

**4/02389/16/FUL - RETENTION OF TWO THREE BED DWELLINGS (RETROSPECTIVE).  
11 BANK MILL, BERKHAMSTED, HP4 2ER.**

**APPLICANT: Mr P Cowman.**

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[Case Officer - Fiona Bogle]

Summary

The application is recommended for approval.

The site is situated within the urban area of Berkhamsted, wherein the principle of residential development is acceptable and has been established at the site through the granting of permission in 2009 to provide two dwellings. The building has been altered to partly accord with the plans that were allowed on appeal. Whilst the alterations do not set the roof slope back as far as the Appeal Inspector considered acceptable it is an improvement on the original built scheme. The difference visually between the current development and the appeal scheme would be negligible and taken account of changes in roof materials and the fact that a large two storey building is now being constructed next door, so reducing the overall impact of the scale of the development on the street scene, the proposal is considered acceptable in the context of Core Strategy Policies CS 12 and 27.

Site and surroundings

The application site, which extends to 0.033 ha, comprises the unauthorised construction of two dwellings on the former vacant plot of the bungalow that occupied the site between Nos. 9 and 13 Bank Mill which was positioned fully at the rear of the site. It lies on the north eastern side of Bank Mill. The site has a frontage to Bank Mill and backs onto the west coast main line railway. It has a width of approximately 15.5 metres and a depth of approximately 19 metres and the side boundaries are defined by brick walls. The rear boundary is defined by a high acoustic fence. The surrounding area comprises a narrow lane of predominantly detached bungalows and chalet bungalows of various styles and designs. Permission has recently been granted for the construction of a pair of semi-detached dwellings on the adjoining site, 13 Bank Mill. The site lies within the urban area of Berkhamsted and adjoins the Metropolitan Green Belt on the other side of the railway line. The site falls within the Bank Mill residential character area (BCA3) which is described as a very low density area of mainly detached houses in an informal semi-rural setting on the eastern edge of the town, with the Grand Union Canal running through it. The site lies opposite the recently extended Berkhamsted Conservation Area.

Proposal

Permission is sought to retain the development as currently built which has been altered to only partly accord with the plans that were allowed on appeal in April 2014 (4/01054/13/FUL) which was an amendment to the original application 4/1834/09/FUL that was granted for the construction of 2 three-bed semi-detached properties on 3 storeys with the first and second floors contained within a mansard roof form.

The plans show parking as per the allowed appeal (4/01054/13/FUL) with 2 spaces to the side of each dwelling in a traditional format. A small private amenity area is provided to the rear of each dwelling with a grassed area to the frontage enclosed by a wooden picket fence. To the front of this is a narrow grass verge.

Bin storage is provided on the driveways, whilst cycle stores are provided out of sight behind a fence to the rear of each driveway in accordance with the Proposed Site Plan. Site plan requested and received to confirm this.

The roof form is of an accentuated mansard design with shallow upper pitch over a steeper

lower pitched tiled roof, with the addition of an eaves sprocket. The shape of the roof accords with the allowed appeal only in respect of the addition of the latter detail.

The building is of brick and tile construction with bay windows and first floor windows set into the lower section of the mansard roof to the front and rear. Entrance doors are to the sides, and chimney stacks incorporated to each gable in accordance with the original approval and the allowed appeal. 4 x velux roof lights are provided to the rear, with solar panels to the front roof plane together with 2 large roof lights, again as allowed on appeal.

2 metre high acoustic fencing is provided between the railway line and the private rear gardens in accordance with the allowed appeal. However, details of tree planting and climbing plants to soften this feature to both the railway and garden sides are now omitted.

In addition, the enlarged and squared off single storey rear projections to each dwelling are provided as per the appeal scheme.

#### Reason for referral to committee

The recommendation is contrary to the views of Berkhamsted Town Council.

#### Relevant history

4/03000/15/RET	CONSTRUCTION OF TWO 3-BEDROOM DWELLINGS WITH OFF ROAD PARKING (AMENDED SCHEME) Refused 18/11/2015
4/01413/15/RET	CONSTRUCTION OF TWO THREE-BEDROOM DWELLINGS WITH OFF ROAD PARKING FOR TWO CARS PER DWELLING. (RETROSPECTIVE). Withdrawn 24/08/2015
4/01054/13/FUL	CONSTRUCTION OF TWO 3-BEDROOM DWELLINGS WITH OFF ROAD PARKING (AMENDED SCHEME) Refused but allowed on Appeal 16/08/2013
4/01829/12/FUL	CONSTRUCTION OF TWO 3-BEDROOM DWELLINGS WITH OFF ROAD PARKING (AMENDED SCHEME) Refused          Appeal Dismissed 30/11/2012      22/04/2014
4/00532/12/FUL	CONSTRUCTION OF TWO 3-BEDROOM DWELLINGS WITH OFF ROAD PARKING (AMENDED SCHEME) Refused 27/06/2012
4/01834/09/FUL	CONSTRUCTION OF TWO 3-BEDROOM DWELLINGS WITH OFF ROAD PARKING Granted 07/04/2010

- 4/00509/09/FUL CONSTRUCTION OF TWO 3-BEDROOM SEMI-DETACHED HOUSES WITH INTEGRAL GARAGE  
Refused  
22/05/2009
- 4/02347/08/FUL CONSTRUCTION OF THREE TERRACED HOUSES WITH FORECOURT PARKING  
Refused  
30/01/2009
- 4/01131/05/FUL DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF SIX FLATS AND ASSOCIATED PARKING  
Refused  
26/07/2005
- 4/01571/12/ENA APPEAL AGAINST ENFORCEMENT NOTICE - BUILDING MATERIALS  
Appeal Dismissed 22/04/2014

### **Constraints**

Situated within the "town" of Berkhamsted excluded from GB. It is adjacent to the railway line. No other material constraints other than as set out in the relevant policies.

#### Relevant policies

Core Strategy - CS1, CS4, CS8, CS10, CS11, CS12, CS13, CS17, CS25, CS27, CS28, CS29, CS30, CS31, CS32

DBLP - 10, 13, 18, 21, 51, 58, 63, 100, 111 and 125

Appendices 1, 3 and 5

#### SPG/SPD

Environmental Guidelines

Residential Character Area BCA 3: Bank Mill

Conservation Area Character Appraisal for Berkhamsted

Water Conservation & Sustainable Drainage

Energy Efficiency & Conservation

Advice Note on Achieving Sustainable Development through Sustainability Statements

Accessibility Zones for the Application of Parking Standards

#### Representations

##### **Berkhamsted Town Council (12/10/16)**

Object. The Town Council had objected to previous planning applications, most recently 4/03000/15/RET. The bulk and mass of the roof and the design of the bay windows continue to have a detrimental effect on the street scene. Contrary to Policy CS 11.

##### **Berkhamsted Citizens Association (22/01/17)**

I have looked at the Amended/Additional plans recently submitted, and cannot see on what grounds they should be approved, as they still fail to match the plans allowed on Appeal.

I also notice that the BCA objection (below) does not appear on your website.

**Berkhamsted Citizens Association (19/10/16)**

At the meeting of its Townscape Committee on 18th October 2016 the Berkhamsted Citizens Association (BCA) objected strongly to any granting of the above application on the grounds that the dwellings have not been built (amended) in accordance with the approved plans allowed on Appeal. The bulk and mass of the roof, and the design of the bay windows, continue to have a detrimental effect on the street scene.

The developer should be required to make the necessary amendments.

**Hertfordshire County Council Highways (16/01/17)**

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.

Amended application; the highway authority has looked through the amended details submitted as part of this retention of two three bed dwellings (Retrospective) application and it appears that details are concerned with the roof detail.

As far as far as the highway authority is concerned, this will not impact on the highway.

**Hertfordshire County Council Highways (17/10/16)**

Whilst it is unlikely that anything new or significant will have changed that would impact on the highway network from the last application for retention of these two houses , there is no plan attached showing the latest layout ie the driveways, VXO with vehicular and pedestrian visibility splays. I see that most of the changes are to the roof , as part of the conditional approval , gained at appeal but none the less I think that we should have a plan of the connectivity arrangements onto the highway.

**Scientific Officer (03/10/16)**

I have no additional comments to make in respect to contamination.

**Network Rail (12/01/17)**

No comments.

**Network Rail (28/09/16)**

No comments as this relates to the remedial works documents.

**Herts Property Services (28/09/16)**

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 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.

**Building Control (17/01/17)**

I have taken a look at this project and to date I have no comments.

## **Building Control (28/09/16)**

Regarding the proposed development, I confirm that I have no issues of further comments and proposal is satisfactory.

## **Thames Water (28/09/16)**

### Waste Comment

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. 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.

### Water Comments

With regard to water supply, this comes within the area covered by the Affinity Water Company.

## **Local Residents**

None received.

## **Considerations**

### Background

Following a series of refused applications in 2005, 2008 and 2009 for larger numbers of dwellings that were considered, inter alia, an overdevelopment of the site and out of keeping with the street scene, permission was granted in 2010 for the erection of two 3-bed semi-detached dwellings with parking (4/1834/09/FUL). This followed extensive pre-application negotiation together with amendments during the course of the application to ensure a development that would be in keeping with the character of the area whilst also providing the accommodation sought by the applicant on this very shallow site, which was also subject to the constraints of the railway and noise issues, as well as the need to provide adequate off-street parking due to the narrow nature of the road.

In November 2012, an enforcement investigation was instigated wherein it was noted that development had commenced but no conditions had been discharged. Moreover, the development was materially different to that granted in 2010 in respect of:

- Single storey rear additions squared off

An amended application was requested showing all amendments, and the applicant advised that any further development was "at owner risk". An application was received in March 2012 although was not valid until May 2012 (4/00532/12/FUL).

Following a site visit in March 2012, it was discovered that the development was well under

construction and materially different in a number of further respects:

- Mansard roof pitches altered
- Side windows repositioned
- Additional roof lights added to rear
- Bay window dimensions and proportions altered
- Roof lights to front repositioned
- Solar panels added to front

However, the application sought permission only for amendments in respect of the enlarged single storey rear additions, the roof lights to the rear and the roof lights and solar panels to the front. Approval to the remaining alterations was not sought by the applicant despite the fact that the development was substantially complete. The application was refused on 3 grounds and, in July 2012, an enforcement notice requiring demolition was served (upheld on appeal in April 2014). A further application was submitted in September 2012 and sought permission for the development as built (4/01829/12/FUL). That application was refused planning permission and an appeal was dismissed in April 2014 (concurrently with the enforcement appeal).

An application in 2013 (4/01054/13/FUL) was submitted for a "half way house" scheme between that of the design "as approved" and that "as built", primarily in respect of the shape of the roof and roofing materials. However, although recommended for approval, the application was refused by the Development Control Committee. A subsequent appeal was however allowed in April 2014 (concurrently with the dismissal of the "as built" scheme).

In 2015, the applicant claimed that the proposed alterations under the allowed appeal had been partly implemented in respect of the alterations to the shape of the roof, and fully in respect of the change to the roofing materials. That application sought retrospective approval to a scheme between that "as originally built" and that of the "allowed appeal". However, officers did not accept that the black drawn sectional line shown on the submitted drawing represented the line of the roof after the alleged remedial works had taken place, as claimed. Officers considered that the drawing 11/28501/05 was incorrect and misleading - the lower roof slope had not been set back as shown but rather still remained in the position indicated by the blue dashed line which was dismissed on appeal. This was confirmed by the following:

- comparison of photos of the scheme 'as built' before the appeal and the scheme 'as built' now (the "remedial" scheme), which did not show any change.
- No evidence of BR approval to the structural alteration which would have required the steel beam to be moved back.
- If pushed back, as suggested by the drawing, the scheme would accord with the allowed appeal and there would be no need for retrospective approval.

Based on the above, the approval that should have been sought, and which was not shown by the plans, was for the retention of the lower mansard roof in the position indicated by the blue dashed line (as originally built) with the only change relating to the addition of the eaves sprocket.

The application was withdrawn to allow the applicant to submit a revised application with before and after photos, an engineer's drawing showing details of Drg. 05, and supporting statement explaining why the "half-way house" scheme can't be built. It was also anticipated that there would be evidence of the BCO officer's approval to and corroboration of the alterations undertaken.

A subsequent application in 2015 (4/03000/15/RET) sought another retrospective approval to a "remedial" scheme between that "as built" and that of the "allowed appeal". The difference between this and the withdrawn scheme was significant. The eaves overhang increased from

400 mm to 470 mm, the lower roof pitch was steeper than previously shown and the steel beam remained as originally built rather than being set back to accommodate the shallower pitch as was shown before.

After careful consideration by the case officer, in consultation with the Enforcement Officer, that application was considered not to be materially different to the "as built" scheme and was refused in November 2015. In that scheme the difference in the pitch of the lower slope between the "as built" and the "remedial" scheme was only 5 degrees, which was noted as being considerably nearer the "as built" roof pitch than the "allowed appeal" roof pitch, noting also that this was already a departure from the "approved" upper and lower roof pitches. As such, not being materially different to the "as built" scheme, the "remedial" scheme was considered to appear much more boxy and rudimentary in appearance than the "halfway house" scheme, and as such harmful to the street scene and the character and appearance of the adjoining Conservation Area.

The current application is effectively a resubmission of the 2015 refused application to retain the building as altered (the "remedial" scheme), the only difference being that a different drawing practice has been used to prepare the plans (because of alleged inaccuracies in the previously submitted drawings), albeit that the original case officer spent a considerable amount of time with the applicant's agent to ensure that the plans correctly reflected the various approved, as built, and appeal plans.

#### Policy and Principle

The site is situated within the urban area of Berkhamsted wherein the principle of residential development is acceptable under Policies CS1 and CS4.

Character Area BCA3 states that redevelopment will not normally be permitted, although infilling may be acceptable according to the development principles. Medium to large dwellings are appropriate and encouraged. A wide spacing (5 to 10 m) should be maintained and the density of development may be provided within the low range (15-25 dwellings per hectare).

Since the appeal decision, the Berkhamsted Conservation Area has been extended into the Bank Mill area and the site now lies adjacent to the Conservation Area where proposals should preserve or enhance the character and appearance of the area in accordance with Policy CS27 and saved Policy 120. This was approved by Cabinet in January 2014.

The principle of residential development on this site for two 3-bed dwellings with off-street parking has already been accepted in the grant of permission in 2009 and the recent allowed appeal in April 2014.

The key issue in the assessment of this amended application concerns the impact of the roof alterations on the street scene and the character of the area.

#### Impact of roof form / design on street scene and character of area

The site lies adjacent to the extension of the Berkhamsted Conservation Area where proposals should, likewise to proposals within the area, preserve or enhance the character and appearance of the area.

The benchmark scheme against which the proposal must be considered is the "halfway house" scheme which was allowed on appeal in April 2014 (4/01054/13/FUL). This was, as the name suggests, a compromise between the originally "approved" scheme and the "as built" scheme.

It should be noted that the mansard roof on the original permission was negotiated as a specific response to concerns raised in respect of the initially submitted crown roof design with

two storey rendered walls. As such, the design, with the low eaves height, helped maintain the focus to ground floor level whilst, in combination with the use of brick and tile, also helped to soften the appearance of the development in the street scene, offsetting the overall three storey height of the development.

An important element of the design was to achieve elegantly proportioned pitches - neither being too steep, nor too shallow - taking its cue from the existing mansard roof property next door. In practice the design was still a compromise with the applicant's requirement for accommodation in the second floor. However, the design was negotiated in combination with a limit to the amount of fenestration within the upper two floors of the development in order to reinforce the sense of modesty.

On the previous application for the "remedial" scheme, the Design and Conservation Officer raised concerns with regards to the design, bulk and massing of the mansard roof as proposed, together with other details, which were materially different to the permitted scheme.

Referring to the submitted drawing 124/05 Rev 5, the elevations as "approved" (black dashed line) show the lower tiled sections at a pitch of approximately 71.7 degrees and the upper roof slope at a pitch of 31.5 degrees.

The applicant's "as built" scheme (green dashed line), the subject of enforcement action and which was dismissed on appeal, had a pitch of some 85 degrees on the lower roof pitch and 28 degrees on the upper.

The applicant's "halfway house" scheme (blue solid line) which was refused by DBC (against officer recommendation) but allowed on appeal, has a slightly steeper lower pitch than the approved scheme, of 72.5 degrees (previously noted as 73.5 degrees - the difference dependent on which plan is scrutinised from the appeal scheme), but retains the upper roof pitch of the "as built" scheme at 28 degrees.

The planning enforcement situation, following the appeal decisions, is that the applicant has to either reduce the "as built" scheme back to the "halfway house" scheme, or demolish the dwellings. In the circumstances, rather than comply with the "halfway house" scheme (which was the applicant's own compromise proposal after negotiations with officers), the applicant has now built a compromise between the "as built" scheme and the "halfway house" scheme. For clarity this shall be called the "remedial" scheme.

#### The "remedial" scheme

The "remedial" scheme now sees the lower roof slope only slightly shallower than the "as built" scheme at 79.6 degrees whilst the upper roof slope remains "as built" at 28 degrees. The only alteration that pays some deference to the "halfway house" scheme is the kicker sprocket at the base of the lower slope which marginally reduces the pitch for the last 0.65 m but increases the eaves overhang from 0.25 m "as built" (and as "approved") to 0.4 m. It is also noted that matching materials for the upper and lower slopes have now been introduced which rectifies this part of the unauthorised "as built" scheme.

The key issue is whether the difference between the presently built "remedial" scheme and the "halfway house" scheme causes such harm as to warrant refusal.

In considering the "halfway house" scheme in 2013, officers were of the view that the proposed changes were acceptable and would reduce the overall mass and bulk of the roof and would reduce the visual prominence in the street, although the recommendation was acknowledged as finely balanced.

At the subsequent appeal, the Inspector *"doubt(ed) that the ordinary man in the street would*



*be able to appreciate the difference in profile of the roof as approved and that as now proposed".*

The elevations on the "approved" scheme show the lower tiled section at a pitch of 71.7 degrees, whereas on the proposed "remedial" scheme it is near vertical at approximately 80 degrees. Whilst this is shallower than the "as built" scheme of 85 degrees, it is also closer to the "as built" scheme than the "halfway house" scheme, to the extent as makes little perceptible difference to the "as built" bulk and mass. This, however could be said to be true of the current scheme compared to the "approved scheme". The Inspector dismissed the "as built" scheme, commenting as follows:

*"In the scheme as built, Appeal B, the pitch of the lower slope has increased from around 71.5 degrees as approved to some 85 degrees with some reduction of pitch of the upper slope. The lower slope is much steeper; indeed at 85 degrees it approaches the vertical. The change in profile takes the design further away from the intended mansard style; appears in particularly poor contrast when seen together with the mansard roof of the adjoining property, No. 9; and has resulted in a notable increase in the bulk and mass of the roof.*

*The building sits forward of its neighbour at No. 9 so that the side gable with its changed and wider profile is a significant feature in views along the road from the north west. The gable to the other side is just as prominent in views along the road from the opposite direction as it rises well above the traditional sloping roof of the bungalow at No. 13. In these circumstances the roof is visually dominant in the Bank Mill street scene and also when viewed from more distant locations such as from the bridge over the canal. The roof of the scheme as approved would similarly have been a prominent feature in such views, but its more traditional shape and gentler pitch of the lower slope would have enabled the new building to better integrate with the existing built form along Bank Mill and the surrounding area."*

It must also be recognised that the upper roof pitch remains in its flattened form in accordance with the "as built" scheme at around 28 degrees. Therefore the only change being considered is to the lower pitch, which is a very marginal change. Indeed the test of this marginality is how difficult it is to detect any appreciable difference between the current "remedial" scheme and the "as built" scheme, even with close inspection of photographic evidence. A difference of about a brick header in set back is just detectable at the junction of the lower and upper roof slope.

Whilst the "halfway house" scheme was considered acceptable by the Inspector, this was clearly in the context of the roof slope only being marginally steeper than the "approved" scheme. On balance, it is considered that the current "remedial" scheme (as also with the previous "remedial" scheme) whilst not appreciably different to the "as built" scheme, has attempted to some degree to lessen the overall impact. Although, when compared with the "halfway house" scheme allowed at appeal, it does not go as far to rectify the situation and does present a more boxy and rudimentary design than the "halfway house" scheme. It is, however an improvement on the original "as built" scheme and together with the change to the materials of the upper roof slope and the fact that new development is well under construction next door (both aspects considered below), it is now considered that the changes carried out would not be so harmful compared to the "halfway house" scheme to justify refusal of the application.

#### Detailed design aspects

##### Roof lights and solar panels

In considering the appeal proposal, the Inspector considered that the change in number and position of the roof lights does not seem to be a significant change given that there is symmetry to the pair of houses. She also noted that the solar panels on the upper front roof

slope are a prominent feature but these are becoming increasingly common on residential properties, and that their installation could have been installed as PD once the houses had been completed. It should be noted that Part 40 PD rights were not withdrawn.

### Bay windows and first floor windows

As a result of the roof alterations, the first floor windows would significantly oversail the ground floor walls, contrary to the approved plan. On the approved elevations and the section drawing submitted with this application, the windows are shown set back level with the outer wall plate (if not slightly recessed), whereas on the elevations submitted and the roof structure as built, the windows are shown oversailing the ground floor walls, thereby further emphasising the dominance of the roof. This would be accentuated by the eaves overhang of 0.4 m. Furthermore, the proportions of the bay windows vary significantly from the approved plans which had an elegant vertical emphasis to help counter the otherwise relatively bulky appearance of the building. It is clear that the amount of brickwork under the windows has been constructed to a greater height than that shown on the approved plans. As a consequence, the windows are wider and squatter.

In considering the appeal proposal, the Inspector considered that the first floor windows oversailing the ground floor wall and the change to the front bays do not enhance the appearance of the houses. Nevertheless, she noted that the site was not within a conservation area and that a characteristic of the area is the variety in the style and design of properties. However, this was given in the context that, with the changes to the roof as proposed in Appeal C, the departures from the approved scheme were insufficient individually and cumulatively to result in any material harm to the character and appearance of the area.

### Materials

On the previous recommendation of the Council the applicant proposed alternative tiles as part of the appeal proposal. The tiles are Forticrete Gemini, which have the appearance of plain tiles that would meet a lower pitch criterion. The change in tiles on the upper roof slope to match the lower roof slope have been carried out and is welcomed. The roof materials are considered to overcome previous concerns expressed by officers (and the Inspector) about the use of interlocking tiles and plain tiles respectively on the upper and lower roof slopes, and are acceptable in visual terms and in accordance Policy CS11 & CS12 and CS27 of the Core Strategy.

### Other Street Scene Considerations

The surrounding area is residential, with density within the very low range (less than 15 dph). Dwellings are mainly detached and of a variety of styles, mainly modern, medium to large and a mix of bungalows and two storey houses.

The majority of properties in the immediate area have open front gardens with 1-2 off street parking spaces. To ensure that the proposed properties retain their front gardens and to preserve the character of the area it is considered necessary to remove permitted development rights for hard surfacing at the property. This can be achieved through an appropriately worded condition.

There are no changes from the approved scheme / allowed appeal in terms of the number, density or type of dwellings. The considerations that applied in respect of the approved scheme in terms of saved Policy 10 therefore remain as before, i.e. whilst the density of 60 dph is a considerable increase on the former 30 dph and substantially in excess of the general density of the surrounding area, nevertheless, the general size, scale and mass of the building, and the layout of the development with parking down the sides, would be commensurate with those on adjoining and nearby plots and would retain suitable spacing. In size and density

terms, the proposal would accord with saved Policies 18 and 21 of the Borough Plan. It should be noted that permission has recently (2016) been granted for a pair of semi-detached dwellings on the adjoining site (No. 13 Bank Mill) not dissimilar in site area to that at 11 Bank Mill. This development is now well under way and comprises a traditional two storey gabled development. Its presence does in some way lessen the overall impact and prominence in the street scene of the development at number 11.

The character assessment states that detached houses are appropriate, not normally exceeding 2 storeys. Whilst the proposal relates to a semi-attached pair, given the considerations above, it is not considered that this would be harmful in this case. Bank Mill comprises bungalows, chalet bungalows, together with a two storey mansard roof property. These have a low key and modest impact which maintain a semi-rural character to the area. In terms of height, the proposal would technically be three storeys. However, the plans submitted with the current application demonstrate that the eaves level and ridge height of the development are similar, if not the same, as 9 Bank Mill.

As set out in previous reports, and accepted by the Inspector in allowing the appeal scheme (4/01054/13/FUL) the slight change in levels over the approved scheme is not considered to have a detrimental impact on the residential amenities of the adjoining properties. It is also considered that the slight changes to the ridge and eaves height has a neutral impact on the character and appearance of the street scene. Details of levels were a matter for consideration under Condition 4 of the approved scheme. As the development has been constructed such a condition would not be required if permission were to be granted. The proposal therefore accords with Policies CS11 & 12 of the Core Strategy.

In terms of siting, and the accommodation of parking and landscaping, no changes are proposed from the approved scheme or the allowed appeal. The proposal would therefore remain relatively spacious in its overall layout, and sit comfortably in the street scene in keeping with the spacing of the surrounding area. Spacing of 2.9 metres at ground floor and substantially more than this at first floor would be achieved with the adjoining dwellings thereby according with the character appraisal for the area.

In terms of the increase in size of the single storey rear projections to square these off, no changes are proposed from the allowed appeal in this respect. Appendix 3 of the Local Plan requires an average minimum garden depth of 11.5 metres or, in the case of infill developments, as here, gardens of equal depth to adjoining properties. The depth of gardens would not change as a result of this amendment. Whilst the rear garden depths at 4.8 to 6.5 metres would be substantially below the 11.5 metre minimum, they would nevertheless be commensurate with those to adjoining properties which all back onto the railway line here. Gardens are also required to be of a width, shape and size to ensure the space is functional and compatible with the surrounding area. Whilst that to Plot 11b is somewhat narrow at 8 metres, it is considered that the amenity space provision would be functional and its small size not materially harmful to the character of the area. The marginal increase in the width of the rear projections would not significantly reduce the available private amenity areas in this respect and is therefore considered acceptable.

However, to ensure that adequate amenity space is retained it is deemed necessary to remove permitted development rights for rear extensions and outbuildings to the proposed properties. This will allow the Council to control any future extensions and ensure that adequate amenity space is retained.

#### Impact on Neighbours

No changes are proposed to the windows on the flank elevations despite the unauthorised construction on site. Subject to an obscure glazing condition for side bathroom windows, there would be no direct overlooking of adjoining properties. Given the siting away from the side

boundaries with Nos. 9 and 13 Bank Mill, it is not considered that there would be any significant loss of light or overbearing appearance to these properties despite differences in levels.

There would be some overlooking of the garden of 'Brig End' opposite the site, but given that the side garden of this property can already be viewed by pedestrians walking along Bank Mill and from a first floor window at 13 Bank Mill, and given the distance away of some 20 metres to the private garden (more to the patio), it is not considered that there would be any material harm that would justify a refusal. The development would accord with Policies CS11 and CS12 of the Core Strategy.

A window is positioned on the side elevation at first floor level. To ensure that this window does not result in any overlooking a condition is required for it to be obscure glazed.

#### Impact on Highway

No objection has been raised by Hertfordshire County Council Highways.

In recognition of the narrow width of Bank Mill, and the oft quoted issues with on-street parking and blockages, it was considered that the provision of two parking spaces per dwelling was appropriate and necessary in this case, but needed to be balanced against the likely harm to the character of the development if further parking were to be provided on the frontage of the site in lieu of the front gardens. The approved scheme proposed 2 tandem off-street parking spaces per 3-bed dwelling which, although marginally below the requirement of 2.25 spaces per dwelling as set out in Appendix 5 of the Borough Plan, is considered satisfactory.

The proposal is therefore considered to be in accordance with Policies CS12 and saved Policy 58 subject to the imposition of visibility splays. This condition is required to ensure that vehicles leaving the site can do so safely.

It would be expedient to withdraw PD rights relating to Class A side extensions in the interests of ensuring adequate off-street parking is maintained.

#### Sustainability

A sustainability statement August 2016 has been submitted in accordance with Policy CS29 of the CS. The statement indicates, inter alia, that energy conservation in the building has attained higher levels than required under the Building Regulations through higher levels of insulation together with heating management controls. It is stated that the development was carried out in accordance with the Sustainability Statement and that a Sustainable Homes Code Certificate Level 3 has been achieved. Since consideration of the original application these matters are now covered under the Building Regulations.

#### Noise

The site is in close proximity to the east coast mainline railway and could therefore impact unacceptably on the living conditions of occupiers of the new dwellings. A PPG24 noise survey has not been submitted, although this is now superseded by NPPF. Mitigation measures comprise an acoustic fence, double glazing, insulation and the siting of bedroom windows to the front of the property where possible. The measures have been implemented and the Council's Environmental Health Officer has not raised any objections.

#### Contamination

Site contamination is a material consideration under NPPF Para 121. The Council's Scientific Officer has previously stated that the site is located within the vicinity of potentially

contaminative former land uses and that there may be land contamination issues associated with this site. The applicant previously submitted a phase 1 environmental study for the site. The report concluded that there is no contamination with the in the site. The Council's Scientific Officer was satisfied with the content of the report and no further conditions are required if permission were to be granted. The SO raises no objections to the current application. The development therefore conforms with Policy CS32 of the Core Strategy.

### Social and physical infrastructure

The requirement for a s106 planning obligation seeking financial contributions to social and physical infrastructure was previously negotiated with the applicant on the halfway house scheme with an agreement to relax contributions if significant changes were made which overcame all the design concerns raised by the Council. It was considered that the alterations, on balance, were acceptable. However, the changes were not significant enough to apply flexibility to a formally adopted SPD.

In the meantime, Dacorum has now introduced CIL from 1st July 2015 which means that levies are now applicable in place of s106 contributions. A CIL form has been completed.

The proposal therefore complies with saved Policy 13 and CS35 of the CS.

### **Conclusion**

It is considered that the current "remedial" scheme, whilst does not go as far as the "halfway house" scheme, does make an attempt to reduce the overall impact of the development on the street scene and surrounding area through the minor alterations to the roof pitch and change in materials on the upper roof slope to match the lower slope. These changes together with the new development at number 13, which helps to obscure the overall scale and bulk of the development on the street scene, on balance, are considered to be not so harmful to justify refusal of the application and thereby are considered acceptable in the context of Policies CS 12 and 27.

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

- 1 **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**

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.

- 2 **No wall, fence, hedge or other means of enclosure to be provided along the site frontage shall exceed a height of 600mm in accordance With Policy CS12 and Saved DBLP Policies 54 and 58.**

Reason: To provide adequate intervisibility between the accesses and the existing public highway for the safety and convenience of users of the highway and of the access.

- 3 **The windows at first floor level in the north west and south east elevations of the development hereby permitted shall be permanently fitted with obscured glass.**

Reason: In the interests of the residential amenities of the occupants of the adjacent dwellings, in accordance with CS Policy 12.

Article 35

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.