

<b>4/01534/19/FUL</b>	<b>DEMOLITION OF EXISTING COMMERCIAL/ANCILLARY RESIDENTIAL OUTBUILDING AND CONSTRUCTION OF TWO, ONE AND A HALF STOREY THREE BED SEMI DETACHED DWELLINGS.</b>
<b>Site Address</b>	<b>WOODLANDS, NOAKE MILL LANE, WATER END, HEMEL HEMPSTEAD, HP1 3BB</b>
<b>Applicant</b>	<b>Mr N Martin, Woodlands</b>
<b>Case Officer</b>	<b>Briony Curtain</b>
<b>Referral to Committee</b>	<b>Parish Council Objection</b>

## **1. Recommendation**

1.1 That planning permission be **GRANTED**

## **2. Summary**

2.1 This application seeks amendments to planning permission 4/01518/18/FUL which granted consent for the construction of two, one and a half storey three bedroom semi-detached dwellings. The current proposal differs from that approved only in respect of the position of the dwellings and the works to Great Gaddesden public footpath No. 57. All other aspects of the scheme remain as per approved.

2.2 The demolition of the existing commercial / ancillary residential building and its replacement with two semi-detached dwellings would result in a development with a reduced footprint, volume and floorspace, and is therefore considered to have no greater harm to the openness, character or appearance of the Green Belt thereby complying the requirements of the NPPF and Policy CS5 of the Core Strategy 2013. The design and materials to be used would be sympathetic to the open rural character of this part of the hamlet of Water End. Subject to the imposition of conditions there would be no significant harm to the residential amenities of adjoining properties, in fact given the relocation of the buildings 0.5m further from Little Hill the impact would be reduced when compared to the approved scheme. The proposal would provide satisfactory off road parking, landscaping, private amenities and would not obstruct the public Right Of Way. The proposals are therefore in accordance with Policies CS10, 11, 12, 13 and saved Policies 58, 99 and 100.

## **3. Site Description**

3.1 The application site comprises a large detached two storey dwelling located to the west of the Leighton Buzzard Road within the hamlet of Water End. It is accessed via the narrow Noake Mill Lane, part of which is a BOAT (Byway Open to All Traffic) and part of which is a public footpath (57). The site, which is located within the Metropolitan Green Belt, contains a large single storey outbuilding to the north-east of the house within its grounds and there is a large area of hard standing immediately adjacent to this outbuilding and to the frontage. The outbuilding has been converted, for most of its area, into annexes for the applicant's children and the remainder is in commercial use. The site backs onto open fields and there is a public right of way (footpath 57) adjacent to one side. The surrounding area is rural and comprises large detached houses of various styles and ages set within generous plots.

## 4. Proposal

4.1 Full Planning Permission is sought for the demolition of the existing COMMERCIAL/ANCILLARY RESIDENTIAL OUTBUILDING AND CONSTRUCTION OF TWO, ONE AND A HALF STOREY THREE BED SEMI DETACHED DWELLINGS

## 5. Relevant Planning History

4/00661/19/DIV	CREATION ORDER FOR GREAT GADDESSEN PUBLIC FOOTPATH 57 Withdrawn 13/08/2019
4/01519/18/FUL	DEMOLITION OF EXISTING AGRICULTURAL BARN AND CONSTRUCTION OF TWO ONE AND A HALF STOREY THREE BED SEMI-DETACHED DWELLINGS. Granted 05/12/2018
4/03264/16/FUL	RETENTION OF A SINGLE STOREY TIMBER BUILDING FOR USE AS AN ANIMAL SHELTER Refused 13/03/2017
4/03393/15/FUL	DEMOLITION OF EXISTING THREE DWELLINGS AND COMMERCIAL STORAGE UNIT. CONSTRUCTION OF THREE NEW COTTAGES WITH ASSOCIATED PARKING AND REAR GARDENS. Withdrawn 17/12/2015
4/00721/15/LDE	USE OF LAND AND BUILDINGS FOR B8 STORAGE PURPOSES. Refused 22/12/2015
4/00735/14/FUL	DEMOLITION OF EXISTING THREE DWELLINGS AND COMMERCIAL STORAGE UNIT COMPLEX AND CONSTRUCTION OF TWO THREE-BEDROOM DETACHED DWELLINGS WITH ASSOCIATED FORECOURT PARKING AND REAR GARDENS. Withdrawn 10/07/2014
4/02527/07/FUL	DEMOLITION OF EXISTING DWELLING AND OUTBUILDING AND REPLACEMENT DWELLING Granted 11/12/2007
4/01734/05/LDP	DETACHED GARAGE Granted 28/09/2005
4/01710/97/4	TWO STOREY SIDE EXTENSION Refused 23/07/1998
4/00268/16/ENA	APPEAL AGAINST ENFORCEMENT NOTICE – OUTBUILDINGS Appeal dismissed and outbuildings removed.
4/00269/16/ENA	APPEAL AGAINST ENFORCEMENT NOTICE - SCAFFOLDING USE Appeal dismissed and scaffolding use ceased.

## **6. Policies**

### 6.1 National Policy Guidance

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

### 6.2 Adopted Core Strategy –

NP1, CS1, CS5, CS11, CS12, CS13, CS24, CS29, CS31, CS35

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

Policies 13, 58, 99, 100, 113, and 129

### 6.4 Supplementary Planning Guidance / Documents [include only those relevant to case]

- Environmental Guidelines (May 2004)
- Water Conservation & Sustainable Drainage (June 2005)
- Energy Efficiency & Conservation (June 2006)

### 6.5 Advice Notes and Appraisals [include only those relevant to case]

- Sustainable Development Advice Note (March 2011)
- Refuse Storage Note.

## **7. Constraints**

- CIL2
- 45.7M AIR DIR LIMIT
- SOURCE PROTECTION ZONE
- AREA OF SPECIAL CONTROL FOR ADVERTS
- Right of Way
- SSSI IMPACT RISK ZONES
- GREEN BELT

## **8. Representations**

### Consultation responses

8.1 These are reproduced in full at Appendix 1

### Neighbour notification/site notice responses

8.2 These are reproduced in full at Appendix 2

## **9. Considerations**

### Main issues

9.1 The main issues to consider are:

- Policy and principle
- Impact on Green Belt
- Impact on street scene and character of area
- Impact on Highway Safety and footpaths
- Impact on residential amenity.

### Policy and Principle

9.2 The site is in the Metropolitan Green Belt wherein, under Policy CS5 there is a presumption against the construction of new buildings. However given the existing commercial/ancillary residential building is permanent and substantial in its construction, the land meets the definition of 'previously developed land' and therefore its complete or partial redevelopment is acceptable and would not amount to inappropriate development, provided it would have no greater impact on the openness of the Green belt (than the existing buildings) or the purposes of including land within it.

9.3 Planning permission has already been granted for the construction of two identical semi-detached dwellings albeit it in a slightly different location. The pair of dwellings is now proposed to be positioned 0.5m to the west compared to the approved scheme. It is considered that this would not materially alter their overall impact on the openness of the area or the Green Belt. In fact their relocation closer to the existing property Woodlands would increase the spacing between the new units and Little Hill the other side of the public footpath which would provide greater public views in and around the buildings and therefore marginally increase the openness compared to the permitted scheme. The amended proposals would continue to comply with the NPPF and Policy CS5.

### Impact on Street Scene and character of the area

9.4 Given the overall scale, height, design, materials and layout (in terms of the amenity space, parking etc) remain as approved and the amendment sought merely alters the spacing between the surrounding buildings, the proposed dwellings would continue to represent an improvement in visual terms to the existing building and would sit comfortably in area and in relation to the surrounding rural context. Subject to details of materials, fenestration, eaves, joinery and landscaping the proposal would comply with Policies CS11 and CS12.

### Impact on Highway Safety and footpaths

9.5 The parking and access arrangements remain as per approved (tandem parking for each new unit and 5 existing off-street spaces opposite to serve Woodlands) and would have no detrimental impact on highway safety. Herts County Council have raised no objection subject to the imposition of informatives, which have been

imposed. It is important to note this part of Noake Mill Lane is not maintained by Herts County Council. Concern has been raised in relation to the remainder of Noake Mill Lane and the increased traffic associated with the development. However, given the scale of the development at only two units, the intensification in the use of the lane would not be to such a degree as to harm its safety or operation. The residual impact would not be significant enough to warrant a refusal. The previous permission imposed a condition requiring the maintenance of visibility splays, the validity of which was questioned as the land needed to comply with these fell outside the red outline in parts. Upon review the Highway Authority no longer request this condition. Given the site's position at the end of Noake Mill Lane, which at this point only serves a few properties, the use of the lane would be limited and speeds likely to be low. As such, it is not considered necessary or reasonable to impose conditions requiring vehicle visibility splays.

9.6 The dwellings approved under the previous consent encroached partially onto Great Gaddesden public footpath (No. 57) and as such required its diversion (it was to be made narrower in parts). To offset the reduction in width the footpath was to be upgraded and surfaced to Herts County Council specification. This was secured via a Grampian condition.

9.7 The Rights of Way Officer has confirmed that, as a result of the relocation of the dwellings, the public footpath will no longer need to be diverted. As a diversion order is no longer required, the offsetting upgrade works can no longer be justified and do not therefore form part of the proposals. A Grampian condition is not required. An informative reminding the applicants of the legal dimensions (width) of the public footpath will be included for the avoidance of doubt. The proposals comply with Policy CS12 and saved policy 58 in this regard.

#### Impact on residential amenity

9.8 There would be no harm to the residential amenities of adjacent properties. The nearest neighbouring property is Little Hill to the north east, which is separated from the application site by the public footpath. The dwellings as now proposed would be 0.5m further away from Little Hill and thus would have a slightly improved relationship when compared to the approved scheme. There are no changes to the proposed fenestration compared to the approved scheme. It is still proposed to have two first floor windows in the gable end of the north-east side elevation however these are to be obscure glazed and non-openable. Given their position they would face Little Hill and it is considered necessary and reasonable to condition these be obscure glazed and non openable in perpetuity. The imposition of this condition would ensure there would be no overlooking or loss of privacy.

9.9 Concern has been expressed in relation to the ground floor windows as the application site occupies a slightly elevated position in relation to Little Hill. It is not however concluded that these windows / doors would overlook the adjacent property to an unacceptable degree, especially when considering they are located beyond an existing public footpath which is lined by mature landscaping. The increased separation distance combined with the minimal height is sufficient to ensure no loss of light / overbearing appearance.

## CIL

9.10 The development would be CIL liable.

### Other considerations

9.11 In relation to protected species (bats) a Preliminary Roost Assessment has been undertaken. No bats or evidence of bats was found but features suitable for roosting bats were identified. The building was assessed as having Low potential for roosts and as a result an emergence survey was carried out. This confirmed the property was not a roost. However, bats were detected in the locality. As the application involves demolition of the barns and bats are present in the area, it is advised that a precautionary approach is taken and that an Informative should accompany any consent granted. Ecological enhancements are suggested in section 4.3 table 6 of the Emergence and Activity Bat Survey (EBS) and should be adopted in full. A condition requiring this will be imposed for the avoidance of doubt. There are no other ecological constraints to the proposal.

9.12 Herts Fire and Rescue service seeks the provision of fire hydrants through a S106 agreement. However, a Grampian style condition is considered suitable and satisfactory to secure this or other fire assistance measures.

9.13 Whilst noting the parish councils continued objection on the grounds of overdevelopment, the current proposal is identical in size, scale, mass, height, design and similar in layout to that approved under planning permission 4/01518/18/FUL and as such it is considered there are no grounds upon which to refuse the application in this respect. Importantly the previous consent is extant and could be implemented subject to a successful application for a Diversion Order.

9.14 The Parish Council also raise concern in relation to the impact of the development on the Chilterns Area of Outstanding Natural Beauty (CAONB). The site is located on the edge of the CAONB and as would have an impact on its setting. Given the simple barn like appearance of the proposed dwellings and the materials to be used (timber cladding) the dwellings would have a rural appearance, and would be seen in the context of existing built form. As such, the development would sit comfortably in its setting and would not harm the character, appearance or special qualities of the AONB. The proposals would comply with Policy CS24 in this regard.

9.15 Concerns in relation to land ownership have been received from neighbouring properties (as they were for the original application). Further evidence regarding the site ownership was submitted in support of the former application and as such these are now considered civil matters between the various landowners. The current application is accompanied by a Certificate A and there is no evidence to suggest the application is invalid on this basis.

9.16 Concern has also been expressed from immediate neighbours in relation to inappropriate development, impact on neighbourhood, loss of privacy, effect on public amenity, harm to the openness of the green belt, loss of turning place, inadequate infrastructure, design, sewage contamination. These concerns were raised in relation to the previous application and were concluded as acceptable (or dealt with under other legislation). In addition, concern has been expressed in relation to the previous application and that the current application should not given weight to the previous

permission. The extant planning permission is very similar to the current proposals and is therefore a material consideration in the current application.

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

Conditions

No	Condition
1	<p><b>The development hereby permitted shall be begun before the expiration of three years from the date of this permission.</b></p> <p><u>Reason:</u> 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.</p>
2	<p><b>No development other than demolition, site preparation, groundworks and footings shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. Please do not send materials to the council offices. Materials should be kept on site and arrangements made with the planning officer for inspection. A sample panel at least 1m by 1m shall be prepared for inspection and shall include details of the pointing and the finished colour of the timber cladding.</b></p> <p><u>Reason:</u> To ensure a satisfactory appearance to the development in accordance with Policy CS12 of the Core Strategy.</p>
3	<p><b>Notwithstanding the details submitted, no development other than demolition, site preparation, groundworks and footings shall take place until 1:20 details of the following (including materials and finished colour) shall have been submitted to and approved in writing by the Local Planning Authority.</b></p> <ul style="list-style-type: none"> <li>• doors and windows</li> <li>• rooflights</li> <li>• eaves and other joinery</li> <li>• bin storage enclosure</li> </ul> <p><b>All rainwater goods shall be finished black with a round profile.</b></p> <p><b>The development shall be carried out fully in accordance with the approved details.</b></p> <p><u>Reason:</u> to ensure a satisfactory appearance to the development in the interests of the visual amenities of the area in accordance with Policy Cs12 of the Core Strategy 2013.</p>
4	<p><b>Notwithstanding any details shown, full details of the following shall be submitted to and approved in writing by the Local Planning Authority.</b></p>

- hard surfacing materials;
- means of enclosure;
- soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- trees to be retained and measures for their protection during construction works;
- proposed finished levels or contours;
- sustainable urban drainage measures
- minor artefacts and structures (e.g. signs, lighting);
- proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines, manholes, supports etc);

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

Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5years 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 or shrub of a species, size and maturity to be approved by the Local Planning Authority.

Reason: To ensure a satisfactory appearance to the development and to safeguard the visual character of the immediate area in accordance with Saved Policy 99 and 100 of the Dacorum Borough Local Plan 1991-2011.

5 **The development shall not be occupied until a scheme has been submitted to and approved in writing by the Local Planning Authority for the provision of a fire hydrant(s) to serve the development and the approved scheme has been implemented. The hydrants shall be installed in accordance with the approved details and thereafter maintained as such.**

Reason: In the interests of the occupants of the development.

6 **The development shall not be occupied until the car parking areas shown on drawing no. PRJ/19/006/001 have been laid out, constructed and surfaced. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time.**

Reason: To ensure that adequate parking is provided at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent lane, or the amenities and convenience of existing local residents and businesses in accordance with Policy 58 of the Adopted DBLP 1991-2011.

7 **The windows at first floor level in the north-east and south-west elevations of the development hereby permitted shall be permanently**

	<p><b>fixed shut and fitted with obscured glazing to a minimum of Level 3 on the Pilkington scale of privacy or equivalent.</b></p> <p><u>Reason:</u> In the interests of the amenity of adjoining residents in compliance with Policy CS12 of the Dacorum Core Strategy September 2013.</p>
8	<p><b>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority:</b></p> <p><b>Schedule 2                      Part 1 Classes A, B, C and E    Part 2 Class A    Part 14 Class A</b></p> <p><u>Reason:</u> To enable the local planning authority to retain control over the development in the interests of the openness of the Green Belt and the character and appearance of the rural area and because rooflights, dormer windows and solar panels could undermine the settled 'barn-like' appearance of the development.</p>
9	<p><b>Prior to occupation the Ecological enhancements set out in section 4.3 table 6 of the submitted Emergence and Activity Bat Survey (EBS) should be implemented in full and thereafter maintained as such.</b></p> <p><u>Reason:</u> to ensure appropriate provision is made for the protection of bats in accordance with Policies of the Development Plan and EU Directives.</p>
10	<p><b>The development hereby permitted shall be carried out in accordance with the following approved plans/documents:</b></p> <p><b>PRJ/19/006/100 - Dwellings A &amp; B proposed plans PRJ/19/006/101 - dwellings A &amp; B proposed dwelling Elevations and perspectives PRJ/19/006/001 - Site Location Plan and proposed site plan Cherryfield Ecology Ecological Reports (dated 19/04/18 &amp; 21/05/19)</b></p> <p><u>Reason:</u> For the avoidance of doubt and in the interests of proper planning.</p> <p><u>Article 35:</u></p> <p>Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the pre-application process and during the determination stage which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.</p> <p><u>RIGHT OF WAY INFORMATIVE:</u></p> <p>Great Gaddesden Public Footpath No; 57 abuts the application site. The legal extent of the footpath varies from a width of 2.4m at the southern end to 9m at</p>

the northern end. An area of 240sqm. The full extent of the footpath needs to be free from obstruction at all times. The applicant is reminded that no part of the development should encroach onto this footpath.

The Byway Open to All Traffic BOAT Great Gaddesden 058 as shown on the Definitive Map of Public Rights of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overflows of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges. If the above conditions cannot reasonably be achieved then a Temporary Traffic Regulation Order would be required to close the affected route and divert users for any periods necessary to allow works to proceed. A fee would be payable to Hertfordshire County Council for such an order. Further information on the rights of way network is available via the website. Please contact Rights of Way, Hertfordshire County Council on 0300 123 4047 for further information in relation to the works that are required along the route including any permissions that may be needed to carry out the works. [https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rights-of-way/rights-of-way.aspx#DynamicJumpMenuManager\\_1\\_Anchor\\_8](https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/countryside-access/rights-of-way/rights-of-way.aspx#DynamicJumpMenuManager_1_Anchor_8)

#### HIGHWAY INFORMATIVES

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

2. The Byway Open to All Traffic BOAT Great Gaddesden 058 as shown on the Definitive Map of Public Rights of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overflows of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges.

3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be

	<p>taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <a href="http://www.hertfordshire.gov.uk/services/transtreets/highways/">http://www.hertfordshire.gov.uk/services/transtreets/highways/</a> or by telephoning 0300 1234047</p> <p>4. 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 <a href="https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-and-developer-information.aspx">https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-and-developer-information.aspx</a>.</p> <p><b><u>ECOLOGY INFORMATIVE</u></b></p> <p>In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England.'</p>
--	---

**Appendix 1**

**Consultation responses**

**Great Gaddesden Parish Council**

*This application for the replacement of an agricultural building with two dwellings is in a charming rural setting and is overdevelopment on the edge of The Chilterns Area of Outstanding Natural Beauty.*

**Herts 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 Authority does not wish to restrict the grant of permission.

**INFORMATIVE NOTES**

1. Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.
2. The Byway Open to All Traffic BOAT Great Gaddesden 058 as shown on the Definitive Map of Public Rights of Way should remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works. The safety of the public using the

route and any other routes to be used by construction traffic should be a paramount concern during works, safe passage past the site should be maintained at all times. The condition of the route should not deteriorate as a result of these works. Any adverse effects to the surface from traffic, machinery or materials (especially overspills of cement & concrete) should be made good by the applicant to the satisfaction of this Authority. All materials should be removed at the end of the construction and not left on the Highway or Highway verges.

3. Road Deposits: It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047

4. Storage of materials: The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-and-developer-information.aspx>.

#### COMMENTS

This application is for Demolition of agricultural barn and construction of 2 one-and-a-half-storey three-bed semi-detached dwellings.

#### PARKING

Sufficient parking has been provided to prevent overspill onto the highway.

#### ACCESS

The site is located on a section of Noake Mill Lane which is unadopted and has no code allocated and is approached by the section of Noake Mill Lane which is a Byway Open to All Traffic BOAT Great Gaddesden 058. Furthermore, there is a public footpath running along the Eastern boundary of the plot, Great Gaddesden 057. Both these Public Rights of way must be kept clear of obstruction at all stages of the development

No changes are proposed to the existing vehicular or pedestrian access to or from the highway and no works are required in the highway.

#### CONCLUSION

HCC as highway authority considers that the proposals would not have a severe residual impact on highway safety or capacity, subject to the informative notes above

#### **Rights Of Way Officer**

This site is crossed by Great Gaddesden public footpath 57.

The legal extent of the footpath varies from a width of 2.4 m at the southern end of the

applicants land to 9m at the northern end. An area of 240m<sup>2</sup> .  
The full extent of the footpath needs to be free from obstruction unless a legal order is sought to divert, etc.

I am satisfied that the edge of the concrete forms the boundary between the public footpath and the residential property, Woodlands.

The fencing to the rear still 'obstructs' the right of way but only by a small margin and it is of little consequence at this stage.

### **Herts Ecology;**

Thank you for consulting Hertfordshire Ecology on the above, for which I have the following comments:

A Preliminary Roost Assessment was carried out by Cherryfield Ecology on the 4.19.2018. No bats or evidence of bats was found but features suitable for roosting bats were identified. The building was assessed as having Low potential for roosts and as a result 1 emergence survey was carried out. This was completed on the 20.05.2019 and confirmed the property was not a roost. However, bats were detected in the locality.

As the application involves demolition of the barns and bats are present in the area, I advise a precautionary approach and that the following Informative should accompany any consent granted.

"In the event of bats or evidence of them being found, work must stop immediately and advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England."

Ecological enhancements are suggested in section 4.3 table 6 of the Emergence and Activity Bat Survey (EBS) and should be adopted in full.

I consider the LPA now has sufficient information on bats to satisfy their obligations under the Conservation of Habitats and Species Regulations 2018 and the application can be determined accordingly

Other than the above, I am not aware of any ecological constraints to the proposal.

### **Herts County Council Fire and Rescue**

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

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

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

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

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

Section 106 planning obligation clauses can be provided on request.

#### Justification

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

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

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

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

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

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

(ii) Directly related to the development;

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

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

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

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

provision.

## Appendix 2

### Neighbour notification/site notice responses

#### Objections

3 representations received;

#### CONCERN;

My biggest concerns at this time is that we have been told both by our tenant and by Mr. Martins other neighbour that he is imposing on our property and our drive based on the measurements. I cannot see this on the plans and unless I take physical measurements cannot check this. We also do not understand a previous application he made with regards to a public footpath which we also believe to be on our land!

The view is that he obtains a new application regarding the 2 new properties then applies to rebuild his existing house very close to the boundary and thereby removes the dividing hedge and imposes on our drive. I have been told that he needs space from our drive to create enough room to provide a turning space in front of his properties but I cannot see from the plans. I hope to see Mr. Martin on 23<sup>rd</sup> or 24<sup>th</sup> and hear what he has to say but am concerned as to the timing.

There is also a covenant imposed by Gaddesden Hall farm to prevent Woodlands from further developing the site. I am aware that this does not affect planning and is a legal issue. We have no wish to prevent him from developing his site and making the most of it (there is also often ways round these things to keep everyone happy) but we must protect our interest also and the new planning application came to our attention late.

For all of the above reasons I ask if it would be possible to meet with me on site? We particularly want to ensure he is not permitted to remove the dividing row of trees (of which we must clarify ownership or take some space from our drive. My husband is not well enough to travel but I can do so next week.

#### OBJECT

The current application has a inadequacy of parking and turning not enough space has been allocated by the applicant . The bend in the road and parking in front on corner to the front makes a blind spot a difficult to see vehicles approaching along Noake Mill Lane. There has already been previous accident's on bend due to lack of visibility.

#### OBJECT

original Comments;

Please find enclosed our letter of objection to application 4/01534/19/FUL | DEMOLITION OF EXISTING AGRICULTURAL BARN AND CONSTRUCTION OF TWO ONE AND A HALF STOREY THREE BED SEMI-DETACHED DWELLINGS. | WOODLANDS, NOAKE MILL LANE, WATER END, HEMEL HEMPSTEAD, HP1 3BB

We are aware that only material changes would be considered in this new application. However, our objections were not submitted to the Committee last time (because of an incorrect reference number) and we want to voice all our reasons for objecting:

#### **A. Development not appropriate within the Green Belt (see Appendix A)**

This development does not fall within Para 145 g) of the NPPF (redevelopment of previously developed sites) for the following reasons:

1. A large section of Woodlands front garden would have to be removed to make place for the proposed development: garden land cannot be considered as “previously developed land”. With this new application 4/01534/19/FUL where the development no longer uses land from the public footpath, the new build had to be moved even closer to the main house, thus sacrificing an even larger section of Woodlands front garden (and back garden). This makes it even more inappropriate within the Green Belt.
2. The development encompasses more than the so-called “previously developed site” as it would also permanently obstruct Woodlands current approach route to the front door. No alternative was ever put forward to correct this loss. Where would the new approach route be?
3. The proposed building is so long for the space available that both front doors had to be placed to the side of the building, leaving just enough room to squeeze in 2 parking spaces at the front and a garden of a mere minimum depth of 11 metres.
4. The proposed building is so wide for the space available that the gap between boundary fence and building is barely 1m, making it impossible for the future occupier to grow any sort of privacy hedge. Would it be even possible to move furniture, etc. in and out of these houses?

#### **B. Impact on neighbourhood.**

1. This is an area where dwelling density is low and plot sizes are large. Two semi-detached homes with small gardens crammed into a very tight area would be totally inappropriate for the area character and harm the openness of the Green Belt.
2. Woodlands is neighbouring Gaddesden Hall, a Grade II-listed building, therefore any new development would likely affect the setting of this listed building.
3. The shape, size and depth of the gardens are not compatible with the existing adjoining properties.

#### **C. Loss of privacy.**

Being on a slope, Woodlands is at a higher level than Littlehill, approximately 1.8 or 2 metres higher. With such a difference in levels, windows from a ground-floor development would have the same intrusive impact as those from a one-storey dwelling if houses were on the same level. When Woodlands removed the conifer hedge that used to run along the public footpath, on the eastern side of the property, the only privacy screen remaining between our two properties was our own conifer hedge which is in poor condition and in the process of being replaced. The applicant is proposing a 1.2m post and rail fence. This type of fence would not screen the development from the occupiers of Littlehill. The front door and the three windows (bedroom, lounge and dining area) would look into our bedrooms' windows and part of our once-private back garden (**see Appendix C**). This would be terribly intrusive and because Littlehill is located on lower grounds, the erection of a standard 2-m fence or hedge along our own property boundary could never provide any screening.

#### **D. Effect of public amenity.**

Although the proposed site is in terrible state of repair due to a lack of property maintenance, fallen fences and an overgrowth of nettles and brambles, which in themselves are harmful to the character of the area, this should not be seen as an excuse to redevelop the site. The proposed development would have a worse impact on public amenity because:

1. The wall of the new dwelling would be very close to walkers (the corner being only 1m from the boundary fence), this would give an overbearing feeling made worse by the fact that the public footpath is 30cm lower than the proposed development.

2. People would be walking along a mixture of both cladding and brick walls and also past the occupier's bins. No way can this be an improvement for the users of the public footpath compared with the existing layout. Currently, the existence of the concrete yard gives walkers a little more distance from the outbuilding walls and does not give that overbearing feeling that the new development would.

3. The occupier of the new build would not be able to grow a privacy hedge along the public footpath boundary because there is simply no space for it.

4. People would be walking past a front door and 3 windows (bedroom, lounge and dining area). This development would not be an improvement to public amenity.

**E. Harm to the openness of the Green Belt.** The proposed development would cause more harm to the openness of the Green Belt than the current outbuilding for the following reasons:

1. Not only would the proposed development be higher than the current outbuilding, it would also be located nearer the eastern edge of the property, making it look even taller and more imposing and giving an overbearing appearance from the public footpath, which is on lower grounds.

2. Even though the floor space between existing and proposed is similar, the new build would have more impact and would look more imposing than the existing outbuilding because of its orientation. Currently, the outbuilding is separated from the eastern boundary by a rather wide concrete yard. From Noake Mill Lane, only the front of the outbuilding is visible. However, the new build would have a bigger visual impact from the lane as it would be stretching along the whole width of the site, from west to east, emphasising the impression of overdevelopment.

3. Adding two new dwellings to Woodlands would result in greater intensification of use of the site than in comparison to the existing use (only deemed as ancillary to the main house) which would result in greater harm.

4. The spacing of the proposed development with Woodlands does not respect the character of the existing area. With this new application 4/01534/19/FUL, the spacing between Woodlands and the proposed development would be even smaller since the proposed dwellings had to be moved closer to the main house to avoid the public footpath, providing even less harmony to the character of the area.

**F. Loss of a turning place.** Being at the end of a cul-de-sac, Woodlands current driveway has always been used as a turning place by utilities trucks (cesspit emptying and oil delivery for Littlehill and gas delivery for Woodlands) and other delivery vehicles.

Replacing the current driveway by two smaller ones would make manoeuvring more difficult for large vehicles, including emergency vehicles. Waste collection vehicles are not included in this list as they have to empty the bins at Gaddesden Hall Farm and can therefore make their manoeuvre up there. The right to use Woodlands current driveway as a turning place has been acquired by long use.

### **G. Inadequate infrastructure**

1 Homes in Noake Mill Lane are not connected to the public sewage system. Adding another two private sewage systems would increase the likelihood of contamination.

2 There are two bridges on Noake Mill Lane. The bridge next to Noake Mill House seems to have been built to last and can resist heavy traffic. However, the second one, which is located next to Gold Fish House, is underground and is already showing some sign of wear. Having adopted Noake Mill Lane up to Gaddesden Hall, the Council would have the responsibility of repairing the bridge which would deteriorate faster with increased traffic.

3 The increased traffic from these new houses would overload this single-track lane increasing the likelihood of accidents, particularly when vehicles have to reverse onto the

Leighton Buzzard road to let oncoming vehicles pass. The bend opposite Gaddesden Hall is also a dangerous spot due to the lack of visibility.

## **H. Design**

1 Disguising a new build as a barn-style building does not make it any more appropriate within the Green Belt. This imposing structure would look as much out of place in this area as any other new builds would.

2 The proposed development looks too tightly squeezed within the site.

3 The future occupier would have no opportunity to grow any type of privacy hedge because of the lack of space between building and boundary. The application drawing does not even show any vegetation in front of the lounge and dining area windows to screen the building from the public footpath.

4 These dwellings would not be future-proof as there would be no space to extend, proof that this proposal is overcrowding/overdevelopment.

5 We are also aware that the new development would have noise implications for us at Littlehill with the creation of two new back gardens providing play areas for children compared to the existing very quiet outbuilding and yard.

## **I. Sewage contamination.**

Littlehill has a private water supply barely 50 metres from the two proposed sewage treatment systems, borehole registration number TL00NW136, used for domestic drinking consumption. No provision seemed to have been made to protect our borehole from contamination. Sewage pollution would have terrible consequences for us. For this reason, the proposed development is highly concerning to us.

Should this development still be allowed to go ahead, the following conditions should be imposed:

- A permanent 2-metre close-board fence to be erected on the eastern boundary to provide a privacy screen for both public footpath users and the occupiers of Littlehill.
- No further development to be allowed on the Woodlands site to prevent the erection of another two semi-detached homes mirroring the proposed development, on the western side, in place of the main house.

## **Additional comments;**

I am aware that the extant planning permission is a material consideration. It is this permission for which I questioned the decision-making process, the lack of due impartiality and bias towards the applicant. No weight was given to the impact of the development (4/01519/18/FUL) on immediate neighbours as the committee members were unaware of any objections. If they had known, this might have swayed their decision. Our letter of objections of 10/07/2019 was not submitted to the Development Management Committee of September 2018 supposedly because the pdf filename and email header had the wrong reference number. These, in themselves, are of material significance and should carry weight when considering this new application. I will send a revised letter of objection separately as I feel the discrepancies below are too technical for the letter.

The discrepancies, which were found after the Committee meeting, were not referred back to the committee members. They were deemed unimportant, relevant to Building Control only or simply ignored. I have listed them below although the visibility splay issue might be the only one of interest to you.

1. Inconsistent building dimensions. The new build was made to look smaller and the existing outbuilding larger, therefore making the proposal look less harmful to the openness of the Green Belt:

a. Gross external area of proposed dwellings as per Area Schedule (**see Appendix A1**)

and Design and Access Statement = **165 sqm**,

However, if we calculate this area separately using the shell dimensions provided in the proposed ground floor plan (**see Appendix A2**), we end up with a bigger number:  $13.516 \times 13.039 = \mathbf{176 \text{ sqm}}$ .

b. External area of existing building to be demolished as per Area Schedule (**see Appendix A**) = **234 sqm**. However, in previous applications 4/03393/15/FUL and 4/00735/14/FUL, the exact same L-shape building was only **226.27 sqm**.

c. In view of a) and b) above, one wonders what other dimensional discrepancies could be found in the drawing. For example: Total separation from Littlehill (is it really "*some 16.6m*" as stated in the application?). Distance between boundary fence and building on both western and eastern sides (1m?). Car park dimensions (2.4x4.8m?). Minimum garden depth for Dwelling A (12m?). I did have the pdf drawing imported into CAD software and obtained smaller measurements but I was told that precise measurements could not be guaranteed due to possible cad-to-pdf-to-cad file-conversion distortion.

1. Other discrepancies that appeared in the previous drawing were disguised in the new drawing by removing OS map outline and red dotted line. However, as many the features in PRJ/19/006/001 are also found in PRJ/18/003/002, it is very easy to redraw the missing lines by laying the drawings on top of each other. These discrepancies relate to the following:

a) The red line location map does not encompass the full extent of the development (**see Appendix B**), in particular a large part of the visibility splays is outside the red line. Is this acceptable?

b) Even if point a) above was deemed acceptable, please note that the Y distance does not comply with the HCC Highways' 25-metre requirements. The drawing makes it look like it does but only by encroaching on the lane leading to Gaddesden Hall Farm, so much that GHF entrance is 40% smaller than it should be (**see Appendix C and D**). It might be argued that such a distance is not paramount because the development is located at the end of a cul-de-sac. However, the fact is that HCC Highways were contacted for comments and a condition was imposed on the planning permission (Condition 11). Can this condition be discharged even though the 25 metres will never be achieved on site?

2. Non-electrical sewage treatment systems - **Building Control issue only**. I expressed my concerns about having two new sewage treatment systems so near our borehole (our only source of drinking water). Andrew Parrish replied through his case report: "*the proposed system to be installed is understood to be a very sophisticated system that discharges only clean water into the surrounding ground and never needs to be pumped out.*" I contacted ClearFox manufacturer for advice (**see Appendix E**) and concluded the following: A) the Polystorm soakaway crates proposed by the applicant are intended for rainwater only and are unsuitable for use with waste water effluent, B) the wastewater effluent is not clean otherwise the crates would not clog up and C) the system will need to be de-sludged every 12 months, like any other septic tank. If the proposed crates are unsuitable, the applicant will have to provide an alternative. If a drainage field-type system is installed as recommended by Jamie from ClearFox, where would it be located? In the back garden or out in the neighbouring field? In any case, permission from the neighbouring landowners would be required.

3. Car park: I am questioning the legitimacy of the 5-vehicle parking bay opposite the development. There is doubt whether the land across the lane forms part of the curtilage of Woodlands (as pointed out by Planning Inspector Paul Freer regarding Appeal Ref: APP/A1910/C/16/3142948. See Para 36, page 7, of Mr Freer's appeal decision report). Even if it did form part of the curtilage, the applicant did not have any permitted

development right to create a 5-vehicle parking bay because this site is forward of the principal elevation of Woodlands dwellinghouse. Created in 2012/2013, this is still an unauthorised change of use of the land in breach of building control. If a formal complaint was made to the Enforcement team, can the use of the car park still be stopped? Incidentally, please note that the close boarded fence is 2.2m high and should have also required planning permission. This fencing harms Green Belt openness and is also used to store/dump materials.

4. I will contact HCC Highways to ask if they can review the impact of the proposed development on the whole of Noake Mill Lane rather than solely on the area closest to the development site.

5. Finally, now that the public footpath is no longer part of the development, will the applicant take the necessary steps to make the path safe again before the development even begins?

I am very sorry to burden you with all this but I believe in fairness but must stand up for what is right.

Representations of objection sent to HCC Highways (Case Officer copied in).

My neighbours submitted an application to demolish a barn and build two dwellings, 4/01519/18/FUL, for which you raised no objections (subject to conditions). Although the application was granted permission, they resubmitted another application, 4/01534/19/FUL, with changes relating to the public footpath only.

The reason I am contacting you is because your original comments solely related to the area closest to the proposed development and not the rest of Noake Mill Lane which forms part of the adopted public highway.

I believe that the development would adversely affect highway safety and, for this reason, I would like to ask you if you could please reassess this proposed development to include the whole of the lane. Could you also review the proposed visibility splays as they were made to look like they comply with your requirements when they actually do not.

1. Noake Mill Lane is a single-track road (**Picture 1**). The first passing place when entering the lane is approximately 200 metres from the Leighton Buzzard road (**Picture 2**), Dealing with oncoming traffic is relatively easy at that point and visibility is good. However, when two vehicles meet at a point closer to the main road, the vehicle entering the lane has to reverse towards the road to let the other vehicle pass, effectively using the entrance of the lane as a passing place (**Picture 3**). Allowing this development to go ahead would consequently increase traffic in the lane, which in turn would increase the likelihood of vehicles having to reverse towards the main road and the probability for a third vehicle crashing onto the back of the reversing vehicle.

2. Another dangerous spot on the lane is the tight right-hand bend at the entrance of Woodlands, where the adopted public highway ends (**Picture 4**). Although there is a wide-angle safety mirror at the corner, the number of near-miss occurrences would increase significantly. A problem exacerbated by poor lane maintenance where hedges, brambles and nettles are left to grow (**Picture 5**). Walking is also made unsafe on this private part of the lane as the verge is covered with vegetation, making it difficult for pedestrians to move out of the way of passing traffic (a resident of the lane

recently told me that her dog was nearly run over at that particular point as she was walking her dog on a lead. A couple of weeks later, I myself had a near miss with another vehicle on that same spot on my way home. I had to swerve onto Gaddesden Hall driveway to avoid collision).

3. Visibility splays: I would like to point out a discrepancy which was not picked up when the previous application was being reviewed and is being reproduced in this new application. Although the drawing states that they are providing 2.4 x 25m visibility splays, the 25m Y distance that you imposed as a condition is physically impossible to achieve as it is barely more than 17/18 metres (**Picture 6**). They made it look like it was possible on the drawing by narrowing the lane leading to Gaddesden Hall Farm, making the gate entrance approximately 40% smaller than its actual size (which should be over 4 metre wide). Please see **Picture 7** below for details.

4. If the development went ahead, the approach route to the applicant's house would be permanently blocked with no proposed alternative (**Picture 8**). The applicant would have to create a new access. They might even want to create a new driveway and build a garage, as already proposed in their application 4/01734/05/LDP (**Picture 9**). Would these have any impact on your visibility splay requirements?

In terms of road safety, I feel it would be unwise to allow the creation of any new dwellings on the lane, and thus allow increased regular traffic, until the lane's infrastructure was improved.

Finally, we recently realised how important Woodlands driveway was at the end of this cul-de-sac. It has always been used as a turning place for utilities vehicles: cesspit emptying and oil delivery for Littlehill and gas delivery for Woodlands as well as for any large delivery vehicles, except for waste collection as the bin lorries have to drive all the way to the top to empty Gaddesden Hall Farm's own bins. Replacing this driveway by two smaller ones would make it very hard for these vehicles, including emergency vehicles, to turn around.