

**4/02224/17/FUL - CONVERSION OF BOXMOOR HALL INTO 7 RESIDENTIAL UNITS.  
BOXMOOR HALL, ST JOHNS ROAD, HEMEL HEMPSTEAD, HP1 1JR.  
APPLICANT: Mr & Mrs Lardner.**

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[Case Officer - Nigel Gibbs]

### **Summary**

The proposed conversion of this building with Class D1/ D2 use is, according to the Applicant/ Agent, due to the cumulative effect of a range of factors, notwithstanding the fact that the building was purchased from the Council to continue in such lawful uses. These factors have been examined by the Strategic Planning Unit which is very conscious of the importance of retaining the Borough's community/ social infrastructure though Dacorum Core Strategy Policy CS23, being such an important sustainable development policy. However, with due weight given to the Applicant's / Agent's submitted information regarding viability and other community buildings locally, together with issues concerning noise and site licensing issues it is considered that there is a case to support the loss of this community use building.

Despite the original intention to use the building for its lawful use as a public hall it has proved extremely problematic and has become increasingly difficult, hence the application for residential use.

The proposed loss of this historically important community use building has been very carefully considered, There are available alternative community buildings for such purposes. It has therefore been concluded that there is a case for the loss of the hall.

Set against this, the principle of a residential use is regarded as an acceptable alternative in a very sustainable location where there can be a flexible approach to the level of parking. A range of conditions are necessary. Fundamentally these include the requirement for the developer to extinguish existing highway rights at the site frontage under Highways legislation through a Stopping Up Order before the development can be carried out. There are also outstanding bat protection issues. The development, however is considered acceptable in accordance with Core Strategy Policies CS4, CS12 and CS23.

### **Site Description**

Boxmoor Hall occupies a prominent position just to the west of the St Johns Road – Park Road junction which is linked to Station Road, close to St Johns Church. This very distinctive late 19<sup>th</sup> Century Dutch gable roof 2 storey building forming the main hall features a subordinate lower three storey component and a single storey rear extension. The building is set back from the road by a deep forecourt which incorporates a stepped entrance, disabled ramp, parking and planted area . There is a small controlled parking zone/area opposite. The Hall is located between the new dwelling house (no.4 ) to the immediate west, and Heath Park House, a block of flats to the immediate east.

Hertfordshire County Council Highways has identified that the site frontage of Boxmoor Hall and the equivalent at Heath Park flats to be highway.

The Hall was closed in 2004. According to the Agent this was due to the withdrawal of public funding. The Applicant purchased Boxmoor Hall from this Council in 2007. This followed the LPA's issue of a Lawful Development Certificate for Class D1 (Non Residential Institution: for a Creche/Day Nursery, the provision of education and a Public Hall) and D2 (Assembly and Leisure for a Concert Hall uses.

The supporting Planning Statement confirms that as a privately-run facility, it is reliant on bookings from private/corporate entities to remain open, as it does not receive any public funding. The venue has been independently funded since being purchased in 2007, and

business at Boxmoor Hall has been negatively affected by the economic crash of 2008, and the subsequent lengthy recovery

## **Proposal**

This is for the conversion of the Hall into 7 residential units. These will provide 2 studio apartments, 1 one bedroom apartment, 3 two bedroom apartments and 1 three bedroom apartment. This will be facilitated by the installation of 2 mezzanine floors, a range of new windows (including 12 roof lights) and an extension to form a lift. The single storey rear extension will be demolished to provide a fenced garden and refuse facilities.

The front entrance will incorporate a redesigned disabled ramp, stepped entrance, 2 parking spaces, 4 cycle stands, an electric car charging point and railings/fencing. A revised plan has been received showing refuse facilities.

The application is supported by a range of documents which are available on the Council's web site for the application. These include:

- Planning Statement.
- Heritage Statement.
- Design and Access Statement.
- Dacorum Core Strategy CS29 Sustainable Construction Statement.
- Bat Survey Report.
- Loss of Community Facility Statement.

The supporting Planning Statement confirms amongst a range of issues:

- The owners of Boxmoor Hall have attempted to increase the venue's market share of the leisure & hospitality sector by diversifying its activities. They have invested heavily in Boxmoor Hall, specifically in marketing, branding and PR to reach a wider audience beyond the Borough. However, a number of key factors have seriously impacted upon the business, as they have restricted the activities that can be undertaken at Boxmoor Hall, meaning it no longer runs as a hub for community usage.

These factors include:

- restrictive and expensive Pay & Display parking bays- mainly occupied by K-zone permit holders,
- insufficient disabled access to the whole venue,
- irreconcilable and on-going issues with neighbouring properties,
- the issue of a Noise Abatement Notice, which has deterred music groups, live performances and performing arts, and
- competing local subsidised/charity-funded venues.

## **Referral to Committee**

The application is referred to the Development Management Committee due to the request of

Councillor Janice Marshall.

### **Relevant Planning History**

The site is subject to lawful development certificate for a D1/ D2 use. Previously the LPA granted planning permission for a disabled ramp.

There have been withdrawn applications for modifications to the front of the site and a withdrawn application for the conversion to 8 residential units.

### **Policies**

#### National Policy Guidance

National Planning Policy Framework (NPPF)

#### Dacorum Core Strategy

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS2 - Selection of Development Sites  
CS4 - The Towns and Large Villages  
CS8 - Sustainable Transport  
CS9 - Management of Roads  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS13 - Quality of Public Realm  
CBS 14 -Economic Development  
CS15-Offices,Research,Industry, Storage and Distribution  
CS16 - Shops and Commerce  
CS17 - New Housing  
CS19 - Affordable Housing  
CS23-Social Infrastructure  
CS27 Quality of the Historic Environment  
CS28 - Renewable Energy  
CS29 - Sustainable Design and Construction  
CS31 - Water Management  
CS32 - Air, Water and Soil Quality  
CS35 - Infrastructure and Developer Contributions

#### Saved Policies of the Dacorum Borough Local Plan

Various Policies  
Appendices 3 & 5

#### Supplementary Planning Guidance / Documents

Area Based Policies (May 2004) - Residential Character Area  
Water Conservation & Sustainable Drainage (June 2005)  
Energy Efficiency & Conservation (June 2006)  
Affordable Housing (Jan 2013)

### **Summary of Representations**

Councillor Janice Marshall

As one of the ward councillors for Boxmoor it is requested that, if the Officers are minded to grant permission, this application is decided by the Development Management Committee in order that there maybe public debate and opportunity for the public (including of course the applicants) to address the Committee.

My reasons are :

- The wider public interest in the building which was built in the late 19<sup>th</sup> Century for the community and for community and social use. In view of the historic background, the Committee needs to be satisfied that the change of use from Class D2 to residential is justified, having the tested the basis upon which the applicants make their claim that continued use of the premises as Class D2 is unsustainable.
- The application provides for 2 car parking spaces at the front of the building by removal of the disabled access ramp. The car parking appears to impinge on highway land. I am aware that this issue has been a cause of concern in respect of an earlier application (which was subsequently withdrawn) but, to my knowledge, it is still unclear where the highway extends in front of Boxmoor Hall. A clear unambiguous statement from Hertfordshire Highways is needed.
- The number of residential units proposed, together with the lack of amenity space, refuse facilities and car parking is of concern.

### Strategic Planning

Formal advice awaited. The extensive previous advice regarding the withdrawn application was:

#### 1. Response to Community Facility Statement

There has been a request for a response to a statement regarding the loss of the community facility. SP welcome the additional statement which is concise, although much of this only repeats earlier information provided.

The starting point in policy terms is that if the Boxmoor Hall is unviable, and SP is satisfied that the Applicant has made a robust case for this, then under Policy CS23 there is no need to identify replacement facilities. The points below should be tempered by this position.

SP do not have a detailed knowledge of the site or the activities of the hall, so SP will have to take much of the information provided on face value. SP understand that local residents have challenged many of their assertions.

SP would acknowledge that the owners have attempted to invest in and diversify activities at the hall over a period of time. However, the facility has been struggling over the last few years due to the:

- Recent economic downturn;
- Lack of available immediate and nearby local parking;
- On-going neighbour disputes;
- Existence of a Noise Abatement Notice.
- Availability of other alternative (and often superior) facilities.

SP note that this has had an adverse impact on staffing levels, investment in the maintenance of the building and the activities that can be run from the venue. On this basis, SP would conclude that these factors would impact on the present operation and longer-term viability of the hall without additional investment.

SP would accept that there are facilities nearby that compete with and cumulatively perform a similar function to the hall. The position for the hall is worsened as many of these venues offer

better facilities in terms of location away from residential properties, outside useable space, car parking, etc.

Notwithstanding the above, SP feel that the applicant's case would benefit from further clarification

- Have they provided any details regarding the decline in revenue/profit in terms of viability? What level of investment has the owner put into the business?
- Have they any further details in terms of the decline in users over time (only two are referred to)?
- Can the alternative facilities referred to accommodate all the current users needs?
- Can they better articulate the level of investment required in the building which is not being met by current income?
- Are they able to actually list other suitable venues close to the hall e.g. church halls, private hire venues, social clubs, schools, etc.?

While it is regrettable to see the loss of this local and long established amenity, policy is clear that if the venue is unviable then there is no need to require replacement facilities. Furthermore, SP consider that on face value there are a number of factors affecting the long-term future of the hall and its viability, although some further explanation of this would be beneficial.

2.November 2016: Response to Agent's Additional Information at the Time (see below)

SP continue to welcome the additional information. Ultimately, it is not the Councils role to force an unviable operation to continue. Wherever possible, SP should take the opportunity to ensure that productive use is made of buildings and that such alternative uses are suitable in terms of their impact locally and on the property itself.

It would appear that Boxmoor Hall is facing an uncertain future. Despite the applicant investing heavily in the facility over time, there is a continued need for further investment to improve the quality and accessibility of facilities it offers and the fabric of the building. The financial situation of the Hall is being made difficult by reducing profits (down by nearly 2/3rds from the previous year) as a result of falling room bookings. This position is complicated by the lack of available parking, neighbour disputes, noise nuisance issues and the availability of alternative venues. SP are not sure to what extent these particular points individually or collectively can be fully and practically addressed. Therefore, SP accept that the hall's on-going viability is likely to prove to be increasingly difficult.

SP would readily acknowledge that the Hall is having to compete with a very wide choice of alternative venues open to users that are all within a short distance. The applicant has helpfully pointed to a list of at least a dozen venues nearby, and which on a number of occasions provide superior facilities to the Hall (particularly parking). This would make it even more difficult for it to compete effectively for bookings.

There may be theoretical scope to improve the financial situation of the Boxmoor Hall, for example, if the hall were to diversify into other activities or if a cheaper option emerges for overcoming the noise problems. We have no details of the former so we cannot comment on this. However, SP note that Environmental Health is advising on the latter, although SP do not know what practical difference this alone will make to bookings and thus future profits/viability. Furthermore, the Hall would still ultimately be left with other outstanding issues mentioned above that would continue to adversely impact in varying degrees on the potential future of the business.

Boxmoor Hall is likely to struggle to remain viable. There remains a number of other fundamental factors that are unlikely to be resolved. These will only serve to make the financial position worse for the hall. Therefore, on balance, we do not raise any objections to the loss of the community facilities.

(Response to the Agent's Statement at the Time)

The latest set of published accounts for Boxmoor Hall Limited shows a major decrease in profit from the 2015 financial year to the 2016 financial year. This rapid decrease in profit is a result of the loss of bookings/regularly-run activities at the hall, due to the reasons outlined in our original 'loss of community facility statement' i.e. the lack of available immediate and nearby local parking, on-going neighbour disputes, the existence of a Noise Abatement Notice and the availability of other alternative (and often superior) facilities).

The client has advised that she has invested a significant of her own money into Boxmoor Hall. Boxmoor Hall now requires further investment, including a new roof to satisfy the noise issue with EHO, a lift to the first-floor level to comply with DDA, and serious repairs to the brickwork adjacent to the newly-built house to the west of the site, as the brickwork no longer benefits from sunlight to dry out the damp. The profit recorded for the latest financial year(2016) is a mere minimal which will not come close to meeting the significant repair costs. The repair costs will need to be met by the client, as there is no public funding available, however, the client doesn't have the funds available at this time, nor will they in the foreseeable future, due to the lack of revenue being created by the business. If the necessary repair works are unable to be carried out, Boxmoor Hall is in danger of falling into a state of disrepair.

Boxmoor Hall used to be a venue used by business network groups, a wide variety of leisure and fitness groups, a greater number of Life & Soul Academy members/students, music rehearsal groups and band promoters. However, for the reasons outlined above, and within our original 'loss of community facility statement', these groups/individuals have been deterred and their use of Boxmoor Hall has become untenable.

#### Conservation & Design

Based upon discussions with the relevant officer there are no fundamental or detailed objections.

Note: This is set against the advice upon the withdrawn application which required a range of changes.

#### Building Control

No response.

#### Strategic Housing

Due to the number of units being developed, the site will be exempt from any affordable housing contribution.

#### Environmental Health: Noise & Pollution

There has been a previous visit to Boxmoor Hall, with a colleague, in order to offer technical advice regarding compliance with an existing Abatement Notice. The Notice was served by the Council in response to complaints made by neighbours that they were being disturbed, principally by music being played on the premises. The Boxmoor Hall is an old and historic building that has always been either an entertainment or educational venue, but the owners now find themselves in a position where even quite traditional activities could lead to constant breaches of the Abatement Notice.

The owners have in my opinion provided accurate details of the type of works that would be required to keep the Hall in something approximating its current use, but the truth is while the

building has until now remained relatively unchanged, the surrounding land uses have changed considerably. Through most of the buildings life it was situated almost opposite the old railway halt and near what was the Heath Park Hotel. This Council has in recent times approved residential developments in the immediate vicinity of the Hall and it against that background that NP have reluctantly come to the conclusion that the conversion of the Boxmoor Hall into residential units is probably the only sensible response to the current situation.

Given the above NP have no objection to make regarding this application and NP would actively support the prospect of the owner's current business relocating given the problems they are still likely to encounter if they remain in the Boxmoor Hall.

#### Scientific Officer

Due to the sensitive nature of the proposed land use, consideration should be made to the potential for contamination to affect the development. Furthermore, the site is located within the vicinity of potentially contaminative former land uses. Consequently there may be land contamination issues associated with this site.

Standard contamination conditions are recommended.

#### Refuse Controller

The doors to the storage area open outwards, potentially blocking the path. There should be storage space and room for access for 2 x 770ltr Eurobins for residual waste, 2 x 770ltr Eurobins for recycling and a 140ltr wheeled bin for food waste. Consideration should be given to the collection vehicle size and manoeuvrability.

#### Licensing

Based upon discussions the application has been noted.

#### Hertfordshire County Council: 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

Decision: Authority recommends that permission be refused for the following reasons:

Hertfordshire County Council (HCC) recommends refusal of the proposed development, since the development includes land belonging to Highways.

Comments :This application is for Conversion of Boxmoor Hall into 7 residential units REASON FOR REFUSAL The reasons for refusal are as follows: 1. Drawing number 208-SK001J Proposed Plans, Rev J, shows a proposed new pedestrian ramp, cycle stands and parking spaces on land in front of the property which is not within the curtilage of the property. Indeed, document 208-SK004E Existing and Proposed Topographical Plans rev E, shows this land marked up as "TARMAC (footpath)".

Having consulted with the Highways Boundaries Officers, this section of land is highways maintained at public expense.

There is no evidence of a stopping up order having been applied for and 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. The applicant will need to apply for a stopping up order. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047

It is necessary, therefore, for the applicant to provide details of how the public footpath will be maintained with this development. Conclusion: HCC as Highway Authority recommends that this application be refused.

#### Hertfordshire Ecology

Response awaited.

#### Hertfordshire Fire & Rescue Service

Note that the access for fire appliances and provision of water supplies appears to be adequate. Further comments will be made when details of the Building Regulations are received.

#### Hertfordshire Constabulary: Crime Prevention / Reduction Officer

The submitted documents and previous applications relating to this site have been studied. There has also been the study of the crime figures for this area which are relatively high.

It has been noted that the secured by design standards were listed the Design and Access statement. However there is a need for additional measures for access control to each apartment.

#### Hertfordshire 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 3 and does not fall within any of the CIL Reg123 exclusions.

#### Thames Water

No response.

#### Affinity Water

No response.

#### EDF Energy

No response.

#### Boxmoor Trust

No response.

#### Comments received from local residents/ Response to Site Notice

##### 4 and 6 St Johns Road

Important Note: It has been decided that due to the very extensive nature of the this will be sent to Members to enable them to be aware of the range of planning and non planning issues referred to by the representations. It is understood that one of the documents has been sent to some Councillors.

Error in the application: Highway Rights. The proposals require the extinguishment of the highway / stopping up of the highway. Hertfordshire County Council has to date to taken no action regarding the construction of a patio on the highway land. No parking facilities which involve an obstruction can be approved without HCC's consent on this highway land. The Applicants proposed fence replaces one that HCC Highways previously directed should be removed as an obstruction to the highway.

Heritage. The proposals will be permanently detrimental to the historic street scene with the



loss of public accessibility to a building which has huge historical significance for the town. There are no submitted details of the alterations to the front elevation. The Hall was conveyed to the Borough in 1897 specified as a public hall with reading rooms. For many years the building was used for charitable community and social uses. The handover of the building to the Council was a powerful moral obligation to maintain the premises for community and social use. The Council remain entrusted to these obligations.

Loss of the Community Facility. Reference to the LPA's pre application advice under Dacorum Core Strategy Policy CS23. It should be the viability of the facility and not the applicants businesses which is the determining factor. In August 2017 the Hall was considered to be under consideration for conversion to a Mosque with another theatre company expressing an interest in the building in 2016.

Planning Agreement. In selling the premises to the Applicant, following a campaign to save the hall from developers, the Council sought to ensure the building would continue to be used for community purpose. The Transfer Deed included a covenant that the current Applicant neither 'shall nor use the Property otherwise than for social, voluntary, educational arts and community activities'. This is subject to a Land Registry requirement. There was an associated s106 Agreement to ensure that the premises would continue to be used for Class D21 and Class D2. The building should remain in its current use.

How the Applicants have used the Hall and why it was necessary for the Council to serve a Noise Abatement Notice / Licensing Issues. The Applicants operational reference to the implications of the notice are the result of their own actions. Promotion to this background in support of the proposed residential conversion.

Neighbour Views from No. 4. The Applicants state that their neighbours oppose the existing use. This is not so subject to compliance with the terms of the license and noise rules.

Release of Covenants.

Evidence of the Lack of D1/ D2 Viability. It is extremely important that in weighing the continued use as a community facility there is a need to not look at the viability of a particular business being operated from the premises by the Applicant, but a potential loss of the facility for all every community use. Whether the Applicants are able to make a profit is not the test. Detailed reference and analysis of the evidence base to the Applicant's case and how this should be interpreted.

Impact upon Residential Amenity. The changes to the rear elevation are unknown which may have implications / overlooking issues.

Over deployment. Inadequate parking.

Loss of privacy.

Disabled Access/Ramp. Inadequate design

Refuse Disposal. Inadequate arrangements.

Side Gateway. Legal issues.

Potential Structural Integrity of the Building from lowering the floor level.

Major problems during construction.

## **Considerations**

The key issues are the loss of a community facility, the availability of an alternative and whether the development can be accommodated at the site, with particular regard to the design, layout and parking/ highway issues.

### Policy and Principle

The site lies within a Residential Area (Dacorum Core Strategy Policy CS4) wherein the principle of conversion of properties to residential is generally acceptable.

The associated fundamental issue is the proposed loss of this community facility, Dacorum Core Strategy Policy CS23 seeks to safeguard social and community facilities unless appropriate alternative provision is made, or satisfactory evidence is provided to prove the facility is no longer viable.

As a background at pre application stage in 2015 no evidence was provided to support the loss of this use and therefore the LPA 's Strategic Planning Team could take no view upon the strength of the Applicant's case in justifying this. SP stressed that it would be difficult to support the scheme in policy terms without such evidence being provided with the application.

Since then through the previously withdrawn application for the conversion to 8 units, the SP Team has been providing further advice upon the implications of the loss of the community facility entirely upon the Agent's / Applicant's submitted information. The Applicant/ Agent have both confirmed the availability of alternative locations and declining viability.

The loss of the hall will represent an undoubted fundamental change in the site's historic role, previously functioning in public ownership and now privately. In providing initial pre application advice the SP Team has been precautionary given the strength of Policy CS23 . In assessing the submitted information predating the current application, it has balanced the expectations of this policy against the submitted information. Members will also be circulated a redacted version of the Applicant's latest supporting statement.

There are evidently a range of documented factors which have militated against the functioning of the venue, despite the Applicant's commitment to purchasing the site for D1/ D2 uses. Those material considerations relating the serving of the noise abatement notice and the need for continued coexistence with the adjoining housing are a key part of this very difficult equation.

This consideration is set against the following referred to by the submitted Planning Statement:

- The Applicant's attempts to increase the venue's market share of the leisure & hospitality sector by diversifying its activities. However, the funds are limited and not sufficient to compensate for the reduction in bookings from private/corporate entities on which the business depends. Boxmoor Hall is currently only open on an ad-hoc basis as the owners can no longer afford to operate 7 days a week.
- As a result, fewer employees are required, which has resulted in job losses. In 2014, Boxmoor Hall employed 4 people on a full-time basis and 9 on a part-time basis, however, this has reduced to 1 full-time employees and 4 part-time employees in 2016.
- Following the economic crash of 2008, the hall has struggled to generate enough revenue to cover maintenance works and repairs, employee salaries etc. The latest set of published accounts for Boxmoor Hall Limited shows a decrease in profit of 62% from the 2015 financial year to the 2016 financial year. This rapid decrease in profit is a result

of the loss of bookings/regularly-run activities at the hall.

- This puts the future long-term conservation of this historically significant building at risk, and it could potentially fall into a state of disrepair if required maintenance works cannot be afforded. The lack of revenue also prevents the commission of building works to reinstate original features, such as bull-nose steps and the circular window on the rear elevation. The decline in business has been caused by a number of key factors, which have limited the number of activities that can be run successfully at the hall. These factors include restrictive and expensive Pay & Display parking bays- mainly occupied by permit holders of the K-zone parking area, which has now been extended to include the bays opposite Boxmoor Hall, insufficient disabled access to the whole venue, irreconcilable and on-going issues with neighbouring properties, the issue of a Noise Abatement Notice, which has deterred music groups, live performances and performing arts competing local subsidised/charity-funded venues.
- As a result of the issues listed above, the Applicant has incurred legal fees in excess of £100,000, which is money that could have otherwise been spent on the maintenance of Boxmoor Hall.
- Despite the obstacles listed above, the Supporting Statement confirms that the Applicant has endeavoured to continue to deliver dance/performing arts tuition to local children and has run these services from Boxmoor Hall for almost a decade. However, the issues listed above have ultimately taken their toll on our client's finances and health and on the viability of the continued use of the hall for assembly & leisure.
- The business has experienced a reduction in the number of bookings as a result of the restrictions listed above, which has resulted in a loss of revenue.
- Boxmoor Hall now requires further investment, including for a new roof to satisfy the noise issue with EHO, a lift to the first-floor level to comply with DDA, and serious repairs to the brickwork adjacent to the newly-built house to the west of the site, as the brickwork no longer benefits from sunlight to dry out the damp. The client has obtained quotes for the acoustic work that would need to be carried out to meet the requirements of the noise abatement notice, and these alone would cost £123,000 (quotes for the work have been included within this submission).
- The profit recorded for the latest financial year (2016) is a mere £809, which will not come close to meeting the significant repair costs. The repair costs will need to be met by the client, as there is no public funding available, however, the client doesn't have the funds available at this time, nor will they in the foreseeable future, due to the lack of revenue being created by the business. If the necessary repair works are unable to be carried out, Boxmoor Hall is in danger of falling into a state of disrepair.
- Boxmoor Hall used to be a venue used by business network groups, a wide variety of leisure and fitness groups, a greater number of Life & Soul Academy members/students, music rehearsal groups and band promoters. However, for the reasons outlined above, these groups/individuals have been deterred and their use of Boxmoor Hall has become untenable. Those who have had to cease using Boxmoor Hall for their activities (due to reasons outlined above) have chosen to use council-run venues, such as community centres or local schools, as many of these venues have had their facilities upgraded and can provide modern studio spaces and free on-site parking.
- To ensure the ongoing availability of the one remaining activity that Boxmoor Hall operates, our client has identified alternative venues. Therefore, the loss of the hall as a community facility will not have a significant negative impact of the local community.

- Life & Soul Academy will continue to operate from studios within HP1 and HP2 post codes specifically at venues that can offer free parking. Biennial performances will be held at the new Performing Arts facility at Westbrook Hay School.
- There are also a number of venues in the locality that can be used for similar purposes to that of Boxmoor Hall, such as church halls, private hire venues, social clubs, schools with facilities managers etc. More specifically, the following alternative venues are all located within a 0.3 mile radius of Boxmoor Hall . These are at The Hemel Hempstead Town Cricket Club Pavilion, The Boxmoor Playhouse , The Steam Coach, Boxmoor Cricket Club, St John's Church Hall, Hemel Hempstead School, Hemel Hempstead School, Dacorum School Old Barn, The Church of St Mary & St Joseph Parish Centre and St Joseph's Hall, The Three Blackbirds Public House, Boxmoor Lodge Hotel, South Hill Centre and Cottrell's Club.
- The use of the hall for events/classes has declined significantly and the loss of revenue has resulted in a significant decrease in profit. The repair bills for Boxmoor Hall cannot be met from the business' funds, therefore, Boxmoor Hall does not have a long-term, or even short-term future as class D2 use.
- This planning application to convert the Hall from D2 use to residential use comes as a very last resort, after running the performing arts/events business from Boxmoor Hall for the past 9 years. A sympathetic, respectful residential conversion is the only foreseeable way of preserving this building of historic significance and to ensure that it stands for another 100 years as a much-loved landmark in Boxmoor.

With the expected presence of the Applicant/ Agent at the meeting there is an opportunity for Members to request for clarification upon the Hall's operation if required. This will also be with due regard to the Applicant's supporting statement received since the receipt of the application which will be circulated to Members.

With due regard to the submitted information and SP's advice there is evidence of the Applicant's initial commitment to the Hall's role, however, for the subsequently documented specified interacting range of reasons there are now major questions over the Applicant being able to continue to operate the hall, with alternative venues available nearby. This is the context which the Committee need with Officers to most carefully consider the application, weighting the permanent loss of this historic venue with the benefits of the alternative residential use.

Viability is always a difficult planning issue. In this decision there has to be reliance upon the submitted information and of all the representations received and a non expert assessment of such.

It is concluded that there is case to support the loss of the hall and its replacement with a residential use which, as clarified, is acceptable in this area.

#### Design, Effect upon the Character and Appearance of the Area, Layout

Although not listed the building is of significant heritage quality in terms of its design and role within Hemel Hempstead. The proposed design changes to the front respect/ enhance its important role at the gateway /entrance to Hemel. The range of changes to the rear is extensive to facilitate the conversion. These are not considered to be detrimental to the character and appearance of the locality or building itself.

Although there is very limited scope for 'standard' planting/ soft landscaping the building will feature an ecological living wall. This is an integral part of the submitted approach to the conversion's sustainable construction which has addressed, where technically feasible the

expectations of Policy CS29 of the Dacorum Core Strategy.

In terms of Other Non Highway Related Layout Issues there is inbuilt natural surveillance, some amenity space for the ground floor units (in a location where flats do not generally feature such) with all the units providing adequate floor space. The Scientific Officer has not identified any air quality issues.

#### Effect upon Residential Amenity /Effect upon- Relationship with the Adjoining/ Nearby Uses

This is with reference to the expectations of Dacorum Core Strategy Policies CS12 and CS32 and the NPPF regarding residential amenity.

The building had harmoniously coexisted with its surroundings for a substantial period. The LPA has subsequently supported new residential development to either side and to the rear of the building. The flats replaced a public house, previously being the Heath Park Hotel.

The serving of the noise abatement notice for amplified music in 2014 was indicative of the problems of ongoing coexistence. The Applicant has confirmed the financial difficulties of complying with the notice.

It will be noted that Noise & Pollution recognise the benefits of the residential conversion in contrast to the lawful use, by reinforcing the residential use of the immediate locality.

There would not be a case to refuse permission based upon the residential amenity of the adjoining dwellinghouse's garden due to loss of privacy. This takes into account the window design and much of its garden would be wholly safeguarded.

#### Highway Safety/ Traffic Generation, General and Fire Access

##### *The Site Frontage and Highway Land/ Highways Rights and their Extinguishment*

As a background HCC Highway Authority are aware of the issues associated with the withdrawal of recent applications at the site as the frontage has been identified as highway land. Although under the Applicant's ownership it is land which is 'publicly accessible'.

It is understood that the existence of these highway rights was not known when the Applicant purchased the site. Also this Council previously granted planning permission and built the current disabled access to the building on this land. In addition the land forming parking and an amenity space serving the Heath Park flats is designated highway land.

In providing its initial recommendation upon the application HCC Highways Officer was unaware of the whole background and in reviewing the situation HCC Highways consider that the application should be refused.

Based upon site observations and previous responses from HCC Highways it is unclear what highway benefits to the public derive from the frontage/forecourt subject to the application remaining as highway.

Notwithstanding this it is fully recognised that the reversing of vehicles from the two proposed parking spaces will need care as these will adjoin such a very well used footpath link. Exiting in forward gear would be safer. HCC Highways has not specifically identified this to be an issue.

Remodelling the ramp will ensure there is an inclusive access to the building. The matter has been previously subject to legal advice from HCC Highways and DBC Legal. It is concluded that if the LPA supports the development a condition can be imposed which requires a Stopping Up Order through the highways legislation for the highway rights to be extinguished on part of

the land relevant to this application. Therefore a condition is recommended to this effect. This will enable the provision of the remodelled disabled ramp, two parking spaces and cycle stands.

If the highway rights were extinguished the development could not proceed.

#### *Other Access Issues*

There are no objections from Hertfordshire Fire & Rescue Service. The scheme incorporates a lift is designed for the needs of persons with disabilities and limited mobility.

The modifications to the refuse storage and collection facilities appear acceptable. Advice is being sought from the Refuse Controller.

#### *Parking/ Sustainable Location*

Dacorum Borough Local Plan saved Appendix 5 provides the Councils maximum parking standards. The parking provision of two spaces is well below that necessary.

For residential development, all parking demand is expected to be accommodated at the site. Lower levels can be supported for high-density residential proposals in appropriate locations. Saved DBLP Policy 58 confirms that parking provision may also be omitted or reduced on the basis of the type and location of the development, such as sites in close proximity to facilities, services and passenger transport.

There is no doubt that this is a highly sustainable location in terms of transportation and accessibility to a wide range of facilities. This is in terms of walking, public transport and cycling. There are also nearby public car parks at Park Road and the Water Gardens. Despite the significant shortfall in parking, due to the sustainable location and with due weight to NPPF paragraph 32 and the subsequent Written Ministerial Statement supporting a flexible approach to parking, there is a case to support a low level of parking. Clearly if the extinguishment of highway rights was refused this situation would need to be reviewed based upon a car free development, with the building continuing to rely upon the retention of the existing disabled ramp.

#### Drainage, Water Supply and/ Contamination

There are no apparent issues. The building will be adapted to the current drainage and water supply, with the imposition of two contamination conditions.

#### Ecological Implications for Bats and Exterior Lighting

There has been no response from Hertfordshire Ecology. It is expected that this will be reported at the meeting. Therefore the assessment below is with this factor not fully addressed.

The building was identified with 2 bat roosts- a summer day roost for 2 bats. The proposed conversion will result in the removal or disturbance of any roosts present. The report confirmed that without mitigation the development will result in the temporary or permanent loss for a known bat roost.

It was expected that a further survey was to be carried out, with the report for the withdrawn planning application only applicable for 12 months up to October 2017.

At this stage in the absence of HE's advice and with reference to the submitted information, a 'bat friendly condition' involving the installation of two bat boxes recommended and other measures are recommended at this stage.

An integral part of the approach will be to carefully control any additional exterior lighting at the site, which is also important for other environmental, highway safety and crime prevention reasons.

### Other Matters

This development is CIL liable, the development is too small to require affordable housing, an Environmental Impact Assessment is not necessary and there are no air safeguarding issues.

There are a range of matters referred to by one of the neighbours response which are not material to the Councils decision upon the planning merits. For clarification the s106 Agreement for the future use of the hall was not through a submitted planning application.

### **Conclusion**

Boxmoor Hall is an historic building which makes a most valuable contribution to the 'visual gateway' to Hemel from Station Road, complementing St Johns Church and the Moor. This is set amongst and against the modern development within the immediate area. Also its heritage value is its longstanding community role. The conversion in physical / visual terms will reinforce the building's importance with the gateway.

The proposed conversion of this D1/ D2 use is according to the Applicant/ Agent due to the cumulative effect of a range of factors, notwithstanding that the building was purchased from the Council to continue such lawful uses. These factors have been examined by the Strategic Planning Unit which is very conscious of the importance of retaining the Borough's community/ social infrastructure though Dacorum Core Strategy Policy CS23, being such an important sustainable development policy. However, with due weight given to the Applicant's / Agent's submitted information regarding viability and other community building's available locally and with reference to the Strategic Planning Team's advice there is a case to support the loss of this community use building with residential being an acceptable alternative.

A range of conditions are necessary, including that relating to the pre commencing of the stopping up of the highway / extinguishment of existing highway rights.

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, hereby permitted, shall commence until the land at the site frontage required for the provision of the access ramp, stepped entrance, 2 parking spaces and cycle stands has been subject to the separate extinguishment of highway rights. Once, such highway rights have been extinguished full details of the site frontage shall then be submitted to the local planning authority. The submitted details shall include a 1:100 site layout plan**

**showing the precise land subject to extinguishment and how this relates to the access ramp, stepped entrance, 2 parking spaces and cycle stands. These details shall be approved before the commencement of the development hereby permitted.**

Reason: In the interests of highway safety at all times in accordance with Policies CS8 and CS12 of Dacorum Core Strategy, in conjunction with the provision of access, parking and cycle storage for the development.

- 3 Subject to the compliance with Condition 2 the development hereby permitted shall not be occupied until the access ramp, 2 parking spaces, cycle stands, pedestrian access and electric charging point shown by the approved site layout plan shall have been provided. All these shall be retained thereafter at all times and they shall not be used thereafter otherwise than for the respective approved purposes.**

Reason: In the interests of highway safety at all times in accordance with Policies CS8 and CS12 of Dacorum Core Strategy, in conjunction with the provision of access, parking and cycle storage for the development.

- 4 The access ramp, parking spaces, cycle stands and pedestrian access subject to Condition 3 shall not be brought into use until details of the drainage design for these is submitted to the local planning authority. The drainage shall be installed and thereafter retained and maintained fully in accordance with the approved details.**

Reason: In the interests of highway safety in accordance with Policies CS8 and CS12 of Dacorum Core Strategy.

- 5 All new external rainwater and soil pipes shall be formed in metal and painted black and all the rooflights shall be of a Conservation type.**

Reason: In the interests of the character and appearance of the building and its to accord with the requirements of Policies CS10, CS12 and CS27 of the Dacorum Core Strategy.

- 6 Full details of the living wall shall be submitted to the local planning authority within the planting season following the first occupation of the building hereby permitted. Any shrub/ plant which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree, section of equivalent shrub/ plant of a species, size and maturity to be approved by the local planning authority. For the purposes of this condition the planting season is between 1 October and 31 March.**

Reason: In the interests of biodiversity and to accord with the sustainable approach to development to accord with Policy CS29 of the Dacorum Core Strategy.

- 7 All the approved boundary treatment shall be installed prior to the first use of**



**any part of the development and thereafter the approved boundary treatment shall be retained at all times.**

Reason: In the interests of the character and appearance of the locality and in the interests of the residential amenity to accord with the requirements of Policies CS10 ,CS12 and CS32 of the Dacorum Core Strategy.

- 8 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 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 Policies CS31 and CS32 of the Dacorum Core Strategy.

- 9 All remediation or protection measures identified in the Remediation Statement referred to in Condition 8 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 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 Policies CS31 and CS32 of the Dacorum Core Strategy.

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](http://www.dacorum.gov.uk)

10 **All the windows of the development hereby permitted shall be installed with glazing to limit noise transmission fully in accordance with details submitted to and approved by the local planning authority and :**

- **All the bathroom windows of the development hereby permitted shall be permanently fitted with obscured glass, and**
- **All the other windows shown to be fitted with obscure glass shall be permanently fitted with obscured glass.**

Reason : In the interests of residential amenity to accord with Policies 12 and 32 of the Dacorum Borough Core Strategy.

11 **The development hereby permitted shall be carried in accordance with the submitted Dacorum Core Strategy Policy CS29 Checklist subject to the requirements of other conditions of this planning permission.**

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

12 **The approved facilities for the storage of refuse shall be provided before any of the dwelling units hereby permitted are first brought into use and thereafter shall be retained at all times.**

Reason: To ensure a refuse facility is provided at all times at the site in accordance with Policy CS12 of the Dacorum Borough Local Plan.

13 **Notwithstanding the specified details referred to on the submitted application form alternative 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 scheme shall include the removal of the existing luminaires. The exterior lighting shall be installed and thereafter retained fully in accordance with the approved details.**

Reason: In the interests of safeguarding the ecological environment / biodiversity as observed by the submitted Bat Report , the residential amenity of the locality, highway safety, biodiversity, access for persons with disabilities and crime prevention/security in accordance with Policies CS12, CS27, CS29 and CS32 of the Dacorum Core Strategy and Policy 113 and Appendix 8 of the saved Dacorum Borough Local Plan.

14 **Two bat boxes shall be installed at the site fully in accordance with the**

**submitted Bat Report. Thereafter all these bat boxes shall be retained at all times.**

Reason: In accordance with Policy CS29 of the Dacorum Core Strategy and the approach of the National Planning Policy Framework to biodiversity and the submitted Bat Mitigation Strategy.

- 15 **In addition to the requirements of Conditions 14 (Bat Boxes) and 13 (Exterior Lighting) all the other Bat Mitigation measures shall be carried out fully in accordance with the submitted Bat Report.**

Reason: In the interests of biodiversity in accordance with Policies CS26 and CBS 29 of Dacorum Core Strategy.

- 16 **The development hereby permitted shall be subject to a Management Plan for the building's future maintenance of the front gable clock. The Plan shall be submitted to the local planning authority within 6 months of the first occupation of the building and carried out at all times fully in accordance with the approved scheme.**

Reason: In the interests of the character and appearance of the building to accord with the requirements of Policies CS10 ,CS12 and CS27 of the Dacorum Core Strategy.

- 17 **In conjunction with the requirements of Condition 2 no development hereby permitted shall commence until a Construction Management Plan is submitted to and approved in writing by the local planning authority in consultation with the Highway Authority.**

Reason: In the interests of highway safety and residential amenity in accordance with Policies CS8 and CS12 of Dacorum Core Strategy.

- 18 **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:**

**208-SK004E, , SK001J, SK010D , SK002H**

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 at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

#### **Informatives**

##### Bats

UK and European Legislation makes it illegal to:

Deliberately kill, injure or capture bats;  
Recklessly disturb bats;  
Damage, destroy or obstruct access to bat roosts (whether or not bats are present).

#### Land Stability

It has drawn to the Council's attention that there may be land stability issues at the site. 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.

#### Contamination

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

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

#### Highway Issues

1. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <http://www.hertsdirect.org/services/transtreets/highways/> or by telephoning 0300 1234047.

2. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to willfully 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.