection (subject to the above conditions) to the grant of permission.

Hertfordshire County Council: Historic Environment

The proposed development lies on the site of Gamnel Farm which is recorded in the Historic Environment Record (HER: 16073), although I note the building has been demolished after suffering fire damage. The 1888 OS Map shows the farm was once more extensive than the more recent layout and contained a large 'T' shaped farmhouse and at least six ancillary barns arranged around a courtyard.

The site is first recorded in 1296 as associated with Ralph Gamel (*The Place Names of Hertfordshire*, 1970) and is therefore likely to have medieval origins that were built over by successive generations.

Given the above, the position and scale of the proposed development is such that it is likely to have an impact on heritage assets of archaeological interest dating to the medieval and post-medieval periods. It is recommended that the following provisions be made, should you be minded to grant consent;

- the archaeological field evaluation via a process of 'trial trench evaluation' to the archaeological horizon, of the proposed building footprint,
- the archaeological monitoring of the groundworks for the proposed building, services and of any other works which will be the subject of significant ground disturbance, as appropriate,
- the archaeological investigation of any remains encountered during this process, and a contingency for the preservation of any remains *in situ*, if warranted,
- the analysis of the results of the archaeological work with provisions for the subsequent production of a report and an archive and if appropriate, a publication of these results, and
- 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 para. 141, etc. of the National Planning Policy Framework, relevant guidance contained in the National Planning Practice Guidance, and in the recently issued Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015).

In this case two appropriately worded conditions on any planning consent would be sufficient to provide for the level of investigation that this proposal warrants. I suggest the following wording:

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 assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording.
- The programme for post investigation assessment.
- Provision to be made for analysis of the site investigation and recording.
- Provision to be made for publication and dissemination of the analysis and records of the site investigation.
- Provision to be made for archive deposition of the analysis and records of the site investigation.
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Condition B

- Any demolition/development shall take place in accordance with the Written Scheme of Investigation approved under Condition A.
- 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 County Council: Property Services: Infrastructure Officer

Herts Property Services do not have any comments to make in relation to financial contributions required by the Toolkit, as this development is situated within Dacorum's CIL Zone 2 and does not fall within any of the CIL Reg123 exclusions. Notwithstanding this, HCC reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

Hertfordshire County Council: Planning Obligations

This response is in respect of planning obligations sought by HCC towards fire hydrants to minimise the impact of development on HCC Services for the local community.

Based on the information provided to date HCC would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit. HCC reserve's the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in 123 List through the appropriate channels.

All developments must be adequately served by fire hydrants in the event of fire. HCC as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. HCC therefore seek the provision of hydrants required to serve the proposed buildings by the developer through standard clauses set out in a Section 106 legal agreement or unilateral undertaking.

Buildings fitted with fire mains must have a suitable hydrant provided and sited within 18m of the hard-standing facility provided for the fire service pumping appliance.

The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22). In practice, the number and location of hydrants is determined at the time the water services for the development are planned in detail and the layout of the development is known, which is usually after planning permission is granted. If, at the water scheme design stage, adequate hydrants are already available no extra hydrants will be needed.

Section 106 planning obligation clauses can be provided on request.

Justification

Fire hydrant provision based on the approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link: www.hertsdirect.org/planningobligationstoolkit

HCC seeks fire hydrant provisions for public adoptable fire hydrants and not private fire hydrants. Such hydrants are generally not within the building site and are not covered by Part B5 of the Building Regulations 2010 as supported by Secretary of State Guidance "Approved Document B".

In respect of Regulation 122 of the CIL Regulations 2010 the planning obligations sought from this proposal are:

- (i) Necessary to make the development acceptable in planning terms.

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents. The NPPF states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Conditions cannot be used cover the payment of financial contributions to mitigate the impact of a development (Circular 11/95: Use of conditions in planning permission, paragraph 83).

All developments must be adequately served by fire hydrants in the event of fire. HCC as the Statutory Fire Authority has a duty to ensure fire fighting facilities are provided on new developments. The requirements for fire hydrant provision are set out with the Toolkit at paragraph 12.33 and 12.34 (page 22).

(ii) Directly related to the development;

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

(iii) Fairly and reasonable related in scale and kind to the development.

Only those fire hydrants required to provide the necessary water supplies for fire fighting purposes to serve the proposed development are sought to be provided by the developer. The location and number of fire hydrants sought will be directly linked to the water scheme designed for this proposal.

Thames Water

Comments awaited.

Veolia Water

Comments awaited.

Chiltern Society

CS's representative visited this site while it was being cleared of a lot of derelict material.

CS know there was a house and outbuildings there which were left derelict for a long time, so welcome the scheme now proposed as it will be an improvement on this site.

CS note that planning permission had been given previously for 2 houses, and now 4 houses are proposed, but on a slightly smaller footprint. The houses are close together which is good. They will not encroach on the openness of the area any more than is necessary.

CS believe the access will be the same as was approved in previous application.

Of course the neighbours at Alverston will be consulted, and their opinion is important.

CS have no objection to this application.

Response to Neighbour Notification / Site Notice

(Note : There was a need to replace the first notice which was removed within a few days of being installed)

None.

Considerations

The main issues are:

- The principle. The Green Belt Implications.
- The visual implications.
- Highway safety.

Policy and Principle

These relate to the Green Belt implications.

Context

Under the National Planning Policy Framework para 89 a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- buildings for agriculture and forestry;
- 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 extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or
- limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Para 90 confirms that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include engineering operations and the re-use of buildings provided that the buildings are of permanent construction.

In granting Planning Permission 4/01914/12/FUL the Officer Report noted:

'The site lies in the Green Belt wherein there is a presumption against inappropriate development, the fact that there is has been a previous (expired) consent for conversion of farm buildings to residential, plus garaging and change of use of agricultural land to domestic garden, will carry significant weight.

As the existing large house on site is unfit for habitable use due to a fire, it is therefore accepted that to demolish and reposition a house further away from the front boundary and to allow for a better landscaped frontage would be a significant improvement on the site as viewed within its Green Belt context.

Similarly, it has already been accepted through the 2006 planning consent (see above) that the existing, centrally-positioned barn and the remains of a smaller barn along the side boundary, can be replaced by habitable floor space. The NPPF is the only change since that consent and that there is no overriding local planning policy or central government advice, that would alter the planning approach to accepting this replacement floor space.

Hence to provide two dwellings of the same floor space is acceptable in principle.

The acceptability of this particular scheme therefore rests on whether the two replacement dwellings will have a reduced impact, in terms of the height and overall bulk and positioning, on the openness of the Green Belt.

It is noted that the main two storey dwelling is slightly taller than the existing house, however, the plans demonstrate that due to slightly falling ground levels within the site that due to its new positioning that its overall ridge height will appear slightly lower than the existing one. It is accepted that as it is perceived to be smaller and set further back into the site that overall its impact will be slightly less.

The loss of the tall barn and the previous barn and their replacement by one building, as a barnlike conversion, will again produce a lesser visual bulk to the site.

Thus, this scheme demonstrates that it will create a slightly reduced visual impact on the Green Belt and can be supported under policy grounds'.

Dacorum Core Strategy Policy CS5 complies with the NPPF.

Assessment

The site history confirms that the LPA considered that in granting permission 4/01914/12/ FUL there was a case to support two dwellings in the Green Belt with due regard to the site history, the NPPF and the development's scale.

After very careful consideration with due regard to the NPPF and Dacorum Core Strategy Policy CS5, it is interpreted that the now proposed buildings dwellings are inappropriate development in the Green Belt. The access is appropriate development serving inappropriate development. In terms of applying Green Belt policy It has been taken into account that the site was previously developed but has been wholly cleared with no buildings and some of those buildings were not residential.

As the residential development is inappropriate in the Green Belt -as by definition it is harmful - it should not be approved except in very special circumstances as explained by para 87 of the NPPF. As clarified by NPPF para 88 when considering any application the LPA should ensure that substantial weight is given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other considerations is outweighed.

In this case the site the site is subject to Planning Permission 4/01914/12/FUL. Fundamentally the fallback position of this live permission represents the very special circumstances in the consideration of the current application.

In this context in comparing the extant and proposed schemes there is physically marginal material difference. Therefore in this context the effect upon the 'approved and proposed openness ' of the Green Belt is interpreted as neutral. The layout by reason of the additional two dwellings will be likely to slightly affect the openness by the increased effects parking . The pressures for outbuildings/ garaging may also be more. Also the garden of Dwelling 3 also faces Bulbourne Road . However, with the withdrawal of permitted development rights- as in the case of the extant 4/01914/12/FUL - and immediate controls over new development at Dwelling 3 confirm there would not be a robust case to refuse the application for these

reasons.

It is concluded that due to the parallels between the extant and proposed schemes there are very special circumstances to justify the proposal in the Green Belt given the significant strength of the fallback position.

Design/ Visual Implications

This is set against the site's relative prominence in this urban fringe location adjoining the Chilterns AONB.

In assessing 4/01914/12/FUL the Officer Report noted:

'Overall design and effect on Street Scene

The Conservation Officer has commented that the scheme proposes a total demolition of the farmhouse and the three serving outbuildings and replacing them with a new farmhouse together with a second house in the form of a barn. The proposed two buildings are to be located deeper into the site than the existing farmhouse and frontage barn, which will allow them to be set at a lower ground level and enabling a soft landscape area to be created between the buildings and the road. Although the overall height of the new buildings remains fairly consistent with the existing building group the recessed siting will reduce the extent of their visual intrusion within the area.

He considers that the design of the buildings, which is the result of extensive negotiation with this planning and conservation officers, take on the form of a traditional farmhouse and a barn which it is considered will contribute to the buildings setting within their rural location.

He considers that from a design aspect the buildings are considered acceptable for approval but it is essential that a high standard of materials are used. As a result a number of sample details would be required by condition.

For the above reasons there would be no adverse effects on the street scene.

The visual appearance of the site would be significantly improved by the development. The development proposed would sit sympathetically within the street scene and would represent an improvement over the existing situation.

The site itself abuts the Chilterns AONB, however, through the loss of the portal framed barn and the design and siting of the two new dwellings it is considered that there will be no harmful impact on the appearance or character of the adjoining AONB and thus will comply with Policy 97 objectives. Furthermore, it is considered that the design details and the materials proposed will be in accordance with the design principles and materials advocated through the Chilterns Building Design Guide'.

Again the fallback position is the extant planning permission. With due regard to a comparison between the approved and proposed schemes and the Conservation Team's response to the Revised Scheme there are now no design objections. As the site is not within the Chilterns AONB the LPA could not impose a condition regarding the use of timber doors and windows and metal rainwater gutters and downpipes. However the proposed use of oak windows is very positive.

Layout

All the dwellings will be served by significant sized gardens. In granting permission in 2012 no noise or air quality issues were identified. It is acknowledged that the main garden of one

dwelling (House 3) adjoins the Bulbourne Road where there will be more noise and potentially poorer air quality. However this is a deep garden. A condition regarding the noise attenuation of this dwelling is recommended.

The layout provides a communal area at the front of the site which can provide for communal visitor parking , refuse collection and additional landscaping.

Impact on Neighbours

This is in the context of Dacorum Core Strategy Policies CS12 and CS32 and the NPPF paragraph 133.

There will be no harm to the residential amenity of the adjoining Alverston in terms of privacy, physical impact and noise/ disturbance.

Highway Safety/ Access/ Emergency - Refuse- Service Access/Parking/ Traffic Generation/ Sustainable Location /Inclusive Access/ Access for Persons with Disabilities

Highway Safety and Access

Based upon the fallback position of Planning Permission 4/01914/12/FUL there is approval for the new access from the Bulbourne Road and the closure of the existing. HCC Highways raised no objections to this change in 2012. This assessment took into account the sight lines and traffic generation. The current application reinforces the approved approach. Again HCC Highways raises no objections subject to the imposition of conditions. The removal of the conifer trees demonstrates the daytime sight line visibility in both directions.

It is fully acknowledged that this is a very busy stretch of highway and the access is close to the brow of the hill as observed by Tring Town Council which raises major highway safety objections. Exiting and entering the access day and night will not be straightforward, however fundamentally based upon CC Highways advice there would not be a case to refuse the application based upon highway safety.

Internal Layout. The layout plan accommodates adequate scope for additional parking provision with no general, fire and emergency access, refuse servicing and turning objections. Access for persons with disabilities/ limited mobility is an integral part of the development. The dwellings can also be adapted to lifetime homes. A condition regarding fire access and fire hydrant provision are recommended.

Sustainable Location. The site is very close to a very long established built up part of Tring comprising of the historic New Mill and more modern development . At New Mill many dwellings benefit from a range of local facilities with opportunities for accessibility by foot , bus and cycle. The area is served by the local and wider bus network. Bulbourne is also accessible which features a garden centre, pubic house, Wildlife Centre and the Grand Union Canal.

Construction. It will be expected that wheel washing facilities are provided in site during the whole construction period.

Ecological Implications/ Biodiversity

The recently received planting scheme is in the interests of providing biodiversity benefits.

Drainage/ Contamination/ Land Stability

Drainage. Conditions are recommended. The site is not in a flood zone.

Contamination. Conditions are recommended .This is based upon the Scientific Officer's advice upon the discharge of conditions for the extant permission.

Land Stability. The onus is with developer to ensure that land is not subject to any known natural or artificial geological conditions which would militate against the construction of the development. A informative is recommended.

Water Supply. There have been no responses from Affinity Water. .

Sustainable Construction

The application's supporting documentation confirms an acceptable approach.

Archaeological Implications

Conditions are recommended in accordance with HCC's Historic Environment advice. This is notwithstanding that there were not imposed in respect of the extant permission.

Crime Prevention/ Security

Despite the relatively isolated location the layout is designed with inbuilt natural surveillance. Boundary treatment will be important. In this location there will be some inevitable individual external lighting requirements

Lighting

As this is a sensitive E1 Lighting Zone a condition is recommended . The use of anti light pollution glass would be beneficial.

Archaeological Implications

Standard archaeological conditions are necessary.

Conditions

Those recommended are wide ranging and are more comprehensive than the extant permission. They are however necessary to ensure that the development is accommodated at the site in accordance with the relevant policies in this sensitive location, taking into account the considerations in the report and the specialist advice of the technical consultees.

Air Safeguarding

There are no implications.

Community Infrastructure Levy

This will be necessary.

Environmental Impact Assessment

This is not required.

Conclusions

Two detached dwellinghouses can be built at the site under the extant planning permission. This is the fallback position. With due regard to a comparison between of the approved and proposed schemes in terms of footprint, floor space and scale there is a case to recommend permission based upon their similarities in terms of the impact upon the Green Belt justifying very special circumstances with no other harm. The latter relates to no design or highway safety objections.

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 No development shall take place until samples of the materials proposed to be used on the external walls/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. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.**

Reason: To safeguard the character and appearance of the Green Bell and the setting of Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS12 and CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 3 No development shall take place until details of the materials proposed to be used on the surfaces of the roadway , turning and parking areas 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. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection.**

Reason: To safeguard the character and appearance of the Green Belt and the setting of Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS12 and CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 4 No development shall take place until 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 shall have been submitted to and**

approved in writing by the local planning authority. The buildings shall be constructed in accordance with the approved levels.

Reason: To safeguard the character and appearance of the Green Belt and the setting of Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS12 and CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 5 **Details of the type of planting in the areas shown by the approved drawings shall be submitted to the local planning authority within 6 months of the date of this decision.**

The scheme for planting shall also include the area between Houses 1 and the Bulbourne Road frontage and its future management. The approved planting shall be carried out fully in accordance with the approved details in the planting season following the first occupation of any of the dwellinghouses hereby permitted. If within a period of five years from the date of the planting of any tree that tree, or any tree planted, shrub or section of hedge or 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. For the purposes of this condition the planting season is between 1 October and 31 March.

Reason: To safeguard the character and appearance of the Green Belt and the setting of the Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS12, CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 6 **Details of all internal boundary fencing, including any acoustic fencing between the garden of House 2 with Bulbourne Road shall be submitted to the local planning authority in writing within 6 months of the date of this decision. The approved boundary fencing shall be installed fully in accordance with the approved details before the first occupation of any of the dwellinghouses hereby permitted and shall be thereafter retained at all times.**

Reason: To safeguard the character and appearance of the Green Belt and the setting of Chilterns Area of Outstanding Natural Beauty and the interests of residential amenity in accordance with Policies CS5, CS12, CS24 and CS32 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 7 **Unless otherwise agreed in writing by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until requirements 1.0 and 2.0 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until Condition 2.0 has been complied with in relation to that contamination.**
procedures for the Management of Land Contamination, CLR 11'.

1.0 Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

2.0 Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition (a) above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition (b), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition (c).

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 11 of the adopted Dacorum Borough Local Plan 1991 - 2011.

- 8 All remediation or protection measures identified in the Remediation Statement referred to in Condition 7 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 to accord with Policy 32 of the Dacorum Core Strategy.

- 9 Prior to the commencement of the development hereby permitted details of a**

surface and foul water drainage system shall be submitted to and approved in writing by the local planning authority. The surface water drainage system shall be a sustainable drainage system and shall provide for the appropriate interception of surface water runoff so that it does not discharge into the highway or foul water system. The development shall be carried out and thereafter retained fully in accordance with the approved details.

Reason: To ensure that the site is subject to an acceptable drainage system serving the development in accordance with the aims of Policies CS12 and CS31 of the Dacorum Core Strategy and to protect groundwater to accord with the requirements of Policies CS31 and CS32 of the Dacorum Core Strategy.

- 10 **The development hereby permitted shall not be occupied until the arrangements for vehicle parking, circulation and turning shown on Drawing No.C204 Rev C shall have been provided, and they shall not be used thereafter otherwise than for the purposes approved. The roadway shall constructed with a 13.5m tonne loading.**

Reason: To ensure the provision of an acceptable means of access to the site for all vehicles including emergency and refuse vehicles and so as not to compromise highway safety in accordance with Dacorum Core Strategy Policies CS8 & CS12 and saved Dacorum Borough Local Plan Policies 54 and 55.

- 11 **Visibility splays of not less than 2.4 m x 78m shall be provided before any part of the development hereby permitted is first brought into use, and they shall thereafter be maintained, in both directions from the crossover, within which there shall be no obstruction to visibility between a height of 0.6 m and 2.0 m above the carriageway.**

Reason: In the interests of highway safety in accordance with Dacorum Core Strategy Policies CS8 & CS12 and saved Dacorum Borough Local Plan Policy 54..

- 12 **Pedestrian visibility splays of 2 m x 2 m shall be provided before any part of the development is first brought into use, and they shall thereafter be maintained, on both sides of the entrance to the site, within which there shall be no obstruction to visibility between 600 mm and 2 m above the carriageway.**

Reason: In the interests of highway safety in accordance with Dacorum Core Strategy Policies CS8 & CS12 and saved Dacorum Borough Local Plan Policy 54..

- 13 **Within one month of the first use of the access hereby permitted being first brought into use the existing accesses shall be stopped up and closed by removing the vehicle crossover, raising the kerb and reinstating the footway surface.**

Reason: In the interests of highway safety in accordance with Dacorum Core Strategy Policies CBS 8 & CS12 and saved Dacorum Borough Local Plan Policies 54 and 55

- 14 **Detailed proposals for the fire hydrant(s) serving the development shall be submitted in writing to the local planning authority within 6 months of the date of this decision and the approved fire hydrant(s) shall be provided prior**

to occupation of any dwelling house forming part of the development hereby permitted and thereafter shall be retained at all times.

Reason: To enable appropriate development to occur, ensure a safe, sustainable form of development which provides for its own infrastructure for fire emergencies in accordance with Dacorum Core Strategy Policies CS12 and CS29 and Saved Policy 54 of Dacorum Borough Local Plan.

- 15 **Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (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 within the residential curtilages of the dwellinghouses hereby permitted:**

Schedule 2 Part 1 Classes A, B, C, D and E

Part 2 Class B

Reason To enable the local planning authority to retain control over the development in the interests of safeguarding the character and appearance of the Green Belt and the setting of the Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS8 and CS12 of Dacorum Core Strategy .

- 16 **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: In order to ensure investigation and preservation of archaeological findings to accord with Policy CS27 of the Dacorum Core Strategy.

- 17 **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 15 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.**

Reason: In order to ensure investigation and preservation of archaeological findings in accordance with Policy CS27 of the Dacorum Core Strategy.

- 18 **The development shall be constructed and maintained fully in accordance with the submitted approach to submitted Sustainable Design and Construction**

Statement shall be submitted to the local planning authority.

Reason: To ensure the sustainable development of the site in accordance with Policy CS29 of the Dacorum Core Strategy.

- 19 **Details of all exterior lighting to be installed at the application site shall be submitted to and approved in writing by the local planning authority. The exterior lighting shall be installed and thereafter retained fully in accordance with the approved details.**

Reason: To safeguard the character and appearance of the Green Belt and the setting of Chilterns Area of Outstanding Natural Beauty, the residential amenity of the locality, highway safety, biodiversity, access for persons with disabilities and crime prevention/security in accordance with Policies CS5, CS12 , CS24 , CS25 and CS32 of Dacorum Core Strategy and Polices 97 and 113 and Appendix 8 of the saved Dacorum Borough Local Plan.

- 20 **The domestic gardens for the dwellings hereby permitted only extend to the rear garden boundary line of Houses 1, 3 and 4 as identified on Drawing No.C204 Rev C.**

Reason: To safeguard the character and appearance of the Green Bell and the setting of Chilterns Area of Outstanding Natural Beauty in accordance with Policies CS5, CS12 and CS24 of Dacorum Core Strategy and saved Policy 97 of Dacorum Borough Local Plan.

- 21 **Subject to the requirements of other conditions of this planning permission the development hereby permitted shall be carried out in accordance with the following plans:**

**L001 site location plan
C01 A
C204 Rev C
B001
C200
C201
C202 Rev B
C203 Rev B
C205**

Reason: To safeguard and maintain the strategic policies of the local planning authority and for the avoidance of doubt.

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 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 2015.

NOTE 1:

This decision to grant planning permission has been taken for the following reason, having regard to the relevant policies of the development plan , national planning policy/guidance, to all other material planning considerations, including relevant supplementary planning guidance, the imposition of conditions and the advice of expert technical consultees.

The site is located in the Green Belt and adjoins the Chilterns Area of Outstanding Beauty served by a long established vehicular access. There is an extant planning permission for residential development at the site served by an approved access. The proposal represents an acceptable alternative to the extant permission in terms of the Green Belt implications and highway safety implications. There are no detailed objections to the development subject to the imposition of conditions..

Informatives

Land Stability

The government advice is that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

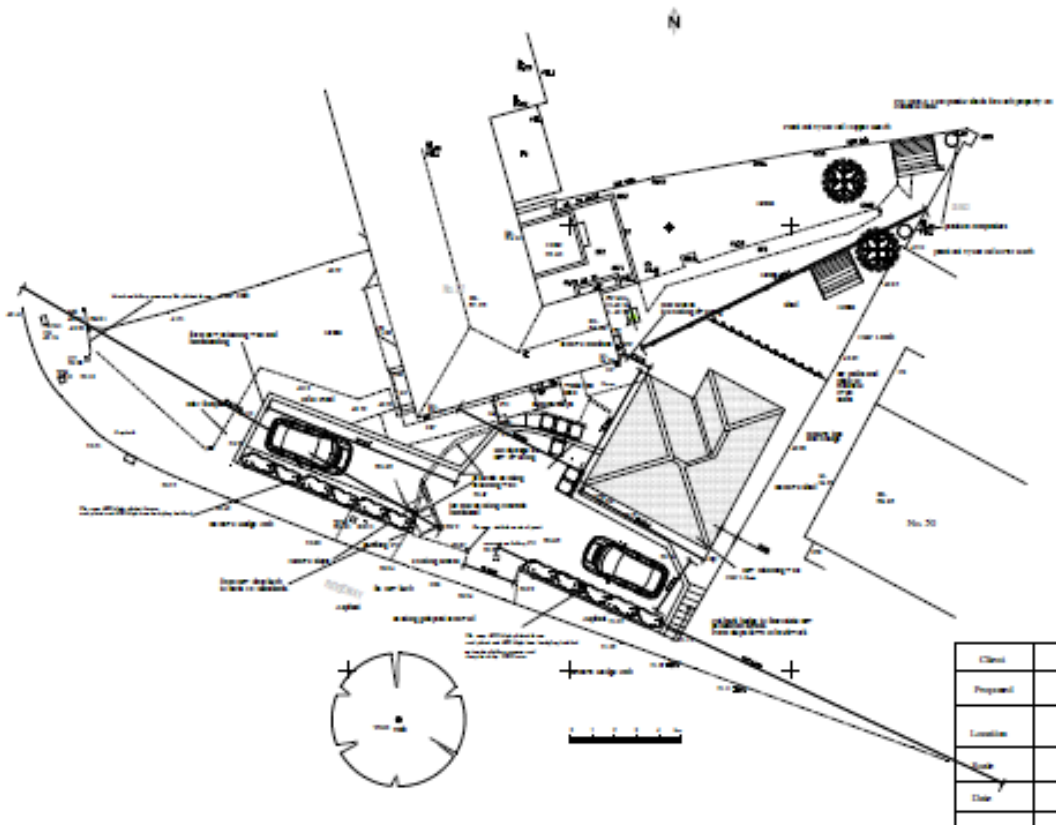
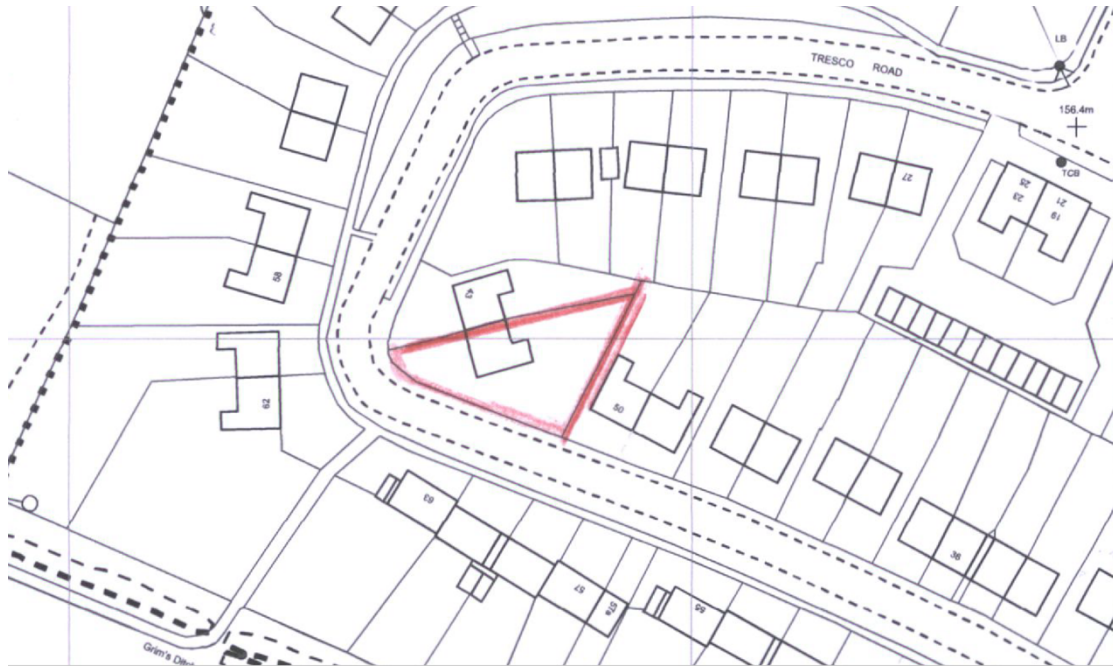
Highways Safety

In the interests of highway safety during construction wheel cleaning facilities for construction vehicles should be made available at all times.

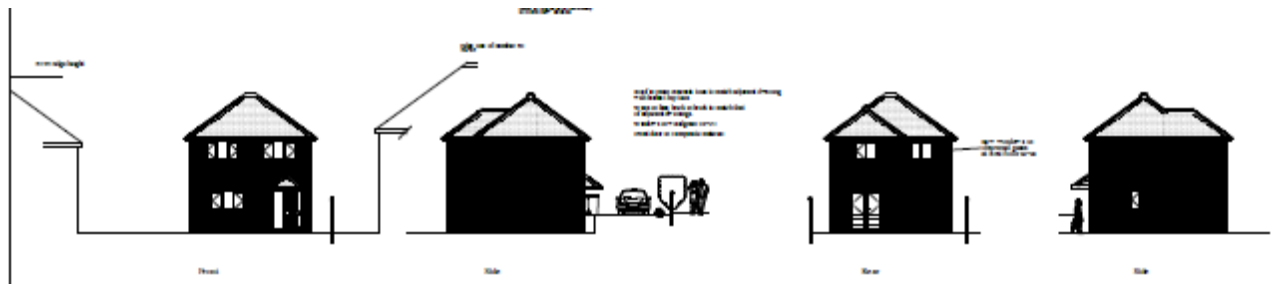
Agenda Item 5d

Item 5d

**4/02467/16/FUL TWO BED DWELLING
52 RIDGEWAY, BERKHAMSTED, HP4 3LD**



Item 5d



**4/02467/16/FUL - TWO BED DWELLING.
52 RIDGEWAY, BERKHAMSTED, HP4 3LD.
APPLICANT: Mr Lavin.**

[Case Officer - Amy Harman]

Summary

The application is recommended for approval.

The principle of residential development is considered acceptable in the site's location noting its siting within a town. The proposed layout and development would not have any adverse layout implications, would be acceptable in terms of its appearance and would not detract from the appearance of the street scene.

Additionally the development would not have an adverse impact on the amenity of neighbouring properties. The access and car parking arrangements are satisfactory. The proposal is therefore in accordance with the aims of the National Planning Policy Framework, Policies CS4, CS11 and CS12 of the Dacorum Core Strategy (September 2013), and saved Policies 18, 21 and 120 of the Dacorum Borough Local Plan 1991-2011.

Site Description

The application site is located adjacent to 52 Ridgeway, it is a corner plot and currently provides amenity space and parking for 52 Ridgeway. The site is located in the residential area of Berkhamsted. The immediate street scene of which the application site forms is characterised by two storey semi-detached dwellings of uniform scale, but with inconsistent spacing and set-backs in relation to the road.

Proposal

Two bed detached dwelling

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

Planning History

None found

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS2 - Selection of Development Sites
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
CS27 - Quality of the Historic Environment
CS28 - Renewable Energy
CS29 - Sustainable Design and Construction
CS31 - Water Management

Saved Policies of the Dacorum Borough Local Plan

Policies 13, 18, 21, 58 and 99

Appendices 3 and 5

Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)
Area Based Policies (May 2004) - Residential Character Area BCA16: Durrants (Character Appraisal)
Water Conservation & Sustainable Drainage (June 2005)
Accessibility Zones for the Application of car Parking Standards (July 2002)

Advice Notes and Appraisals

Sustainable Development Advice Note (March 2011)

Summary of Representations

Berkhamsted Town/Parish Council

Object

This cramped proposal representing an overdevelopment of the site would be out of keeping with the street scene.

CS11 and appendix 3.6 (iii)

Housing Development Officer

Due to the nature of the proposal below, the site will be exempt from any affordable housing contribution.

Herts Property Services

No comments to make in relation to financial contributions required by the Toolkit, as this development is situated within Dacorum's CIL Zone 1 and does not fall within any of the CIL Reg123 exclusions. Notwithstanding this, we reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.

Hertfordshire Highways

The comments relate to the amendments provided in Wren naj 70c 2016 rev B, this provides a relocated access (with necessary extension) to provide a crossover to both properties. Drawings include removal of the existing hedgerow and provision of a slow growing (box (boxus)) hedge no greater in height than 600mm. The use of a slow growing plant species limits the need for significant maintenance. The effect of these amendments is to provide visibility across the site to a distance of 21.8m.

Roads in Herts applies visibility splays as defined in MfS and would expect splays of 25m in each direction for a road subject to 20mph. Given site topography and the acuteness of bend,

vehicle speeds (on attendance at site) are beneath even this limit and therefore I do not consider that the provision of splays of approx 22m is inappropriate at this point. Such splays are measured to kerb face, recognising that advice in MfS2 would be to measure to the expected nearside edge of the vehicle track, and would serve to increase this splay slightly further. Finally, it is recognised that the Ridgeway, at this point, is unlikely to carry significant traffic, noting that Tresco Road removes the need for any movements other than 'access only', and therefore serves a limited number of dwellings only.

On acceptance of the above, I do not consider that I could substantiate a recommendation for refusal in respect of visibility at the proposed access. I would recommend condition to any grant of consent that requires;

- 1) Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan Wren naj 70c 2016 rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway Reason: In the interests of highway safety.

Response to Neighbour Notification

50 and 61 Ridgeway - Object:

61 Ridgeway

My wife and I object to the new build for reasons, blocks what little view we have.

Our property will be overlooked and they will be able to look straight into our home.

Parking will be an issue as it is limited already.

Plus additional work vans and lorry in street, see comment before our road sugar is quite bad and extra traffic like this will make it worse.

And after speaking to neighbours we are not the only one's not happy about this.

I also work the night shift and I fear what little sleep I get in the day will become even less.

50 Ridgeway (same comments for amended scheme)

Our property is adjacent to no. 52 and will be closest to the site of new building and we object to its construction for the following reasons.

1. We are concerned with the impact on light by the new building on our property. Our rooms at the front of the house (lounge, upstairs bedrooms and front porch, etc) will now have a building nearby which will take natural light and especially block sunlight in the later part of the day. Also side windows in our property will now have a building ~3m from them where in the past they had nothing.

In addition we are concerned with the impact on sunlight during the summer evenings in our garden. Due to us having a north-easterly facing garden the only sunlight we get in the latter part of the afternoon comes between our property and no. 52. If a new property is going to be built in that spot we are concerned that we will lose our only source of direct sunlight on our patio and other parts of our garden. We understand that the ridge height of the new building is planned to be lower than the existing buildings but we are not convinced this will make a difference.

2. We feel that it is overdevelopment of the plot and will not be in keeping with the existing buildings on this street. The new building will not be able to be built in line with the existing properties with the size and shape of the plot dictating that it has to be as close to the street as

possible. This would make it stick out from the other properties and in our opinion would look out of place. Where other nearby freestanding buildings have been erected on garden property (e.g. Bourne Hill / Tresco Rd) this has been achieved in an understated manner such that it now does not look out of place. We are not convinced this is possible here.

From the perspective of the current and future owners of 52 we would be concerned with the loss of rear garden space and also the proximity of the new house to the corner of the exist property. The owners of the new build would also suffer from a lack of privacy from the upstairs window in 52 as it would look directly down into the new garden.

The corner of Ridgeway around to Tresco Road is already quite a densely populated area and in the gardens there is little privacy at this time due to the proximity of the houses and angle that they are situated. We feel adding a new property would only exacerbate the issue and add to the already cramped feeling here. We are concerned with the prospect yet another neighbour having a view into our garden.

One other concern we have which is not specific to the building, but is relevant to the space where it is being built is that there is no street lighting where the new build will be situated. It appears that for some historical reason we are missing a street light and looking at the spacing of the existing street lights it should be somewhere around 52 Ridgeway. This means the area where the new property is going to be built very dark at night and when there is no moon light it is pitch black.

3. The site appears to propose a deep excavation in order to have the first floor set below ground level. We are concerned that this would impact our property.

Considerations

The main issues of relevance to the consideration of this application relate to the policy and principle justification for the proposed dwelling, the impact of the proposed development on the site layout, the appearance of the building and street scene, the impact on neighbouring properties, and the impact on car parking.

Policy and Principle

The NPPF states that housing applications should be considered in the context of the presumption of sustainable development. Similarly, Policy CS4 of the Core Strategy directs residential development to the towns, including Berkhamsted and within established residential areas, where the application site is located. Policy CS17 seeks to promote residential development to address a need for additional housing within the Borough.

Specifically, the provision of new dwellings is supported in principle by Policy CS18 of the Core Strategy, and saved Policy 18 of the Local Plan.

The site falls within Character Area BCA16: Durrants. The locality is characterised by semi-detached houses from the 1940s/50s in a relatively spacious setting. Infilling is considered appropriate providing it follows the development principles. These principles encourage development within the medium range density (30-35 dph), medium sized semi-detached houses that should not exceed two storeys in height, and provides for a medium range spacing (2-5m). Dwellings should front the road and follow established building lines. The proposed scheme meets these requirements.

Site Layout

Ridgeway is characterised by semi-detached dwellings of consistent scale, but with inconsistent spacing and set back from the highway.

The proposed building, although close to its neighbours at its rear corners, would retain significant spacing at its front corners. It is considered that this perspective is the public facing view and therefore the character of wide gaps between semi-detached pairs would be preserved by these proposals. The property is set back from the highway, consistent with its neighbour at 50 Ridgeway. Therefore it is considered to sit well in the context of the street.

The new dwelling would have a small rear garden incorporating one off street parking space with access to one side of the dwelling to the rear garden. The existing dwelling at No. 52 would have their amenity space reduced to allow for the provision of the curtilage of the new dwelling.

Adequacy of Amenity Space

The subdivision of the site into two plots would result in a smaller rear garden for each property. The new dwelling would have a rear garden of 10.18 metres deep and 52 Ridgeway would have a rear garden of 16.61 metres deep. The proposed property would therefore have a garden depth marginally shorter than the 11.5 metre requirement in Appendix 3 of the Local Plan. However, as a corner plot, and only being a two bedroom property this is considered acceptable. Whilst the garden is not of the depth recommended by policy, it is considered that they would provide adequate useable private amenity space to suit the requirements of a small family dwelling.

The application is therefore considered acceptable in these terms.

Appearance of building/ impact on street scene

The proposed design takes the appearance of a small detached house and following the objection of Berkhamsted Town Council, the width and depth of the property was reduced to provide greater spacing in relation to its neighbouring properties (1.29metres with 52 Ridgeway and 0.80 metres to the boundary with 50 Ridgeway). The proposed property is also set down within the site so as to reduce impact in the street scene.

The proposed new dwelling would respect the established urban form, which is characterised by varying gaps between the houses. Although the gaps between the proposed new dwelling and the properties either side are narrower at the rear of the dwelling, due to the proposed site layout, these gaps would be considerably wider on the public facing front elevation. This would result in the proposed relating well to the established street scene.

The property features a hipped roof form and windows with a porch over the front door, all characteristics of the surrounding houses and would therefore further ensure the development assimilates satisfactorily into the street scene.

Impact on Trees and Landscaping

No effect

Impact on access and car parking

The proposal includes the provision of a cross over to both properties and the provision of one car parking space for the existing dwelling and one for the new dwelling. There is no restriction on-street parking in the immediate vicinity and given the proposals site close proximity to Berkhamsted Town Centre this is considered sufficient in accordance with Appendix 5 of the Dacorum Local Plan in order to ensure that the proposals would not lead to a detrimental impact on existing levels of on-street car parking.

After extensive discussions with Hertfordshire Highways, including a site meeting and subject to the correct visibility splays to be conditioned, Highways have no objections to the proposals.

Impact on Neighbours

Whilst the proposals are being made by the current occupier of No. 52 Ridgeway, the impact on the amenity of any potential future occupiers of this property has been considered.

The existing house would see its rear and front elevations face away from the development, furthermore because of the orientation of the existing house in relation to the proposal and the fact it is sunken, there would be minimal loss of sunlight to this property. It is also noted that any future occupier would be aware of the relationship between the two houses prior to moving in.

The new house is located to the west of 50 Ridgeway, the rear elevation of the new property does not extend beyond the rear wall of 50 Ridgeway thus would not be set within a line drawn at 45 degrees from the nearest neighbouring habitable window. There is only one window on the east elevation, this is on the ground floor and would be conditioned to be obscure glazed. There are no windows proposed on the first floor level.

Due to the orientation and setting of the proposed dwelling it is not considered that there would be a significant effect on daylight / sunlight into the rear garden of 50 Ridgeway.

With regards to visual intrusion, the rear facing windows of the proposed new dwelling would have the potential to overlook the properties to the rear on Tresco Road (in particular 35 and 37), however the back to back distances are not any worse than the existing properties. They are also above the minimum distances accepted being a minimum of 25 metres back to back.

Given the orientation, internal arrangements of the proposed new dwelling and level differences between the proposal and the neighbouring properties, it is not considered that the proposal would have an un-neighbourly or overbearing impact on the outlook from adjoining properties or their associated gardens.

The application is therefore deemed acceptable with regard to the impact on neighbouring properties.

There were objections from the neighbours at 50 and 61 Ridgeway, these comments have been addressed above.

Other Material Planning Considerations

It is worth noting the appeal that was allowed (including award of costs) for a similar proposal at 41 Tresco Road, around the corner from the application site and a similar plot (ref APP/A1910/A/14/2228966 26th March 2015). In this case the Inspector concluded that the garden for the proposed dwelling, although falling short of the advised 11.5 metre garden space, the garden length would relate to that of the host dwelling. It was also noted with this proposal, that although the gaps between the proposed new dwelling and the properties either side are narrower at the rear of the dwelling, they were considered to relate well to the established street scene.

This appeal decision is a material consideration in the assessment of this application.

Removal of Permitted development

Given the proposals comprise of an infill dwelling on sloping land, it is recommended to remove permitted development for both Classes A and Class B, additions would have the

potential to have a significant impact on the amenity of neighbouring properties and those Classes of PD should therefore be removed to allow the LPA to maintain control of such development.

Community Infrastructure Levy (CIL)

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is CIL Liable.

Conclusion

The proposed new dwelling would be an appropriate development in this town centre location, the proposal would not result in detrimental impact to the visual amenity of the surrounding area or have an undue impact upon the residential amenity of the neighbouring residents. The proposed development therefore complies with the National Planning Policy Framework (2012), policies CS8, CS10, CS11, CS12 and CS26 of the Core Strategy (2013) and saved policies 13, 18, 21, 58 and 99 and appendices 3, 5 and 7 of the Local Plan (2004).

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 development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

Wren naj 70c 2016 rev B
Wrend 70 b 2016 REvA

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

- 3 The materials to be used in the construction of the external surfaces of the dwelling hereby permitted shall match in size, colour and texture those used on the existing building at 52 Ridgeway**

Reason: To ensure a satisfactory appearance to the development in accordance with Adopted Core Strategy CS12

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (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 and B

Reason: To enable the local planning authority to retain control over the development in the interests of safeguarding the amenity of neighbouring properties in accordance with policies CS12 of the Core Strategy

- 5 **Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan Wren naj 70c 2016 rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.**

Reason: In the interests of highway safety and in accordance with saved policy 58 of the Local Plan (1991) and policy CS12 of the Core Strategy (2013)

Informatives

AN1) Where works are required within the public highway to facilitate the new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. 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.

AN2) The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

AN3) It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

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

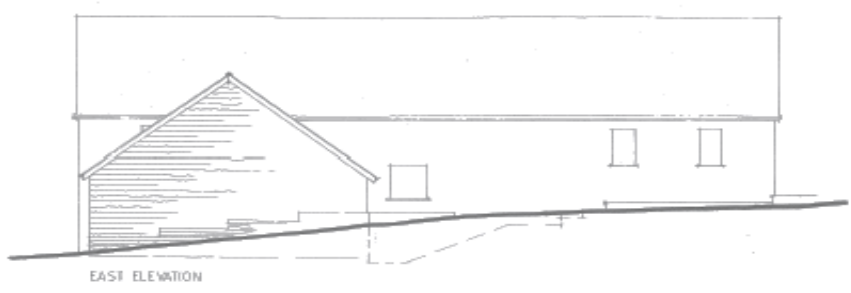
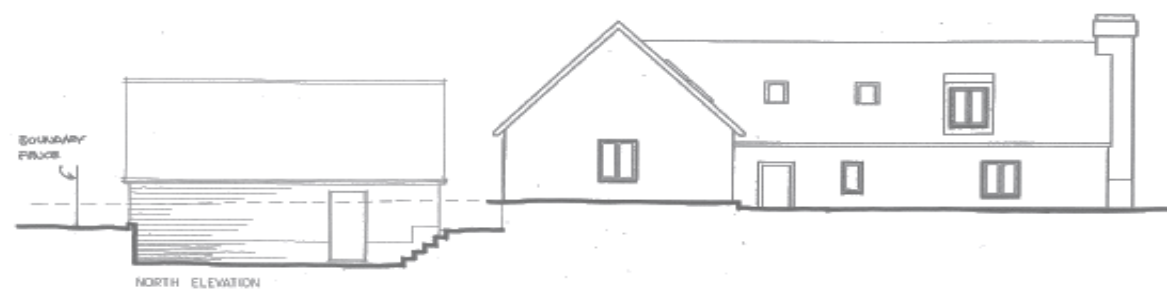
Management Procedure) (England) (Amendment No. 2) Order 2015.

Item 5e

4/02526/16/FHA PROPOSED DOUBLE GARAGE
BLUEBELLE, HOGPITS BOTTOM, FLAUNDEN,
HEMEL HEMPSTEAD, HP3 0PX



Item 5e



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CHILTERN INC

**4/02526/16/FHA - PROPOSED DOUBLE GARAGE.
BLUEBELLE, HOGPITS BOTTOM, FLAUNDEN, HEMEL HEMPSTEAD, HP3 0PX.
APPLICANT: Mr & Mrs Wilbraham.**

[Case Officer - Amy Harman]

Summary

The application is recommended for approval.

Site Description

The application site is located to the north of Hogpits Bottom and comprises a detached dwellinghouse situated on a large plot, with a generous build line. The property sits within the designated Metropolitan Green Belt. The surrounding area is characterised by a variety of house types, predominately comprising detached dwellings of various architectural styles, ages and build line. The area has a verdant aspect character emphasised by the grass verge and tree lined street.

Proposal

The application is for a detached double garage situated to the east of the existing dwelling house.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Flaunden Parish Council.

Planning History

4/00030/16/FUL CONSTRUCTION OF UNIT CONTAINING TWO PONY STABLES AND ONE TACK AND WAGON STORAGE AREA.

Withdrawn
23/03/2016

4/02765/14/FHA CONSERVATORY AND NEW PITCHED ROOF TO EXISTING GARDEN SHED

Granted
28/11/2014

4/02766/14/FHA TWO STOREY SIDE EXTENSION

Withdrawn
27/11/2014

4/00322/13/FUL PONY STABLE AND TACK ROOM

Refused
18/04/2013

4/00910/12/FHA PONY STABLE WITH TACK ROOM, STORAGE FOR HAY AND FEEDS, CARRIAGES AND HARNESSSES

Granted

10/07/2012

4/01215/09/DRC DETAILS OF MATERIALS, SILL TREATMENT, HARD AND SOFT
LANDSCAPING AND CONTAMINATION AS REQUIRED BY
CONDITIONS 2, 3, 6 AND 8 OF PLANNING PERMISSION 4/00528/09
(DWELLING ON SITE OF DISUSED FACTORY)
Granted
23/09/2009

4/00528/09/FUL DWELLING ON SITE OF DISUSED FACTORY
Granted
19/05/2009

4/01676/06/FUL DETACHED DWELLING (AMENDED SCHEME)
Refused
25/09/2006

4/00840/06/FUL DETACHED DWELLING
Withdrawn
20/06/2006

4/01183/03/OUT DEMOLITION OF EXISTING FACTORY AND CONSTRUCTION OF A
NEW DWELLING
Refused
24/07/2003

4/01446/00/LDE FACTORY FOR MANUFACTURE OF WINDOW FRAMES AND YARD
FOR STORAGE OF BUILDING MATERIALS
Granted
13/12/2000

4/02969/07/PRE NEW DWELLING
Unknown
21/04/2008

4/00835/14/PRE EXTENSION, CONSERVATORY AND SWIMMING POOL
Unknown
13/06/2014

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
Circular 11/95

Adopted Core Strategy

NP1 - Supporting Development
CS1 - Distribution of Development
CS2 - Selection of Development Sites
CS5 - 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
CS25 - Landscape Character
CS28 - Renewable Energy
CS29 - Sustainable Design and Construction
CS30 - Sustainability Offset Fund
CS31 - Water Management
CS32 - Air, Water and Soil Quality

Saved Policies of the Dacorum Borough Local Plan

Policies 22,110
Appendices 3,7

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

Flauden Parish Council

Object;

We believe this proposed garage building will materially affect the openness of the countryside and is therefore contrary to policy CS5. The proposed building has a floor area of 50sqm and roof height of over 5m it is also only 1 metre from the neighbours boundary

With the original granting of planning permission for this property in 2009 (4/00528/09/FUL), Permitted Development rights were removed for the following reasons:

To enable the local planning authority to retain control over the development in the interests of maintaining the openness and visual amenities of the Green Belt'.

The Inspector's recommendations, which were made in granting the 2009 application, were that *'the overall size of the building would be limited in size and essentially single storey with the appearance to be that of a cottage with an attached barn'*. The inspector further recommended a 10m border to the boundary.

Planning Officer's comments in 2009 were:

No garaging is proposed. However, clearly any garaging in addition to the floorspace proposed, (notwithstanding the very special circumstances considered to exist for the additional floorspace) would impact further on the openness of the GB, and therefore would be inappropriate. Removal of pd for outbuildings, as well as extensions, would be expedient to maintain control.

This proposal is therefore contrary to the recommendations made by both the planning officer and the inspector.

Hertfordshire County Council - Highways

No objection

Response to Neighbour Notification / Site Notice

Hedgerow

As I am required make comments by reference to “material planning considerations” I would cite the following:--

1. In encroaching to within 1m of my property the proposed development will cause a loss of light and overshadowing to my property. This will be particularly noticeable in late afternoon and early evening as my boundary faces west and currently enjoys a favourable view of the setting sun, which will become obscured and lead to increased shadow, from early afternoon, in spring and summer months.
2. Similarly in encroaching nearer to my boundary, we will experience overlooking and suffer a loss of privacy. When we first moved into our property we were not overlooked in any way as the previous structure was both derelict/uninhabited.
3. I believe we will experience greater noise intrusion due to the proximity (1m) to our boundary. This there is potentially a source of disturbance.

The proposed development will undoubtedly be a visual intrusion on our view and general environs, it also impacts on the rural setting currently enjoyed from our garden, where we like to spend a lot of time

Considerations

Key Considerations

The main planning considerations in the determination of this application are:

- The Principle of the Development in the Green Belt
- The Quality of the Design and Impact on Character and Appearance of the Area
- Effect on Amenity of Future Occupiers and Neighbours
- Trees and Landscaping
- Highways Safety and Parking Provision

Policy and Principle of Development in the Green Belt

The proposed garage is considered as an extension to the existing dwelling (all forming part of the one planning unit). If the garage was not considered as an extension to the main house, all outbuildings within the green belt would be considered inappropriate in policy terms. This approach has been adopted in number of planning appeals including APP/A1910/A/11/21555606.

The National Planning Policy Framework (henceforth referred to as the Framework) states that the extension or alteration of dwellings is not inappropriate in Green Belts, provided that it does not result in disproportionate additions over and above the size of the original building (para. 89). Policy CS5 is broadly consistent with the advice within Section 9 of the Framework. However, this policy states that 'limited extensions' to existing buildings will be permitted. Policy 22 (not listed within 'policies' above) of the existing Local Plan expands upon this, stating that within the Green Belt, the resultant building (following extensions) should be less than 130% of the floor area of the original dwelling. In this regard Policies CS5 of the Core Strategy and Policy 22 of the Local Plan are inconsistent with the relevant section of Paragraph 89 of the Framework, which has no prescribed limiting mathematical figures and instead refers to an assessment in terms of proportionality with regards to the original building. Accordingly, more weight is given to the Framework and Policy CS5 in this assessment.

Permission for extensions to existing dwellings within the Green Belt will be allowed only where the proposal would not individually or when considered with existing extensions to the original building, result in a disproportionate increase in the size of the original building. For the purpose of this application, a comparison must be made with the original building.

There are a number of ways in which an extended property can be compared to an original building in order to assess whether or not an addition is disproportionate in size. The additional floor area added to the original building is one commonly used indicator, however, each and all other factors, including the proposed additional cubic content, the increase in footprint and any increase in height are also relevant and capable of being taken into account.

Original dwelling;	278.64 sq.m.	
Conservatory extension;	<u>48.46</u> sq.m.	
Total;	327.10 sq.m.	Which represents 117% of the original

Proposed garage ;	<u>51.68</u> sq.m	
Total ;	378.78 sq.m.	Which represents 136% of the original

[It should be noted here that the previous application for the conservatory took into account the outbuildings however it is considered this was unreasonable to include non-residential curtilage buildings in the calculation].

The floor space of the original dwelling has been calculated to be approximately 278.64m². The proposed development would result in a unit with a floor area of approximately 51.68m². This together with the conservatory, the proposed development would result in an increase in floorspace of 136% when compared to the original building and this is considered to amount to a proportionate increase to the size of the original dwelling in this regard.

However, the above test is not conclusive as the Framework test is primarily an objective one based on size in the context of the application site. The proposal would add a single storey garage to the side of the existing house, the pitch of the roof and the fact that it is concealed at the lower part of the site would result in the garage having a minimal impact on the locality. As such, the garage would not be seen as a sizable increase in volume and built development on this site. In this respect, it is also considered that the proposal would be proportionate to the original, representing appropriate development.

Accordingly, the proposal is considered to represent a proportionate addition to the original building and is therefore not contrary to the Framework and Policy CS5 of the Core Strategy and Policy 22 of the Local Plan.

Furthermore, it is prudent to assess whether the proposal would comply with the five purposes

of including land in the Green Belt.

The proposal is not located within a large built up area and due to its limitation to an extension of an existing dwelling, on an existing plot, it would also not contribute towards neighbouring towns merging into one another or threaten the countryside significantly from encroachment. Finally, given the nature and location of the proposal, it would not impact upon the setting and special character of historic towns or fail to assist in urban regeneration.

Due to the location of the proposal, the minimal cumulative addition to the built form of the site which the proposal seeks, it is not considered to represent an adverse impact on the openness of the Green Belt. Hogpitts Bottom has a strong build line and Bluebelle itself is set back from the road behind a mature hedgerow. The proposal would, therefore, not result in additional harm to the openness of the Green Belt due to the location and scale of works.

In addition, in support of Policy CS5, the proposal represents an opportunity to support the rural economy through the employment of local builders and support local material suppliers.

In conclusion, the proposal is not considered contrary to the purposes of including land in Green Belt.

The proposal is considered to represent a proportionate to the original dwelling house and thus is not contrary to the Framework and Policy CS5 of the Core Strategy and Policy 22 of the Local Plan.

Effects on appearance of building and street scene

Core Strategy Policies CS11 and CS12 state that development within settlements should respect the typical density in the area and integrate with the streetscape character. Chapter 7 of the Framework emphasises the importance of good design in context and, in particular, paragraph 64 states permission should be refused for development of poor design that fails to improve the character and quality of an area and the way it functions

The proposed development would result in a single storey garage set to the eastern side of the existing dwelling, the garage would measure 6.8 metres in depth, 7.6 metres wide and a maximum of 5.1 metres in height (only 4 metres above adjacent ground level). There would also be a gap of approximately 1m between the eastern elevation of the building and the adjacent flank boundary of the site and would be set back approximately 10m from the main road.

Given that the height of the application building and that it would be subordinate to the surrounding units and that the property would be set back from the main road by a considerable distance, it is not considered that the proposal would result in a dominant or visually intrusive feature within the streetscene. Furthermore, given that the existing unit is built upon the eastern boundary of the site, the nearest built form to the east of the application building would be a minimum of 3 metres away and that there would be a gap of 1m between built form and the eastern site boundary, it is considered that sufficient space would be left about the unit. As such, the host building would not appear cramped or overdeveloped upon its plot.

Turning to the design of the proposal, the development would be finished with black stained boarding with reclaimed red/brown multi-facing brickwork plinth. The roof would be constructed of reclaimed clay plain tiles and the doors would be of stained timber. These materials would harmonise well with the host building and assimilate well into the streetscene.

Taking all of the above into account, the development would be visually acceptable and would not result in harm to the immediate streetscene and the visual interests of its wider

surroundings. As such, the proposal is in accordance with relevant identified policies within the Core Strategy and the Local Plan (and associated guidance) and the relevant provisions of the Framework.

Flauden Parish Council have made reference to The Inspector's recommendations, which were made in granting the 2009 application, which are; *'the overall size of the building would be limited in size and essentially single storey with the appearance to be that of a cottage with an attached barn'*. The inspector further recommended a 10m border to the boundary.

However this application has been assessed according to the current policy context and the proposal against the dwelling as now built. Dacorum do not have policies which specifically restrict spacing between built development and the property boundaries. For the reasons given above the proposal is considered acceptable.

Impact on Neighbours

Policy CS12 aims to preserve neighbouring amenity. Furthermore, guidance in paragraph 17 of the NPPF is to always seek to secure high quality design and good standard of amenity for all existing and future occupiers of land and buildings

The proposed single storey garage would be set down from the adjacent property at Hedgerow set at the existing drive level, would be single storey and would retain a spacing of one metre to the boundary fence. There are no windows proposed on the east flank elevation of the garage, and therefore would not afford direct views of the primary private amenity space which benefits Hedgerow, the privacy of this unit would be preserved.

There are no windows on the west flank elevation of the adjacent property (Hedegreow). There is a window on the front (south) elevation of Hedgerow however it has been demonstrated that there is no breach of the 45 degree line taken from the centre of this window. As such, the proposal would not result in significant harm to the living conditions of the occupants of Hedgerow in terms of overbearing, overlooking and loss of light. Single storey, land levels and orientation of the site – south facing.

Overall, the proposal would not detrimentally impact upon the living conditions of surrounding residential units, in terms of overbearing, overlooking and loss of light. The proposal therefore complies with relevant local and national policy in this regard.

It is not considered that it could be argued that the proposal could add to additional noise to the adjacent property.

The neighbour at Hedgerow has objected to the proposed garage, however all their concerns have been addressed above.

Impact on Trees and Landscaping

No effect

Impact on Highway Safety

No change to access arrangements.

With regards to parking, it is considered that the proposal meets maximum parking standards as contained within Saved Appendix 3 of the Dacorum Borough Local Plan.

Other Material Planning Considerations

Currently the property does not benefit from permitted development rights as this was restricted when the original dwelling was granted planning permission in 2003. This was purely to retain control over additions to the dwelling as opposed to prevent any additions being allowed. For the reasons set out above, the proposed garage is acceptable.

Community Infrastructure Levy (CIL)

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is not CIL Liable due to resulting in less than 100m² of additional floor space.

Conclusions

The proposal for a garage is considered acceptable given the consideration of the impact on the openness of the Green Belt. The garage is located in a suitable location adjacent to the existing residential dwelling, therefore there would be no material harm to the Green Belt. The development would be visually acceptable and would not result in harm to the immediate streetscene and the visual interests of its wider surroundings. There is no significant impact on neighbours.

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 development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

420/4
420/05
420/06
420/07

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

- 3 **The development hereby permitted shall be constructed in accordance with the materials specified on the approved drawings.**

Reason: To ensure a satisfactory appearance to the development in accordance with Adopted Core Strategy CS12

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) (Amendment No. 2)

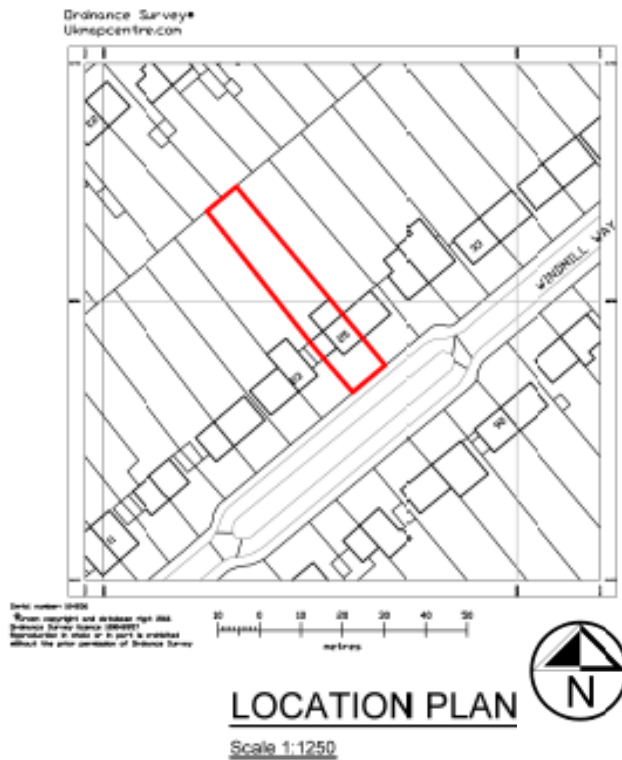
Order 2015.

Agenda Item 5f

Item 5f

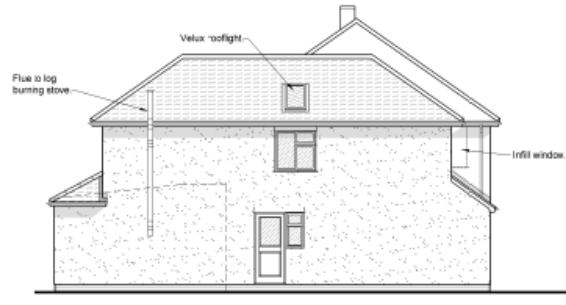
4/03441/16/FHA- DEMOLITION OF EXISTING CONSERVATORY AND REPLACEMENT TWO STOREY SIDE EXTENSION AND PART TWO STOREY AND SINGLE STOREY REAR EXTENSION

25 WINDMILL WAY, TRING, HP23 4HH





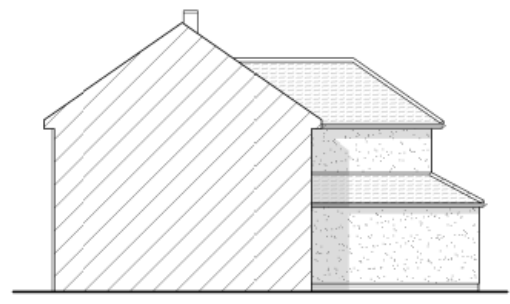
PROPOSED FRONT ELEVATION
Scale 1:100



PROPOSED LEFT FLANK ELEVATION
Scale 1:100



PROPOSED REAR ELEVATION
Scale 1:100



PROPOSED RIGHT FLANK ELEVATION
Scale 1:100

4/03441/16/FHA - DEMOLITION OF EXISTING CONSERVATORY AND REPLACEMENT TWO STOREY SIDE EXTENSION AND PART TWO STOREY AND SINGLE STOREY REAR EXTENSION.

25 WINDMILL WAY, TRING, HP23 4HH.

APPLICANT: Mr & Mrs J Jones.

[Case Officer - Sally Robbins]

Summary

The application is recommended for approval.

Site Description

The application site is located in a residential area of the town of Tring. The site comprises a two storey semi-detached dwellinghouse with an attached single storey flat roofed garage, which connects to the neighbouring garage. The house is composed of painted render, red brick and concrete tiles with white UPVC windows. To the front of the property is a paved driveway that would sufficiently accommodate two cars. To the rear of the property is an existing single storey rear extension (conservatory) with painted rendered walls, white UPVC windows and doors and polycarbonate sheet roofing measuring 4.95m deep, 6m wide and 3m high. The property is set in a generous sized plot with a large elongated rear garden. The immediate streetscene is of similarly sized but individually styled semi-detached dwellinghouses with varying degrees of extensions or alterations.

Proposal

The application seeks full planning permission for the demolition of the existing garage and rear conservatory followed by the construction of a two storey side extension and part two storey and single storey rear extension. The proposed single storey element, on the northeast attached side of the property, will have a false pitched roof and will project from the original rear wall by 4.95m with a ridge height of 3.5m and an eaves height of 2.5m. The two storey element will project from the side of the property by 3m and from the rear of the property by 3.5m. To the front of the proposal includes a store room with garage door on the ground floor and a window on the first floor. On the southwest side of the proposed extension a gap of 1m will be left between the proposed and the neighbouring garage wall. A window and door will be added to the ground floor as well as a window and a roof light on the second floor. To the rear the proposed extension includes bi-fold doors on the ground floor opening onto the garden and a window on the first floor.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Tring Town Council.

Planning History

4/01695/99/4	SINGLE STOREY REAR EXTENSION Granted 11/11/1999
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Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design

Saved Policies of the Dacorum Borough Local Plan

Appendices 3, 5 & 7

Supplementary Planning Guidance / Documents

Area Based Policies (May 2004) - Residential Character Area [TCA5 Christchurch Road and Dundale Road]

Summary of Representations

Tring Town Council

Recommend refusal of this application on the following grounds:

1. The two storey side and rear extension will cause overshadowing of the neighbouring property
2. The single storey rear extension with tiled roof will be visually intrusive causing loss of amenity to the neighbouring property.

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

27 Windmill Way - Objections

- Proposed rear extension already extending almost 1m beyond 4m legally permitted
- Legislation prevents building in excess of 4m beyond the rear wall of an attached house
- Since demolition is proposed we now require the new footings to be extending no further than 4m from main house wall
- The proposed single storey will be higher and tiled this time increasing our concern regarding our light provision. The "building line" between numbers 23 and 29 is also exceeded by this approximately 1m

13/01/2017

Considerations

Policy and Principle

The application site is located in a residential area of Tring. Core Strategy (2013) Policy CS4 states that appropriate residential development is acceptable in towns and large villages subject to compliance with the relevant national and local policies outlined below. The main issues to the consideration of this application relate to the impact of the proposed extension upon the character and appearance of the parent dwelling, the streetscene and residential amenity of neighbouring properties.

Effects on appearance of building

Saved appendix 7 of the Dacorum Local Plan (2004), policies CS11, 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. TCA5 relates to the Christchurch Road and

Dundale Road area and states that extensions should normally be subordinate in terms of scale to the parent dwelling.

The proposed extension projects 3m from the side of the house, to provide a 1m separation between the southwest flank elevation and the boundary. The two storey element will project from the rear of the house by 3.5m and the single storey element by 4.95m. Looking at the front of the property the proposed two storey side extension would be an addition of one storey above the garage and would therefore add vertical bulk and mass to the front elevation. However, the ridge of the extension would be set down in relation to the main ridge of the property and set back by a maximum of 1.5m from the main front elevation.

In accordance with the submitted application the proposed extension would be composed of materials to match the parent dwelling including plain concrete roof tiles, painted render, UPVC windows and an up and over garage door. To the rear the single storey element of the proposed extension would consist of a flat roof behind a false pitch and would have bi-fold doors opening out on to the rear garden. The proposed build and form of the extension is considered to respect the overall design, scale and bulk of the parent dwelling and therefore not considered to be visually intrusive or harmful to the character and appearance of the dwelling. The proposal therefore coheres with the NPPF (2012) and is in accordance with policies CS11 and CS12 of the Core Strategy (2013) and saved appendix 7 of the Dacorum Local Plan (2004).

Impact on Street Scene

The two storey element of the proposed extension would be set back from the front elevation and the ridge height would be lower than the main ridge of the parent dwelling. The proposed extension would be set away from the neighbouring property by 1m, avoiding a terracing effect, and would therefore have a minimal impact when viewed from the street. It is noted that there are a number of two storey side extensions in the immediate streetscene, therefore the proposed extension would harmonise with surrounding properties.

Impact on Neighbours

There has been an objection from number 27 Windmill Way, the attached neighbours of the semi-detached to the northeast. The objections relate to:

- Lawfulness of existing rear extension (conservatory)
- Concerns that the proposal will project out further than 4m from the original rear wall
- Light provision

The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Saved Appendix 3 of the Local Plan (2004) and policy CS12 of the Core Strategy (2013), seek to ensure that new development does not result in detrimental impact upon the 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, Saved Appendix 7 of the Local Plan advises that two storey extensions should be set within a line drawn at 45 degrees from the nearest neighbouring habitable window.

Considering the neighbours of the attached semi-detached to the northeast, at number 27 Windmill Way, the two storey element of the proposal will not have a significant impact on the light provision or privacy of this property as it is at the distal end of the proposed site situated 4.5m from the boundary. Turning to the single storey element of the proposal, it would have a false pitched roof with an eaves height of 2.5m and a ridge height of 3.5m. The existing conservatory has an eaves height of 2.5m and a ridge height of 3m. The single storey element would project out from the rear wall of the original house by 4.95m, which is the same as the

existing conservatory. Due to the above and the fact that the northeast boundary of the property is bordered at the nearest end to the house by a 1.5-1.8m wooden fence and vegetation, it is not considered that the proposed extension will have a significant impact on neighbouring daylight provision or privacy and would not appear visually intrusive. As such Tring Town Council's objection stating that the single storey rear extension with tiled roof would be visually intrusive causing loss of amenity to the neighbouring property could not be sustained.

Concerns have been raised regarding the lawfulness of the existing single storey rear extension and the fact that it extends beyond the rear of the original property by more than 4m. Development is not permitted by Class A under The Town and Country Planning (General Permitted Development) (England) Order 2015 if the enlarged part of the dwellinghouse would have a single storey and (i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or (ii) exceed 4 metres in height. However the existing conservatory was not constructed under 'Permitted Development' but was granted full planning permission in 1999 (application number 4/01695/99/4), therefore has been lawfully built.

Considering the neighbours on the southwest side of the proposed site, the existing property currently shares a garage wall with number 23 Windmill Way, which is set at a slightly higher level than the proposal site, at approximately 0.5m higher. The proposal includes the demolition of the garage and the construction of a two storey side extension, which will be set back from the boundary by 1m.

There are no ground floor windows facing the proposal site in the neighbouring property at number 23. There are two first floor windows that face the proposed extension, one towards the front of the property and one in the middle. The window towards the front of the neighbouring property is believed to serve a bedroom, which is considered a habitable room. However, it is believed that the room has two windows, including a larger one that faces towards the front of the property so it is considered that the proposed extension would not have a significant impact on light provision to this room. The first floor window towards the middle of the neighbouring is believed to serve the hallway, which is not considered a habitable room, therefore any impact on loss of light or privacy will be limited. The proposed extension will project out further than the neighbouring property's ground floor rear wall by 0.75m, and as such will not have a significant impact on the light provision or privacy to the ground floor rooms. Considering the first floor rooms of this neighbouring property the proposed second storey element will project out further than the neighbour's by 3m. However the proposal would clear a line drawn at 45 degrees from the centre of the nearest neighbouring window on the first floor. Due to the above mentioned reasons it is considered that Tring Town Council's objection relating to the possible overshadowing of the neighbouring property caused by the two storey side and rear extension could not be sustained

The proposal does include the addition of a side window on the southwest elevation that will face the hallway window of the neighbouring property. However as there is an existing window on this elevation it is not considered that the new window, although 3m closer to the neighbouring property, will have a significant impact on the privacy of the neighbouring property owing to the fact that it faces a non-habitable room.

The rear garden of the proposal site backs on to several rear gardens of neighbouring properties, therefore the proposed extension will be visible from these properties. However, due to the large elongated gardens, these neighbouring properties are situated at a distance of approximately 50m so the proposed extension would have a limited impact on the privacy of these properties and would not appear visually intrusive.

The proposed extension would not have a significant impact upon the residential amenity, daylight provision or privacy of neighbouring residents. As a result the rear extension in

regards to residential amenity is acceptable in terms of the NPPF (2012), Saved Appendix 3 of the Local Plan (2004) and Policy CS12 of the Core Strategy (2013).

Impact on Trees and Landscaping

No trees are affected by the proposal.

Other Material Planning Considerations

The proposal includes the addition of one bedroom, taking the property from a three to a four bedroom property. The Council's Parking guidelines within Saved Appendix 5 of the Local Plan (2004) set out the 'maximum' parking standards. The guidance sets out that a maximum of 3 spaces should be provided for a 4/5 bed house. The proposal includes the conversion of the garage to living accommodation, however in accordance with the submitted plans the proposal includes the enlargement of the parking area to the front of the property to accommodate three cars. Subsequently, it is considered that the proposal would have a neutral impact on local parking provision and it is not considered that the proposal would impact upon the safety and operation of the adjacent highway. The proposal meets the requirements of policy CS12 of the Core Strategy (2013) and saved appendix 5 of the Local Plan (2004) in this regard.

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is not CIL Liable due to it resulting in less than 100m² of additional floor space.

Conclusions

The proposed part, single, part two storey side and rear extension through size, position and design would not adversely impact upon the visual amenity of the existing dwelling house, immediate street scene, or the residential amenity of neighbouring residents. The proposal is therefore in accordance with saved appendixes 3 and 7 of the Dacorum Local Plan (2004), policies CS11, CS12 of the Core Strategy (2013) and the NPPF (2012).

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 development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

MD 1515 02 PL

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

Article 35

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) (Amendment No. 2) Order 2015.

Agenda Item 5g

Item 5g

4/02842/16/FUL NEW DWELLING

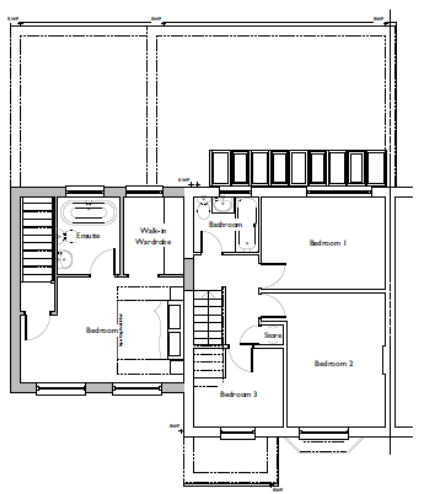
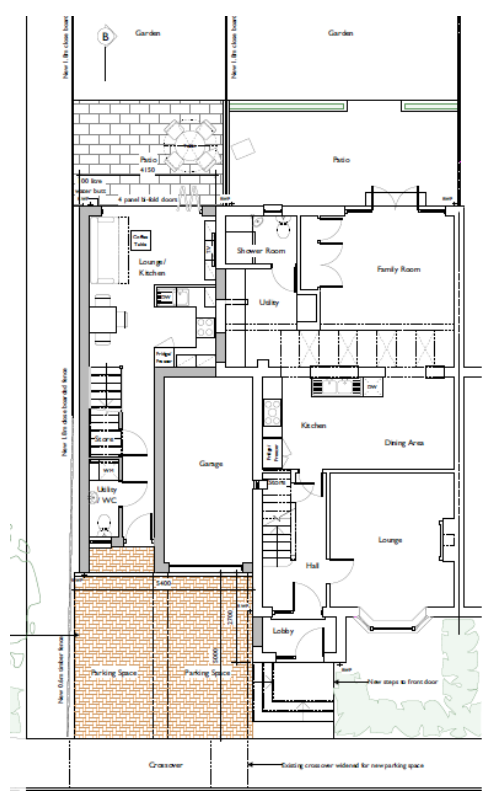
16 COBB ROAD, BERKHAMSTED, HP4 3LE



Item 5g



Ref: A 240117 - Section through plan
scale bar - metres
0 1 2 3 4
PLANNING



Ref: B 240117 - Plan 100% B retained as shown
Ref: A 10.01.17 - Site plan may not be used without
approval by 100%
scale bar - metres
0 1 2 3 4
PLANNING
SARGEANT ARCHITECTS
17, Riverside, Bedford, Beds, MK42 0EJ

**4/02842/16/FUL - NEW DWELLING.
16 COBB ROAD, BERKHAMSTED, HP4 3LE.
APPLICANT: Mrs Bear.**

[Case Officer - Briony Curtain]

Summary

The application is recommended for approval.

The principle of residential development is acceptable in the site's location within a town and residential area. Moreover consent was allowed at appeal for a similar development immediately opposite the application site (No. 13 Cobb Road).

The proposed dwelling would be acceptable in terms of its appearance and would integrate with streetscape character. It would not result in an adverse terracing effect or appear cramped or over-developed as a substantial gap would be retained between the proposed development and the nearest buildings at Nos. 18 and 20 Cobb Road, which are set at right angles and at a lower level than the application site.

The development would not have a significant detrimental impact on the amenity of neighbouring properties.

The access and car parking arrangements are satisfactory.

The proposal is therefore in accordance with the aims of the National Planning Policy Framework, Policies CS4, CS11, CS12 and CS25 of the Dacorum Core Strategy (September 2013) and saved Policies 18 and 21 of the Dacorum Borough Local Plan 1991-2011.

Site Description

The application site is currently occupied by a two-storey semi-detached dwelling located on the eastern side of Cobb Road. The site is located within an established and regularly planned residential neighbourhood forming part of the BCA16 - Durrants character area and on a valley slope where levels fall in a northerly direction. Dwellings in the street are pre-dominantly semi-detached with a row of terraces to the north at the end of the court bowl of Cobb Road, and are otherwise similar in terms of design and materials. Planning permission was recently allowed at appeal for the construction of a new attached dwelling at No. 13 Cobb Road, (which is immediately opposite the application site), and having been constructed this now forms a terrace in place of the original semi-detached pair.

Proposal

Planning permission is sought for a one-bedroom, two-storey end-of-terrace dwelling.

The proposal also involves the subdivision of the plot to separate the garden of the existing dwelling at No. 16 Cobb Road and the proposed dwelling.

The proposed dwelling would have a rectangular footprint, which at first floor level would be set back 1.5m behind the existing dwelling, and follow the existing first floor rear build line of No. 16. The dwelling would be set down from the existing dwelling at No. 16 with a hipped roof reaching just over 7m in height. At ground floor level the new dwelling would project 5m to the rear to align with the existing flat roof single storey rear extension of No. 16, it would however be set at a lower level.

The proposed dwelling would contain an entrance hall, utility / WC, open plan kitchen/ dining / lounge room, at ground floor level; and large single bedrooms with en-suite and walk in

wardrobe at first floor level.

Parking to the new dwelling would be created in the form of one car parking spaces on an area of hardstanding to the front of the dwelling accessed via an extended vehicle crossover off Cobb Road.

The existing dwelling would also be provided with two car parking spaces to the front of the new dwelling accessed off Cobb Road. One would be in the form of an integral garage in the new dwelling with a second space in front.

The main garden area for both the existing and proposed dwelling would be sited to the rear.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

Planning History

4/01354/16/FHA SINGLE STOREY SIDE EXTENSION
Granted
11/07/2016

4/00360/02/FHA SINGLE STOREY REAR EXTENSION
Granted
25/04/2002

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)
National Planning Policy Guidance

Dacorum Core Strategy (September 2013)

Policies NP1, CS1, CS4, CS11, CS12, CS17, CS18, CS19, CS25, CS29, CS31 and CS35

Dacorum Borough Local Plan 1991-2011 (saved policies)

Policies 13, 18, 21, 58 and 99
Appendices 3 and 5

Supplementary Planning Guidance / Documents

Environmental Guidelines (May 2004)
Area Based Policies (May 2004) - Residential Character Area BCA16 - Durrants
Water Conservation & Sustainable Drainage (June 2005)
Energy Efficiency & Conservation (June 2006)
Planning Obligations (April 2011)
Affordable Housing (Jan 2013)

Summary of Representations

Neighbours

Items of correspondence were received from Nos. 18, & 20, Cobb Road objecting to the proposal on the following grounds:

- the building will overshadow, and overlook adjacent properties, and gardens having a detrimental effect on the light in the front of the house. When the hedge that is currently outside the front of the house is left to grow above the 6ft fence, and too thick on the neighbour's side, it greatly reduces the amount of light we receive. Because of how the house is situated, (ie sloping downwards from number 16's back garden) a height of 6ft from inside the back garden of number 16 would be the equivalent of approximately 12ft immediately in front of our property and front window.
- The extension will cover at least half of the window in our smallest front bedroom, which is already considerably dark.
- concern over position of side gates which will cause lack of privacy to both surrounding houses, especially in view of how the houses slope, as people tend to look down into your property when passing. It is not so much an issue as it stands because the only people that use the path now are those delivering services to us and number 20, but obviously if used as an access route for number 16, the amount of people potentially using this path would result in greater footfall, and therefore possibly more noise, and a feeling of intrusion.
- despite another similar dwelling received planning permission on the opposite side of the road, the distance between that development and the houses adjacent to it is a lot greater than the distance between our house and number 16.
- There has already been an extension to the original house at number 16, and we were led to believe at that time that it would not be possible to extend any further in view of how the properties lie.
- concerned at the effect that the proposed drainage and soak away.
- With the proposed plans there is potential parking for 2 cars but this doesn't take into account that any cars that a future occupier of the new dwelling may have. This would then impact on parking in the road generally.
- there will be rear access gates on the narrow side access path 14ft away which will be very intrusive, also loss of privacy.
- Narrow path, 3ft wide could be a problem if items are left on the path, e.g. Children's toys, bikes and prams etc. Also wheelie bins not put away causing obstructions to access and exit to my property.

Berkhamsted Town Council

Original Plans;

Object - The proposals represent a cramped over development of the site and would provide a poor level of amenity to prospective residents. Overshadowing and overlooking would severely compromise the neighbours' privacy. The plans themselves are imprecise, showing no dimensions and only one of the two gates. The development would be completely out of keeping with the locale.

CS11, CS12, Appendix 3, BCA 16.

Amended Plans;

Awaiting comments

Hertfordshire Highways

Recommend conditional approval.

The proposal is to extend the hard standing to the front of the properties in order to create off street parking for two cars for the existing property, one in an attached garage, and one for the proposed new property.

I notice from drawing no 167pa2.06 "Proposed Plans" that the proposed garage is set 5m from the back of the footway. HCC's Roads in Herts V3, Section 4. 1.9 Clearances, states:- If security, garage or gate facilities are provided on residential premises, they shall be sited at least 6m from the highway boundary or back of footway as appropriate. This is to avoid waiting vehicles obstructing traffic and pedestrians on the road and footway passing the site. This may be reduced to 5.5m if the gates or doors open inwards or are in the form of a roller. See link on: <http://www.hertsdirect.org/services/transtreets/devmanagment/roadsinherts>.

Notwithstanding this requirement, in this instance only HCC is prepared to allow the dimensions as given in document 167pa2.06 "Proposed Plans", since the door is shown as opening inwards. This satisfies condition 5 above.

PARKING

Parking levels are a matter for the LPA to decide. I notice from drawing number 167 pa2.06 Proposed Plans that the required dimensions of parking spaces has been met, also that the proposal is to install a Sustainable Urban Drainage System under the proposed new hardstanding. This satisfies conditions 1 and 2 above.

ACCESS

The proposal is to widen the existing crossover to give access to both off site parking spaces. Cobb Road is a quiet unclassified local access road with a 30mph speed limit, so vehicles are not required to enter and leave the highway in forward gear.

Considerations

The main issues of relevance to the consideration of this application relate to the policy and principle justification for the proposed dwelling, the impact on layout and the character and appearance of the street scene, the impact on neighbouring properties, and the impact on car parking.

Policy and Principle

The NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Similarly, Policy CS4 of the Core Strategy directs residential development to the towns including Berkhamsted and within established residential areas, where the application site is located. Policy CS17 seeks to promote residential development to address a need for additional housing within the Borough. The provision of new dwellings is supported in principle under Policy CS18 of the Core Strategy.

Specifically, the provision of new dwellings is supported in principle by Policy CS18 of the Core Strategy and saved Policy 18 of the Local Plan.

In summary, the principle of residential development and the development of a domestic garden in this location would be acceptable.

Impact on site layout, appearance of building and street scene

Semi-detached dwellings are predominant in Cobb Road and are encouraged in the BCA16 - Durrants area. However, the character area statement notes that terraces and detached houses may be acceptable where the character and appearance of nearby and adjacent development would be respected.

Section 2.1.5 of the Environmental Guidelines Development in Residential Areas

Supplementary Planning Guidance states that because of generally good environmental standards throughout, the policy approach in most character areas is to maintain their defined character. It is important to note that although the character area statement recognises common features of existing housing development in the area, the Area Based Policies Supplementary Planning Guidance does not seek to replicate the existing forms of development within the BCA16 - Durrants area. Further, the BCA16 - Durrants character area statement notes that infilling opportunities are limited but may be acceptable according to the development principles.

The proposed dwelling would be an end-of-terrace dwelling attached to an existing pair of semi-detached dwellings (at Nos. 14 and 16 Cobb Road). The proposed site layout would maintain a regular arrangement allowing the proposed dwelling to front Cobb Road like the existing semi-detached dwellings. The proposed building would follow the road and orientation of the existing dwelling at No. 16 which it would directly adjoin. This would be the same as the recently allowed appeal at No. 13 opposite. This is a material consideration that should be afforded significant weight.

The plot widths of the existing dwelling at No. 16 (approx 6.5m) and the proposed dwelling (just over 5m) would not appear overly reduced or excessively narrow within the street, and would not be incongruous with neighbouring properties. Whilst the internal width of the new dwelling is reduced (as the proposed garage would serve the existing dwelling), this would not be evident from the front elevation and as such would not appear incongruous or out of keeping as asserted by the Town Council. Despite having a reduced depth when compared to the width of the new dwelling at No. 13 (the allowed appeal), the proposal would maintain an acceptable degree of spaciousness around the buildings and the resultant terrace would suitably integrate with the pattern of surrounding development on Cobb Road. The spaciousness around the buildings would be maintained as the nearest neighbours (Nos 18 and 20) are set back from the application site, situated at right angles, beyond a footpath and front gardens. The development is not considered cramped.

With regard to over development, as stated the building would not appear cramped and a sufficient area of garden space would be allocated both to the existing dwelling at No. 16 Cobb Road and the proposed dwelling. The new smaller one-bedroom unit would be served by an 11m deep garden with a minimum of 4m in width. The existing three-bedroom dwelling would retain a larger garden at 17m in depth and a width extending from 7m to 12m at the very rear. This would meet the amenity standard under saved Appendix 3 of the Local Plan and provide a functional space for future and existing occupants.

Based on the above factors, the proposed layout, and site coverage is considered acceptable and the development would represent the typical density intended for this area, thereby satisfying Policies CS11 and CS12 of the Core Strategy. It would not appear cramped or over developed.

With regard to design and appearance of the building, the proposed dwelling would feature a hipped roof that would adjoin the existing dwelling at No. 16, and would be set down and set back from the existing semi-detached pair, consistent with the fall in levels down Cobb Road and also to appear subservient to the semi-detached pair. The subservience of the proposed dwelling would ensure that the existing semi-detached form and symmetrical roof remains prominent. The set down of the proposed building would visually separate it from the semi-detached pair so that it would appear less like a terrace.

Based on the above factors, and giving weight to the inspectors findings in the 13 Cobb Road appeal, it has been demonstrated that the introduction of a terrace row could be successfully achieved in this particular location without compromising the character of the BCA16 - Durrants area. The design of the proposed dwelling would not seriously compromise the appearance of the street scene.

The proposed landscaping is considered to be satisfactory and there would be adequate space for refuse and cycle storage within the rear gardens of the existing dwelling at No. 16 and the proposed dwelling, which is sufficient.

Therefore, the proposal would be acceptable in terms of site layout and the appearance of the street scene and public path in accordance with the NPPF, Policies CS11, CS12 and CS25 of the Core Strategy and saved Policy 99 of the Local Plan.

Impact on neighbouring properties

Nos. 18 and 20 Cobb Road

The semi-detached pair of Nos. 18 and 20 Cobb Road has a perpendicular orientation to the application site. Specifically, the front elevations of these dwellings face the northern side boundary of the application site. Both dwellings are located on lower ground relative to the proposed dwelling, consistent with the fall in levels down Cobb Road.

The siting of the proposed dwelling is such that it would not be located within a direct line of sight of either of these two neighbouring properties. The proposed dwelling would be sited to the west of No. 18. At first floor level it would be situated 5m to the west and at ground floor level the building would align with the side wall of No. 18.

Although both neighbouring properties are located on lower ground relative to the application site, the distance of at least 7m between the front corner of No. 18 and the main two storey part (rear corner at first floor level) of the proposed dwelling would ensure there would not be a significant adverse loss of light or visual intrusion from the proposed building. Both properties benefit from 5m deep front gardens which would assist in providing visual relief from the buildings. It is acknowledged that the flat roof ground floor element of the proposed dwelling would align with the existing western side wall of No; 18, and thus clearly be visible, however this element would still be 5m away, be single storey and has been amended during to the course of the application to appear 500mm lower in order to reduce its visual impact. Light levels to the front facing bedroom windows and ground floor lounge would thus not be significantly reduced.

Concern has been raised with regard to overshadowing, however, given the orientation, the existing building would have a similar overshadowing impact to the proposed. The two storey element aligns with the front and rear build lines and would be viewed against the backdrop of the existing higher hipped roof.

Due to the elevated siting of the proposed dwelling relative to Nos. 18 and 20 Cobb Road, it would be reasonable to include a condition removing permitted development rights to the proposed dwelling, with respect to roof enlargements and roof lights under Classes B and C. This would avoid visual intrusion and overlooking and allow control over the quantum of parking.

Concern has also been raised regarding the rear access gate, privacy, visual intrusion and noise and disturbance. The footpath to the side is public and whilst it does currently only provide access to the frontage of Nos 18 and 20, anyone could use this area. There would thus be no change in privacy and overlooking issues compared to the existing situation. Despite the introduction of a gate, given the nature and scale of the development, there would be no significant intensification in use and as such no significant impact in terms of noise or disturbance.

Impact on other neighbouring properties

The impact on Nos. 14 and 16 Cobb Road located to the south of the proposed dwelling, as well as No. 13 and 13a Cobb Road opposite the street has also been considered.

The proposed dwelling would directly adjoin the existing dwelling at No. 16 Cobb Road and the main two-storey part of the building would not extend beyond the rear wall of No.s 16 or 14 which would ensure the development would not have an adverse impact on the amenity of this neighbouring property. The single storey rear element would be sited beyond the existing single storey extension at No; 16.

The proposed dwelling would be set back from the existing property at No.16. The front-to-front separation between the proposal and properties 13 and 13a opposite would be greater than currently exists between the existing properties (13/16). It should be noted that there are no minimum front to front separations in the Saved Local Plan (Appendix 3). Therefore it is considered the proposed dwelling will not result in such a significant harm to the neighbouring properties to warrant refusal.

As such, again, the proposal accords with Policy CS12 (c) of the Core Strategy.

Impact on access and car parking

The highway authority has raised no concerns with respect to the proposed access arrangements and the widening of the existing vehicle crossover and do not consider this would adversely affect the safety or operation of the adjacent highway. The requested conditions will be included.

The level of parking proposed is also considered acceptable to serve both the existing and proposed dwellings. The existing three bedroom property would retain two off street parking spaces and whilst one of these would be integral to the new dwelling, and sited beneath the bedroom of the new dwelling, building regulations (noise insulation) would ensure no significant noise or disturbance issues with regard to the amenity and enjoyment of future occupiers. A single space for the new one bedroom dwelling would be sited to the north of the site. A refusal on parking levels could not be sustained.

The proposed access and parking arrangements are acceptable in accordance with Policy CS12 of the Core Strategy and saved Policy 58 of the Local Plan.

CIL

Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. This application is CIL Liable.

The Charging Schedule clarifies that the site is in Zone 1 within which a charge of £250 per square metre is applicable to this development. The CIL is calculated on the basis of the net increase in internal floor area. CIL relief is available for affordable housing, charities and Self Builders and may be claimed using the appropriate forms.

Sustainability

A sustainability statement has been submitted in support of the proposal which demonstrates that regard has been given to the objectives of Policy CS29 of the Core Strategy. If planning permission is granted it would be reasonable to attach a condition requiring the development to be carried out in accordance with this statement.

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 in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013).

- 3 **All hard and soft landscape works shall be carried out in accordance with the approved details on Drawing No. 167 pa2.09 Rev B. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed with the local planning authority.**

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013).

- 4 **The proposed car parking spaces shall have measurements of 2.4m x 4.8m min. and be located on land within the ownership of the applicant. Such spaces shall be maintained as a permanent ancillary to the development and shall be paved and used for no other purpose.**

Reason: To ensure the adequate provision of off-street parking at all times in order to minimise the impact on the safe and efficient operation of the adjoining Highway.

- 5 **The development hereby permitted shall not be occupied until the vehicle crossover has been widened and the arrangements for vehicle parking shown on Drawing No. 167 pa2.06 Rev B 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 off-street vehicle parking facilities.

- 6 **The garage door shall open inwards or be in the form of a roller and thereafter maintained as such.**

Reason: In the interest of highway safety and free and safe flow of traffic

- 7 **The development hereby permitted shall be carried out in accordance with the approved Policy CS29 sustainability statement.**

Reason: To ensure the sustainable development of the site in accordance with Policy CS29 of the Dacorum Core Strategy (September 2013).

- 8 **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 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 in accordance with Policy CS12 of the Dacorum Core Strategy (September 2013).

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

167 su1.01

167 pa2.02

167 pa2.01

167 pa2 06 B

167 pa2 07 A

167 pa2 08 B

167 pa2 09 B

167 pa2 10 A

Design and Access Statement

Sustainability Statement

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 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) (Amendment No. 2) Order 2015

Informatives

HERTFORDSHIRE HIGHWAYS INFORMATIVE:

1. The Highway Authority requires the alterations to or the construction of the vehicle crossovers to be undertaken such that the works are carried out to their specification and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.), the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. The applicant may need to apply to Highways (Telephone 0300 1234047) to arrange this, or use link:-
<https://www.hertfordshire.gov.uk/droppedkerbs/>

2. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website:

<http://www.hertfordshire.gov.uk/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.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047

THAMES WATER INFORMATIVE:

Waste Comments

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 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

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 should 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. The applicant is advised to contact Thames Water Developer Services on 0845 850 2777 to discuss the options available at this site.

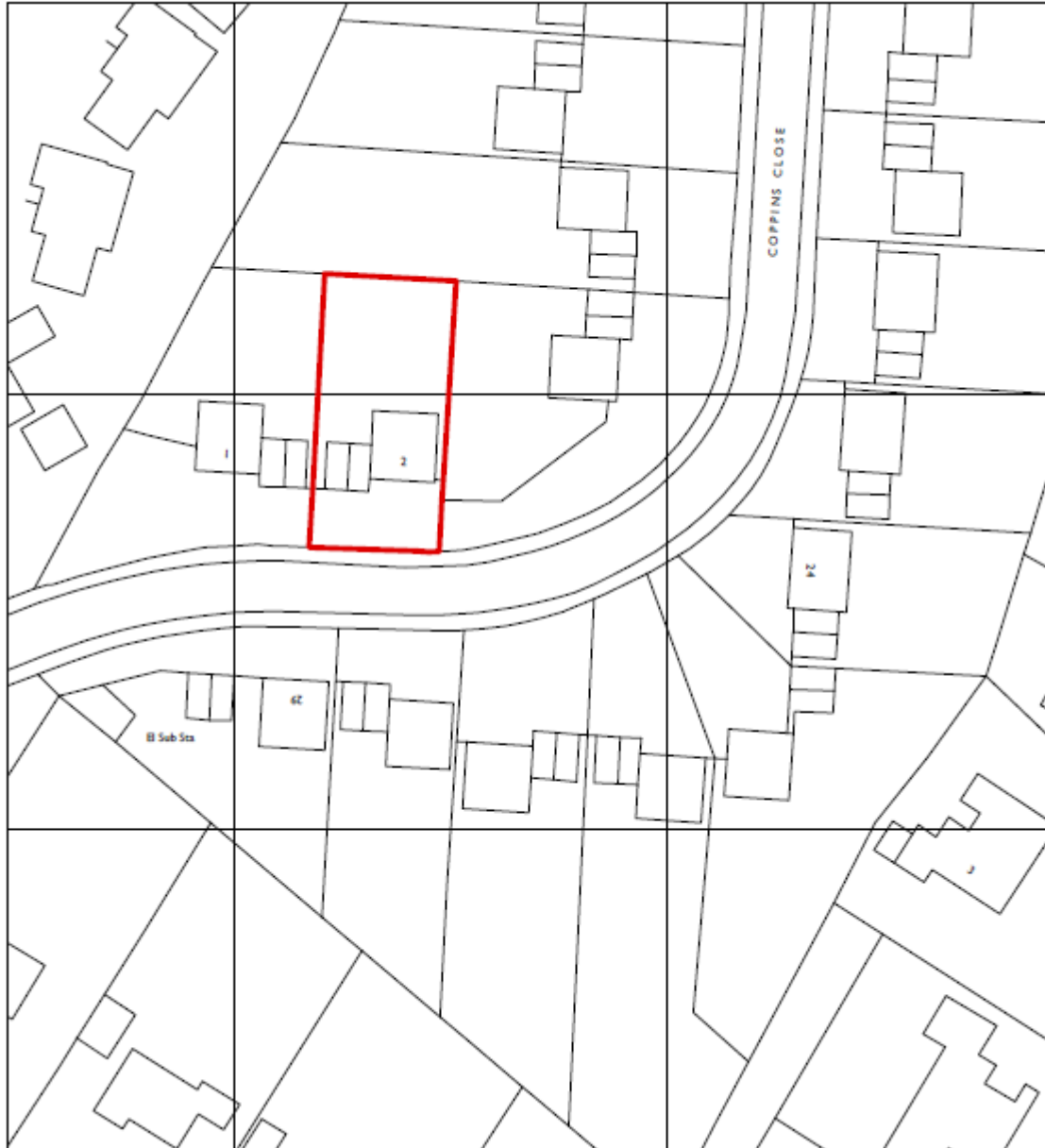
Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

Item 5h

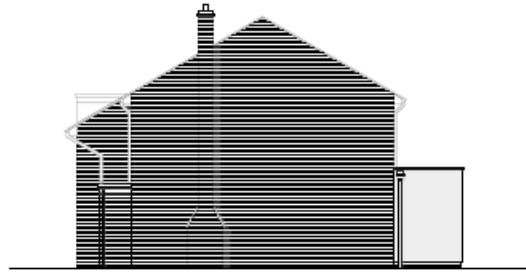
**4/03392/16/FHA SINGLE STOREY REAR EXTENSION. SINGLE STOREY SIDE EXTENSION WITH TERRACE OVER AND RENDER CLADDING TO FRONT
2 COPPINS CLOSE, BERKHAMSTED, HP4 3NZ**



Item 5h



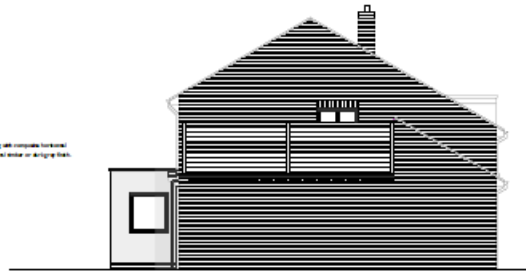
Proposed Rear (North) Elevation



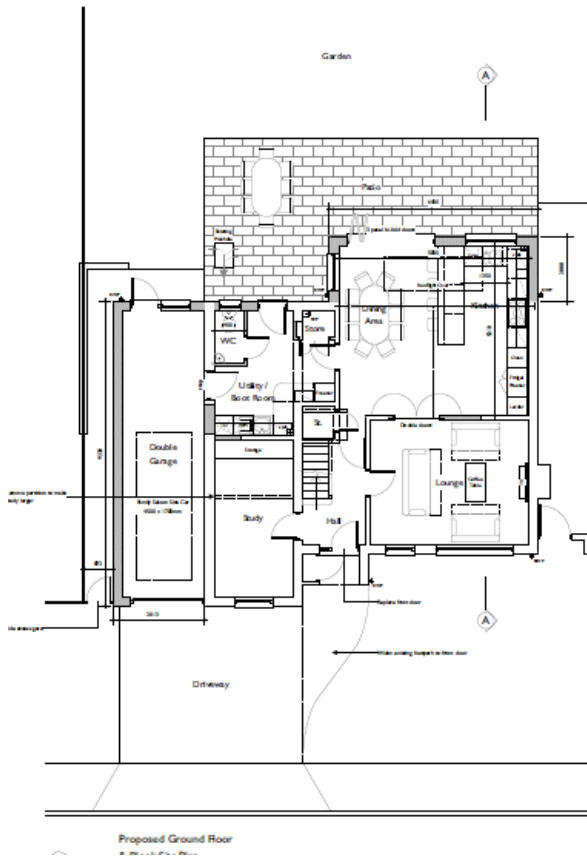
Proposed Side (East) Elevation



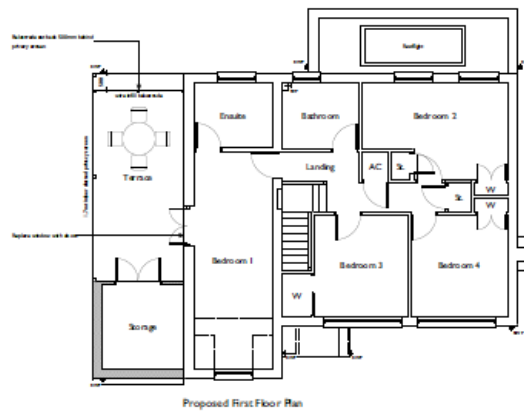
Proposed Front (South) Elevation



Proposed Side (West) Elevation



Proposed Ground Floor



Proposed First Floor Plan

4/03392/16/FHA - SINGLE STOREY REAR EXTENSION. SINGLE STOREY SIDE EXTENSION WITH TERRACE OVER AND RENDER CLADDING TO FRONT. 2 COPPINS CLOSE, BERKHAMSTED, HP4 3NZ. APPLICANT: Mr & Mrs Thompson-Sturmayr.

[Case Officer - Andrew Parrish]

Summary

The application is recommended for approval. There would be no harm to the appearance of the building or the street scene. Screen fencing and set back of balustrade to the roof terrace would prevent serious overlooking of the adjoining property.

Site Description

No. 2 is a detached late C20 property located on the northern side of Coppins Close within the residential area of BCA12 in Berkhamsted. The property has an attached flat roof garage together with car parking to the frontage. The property has previously been extended first floor to the side. Ground levels slope slightly down towards the rear. The surrounding area comprises a variety of similar detached properties.

Proposal

Permission is sought for a single storey rear extension, rebuilding of the garage and its extension to the rear, a first floor side extension over the front of the garage, a terrace over the garage together with render cladding to the front.

Referral to Committee

The application is referred to the Development Control Committee due to the contrary views of Berkhamsted Town Council.

Planning History

None

Policies

National Policy Guidance

National Planning Policy Framework (NPPF)

Adopted Core Strategy

CS4 - The Towns and Large Villages
CS10 - Quality of Settlement Design
CS11 - Quality of Neighbourhood Design
CS12 - Quality of Site Design
CS13 - Quality of Public Realm
CS29 - Sustainable Design and Construction

Saved Policies of the Dacorum Borough Local Plan

Policies 13 and 58
Appendices 5 and 7

Supplementary Planning Guidance / Documents

Summary of Representations

Berkhamsted Town Council

Objection - The rear terrace overlooks neighbouring gardens resulting in a loss of privacy.
Appendix 3(i).

Response to Neighbour Notification / Site Notice / Newspaper Advertisement

None

Considerations

Policy and Principle

In residential areas appropriate residential development is encouraged in accordance with Policy CS4 of the Core Strategy.

The main issues in this case relate to the impact of the extensions on the appearance of the building and street scene, and residential amenities. Policies CS10, 11, 12 and 13 are relevant.

Effects on appearance of building

There are no special requirements for extensions to dwellings in BCA12.

In relation to the parent building the proposed side and rear extensions would be relatively modest in overall height and scale and at the front would look little different to existing other than the lean-to roof over the first floor element. Amended plans note that the timber cladding to the front elevation will be replaced with composite horizontal weatherboard in a natural timber or dark grey finish rather than the initially proposed white render which would have appeared somewhat stark and out of keeping with the rest of the street scene where there are no other examples of this material.

Use of render to the single storey rear extension would cause no material harm given its siting to the rear.

Subject to details of the composite board colour, and matching roof tiles, no objection is raised.

The proposal would accord with Policy CS12 and Appendix 7.

Impact on street scene

Saved Appendix 7 state that there should be sufficient space around residential buildings to avoid a cramped layout and maintain residential character.

The rebuilt garage and mono-pitched roof over the first floor would arguably be an improvement on the existing flat roof and there would be no material harm to the separation with the adjoining property given its low height. The roof terrace would be hidden by the mono-pitched roof element to the front of the garage.

The proposal would be rebuilt on the common boundary with No. 1 which is no worse than the existing garage.

In all other respects there would be no detriment.

The proposal would comply with Policies CS11 and 12.

Impact on car parking, highway safety

There would be no increase in the number of bedrooms and existing off-street car parking is sufficient and acceptable.

The proposal would comply with Policies CS12 and saved Policy 58.

Impact on neighbours

The Town Council raises objections on grounds of overlooking from the proposed roof terrace.

The back of the dwelling currently has no windows to habitable rooms on the first floor on the side adjacent to No. 1.

The proposed terrace over the garage would potentially cause overlooking of the rear garden of No. 1 to the detriment of their amenities introducing a viewing platform where currently none exists. However, screen panelling is proposed to the side and the rear balustrade has been set back under revised plans by 0.5 m which will limit the potential harm and on balance is considered to be little worse than a window in this position which conceivably could have been proposed and to which a refusal might have been difficult to substantiate. However, it is accepted that as a terrace it would be likely to be put to more frequent use and result in greater overlooking potential. A condition would be expedient to ensure that this screening and balustrade position is retained and maintained.

In all other respects the proposal is considered acceptable.

The proposal would comply with Policy CS12.

Sustainable Design and Construction

Policy CS29 requires a number of criteria to be satisfied for all new development. However, the amended Advice Note does not apply this to householder development.

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 development hereby permitted shall be constructed in accordance with the materials specified on the approved drawings, and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) the render to the front shall not be finished in a different colour to that approved.**

Reason: For the avoidance of doubt and to ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Dacorum Core Strategy September 2013 and saved Appendix 7 of the Dacorum Borough local Plan 1991-2011.

- 3 **The proposed timber screen shown on Drg. No. 197 pa2.04 shall be a minimum of 1.7 metres in height above the floor of the roof terrace and the balustrade shall be set back as shown on Drg No. 197 pa2.03/A. Both shall be erected prior to the first use of the terrace and shall thereafter be retained in position.**

Reason: For the avoidance of doubt and to preserve the amenities of the adjacent residential property in accordance with Policy CS12 of the Dacorum Core Strategy September 2013.

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

**197 SUL.01
197 PA2.01
197 PA2.02
197 PA2.03/A
197 PA2.04
197 PA2.05/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. 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) (Amendment No. 2) Order 2015.

APPEALS UPDATE

A. LODGED

4/01857/16/FUL WHISTON
NEW DWELLING WITH VEHICLE ACCESS FROM GRAVEL LANE
(AMENDED SCHEME).
1 BARBERRY ROAD, HEMEL HEMPSTEAD, HP1 1SD
[View online application](#)

4/02875/16/FUL MR WEIR-RHODES WATTS
TWO STOREY FRONT AND SIDE EXTENSION. CONVERSION OF
PROPERTY TO FORM FOUR SELF-CONTAINED FLATS
2 BRACKNELL PLACE, HEMEL HEMPSTEAD, HP2 6BT
[View online application](#)

B. WITHDRAWN

None

C. FORTHCOMING INQUIRIES

4/00488/16/ENA MR A MATHERS
APPEAL AGAINST ENFORCEMENT NOTICE, CONVERSION OF ONE
DWELLINGHOUSE TO SEVEN FLATS
1 AIREDALE, HEMEL HEMPSTEAD, HP2 5TP
[View online application](#)

4/02321/16/ENA Mr Eames
APPEAL AGAINST ENFORCEMENT NOTICE - CHANGE OF USE OF
BARN FOR VEHICLE STORAGE AND CREATION OF
HARDSTANDING
PIGGERY FARM, HAMBERLINS LANE, NORTHCHURCH,
BERKHAMSTED, HP4 3TD
[View online application](#)

D. FORTHCOMING HEARINGS

None

E. DISMISSED

4/01355/16/FHA Mr Young
FORMATION OF VEHICULAR ACCESS ONTO WATFORD ROAD
75 WATFORD ROAD, KINGS LANGLEY, WD4 8DY
[View online application](#)

Decision

PINS fully supported the LPA's refusal in terms of highway safety impacts. There was no award of costs to the Appellant.

4/01364/16/LDP Mr Pritchard
CONSTRUCTION OF 2 DETACHED OUTBUILDINGS WITHIN THE
CURTILAGE OF THE PROPERTY.
6 HIGHCROFT ROAD, FELDEN, HEMEL HEMPSTEAD, HP3 0BU
[View online application](#)

Decision

1. The appeal is dismissed.

Main Issue

2. A Lawful Development Certificate (LDC) is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful.

Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed outbuildings are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.

3. The main issue is whether the Council's decision to refuse to grant a LDC was well founded
Reasons

4. Class E, Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (the Order) grants planning permission for 'any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure'. Those 'permitted development rights' are subject to a number of conditions and restrictions, listed at paragraphs E.1 to E.3.

5. The Council do not dispute that the proposed outbuildings would comply with the conditions and limitations listed at paragraphs E.1 to E.3 but dispute whether the proposed building would be 'incidental to the enjoyment of the dwellinghouse'. If a building or enclosure is not required for a purpose that would be incidental to the enjoyment of a dwellinghouse then it would fall outside the scope of the permitted development rights granted under Class E and planning permission would be required. The Council contend that the size, scale and extent of the facilities is excessive and would go beyond what would be 'required' for 'a purpose incidental to the enjoyment of the dwellinghouse'. In particular, they refer to the scale of the proposed cinema, which would have a cloak room and space for 10 people; the size of the gym; and the scale of the indoor bowling green which would accommodate two full size rinks.

6. I am satisfied that the proposal would comply with the restrictions set out within paragraphs E.1 to E.3 of the Order, having regard to size, footprint and location. However, the terms of paragraphs E.1 to E.3 are such that it is possible to design substantial outbuildings or means of enclosure to fit within the limitations, particularly where dwellings have generous gardens as is the case in this instance. It does not follow that a building or enclosure will be incidental to the enjoyment of a dwellinghouse purely because it meets the terms of paragraphs E.1 to E.3.

Relatively small buildings may often fall outside the scope of Class E if they are not required for a

purpose incidental to the enjoyment of the dwellinghouse and, vice versa, comparatively large buildings may constitute permitted development depending on the circumstances of any given case.

7. It is necessary to consider proposals in the particular context within which they would be situated; an outbuilding that may be considered incidental to the enjoyment of a substantial dwelling with many occupants and large grounds may not be incidental if situated in the garden of a small cottage with a single occupant. Size alone is not necessarily a determining factor and a wide range of outbuildings, for different purposes may be permitted under Class E, depending on the specific circumstances. Those principles have been established through the Courts, including the cases of *Emin*¹ and *Wallington*². The Courts have also established that the term 'required' should be interpreted as meaning 'reasonably required'.

8. Turning to the present case, two outbuildings are proposed, one of which would contain an indoor bowling green with two full sized rinks. The submitted plans show that the building would be 16.82m wide and 40.35m long, with an overall footprint in excess of 650m². The bowling green within the building would have an area of 640m². The adjacent building would house a gym, home cinema, film library and cloak room, with a width of 15.19m, a length of 22m and a footprint of 311.5m² according to the plans. By any measure, the scale of the buildings would be substantial and the structures would take up a large portion of what is a considerable rear garden.

9. At present, the associated dwelling is a modest property but I note that extensions could be undertaken under the permitted development regime, as shown in relation to a previous appeal³. The dwelling is currently vacant but the information before me indicates that the appellant and his wife intend to move into the house once refurbishment is complete. They would apparently be the only permanent occupants and the sheer scale of the facilities would appear to be way in excess of what could be considered reasonably required as an incidental use for a dwelling that would be occupied by two people.

10. The indoor bowling green would equate to the provision a full sized bowling rink per occupant. Similarly, the size of the indoor cinema which could accommodate at least ten people, with large areas of circulation space surrounding the viewing seats, could not reasonably be said to be for a purpose incidental to the enjoyment of a dwellinghouse that is occupied by two people. It seems to me that the gym is not unduly large, given the need to house and provide safe circulation space between pieces of equipment but that does not outweigh my concerns relating to the scale of the development as a whole.

11. I note that the appellant and his wife have a large family who would be likely to visit the property on a frequent basis. Friends may also visit. Therefore, the suggestion appears to be that larger facilities are required, than would otherwise be the case, on the basis that people who do not normally reside at the property would visit for the purpose of using those facilities. It seems to me that the rationale in that respect is based upon the need to accommodate those who reside elsewhere, and not necessarily the requirements of the occupants of the dwellinghouse itself. That adds to my concern that the scale of the proposed development goes beyond what is reasonably required for the enjoyment of the particular dwellinghouse in question.

12. Moreover, I have noted the description of development that was proposed in relation to the previous appeal. The Inspector in that case noted that four outbuildings were proposed, one of which was described as a 'two lane bowling alley' with a size of 342.8m². The appellant at that time had suggested that the alley would be used for skittles as opposed to bowls. The bowling green proposed in the current application is almost twice the size of the bowling alley previously put forward. Whilst I am mindful of the difference between bowls and skittles, little information has been put forward to indicate why a much larger building is 'required' as part of the current proposal when no such facility was seemingly required when the previous application was made in the summer of 2015.

13. Government guidance in relation to development within Class E is provided in the publication *Permitted Development Rights for Householders - Technical Guidance* (Department of Communities and Local Government, 2016) (the *Technical Guidance*). With regard to Class E, the *Technical Guidance* states:

'.....the rules also allow, subject to the conditions and limitations..... a large range of other buildings on land surrounding a house. Examples could include common buildings such as garden sheds, other storage buildings, garages, and garden decking as long as they can be

properly be described as having a purpose incidental to the enjoyment of the house. A purpose incidental to a house would not, however, cover normal residential uses, such as separate self-contained accommodation nor the use of an outbuilding for primary living accommodation such as a bedroom, bathroom, or kitchen (my emphasis in italics)'.
14. In other words, if the use of a space was fundamental to the ordinary day to day functioning of the dwelling it would not be incidental but part of the primary accommodation. Within his statutory declaration, Mr Pritchard suggests that the large viewing screen in the cinema room would be used in the evenings 'almost every day' for the purpose of watching films and television, as an alternative to watching a smaller television in the lounge. To my mind, that suggests that the cinema room would, in effect, be used as an extension to the primary accommodation, very much like an additional lounge, as opposed to an incidental use. As such, it would fall outside the scope of permitted development rights granted through Class E.

15. I have noted that toilet and shower facilities have been removed from the proposed buildings further to the decision of the previous Inspector who commented that such facilities would not be incidental. However, the Inspector noted that the presence of the facilities was 'a point of relative detail when considering a scheme of this scale' and his decision to dismiss the appeal was clearly based on fundamental concerns regarding the scale of development proposed. In this case, the absence of toilet and shower facilities does not alter my view that the development would not be required for a purpose incidental to the enjoyment of the dwellinghouse.

16. For the reasons given above I conclude that the Council's refusal to grant a certificate of lawful development was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

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F. ALLOWED

4/01801/16/FUL BRAYBEECH HOMES LTD
CONSTRUCTION OF FIVE DETACHED DWELLINGS (AMENDED
SCHEME)
LAND REAR OF 27-33, GROVE ROAD, TRING
[View online application](#)

1. The appeal is allowed and planning permission is granted for the construction of five detached dwellings at Land rear of 27-33 Grove Road, Tring, Hertfordshire HP23 5HA in accordance with the terms of the application, Ref 4/01801/16/FUL, dated 29 June 2016, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by BrayBeech Homes Limited against Dacorum Borough Council. This application is the subject of a separate Decision see below.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site would mainly comprise the rear gardens of Nos 27 to 33 Grove Road and would be accessed between No 27 and No 29 Grove Road. The surrounding area is characterised by a mix of detached and semi-detached dwellings of a variety of styles.

5. A scheme for the same site and including the erection of six dwellings on the appeal site was allowed in December 2016 where the Inspector found the density of the site would be at a comparable level to the surrounds, and the design of the properties would also assimilate well into the local character. The Inspector in December 2016 noted the heights of the proposed properties, whilst not strictly two storey, would match other similar modern housing nearby and the spacing between dwellings would be similar to the prevailing character of the area. Gardens would be of a reasonable size and overall the proposal would not appear as overdevelopment of

the site or contrived or cramped. Thus, the Inspector in December 2016 concluded that the development proposed at that time would not have an adverse effect on the character and appearance of the area.

6. I am not aware of any significant developments nearby which have taken place since December 2016 which have altered the character or appearance of the area in the vicinity of the appeal site in any way. Furthermore, there have been no changes to the development plan since that decision. I therefore attach significant weight to the previous appeal decision relating to this site and the fall back position provided by the approved scheme.

7. The scheme before me is very similar to the scheme which formed the subject of the December 2016 decision. The main differences are that the approved scheme is for six dwellings whereas the appeal scheme would involve the erection of five dwellings and would be a lower density development with less overall built mass, more space around the proposed buildings and larger gardens. The proposed dwellings would not be as tall as the approved dwellings.

8. Thus, in my view the proposed scheme is of a lesser scale of development than the approved scheme. Therefore, the proposed scheme would better blend into its setting and would not be as visually prominent as the approved scheme. Furthermore, the appeal proposal would provide a relatively spacious development with opportunities for landscaping along the site and plot boundaries which would further soften its visual impact.

9. That said, consistent with the Inspector's findings in December 2016 and given the fall back position I find the proposed development would not harm the character and appearance of the area. The proposed development would therefore accord with the development plan, specifically saved Policies CS11 and CS12 of the Dacorum Borough Local Plan 1991-2011(2004) which aim to ensure good design and that new development does not harm the character of an area. For the same reasons the proposed development would accord with the aims of the Area Based Policies Development in Residential Areas Tring Supplementary Planning Guidance (2004).

Other Matters

10. I have noted the concerns raised by interested parties including the effect of the proposed development on parking, traffic, highway safety, sewage and drainage and biodiversity. However, all of these matters were considered in detail in the December 2016 appeal decision and given the fall back position of the approved scheme and that the appeal proposal is very similar I have not reconsidered these matters in detail in this decision.

Conditions

11. The conditions I have imposed are broadly the same as those imposed on the December 2016 decision except where I have adjusted them to reflect the specific details of the appeal scheme and had regard to the conditions suggested by the Council.

12. I have imposed a condition specifying the approved plans and documents as this provides certainty. Conditions requiring tree protection measures, landscaping, materials and boundary treatments to be agreed are necessary to protect the trees and safeguard the character and appearance of the area.

13. Furthermore, as requested by the Council's contaminated land officer due to potentially contaminative former land uses nearby a condition is necessary to ensure the site is appropriately investigated for such and appropriate actions undertaken thereafter to ensure the safety of future occupiers. Moreover, conditions are also necessary to ensure appropriate parking provision and visibility in the interests of highway safety.

14. A condition is also necessary to ensure the recommendations of the ecological survey are carried out, in the interests of biodiversity. To safeguard the living conditions of neighbouring residents a condition to ensure windows facing neighbouring plots are fitted with obscured glass is also necessary, for the same reasons a condition requiring a construction management plan is also necessary.

15. It has not been demonstrated and thus I do not consider that exceptional circumstances exist to justify the removal of all permitted development rights for the proposed dwellings. However, given the proximity of neighbouring residents I consider that restricting roof extensions is necessary and justified in this case. Furthermore, to ensure the garages are used for parking is also justified in the interests of highway safety. Thus, I have imposed conditions which remove permitted development rights for roof extensions and the conversion of garages to living accommodation.

16. Finally, as was imposed on the scheme approved in December 2016, although not on the

Council's list of suggested conditions and given it was a specific concern raised by interested parties a condition is reasonable and necessary to ensure appropriate site drainage in the interests of safeguarding the water environment and the living conditions of neighbouring residents.

Conclusion

17. For the reasons set out above, having had regard to all other matters raised, the appeal is allowed.

SCHEDULE OF CONDITIONS

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan Drawing No BBH/005/PL/08; Plots 1 & 2 Plans and Elevations Drawing No BBH/005/PL/09; Plots 3 & 4 Plans and Elevations Drawing No BBH/005/PL/10; Plot 5 Plans and Elevations Drawing No BBH/005/PL/11; Site Sections and Street Scenes Drawing No BBH/005/PL/12; Site Survey Drawing No K1215-T; Landscape Proposal Drawing No 2258-11-01; Landscape Presentation Plan Drawing No 2258-11-02; Bat Mitigation and Enhancement Strategy (Arbtech) dated 22 July 2016; Ecological Assessment (Arbtech) dated 24 March 2016 and Design and Access Statement.

3) No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:

hard surfacing materials; means of enclosure; soft landscape works which shall include planting plans; written specifications; 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;

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted. The plans and particulars submitted shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting and a scheme indicating all of the proposed means of enclosure within and around the site whether by means of walls, fences or hedges. The approved means of enclosure around the external boundaries of the site shall be constructed, erected or planted prior to the commencement of other construction work on site and the approved means of enclosure within the site shall be constructed, erected or planted at the same time as the buildings to which it relates are constructed. If within a period of five years from the date of the planting of any tree that tree, or any tree 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 of the same species and size as that originally planted shall be planted at the same place in the next planting season. The development shall be carried out in accordance with all the approved details.

5) 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.

All remediation or protection measures identified in the Remediation Statement 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.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (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 B and C.

7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification) the garages hereby permitted shall be kept available at all times for the parking of vehicles associated with the residential occupation of the dwellings and they shall not be converted or adapted to form living accommodation.

8) Prior to first occupation of the dwellings hereby approved, the lower section of the bathroom windows at first floor level in the north-western elevations of Plots 1, 2, 3 and 4; the bathroom window at first floor level in the south-eastern elevation of Plot 5; the bedroom window at first floor level in the south-eastern elevation of Plot 1; along with the other windows shown with their lower sections fitted with obscured glazing on Drawing Numbers BBH/005/PL/09, 10 and 11 respectively hereby permitted shall be permanently fitted with obscured glass.

9) The proposed car parking spaces shall have measurements of 2.4m x 4.8m min. and be located on land within the ownership of the applicant. Such spaces shall be maintained as a permanent ancillary to the development and shall be paved and used for no other purpose.

10) Construction of the development hereby approved shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:

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

11) Prior to first occupation a visibility splay shall be provided in full accordance with the details indicated on the approved plan Site Plan Drawing No BBH/005/PL/08. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

12) Before first occupation or use of the development the access roads and parking areas as shown on the approved plans shall be provided and maintained thereafter.

13) Prior to the commencement of development, the further bat survey work identified in the Arbtch Worse Case Scenario Bat Mitigation Strategy shall be undertaken and the reports submitted to the Local Planning Authority for approval. The development hereby permitted shall be

undertaken in accordance with the mitigation and recommendations identified within the Arbtech Ecology Assessment and the Worse Case Scenario Bat Mitigation Strategy.

14) No development shall take place until a scheme for surface water drainage, including timing, phasing and works, has been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented in accordance with the approved details.

CLAIM FOR COSTS

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.

4. The appellant alleges that the Council has acted unreasonably in reaching its decision on the planning application by failing to produce evidence to substantiate its reason for refusal and made vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by objective analysis.

5. However, whilst the Council took its decision contrary to an officer recommendation it is entitled to do so. In my view, the reason for refusal is relatively self-explanatory and the Council's statement provides a clear explanation as to why the Council considered the scheme to be unacceptable with reference to site specific circumstances and relevant development plan policies.

6. Even though I have found that the proposed development would not harm the character and appearance, such matters are subjective and I find the Council gave clear substantiated reasons for reaching its own views.

7. For these reasons, I consider that the Council's decision was not unreasonable on its planning merits and the Council has provided sufficient evidence to support its decision. I therefore find that unreasonable behaviour resulting in unnecessary expense has not been demonstrated.