

**ITEM NUMBER: 5e**

<b>21/01682/FUL</b>	<b>Demolition of existing detached house, to be replaced with a new detached home (amended scheme).</b>	
<b>Site Address:</b>	<b>Mabuhay Brownlow Road Berkhamsted Hertfordshire HP4 1HB</b>	
<b>Applicant/Agent:</b>	<b>Mr Julian Hearn</b>	<b>Mr Adrian Gould</b>
<b>Case Officer:</b>	<b>James Gardner</b>	
<b>Parish/Ward:</b>	<b>Berkhamsted Town Council</b>	<b>Berkhamsted Castle</b>
<b>Referral to Committee:</b>	<b>Contrary view of Berkhamsted Town Council</b>	

**1. RECOMMENDATION**

1.1 That planning permission be **GRANTED** subject to conditions.

**2. SUMMARY**

2.1 The principle of a replacement dwelling is acceptable in this area in accordance with Policy CS4 of the Dacorum Core Strategy.

2.2 In terms of heritage impacts, the proposed design is suitable and would not be harmful to significance of the nearby Scheduled Ancient Monument or the setting of the Berkhamsted Conservation Area, thereby complying with Policy CS27 of the Dacorum Core Strategy.

2.3 The design respects the rhythm of the street and would satisfactorily integrate with the streetscape character, in accordance with Policies CS11 and CS12 of the Dacorum Core Strategy.

**3. SITE DESCRIPTION**

3.1 The application site comprises of a two-storey, detached dwellinghouse and associated curtilage, which occupies a large plot on the westernmost side of Brownlow Road, Berkhamsted.

**4. PROPOSAL**

4.1 Planning permission is sought for the demolition of the existing dwelling and the construction of a replacement dwelling.

**5. PLANNING HISTORY**

Planning Applications

20/01429/FUL - Demolition of existing detached house, to be replaced with a new detached home.  
*REF - 9th February 2021*

**6. CONSTRAINTS**

Area of Archaeological Significance: 21

CIL Zone: CIL1

Berkhamsted Conservation Area

Former Land Use (Risk Zone):

Parish: Berkhamsted CP

Railway (100m Buffer): Railway: 100m buffer

Residential Area (Town/Village): Residential Area in Town Village (Berkhamsted)

Residential Character Area: BCA13

Parking Standards: New Zone 3

EA Source Protection Zone: 3  
EA Source Protection Zone: 2  
Town: Berkhamsted

## **7. REPRESENTATIONS**

### Consultation responses

7.1 These are reproduced in full at Appendix A.

### Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

## **8. PLANNING POLICIES**

Main Documents:

National Planning Policy Framework (2021)  
Dacorum Core Strategy 2006-2031 (adopted September 2013)  
Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

### Dacorum Borough Council Core Strategy (2013)

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS4 - The Towns and Large Villages  
CS8 - Sustainable Transport  
CS10 - Quality of Settlement Design  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS27 - Quality of the Historic Environment  
CS29 - Sustainable Design and Construction  
CS31 – Water Management  
CS32 - Air, Soil and Water Quality  
CS35 - Infrastructure and Developer Contributions

### Dacorum Borough Local Plan (2004)

Policy 10 - Optimising the Use of Urban Land  
Policy 12 - Infrastructure Provision and Phasing  
Policy 13 - Planning Conditions and Planning Obligations  
Policy 15 - Retention of Housing  
Policy 18 - The Size of New Dwellings  
Policy 51 - Development and Transport Impacts  
Policy 100 - Tree and Woodland Planting  
Policy 118 - Important Archaeological Remains  
Policy 120 - Development in Conservation Areas

Saved Appendix 3 - Layout and Design of Residential Areas

### Supplementary Planning Guidance/Documents

Roads in Hertfordshire, Highway Design Guide 3rd Edition (2011)  
Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

## **9. CONSIDERATIONS**

### Main Issues

9.1 The main issues to consider are:

Principle of the Development;  
Impact on Significance of Heritage Assets  
Quality of Design / Impact on Visual Amenity  
Impact on Amenity of Neighbours  
Highway Safety and Parking Provision

### Principle of the Development

9.2 Policy CS4 states that appropriate residential development within residential areas in the Towns and Large Villages is encouraged.

9.3 The principle of the development is therefore acceptable, subject to the satisfying of other material planning considerations.

### Impact on Significance of Heritage Assets

9.4 The application site is located immediately adjacent to the Berkhamsted Conservation Area. Accordingly, the local planning authority is required to have regard to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states that "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area".

9.5 Paragraph 199 of the NPPF outlines that when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation. Paragraph 201 states that where proposed development will lead to substantial harm or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm. Where the harm is considered less than substantial, Paragraph 202 states that this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The NPPF therefore does allow for a degree of harm to a heritage asset in particular circumstances.

9.6 Policy CS27 of the Dacorum Core Strategy is an overarching heritage policy which seeks to ensure that the integrity, setting and distinctiveness of designated and undesignated heritage assets will be protected, conserved and, if appropriate, enhanced, with development positively conserving and enhancing the appearance and character of the Conservation Areas. This is supported by saved Policy 120 of the Dacorum Local Plan, which relates specifically to development affecting conservation areas.

9.7 Policy 120 of the Dacorum Local Plan requires new development in conservation areas to be carried out in a manner which preserves or enhances its established character or appearance. It further states that each scheme will be expected to respect established patterns of development, utilise materials and design details which are traditional to the area, and be sympathetic to the scale, form, height and overall character of the surrounding area.

### Impact on Setting of Berkhamsted Castle

9.8 The setting of the castle has changed considerably since its construction in the 11th century. The London and Birmingham Railway (now the West Coast Main Line) arrived in the late 1830s and resulted in the destruction of the castle's gatehouse. Residential dwellings began to be constructed to the west of the castle during the inter-war period, with the application dwelling dating to the second half of the 20th century.

9.9 The design of the replacement dwelling has been subject to amendment following the refusal of planning application 20/01429/FUL. These amendments are shown in conjunction with the original design on page 7 of the Design and Access Statement. In summary, the width of the dwelling has been reduced by 1 metre, flint at ground floor has been replaced with facing brick, and the zinc cladding at first floor replaced with timber cladding. These amendments are a response to the concerns previously raised with regard to the perceived bulk, mass and scale of the dwelling. It is considered that muted brick will draw less attention to the building, thereby reducing its prominence when viewed from the castle as compared with the existing dwelling (which is constructed from red brickwork).

9.10 Schedule 4, Paragraph (r) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 requires the local planning authority to consult Historic England where an application would affect the site of a scheduled monument. Historic England have been consulted during the course of this application and their comments provided below (in full) for ease of reference:

*Thank you for your letter of 27th April 2021 regarding the above application for planning permission for the demolition of an existing detached house and replacement with a new detached dwelling.*

*We note that the current planning application is an amended scheme for a previous proposal (20/01429/FUL) which was refused planning permission in February 2021. The proposed development site is located on Brownlow Road and lies directly opposite the site of 'Berkhamsted motte and bailey castle' scheduled monument (List Entry Number 1010756) and part of the Berkhamsted Conservation Area.*

*A detailed Heritage Statement has been submitted with the current planning application. We note that the map on Page 2 of the Heritage Statement, which is reproduced from Berkhamsted Conservation Area Character Appraisal & Management Proposals (Map 14: Area 2: The Canal West) 2015 shows an inaccurate representation of the extent of the Berkhamsted Castle scheduled monument. However, the correct extent of scheduled monument is shown on page 12 of the Heritage Statement and is discussed in the text.*

*The amended scheme from that submitted under application 20/01429/FUL includes a slight shortening of the overall length of the proposed replacement dwelling and changes to its construction materials. We agree with the Heritage Statement that the change of the first-floor façade from zinc to timber cladding and the replacement of the first-floor flint façade with suitably toned brick are likely to make the structure more visually recessive than both the existing dwelling and that originally proposed.*

*However, as with the previous application, the proximity of the proposed development to the scheduled monument and conservation area does mean that the replacement dwelling would be visible from within the designated heritage assets.*

*With appropriate mitigation planting in place, Historic England considers that the level of harm, if any, to the significance of the Berkhamsted Castle scheduled monument and Berkhamsted Conservation Area would be at the bottom end of less than substantial harm in terms of the National Planning Policy Framework.*

## **Recommendation**

*Historic England has no objection to the application on heritage grounds. We recommend that you consult with your specialist archaeological and conservation advisors as appropriate.*

*If you have any questions, or we can be of any further assistance, please do not hesitate to contact us.*

9.11 Historic England equivocate in terms of whether the proposal would cause harm to the heritage asset, although suggest that, with mitigation planting, the harm would be at the bottom end of less than substantial, if there is indeed any harm at all.

9.12 Given the reduction in width of the proposed dwelling (compared with the previous submission) and the use of building materials more typical of the dwellings in the immediate vicinity, it is not considered that planting to the frontage is necessary to obviate harm to the heritage asset. On the contrary, it is submitted that there would be no harm. The architect- designed bespoke dwelling would be of high quality and utilise an appropriate palette of materials, making it more visually recessive than both the existing dwelling and that proposed under 20/01429/FUL. Whilst larger than the existing dwelling, it does not automatically follow that it would be harmful.

9.13 Since no harm has been identified, there is no need for the public benefits balancing exercise referred to in paragraph 202 of the NPPF to be carried out.

9.14 With respect to the planting, while not deemed necessary to avoid harm in heritage terms, it is acknowledged that additional tree planting will have a positive impact on the character and appearance of the area and is therefore welcomed.

### Impact on Setting of Conservation Area

9.15 The Council's Conservation and Design Officer has seen sight of the plans and provided comments, an extract of which has been reproduced below:

*The proposed new dwelling is of a high architectural standard. We continue to believe that it has carefully considered the context and has addressed our concerns with the rhythm and the mass. The building is now in scale with regards to both the height and building line in relation to the neighbouring properties. As recommended in the national design guidance there is a clerestory which the concept has evolved through to the design proposal.*

*We would not object to the changes with regards to the materials and detailing. Overall we believe that the composition has been carefully considered and would influence the context positively while responding to the vernacular of the area. This is most welcome and would enhance the appearance of the street. Therefore we support the proposals.*

*The proposal would in our view enhance the setting of adjacent the conservation area by improving the quality of the built environment adjacent to the designated asset. As such we would recommend that the balancing exercise with regards to the framework is not necessary as there is an enhancement to the setting rather than harm being caused.*

*In relation to the setting of the castle we would defer to Historic England as it is a Scheduled Ancient Monument. However given that there is now buildings on the site and have been since the second half of the 20th century that we would not consider that there to be any additional harm.*

*Recommendation We would support the proposals and recommend approval as the proposed design would enhance the built environment. External materials subject to approval.*

9.16 The design includes a mixture of building materials which complement the character of the area, while enhancing the conservation area through the use of high quality materials and good architecture. The proposal would represent an improvement on the existing dwelling, thereby enhancing the Berkhamsted Conservation Area.

### Conclusion

9.17 Regard has been had to the statutory tests of preserving or enhancing the character and appearance of Conservation Area under S72 of The Planning (Listed Building and Conservation Areas) Act 1990, which, it is accepted, is a higher duty. It is concluded that no harm would be caused to character and appearance of the Conservation Area, which would be enhanced.

9.18 The design and appearance of the proposal is considered acceptable in heritage terms. No harm would be inflicted upon heritage assets and therefore the proposal is considered to accord with Policy CS27 of the Core Strategy (2013) and Policy 120 of the Dacorum Local Plan (2004).

### Quality of Design / Impact on Visual Amenity

9.19 Policies CS11 and CS12 of the Dacorum Core Strategy state that development should, inter alia, respect the typical density intended in an area, preserve attractive streetscapes, protect or enhance significant views within character areas, and integrate with the streetscape character.

9.20 Policy CS12 further states that development should respect adjoining properties in terms of layout, site coverage, scale, height, bulk, materials and amenity space.

### Internal Environment

9.21 The ground floor layout indicates that the living space would be predominantly open-plan within the main core of the dwelling, and served by full height glazing on southern, eastern and western elevations. The effect would be to allow good levels of daylight to enter the building. The entrance hall would be a spacious area and serve as a link to the single-storey wing that projects outward into the garden. At first floor level, the bedrooms would be dual aspect and accessed off a central corridor. The master bedroom would be located in a separate northern wing.

### Amenity Space

9.22 Saved Appendix 3 of the Dacorum Borough Local Plan states that all residential development is required to provide private open space for use by residents.

9.23 Private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5 m. A reduced rear garden depth may be acceptable for small starter homes, homes for the elderly and development backing onto or in close proximity, to open land, public open space or other amenity land.

9.24 The primary amenity space is shown as being located to the rear and would have a depth ranging from approximately 15 – 17 metres (owing to the sight variation in the rear build line and the boundary of the site). By moving the new dwelling closer to the road, it has been possible to maximise the use of the rear garden amenity area. It is considered that the garden area is of sufficient depth and width to afford future occupiers a highly functional and pleasant outdoor space.

### Street Scene Impact

9.25 The proposed dwelling would respect the rhythm of the street by retaining the clear gaps between the respective first floors of the nearby dwellings. Whilst wider than nos. 1 – 4 Brownlow Road, the introduction of a 3.0 metre wide glazed element on the main elevation would reduce the visual impact of the dwelling. The massing is further broken down by the contrasting use of brick at ground floor level, timber cladding at first floor level, and zinc at roof level. A concrete band serves as a transition material between the ground and first floors.

9.26 The ridgeline is shown as being equalised with that of no. 1 Brownlow Road, the higher eaves representing an approximate mid-point between no. 1 and Fosse House. 9.4.8 It is submitted, therefore, that the proposed design is suitable and would fully accord with Policies CS11 and CS12 of the Dacorum Core Strategy.

### **Impact on Amenity of Neighbour**

9.27 Policy CS12 of the Dacorum Core Strategy states that development should, amongst other things, avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to surrounding properties.

#### **Effect on Fosse House**

9.28 Should planning permission be granted, the spacing between the new dwelling and Fosse House (to the south) would be reduced. It should, however, be noted that the amended application increases the gap between the new dwelling and Fosse House by 1 metre, resulting in a total separation of approximately 7 metres. Fosse House does not have any primary windows on its flank wall which could be adversely affected. The small high-level window is understood to be a secondary server for the master bedroom (as shown on plans submitted in support of application 4/02985/18/FHA). There may be a small loss of daylight to this window, but this is not considered to be so severe as to warrant withholding planning permission, especially when consideration is given to the fact that the primary light source is through the front (eastern facing) window. Two-storey built form would not extend past the rear elevation of Fosse House; therefore, there would be no visual intrusion or any potential for loss of sunlight and daylight to habitable windows.

#### **Effect on 1 Brownlow Road**

9.29 The proposed design includes an elongated single-storey wing, which extends for some 12 metres into the rear garden and is proximate to the boundary with no. 1 Brownlow Road. There are, however, factors which militate against a refusal of planning permission on the basis that there would be an adverse impact on the neighbouring property.

9.30 Firstly, as demonstrated on drawing no. PL 301 (Rev. 00), the height above ground level would be limited to a mere 2 metres – the average height of a boundary fence. This is to be achieved by sinking the single-storey wing into the land.

9.31 Secondly, a distance in excess of 2 metres would be retained between the wall of the single-storey wing and the boundary.

9.32 The limited extent of two-storey development is such that there would be no significant impact on the windows on the rear elevation. In terms of the south facing windows on the flank wall of no. 1 Brownlow Road, these are understood to serve a single aspect bedroom. It is acknowledged that the proposed development would result in two-storey development moving closer to these windows (approximately 9 metres reduced to 6.2 metres), but it should be noted that this distance is broadly similar to that maintained between the first floor windows of nos. 1 and 2 Brownlow Road. Whilst this is not a reason in and of itself to grant planning permission, the context is nonetheless important in setting reasonable expectations in terms of the level of amenity that occupiers can expect to enjoy. It should also be noted that no objections have been received from the neighbouring property.

9.33 No windows are proposed at first floor level in the flank wall of the northern elevation of the proposed dwelling, thereby avoiding any loss of privacy.

9.34 On balance, the relationship between the proposed dwelling and no. 1 Brownlow Road is considered to be acceptable.

### **Highway Safety and Parking Provision**

9.35 Policy CS12 of the Core Strategy states that on each site development should provide a safe and satisfactory means of access for all users.

9.36 Saved Policy 51 of the Dacorum Borough Local Plan states that the acceptability of all development proposals will always be assessed specifically in highway and traffic terms and should have no significant impact upon the nature, capacity and use of the highway network and its ability to accommodate the traffic generated by the development and the environmental and safety implications of the traffic generated by the development.

9.37 The development site is on Brownlow Road, which is an unnumbered "C" classified local distributor road with a 30mph speed limit.

9.38 The site currently has a carriageway access, allowing vehicles to enter and leave the highway in forward gear, which appears to operate without any issues. No new or altered vehicular or pedestrian access to the highway is proposed and no works are required in the highway.

9.39 The Highway Authority have been consulted on the application and, following clarification that no changes are proposed to the accesses, have confirmed that the proposal would not have a severe residual impact on the safety and operation of the adjoining highway.

9.40 No concerns are therefore raised with regard to highway safety.

### **Parking Provision**

9.41 Policy CS12 of the Core Strategy states that on each site, development should provide sufficient parking.

9.42 The Dacorum Parking Standards Supplementary Planning Document (2020) was formally adopted by the Council in November 2020. The starting principle is that all parking demand for residential development should be accommodated on site, with departure from the standards only being accepted in exceptional circumstances.

9.43 The floor plans submitted in support of this application indicate that the proposed dwelling would have a total of five bedrooms – four at first floor level and one within the roof space.

9.44 In accordance with the Parking Standards SPD, dwellings containing in excess of four bedrooms are to be assessed on an individual basis.

9.45 Whilst the dwelling is located extremely close to Berkhamsted Station, there is no guarantee that future occupiers of the dwelling will be commuters and exclusively use the train for their day-to-day travel. Furthermore, although conceivable, it is unlikely that a dwelling of this size will be occupied by one or two occupants; rather, it is reasonable to assume that it will be occupied by either multi-generational family or a family with a number of children, all of whom will almost certainly become drivers at the appropriate age. As such, it is considered that parking provision for up to five cars would be appropriate in this particular case.

9.46 Having reviewed drawing no. PL 100 (Rev. 03), it is considered that the requisite number of cars could be accommodated on the spacious site frontage and within the integral garage (which

meets the standards set out in the SPD). As such, the development is considered to accord with Policy CS12 of the Dacorum Core Strategy and the Parking Standards SPD.

### EV Charging

9.47 The parking standards SPD requires one active charging point to be provided per house. Although the proposed site plan shows the location of the EV charger, it does not provide its specification. As such, it is recommended that a condition be included to require details of the specific EV charger (to ensure it meets the minimum specification set out in the Parking Standards SPD) by way of a planning condition.

### **Other Considerations**

#### Trees and Landscaping

9.48 Policy CS12 of the Core Strategy states that on each site, development should retain important trees or replace them with suitable species if their loss is justified and plant trees and shrubs to help assimilate development and softly screen settlement edges. Development should also respect adjoining properties in terms of landscaping.

9.49 The Council's Trees and Woodlands Officer has been consulted on the proposal. No objections have been raised subject to the provision of a tree protection plan in respect of the Ash in the garden of no. 1 Brownlow Road, and a landscaping plan showing the proposed trees. The latter has already been provided and shown on drawing nos. PL 100 Rev. 03 (Proposed Site Plan) and PL 304 (Existing and Proposed Trees), which shows the indicative heights and canopy spreads of the trees. Regard has been had to the size of the available planting area and the screening properties of the trees. Given the professional opinion of the consultant arboriculturist, there is no reason to believe that these trees would not be suitable.

9.50 A landscaping condition will be included with any grant of planning permission requiring the trees to be planted within one planting season of the completion of the development. A further condition will require the submission and approval of a tree protection plan prior to the commencement of development. Development will thereafter be required to be carried out in accordance with the approved particulars.

#### Archaeology

9.51 The site is located within an Area of Archaeological Significance and within close proximity to a Scheduled Ancient Monument (Berkhamsted Castle).

9.52 At the time of writing, the Historic Environment Unit at Hertfordshire County Council has provided no formal comments. However, they previously provided comments in respect of...; and, given the similarities between the applications, it is considered that these comments are equally applicable to this application. Accordingly, should planning permission be granted, it is recommended that planning conditions be included to secure the submission and approval of a Written Scheme of Investigation and its subsequent implementation.

#### Refuse Collection

9.53 Drawing no. PL 100 (Rev. 03) demonstrates that sufficient refuse and waste receptacles are to be provided to within the north-eastern segment of the site. This location will ensure that waste and recycling can be deposited without an unacceptable carry distance and easily collected by the Council's Refuse Collection Team.

#### Noise Sources

9.54 It is acknowledged that the site is located within the Railway (100m Buffer) constraint due to its proximity to the railway line to the south. The Council's Environmental Health Officer has, however, advised that while the site falls just within the railway transportation significance noise contours, traditional building construction will provide suitable protection for internal sound. On this basis, it is not considered that any conditions need be included in terms of noise mitigation.

### Sustainability

9.55 Policy CS29 of the Core Strategy states that new development will comply with the highest standards of sustainable design and construction possible.

9.56 It is considered that the development broadly comply with these objectives and given the scale and nature of the proposals, it is considered that this matter can be adequately and appropriately assessed through the Building Control process.

### Permitted Development Rights

9.57 The National Planning Practice Guidance (NPPG) provides the following guidance in terms of the removal of permitted development rights:

*Conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015, so that it is clear exactly which rights have been limited or withdrawn. Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.*

9.58 It is not considered that the removal of permitted development rights can be justified in this instance.

### Land Contamination

9.59 Policy CS32 of the Core Strategy states that any development proposals which would cause harm from a significant increase in pollution (into the air, soil or any water body) by virtue of the emissions of fumes, particles, effluent, radiation, smell, heat, light, noise or noxious substances, will not be permitted.

9.60 The Council's Environmental and Community Protection Team have advised that there is no objection to the proposed development, but that it will be necessary for the developer to demonstrate that the potential for land contamination to affect the proposed development has been considered and where it is present will be remediated.

9.61 This is considered necessary because the application site is on land which was formally a watercress bed, and as such, the possibility of ground contamination cannot be ruled out at this stage. This, combined with the vulnerability of the proposed residential end use to the presence of any contamination, means that planning conditions should be included if permission is granted. As such, the conditions are recommended within the relevant section of this report.

### Source Protection Zone

9.62 The site is subject the Source Protection Zones 2/3 designation. However, given the location of the site and the scale of the proposals, the designation and associated considerations are not considered to represent a constraint on the proposed development.

## Ecology

9.63 Policy CS29 of the Core Strategy states that development should minimise impacts on biodiversity and incorporate positive measures to support wildlife. Furthermore, Paragraph 175 of the NPPF states that development whose primary objective is to conserve or enhance biodiversity should be supported while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.64 Hertfordshire Ecology were consulted and noted that:

*Viewed from Google Street View and photos within the DAS, the property looks to be in very good condition with well-sealed roof and ridge tiles, soffits, windows and doors. It appears to be sub-optimal for bats to use for roosting. Given the location and nature of the site, lack of associated records and apparent characteristics of the building, on this occasion I do not consider there is sufficient likelihood of bats being present and affected for the LPA to require a formal survey prior to determination. However, in the unlikely event that bats are found, given the proposal will involve demolition, I advise a precautionary approach to the works is taken and recommend the following **Informative** is added to any permission granted.*

9.65 As recommended by the County Ecologist, should planning permission be granted, it is recommended that the suggested informative be included.

9.66 A precautionary approach is also advocated in respect of Great Crested Newts in light of the application site being separated from a local wildlife site by a tarmac road, which newts would not favour crossing. As with bats, it is considered appropriate to include an informative with respect to Great Crested Newts with any grant of planning permission.

## Community Infrastructure Levy (CIL)

9.67 The site is situated within Charging Area 1 as defined by the Community Infrastructure Levy Charging Schedule, wherein a charge of £328.74 per square metre applies.

## **10. CONCLUSION**

10.1 The principle of residential development in this area is acceptable subject to compliance with the relevant local and national planning policies. The design has been well thought out and would respect the streetscape character. It is acknowledged that the site is sensitive given its location opposite a Scheduled Ancient Monument (Berkhamsted Castle) and adjacent to the Berkhamsted Conservation Area. The design responds to these constraints by utilising appropriate materials in a form that would not be discordant with its surroundings. It is submitted that there would be no harm to the significance of Berkhamsted Castle and an enhancement to the character and appearance of the Berkhamsted Conservation Area. The additional tree planting would further enhance the aesthetics of the area.

10.2 Residential amenity of neighbouring properties has been considered, and while there would be some impacts on no. 1 Brownlow Road, this is would not be so harmful as to weigh in favour of withholding planning permission.

10.3 Parking is adequately provided for by way of the large forecourt on the frontage and the integral double garage. The specification of the EV charging will be secured by condition.

10.4 The County Ecologist does not consider it likely that the current dwelling is inhabited by bats. No further surveys are therefore required. Informative will be included with any grant of planning permission, which outlines the procedure that must be followed should bats and / or Great Crested Newts be discovered.

## 11. RECOMMENDATION

11.1 That planning permission be **GRANTED** subject to the following conditions:

### Condition(s) and Reason(s):

1. **The development hereby permitted shall begin before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

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

**PL 100 (Rev. 03) Proposed Site Plan**

**PL 200 (Rev. 00) Proposed GF Plan**

**PL 201 (Rev. 00) Proposed FF Plan**

**PL 202 (Rev. 00) Proposed Loft Plan**

**PL 300 (Rev. 00) Proposed Elevations**

**PL 301 (Rev. 00) Proposed Elevations**

**PL 302 (Rev. 00) Proposed Streetscene**

**PL 304 (Rev. 00) Existing and Proposed Trees**

**Tree Planting Appraisal (prepared by GHA Trees Arboricultural Consultancy) dated 7th June 2021**

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

3. **Notwithstanding the details shown on drawing no. PL 100 (Rev. 03), no construction above slab level shall take place until full details of hard landscape works has been submitted to and approved in writing by the Local Planning Authority. These details shall include:**

- o all external hard surfaces within the site;
- o other surfacing materials;
- o means of enclosure;

**The approved hard landscape works shall be fully implemented prior to first occupation of the dwelling hereby approved.**

Reason: To ensure satisfactory appearance to the development and to safeguard the visual character and historic integrity of the area in accordance with Policies CS11, CS12 and CS27 of the Dacorum Borough Core Strategy (2013) and Policy 120 of the Dacorum Local Plan (2004).

4. **(a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the**

current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;

(ii) The results from the application of an appropriate risk assessment methodology.

(c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

5. **Any contamination, other than that reported by virtue of Condition 4 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.**

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Informative:

The above conditions are considered to be in line with paragraphs 174 (e) & (f) and 178 and 194 of the NPPF 2021.

The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on [www.dacorum.gov.uk](http://www.dacorum.gov.uk) by searching for contaminated land and I would be grateful if this fact could be passed on to the developers.

6. **No below-ground development / excavation shall take place until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:**
1. **The programme and methodology of site investigation and recording;**
  2. **The programme and methodology of site investigation and recording as suggested by the archaeological evaluation;**
  3. **The programme for post investigation assessment;**
  4. **Provision to be made for analysis of the site investigation and recording;**
  5. **Provision to be made for publication and dissemination of the analysis and records of the site investigation;**
  6. **Provision to be made for archive deposition of the analysis and records of the site investigation;**
  7. **Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.**

Reason: To ensure that the site's archaeological interests are adequately accounted for in accordance with Policy CS27 of the Dacorum Borough Council Core Strategy (2013).

7. **All demolition / development shall take place in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under Condition 6.**

Reason: To ensure that the site's archaeological interests are adequately accounted for in accordance with Policy CS27 of the Dacorum Borough Council Core Strategy (2013).

8. **The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under Condition 6 and the provision made for analysis and publication where appropriate.**

Reason: To ensure that the site's archaeological interests are adequately accounted for in accordance with Policy CS27 of the Dacorum Borough Council Core Strategy (2013).

9. **Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number PL100 (Rev. 03) only.**

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance Saved Policy 51 of the Dacorum Borough Council local Plan (2004).

10. **No development (except demolition and site clearance) shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.**

Reason: To ensure satisfactory appearance to the development and to safeguard the visual character and historic integrity of the area in accordance with Policies CS11, CS12 and CS27 of the Dacorum Borough Core Strategy (2013) and Policy 120 of the Dacorum Local Plan (2004).

11. **No development above slab level shall take place until the specification of the Electric Vehicle Charging Point shown on drawing no. PL 100 (Rev. 03) has been submitted to and approved in writing by the local planning authority.**

**The development shall not be occupied until the Electric Vehicle Charging Point has been provided in accordance with the approved details.**

Reason: To ensure that adequate provision is made for the charging of electric vehicles in accordance with Policies CS8, CS12 and CS29 of the Dacorum Borough Core Strategy (2013) and the Car Parking Standards Supplementary Planning Document (2020).

12. **Prior to the commencement of development hereby approved, an Arboricultural Method Statement and Tree Protection Plan prepared in accordance with BS5837:2012 (Trees in relation to design, demolition and construction) setting out how the Ash tree within the garden of no. 1 Brownlow Road will be protected during the construction process, shall be submitted to and approved by the Local Planning Authority. No equipment, machinery or materials for the development shall be taken onto the site until these details have been approved. The works must then be carried out according to the approved details and thereafter retained until completion of the development.**

Reason: In order to ensure that damage does not occur to trees during building operations in accordance with saved Policy 99 of the Dacorum Borough Local Plan (2004) and Policy CS12 of the Dacorum Borough Core Strategy (2013).

13. **The tree planting shown on drawing nos. PL 100 (Rev. 03), PL 304 (Rev. 00) and specified in the Tree Planting Appraisal by GHA Trees Arboricultural Consultancy (dated 7th June 2021) and received on 11th June 2021 shall be carried out within one planting season of completing the development.**

**Any tree which forms part of the tree planting scheme which within a period of 5 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 or shrub of a similar species, size and maturity.**

Reason: To improve the appearance of the development and its contribution to biodiversity and the local environment, as required by Saved Policy 99 of the Dacorum Borough Local Plan (2004) and Policies CS12 and CS27 of the Dacorum Borough Council Core Strategy (2013).

#### **Informatives:**

1. Environmental Health

Construction Hours of Working - (Plant & Machinery) Informative:

In accordance with the councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: Monday - Friday 07.30am - 17:30pm, Saturdays 08:00am - 13:00pm, Sundays and Bank Holidays - no noisy works allowed.

Construction Dust Informative:

Dust from operations on the site should be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is

to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, produced in partnership by the Greater London Authority and London Councils.

#### Noise on Construction/Demolition Sites Informative:

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.

#### Highway Safety

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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047

3. 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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

#### Ecology

If bats, or evidence for them, are discovered during the course of demolition, work must stop immediately and advice sought on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England, to avoid an offence being committed.

Stored building materials (that might act as temporary resting places) are raised off the ground e.g. on pallets or batons away from hedgerows on site. Caution should be taken when moving debris piles or building materials as any sheltering animals could be impacted on. Any trenches on site should be covered at night or have ramps to ensure that any animals that enter can safely escape - this is particularly important if holes fill with water. In the event that a Great crested newt is encountered during works, works must stop

immediately and ecological advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England.

## APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Environmental And Community Protection (DBC)	<p><u>24.06.21</u></p> <p>Having reviewed the planning application I am able to confirm that there is no objection to the proposed development, however, it will be necessary for the developer to demonstrate that the potential for land contamination to affect the proposed development has been considered and that if issues are identified that the need for remediation will be assessed.</p> <p>This is considered necessary because the application site was historically a watercress bed and subsequently marshy land that may mean that the ground has been impacted by ground contamination for example as a result of natural processes or land raising activities to facilitate the original development. Combined with the vulnerability of the proposed residential end use to the presence of any contamination this means that the following planning conditions should be included if permission is granted.</p> <p>Contaminated Land Conditions: Condition 1:</p> <p>(a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.</p> <p>(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:</p> <p>(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;</p> <p>(ii) The results from the application of an appropriate risk assessment methodology.</p> <p>(c) No development approved by this permission (other than that</p>

necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Condition 2:

Any contamination, other than that reported by virtue of Condition 1 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Informative:

The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2019.

The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on [www.dacorum.gov.uk](http://www.dacorum.gov.uk) by searching for contaminated land and I would be grateful if this fact could be passed on to the developers.

	Please let me know if you have any questions.
Hertfordshire Property Services (HCC)	<p>Hertfordshire County Council's Growth &amp; Infrastructure Unit do not have any comments to make in relation to financial contributions required by the Toolkit, as this development is situated within your CIL zone and does not fall within any of the CIL Reg123 exclusions. Notwithstanding this, we reserve the right to seek Community Infrastructure Levy contributions towards the provision of infrastructure as outlined in your R123 List through the appropriate channels.</p> <p>We therefore have no further comment on behalf of these services, although you may be contacted separately from our Highways Department.</p>
Berkhamsted Town Council	<p><u>18/05/21</u></p> <p>Objection</p> <p>The Committee's view on the application had not changed from its objection in January 2021. The scale, mass and bulk of the proposed developed is over dominant and inappropriate for this heritage setting. It is out of keeping with the streetscape and would be viewable from the Castle, which is in the Conservation Area. It also continued to agree with Dacorum's reasons for refusing the application in February 2021, in particular that "the proximity of the proposed replacement dwelling to the Scheduled Ancient Monument (Berkhamsted Castle) would, as a result of its bulk, mass and scale, cause less than substantial harm to the setting of the heritage asset which is of the highest level of significance.' Further, there is no public benefit to the proposal and the use of Zinc is not suitable and is environmentally less sustainable. If the case officer is minded to approve, the Committee request that appropriate native species high level screening be a condition.</p> <p>NPPF (paragraph 193), CS27, CS11, P120</p> <p><u>23/06/21</u></p> <p>Objection</p> <p>The Committee noted the small amendment made in the form of a few new trees. It drew attention to the letter of objection from the Castle Trust, which sets out substantive reasons why the proposals fail to address the principal reasons for objections</p>

	<p>Given the importance of the location and its setting in context of the Historic Monument the Committee objected to the application for the same reasons as previous, which are that the scale, mass and bulk of the proposed developed is over dominant and inappropriate for this heritage setting. It is out of keeping with the streetscape and would be viewable from the Castle, which is in the Conservation Area. It also continued to agree with Dacorum's reasons for refusing the application in February 2021, in particular that 'the proximity of the proposed replacement dwelling to the Scheduled Ancient Monument (Berkhamsted Castle) would, as a result of its bulk, mass and scale, cause less than substantial harm to the setting of the heritage asset which is of the highest level of significance.' Further, there is no public benefit to the proposal and the use of Zinc is not suitable and is environmentally less sustainable. If the case officer is minded to approve, the Committee request that appropriate native species high level screening be a condition.</p> <p>NPPF (paragraph 193), CS27, CS11, P120</p>
<p>Environmental And Community Protection (DBC)</p>	<p><u>21/06/21</u></p> <p>With reference to the above planning application, please be advised Environmental Health have no objections or concerns. However I would recommend the application is subject to construction working hours with Best Practical Means for dust.</p> <p>Construction Hours of Working - (Plant &amp; Machinery) Informative</p> <p>In accordance with the councils adopted criteria, all noisy works associated with site demolition, site preparation and construction works shall be limited to the following hours: Monday - Friday 07.30am - 17:30pm, Saturdays 08:00am - 13:00pm, Sundays and Bank Holidays - no noisy works allowed.</p> <p>Construction Dust Informative</p> <p>Dust from operations on the site should be minimised by spraying with water or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring of dust is to be carried out continuously and Best Practical Means (BPM) should be used at all times. The applicant is advised to consider the control of dust and emissions from construction and demolition Best Practice Guidance, produced in partnership by the Greater London Authority and London Councils.</p> <p>Noise on Construction/Demolition Sites Informative</p>

	<p>The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.</p>
Conservation & Design (DBC)	<p>To confirm we have no further comments to add in relation to the latest consultation but it should be noted that we do welcome the additional planting.</p>
Network Rail	<p>Network Rail has no comments.</p>
Trees & Woodlands	<p>Loss of the existing tree (Box Elder) is acceptable however the root protection area of a mature ash growing in the next door front garden is at risk from damage during the demolition / construction phase. New planting of native stock will in time compliment the building and street scene, the boundary treatment is unclear.</p> <p>Suggested Conditions: An arboricultural report to plot the position, grade and protection for the tree growing in next door front garden, in accordance with BS 5837. A landscape drawing showing the trees already planned and detail of the front boundary treatment.</p> <p>Recommendation: No objection subject to conditions.</p>
Hertfordshire Highways (HCC)	<p><u>07/05/21</u></p> <p>Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:</p> <p>1) Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number (PL100 02) only.</p> <p>Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).</p> <p>Highway Informatives</p> <p>HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:</p>

AN 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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-anddeveloper-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 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 <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

#### Comments

The proposal is for amendments regarding the demolition of existing detached house, to be replaced with a new detached home at Mabuhay, Brownlow Road, Berkhamsted. Brownlow Road is a 30 mph classified C, Local distributor route. The current dwelling is served by 2 accesses's with a carriage drive linking itself and the adjacent dwellings.

HCC Highways previously commented requesting more information as it seemed that the southern

most access was to moved northwards and the carriage drive be closed, creating doubt about access for the neighbouring property. Since then, the applicant has provided an amended drawing (PL 100 02) of the site plan illustrating that the carriage drive and the existing accesses will be utilised for the new dwelling. Therefore, no highway works is required for the new dwelling and vehicles can enter and exit the highway network in forward gear.

#### Drainage

The proposed new driveway would need to make adequate provision for drainage on site to ensure that surface water does not discharge onto the highway. Surface water from the existing and the new driveway would need be collected and disposed of on site.

#### Refuse / Waste Collection

Provision would need to be made for an on-site bin-refuse store within 30m of the dwelling and within 25m of the kerbside/bin collection point. The collection method must be confirmed as acceptable by DBC waste management.

#### Emergency Vehicle Access.

The proposed dwelling is within the recommended emergency vehicle access of 45 metres from the highway to all parts of the buildings. This is in accordance with the guidance in 'MfS', 'Roads in Hertfordshire; A Design Guide' and 'Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwellinghouses'.

#### Conclusion

HCC has no objections or further comments on highway grounds to the proposed development, subject to the inclusion of the above highway informatives and condition.

30/04/21

The proposal is an amended scheme regarding the demolition of the existing detached house, to be replaced with a new detached home at Mabuhay, Brownlow Road, Berkhamsted. Brownlow Road is a30 mph classified C, Local distributor route. This is an interim response owing to some concern I have regarding previous notions that there will be no new access onto the highway network. While observing both drawing 011 (existing site plan) and drawing number 100 (proposed site plan) it is apparent that the southern existing access that serves both the dwelling in question and the adjacent dwelling will be moved slightly north. This would thus divide the existing carriageway drive into two

separate drives from Mabuhay and the adjacent property. This seems to have not been picked up in previous amendments. Therefore, more information is needed regarding this new access and what will happen to the existing shared access to the south of the property. The application form states that no new vehicle access will be created, therefore HCC Highways would like clarification as to how the southern access in drawing number 100 will access the highway network. No mention has been made in either the planning statement nor the design and access statement of the moved southern access as appearing in drawing 100. HCC Highway would not allow an extension to the existing dropped kerb owing to its already large size in regards to stipulations within HCC Dropped kerbs: Terms and Conditions. The closure of the existing shared carriageway access is noted within the drawings (stated above) and the relocation of the southern access northwards as illustrated in drawing 100. In conclusion, more clarity is need regarding the change to the southern access and how vehicles will enter from the highway as well as what is the plan for the existing shared southern access. Illustrations of the existing dropped kerb in relation to the accesses in drawing 100 would help this matter. Once this has been provided to HCC Highways and we satisfied, then we can make a formal decision.

16/06/21

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1) Prior to the first use of the development hereby permitted vehicular and pedestrian (and cyclist) access to and egress from the adjoining highway shall be limited to the access(es) shown on drawing number (PL100 02) only.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety and amenity in accordance with Policies 5 and 7 of Hertfordshire's Local Transport Plan (adopted 2018).

Highway Informatives

HCC as Highway Authority recommends inclusion of the following Advisory Note (AN) / highway informative to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980:

AN 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

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-anddeveloper-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 2) Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

AN 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 <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

#### Comments

This proposal includes new amendments which introduce tree to the front boundary of the site. The tree are not considered to greatly impact visibility owing to the height of them. As such please find HCC Highways previous response below.

The proposal is for amendments regarding the demolition of existing detached house, to be replaced with a new detached home at Mabuhay, Brownlow Road, Berkhamsted. Brownlow Road is a 30 mph classified C, Local distributor route. The current dwelling is served by 2 accesses with a carriage drive linking itself and the adjacent dwellings.

	<p>HCC Highways previously commented requesting more information as it seemed that the southern most access was to moved northwards and the carriage drive be closed, creating doubt about access for the neighbouring property. Since then, the applicant has provided an amended drawing (PL 100 02) of the site plan illustrating that the carriage drive and the existing accesses will be utilised for the new dwelling. Therefore, no highway works is required for the new dwelling and vehicles can enter and exit the highway network in forward gear.</p> <p>Drainage</p> <p>The proposed new driveway would need to make adequate provision for drainage on site to ensure that surface water does not discharge onto the highway. Surface water from the existing and the new driveway would need be collected and disposed of on site.</p> <p>Refuse / Waste Collection</p> <p>Provision would need to be made for an on-site bin-refuse store within 30m of the dwelling and within 25m of the kerbside/bin collection point. The collection method must be confirmed as acceptable by DBC waste management</p> <p>Emergency Vehicle Access.</p> <p>The proposed dwelling is within the recommended emergency vehicle access of 45 metres from the highway to all parts of the buildings. This is in accordance with the guidance in 'MfS', 'Roads in Hertfordshire; A Design Guide' and 'Building Regulations 2010: Fire Safety Approved Document B Vol 1 - Dwellinghouses'.</p> <p>Conclusion</p> <p>HCC has no objections or further comments on highway grounds to the proposed development, subject to the inclusion of the above highway informatives and condition.</p>
Hertfordshire Ecology	<p>Thank you for consulting Hertfordshire Ecology on the above, for which I have the following comments:</p> <p>The application site is opposite to Berkhamsted Castle, Local Wildlife Site (LWS) designated for its amphibian interest. Hertfordshire Environmental Records Centre has records of bats and Great crested newts in the vicinity. I do not consider the Local Wildlife Site will be</p>

adversely affected by these proposals.

#### Bats

Viewed from Google Street View and photos within the DAS, the property looks to be in very good condition with well-sealed roof and ridge tiles, soffits, windows and doors. It appears to be sub-optimal for bats to use for roosting. Given the location and nature of the site, lack of associated records and apparent characteristics of the building, on this occasion I do not consider there is sufficient likelihood of bats being present and affected for the LPA to require a formal survey prior to determination. However, in the unlikely event that bats are found, given the proposal will involve demolition, I advise a precautionary approach to the works is taken and recommend the following Informative is added to any permission granted.

"If bats, or evidence for them, are discovered during the course of demolition works, work must stop immediately, and advice sought on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England to avoid an offence being committed."

#### Great crested newts

Great crested newts (including the animals, eggs, breeding sites and resting places) are protected by European and national legislation. These amphibians spend the majority of their lifecycle on land, typically up to 100m from their breeding pond but can travel further if suitable contiguous commuting and sheltering habitat is present.

Great crested newts would not favour crossing the tarmac road between the LWS and the application site and in this instance, I do not consider a survey is necessary. However, to avoid an offence being committed if newts are present, I advise a precautionary approach Informative is added to any permission granted:

"Stored building materials (that might act as temporary resting places) are raised off the ground e.g. on pallets or batons away from hedgerows on site. Caution should be taken when moving debris piles or building materials as any sheltering animals could be impacted on. Any trenches on site should be covered at night or have ramps to ensure that any animals that enter can safely escape - this is particularly important if holes fill with water. In the event that a Great crested newt is encountered during works, works must stop immediately, and ecological advice taken on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England

I do not consider there to be any other ecological issues with this proposal.

I trust these comments are of assistance.

<p>Environmental And Community Protection (DBC)</p>	<p>Thank you for your consultation on the above planning application. I have reviewed the details and information provided.</p> <p>The site is just within the railway transportation significance noise contours, however traditional building construction will provide suitable protection for internal sound. The site is also outside of the AQ Mgt Zone. Due to the relatively small size of the development I do not consider it will negatively impact on neighbouring properties.</p> <p>I therefore do not have any objections to the application or make any further comment.</p>
<p>Conservation &amp; Design (DBC)</p>	<p>The existing house dates from the second part of the 20th century. It is of no architectural merit although does not particularly stand out. It is of brick with a concrete tiled roof. Therefore we would not object to its demolition. Opposite and of heritage and architectural interest is the Castle. Adjacent are a group of interesting mid 20th century Dutch style houses.</p> <p>The proposed new dwelling is of a high architectural standard. We continue to believe that it has carefully considered the context and has addressed our concerns with the rhythm and the mass. The building is now in scale with regards to both the height and building line in relation to the neighbouring properties. As recommended in the national design guidance there is a clear story which the concept has evolved through to the design proposal.</p> <p>We would not object to the changes with regards to the materials and detailing. Overall we believe that the composition has been carefully considered and would influence the context positively while responding to the vernacular of the area. This is most welcome and would enhance the appearance of the street. Therefore we support the proposals.</p> <p>The proposal would in our view enhance the setting of adjacent the conservation area by improving the quality of the built environment adjacent to the designated asset. As such we would recommend that the balancing exercise with regards to the framework is not necessary as there is an enhancement to the setting rather than harm being caused.</p> <p>In relation to the setting of the castle we would defer to Historic England as it is a Scheduled Ancient Monument. However given that there is now buildings on the site and have been since the second half of the 20th century that we would not consider that there to be any additional harm.</p> <p>Recommendation We would support the proposals and recommend approval as the proposed design would enhance the built environment.</p>

	External materials subject to approval.
Network Rail	Network Rail has no comments.
Archaeology Unit (HCC)	<p>Thank you for consulting me on the above application.</p> <p>Please note that the following advice is based on the policies contained in the National Planning Policy Framework.</p> <p>The site is in an Area of Archaeological Significance identified in the Local Plan. As per our previous comments concerning a similar proposal, 20/01429/FUL, the Historic Environment Record (HER) notes that the site lies adjacent to the Scheduled Monument of Berkhamsted Castle [Scheduled Monument 1010756, HER 39]. This dates from the eleventh century and is a rare example of a double-moated castle. Evidence of Bronze Age [HER 4251] and Roman activity [HER1336] activity has also been found.</p> <p>OS mapping from the nineteenth century appears to show earthworks running into the site, although the HER notes that this has become an area of watercress beds by the time of the 1899 OS map [HER12194]. The aforementioned earthworks also appear to have suffered disturbance by the construction of the current houses.</p> <p>Furthermore, as noted in the Heritage Statement that accompanies the application (Built Heritage Consultancy, Replacement Dwelling at Mabuhay Brownlow Road Berkhamsted Heritage Statement April 2021), 'in the mid 19th century, as evidenced by the 1841 tithe map, the Application Site still lay within the Castle's outer defences'. Further information about the site has also been provided by the Berkhamsted Castle Trust in their comments on the planning application.</p> <p>I believe that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and I recommend that the following provisions be made, should you be minded to grant consent:</p> <ol style="list-style-type: none"> <li>1. The archaeological field evaluation of the proposed development site, following demolition of the existing house to slab level, but prior to any development or site preparation commencing.</li> <li>2. Such appropriate mitigation measures indicated as necessary by that evaluation.</li> </ol> <p>These may include:</p> <ol style="list-style-type: none"> <li>a. the preservation of any remains in situ, if warranted,</li> <li>b. the archaeological monitoring of demolition of the existing</li> </ol>

structure(s) from slab level and any "grubbing out" of foundations,  
c. appropriate archaeological excavation of any remains before any development commences on the site, with provisions for subsequent analysis and publication of results,  
d. archaeological monitoring of the groundworks of the development (also including a contingency for the preservation or further investigation of  
e. such other provisions as may be necessary to protect the archaeological interests of the site;

3. the analysis of the results of the archaeological work with provision for the subsequent production of a report and an archive, and the publication of the results, as appropriate;

4. such other provisions as may be necessary to protect the archaeological and historic interests of the site.

I believe that these recommendations are both reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. I further believe that these recommendations closely follow para. 205, etc. of the National Planning Policy Framework (2021), relevant guidance contained in the National Planning Practice Guidance, and in the Historic Environment Good Practice Advice in Planning Note 2: Managing Significance in Decision-Taking in the Historic Environment (Historic England, 2015).

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

A No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

1. The programme and methodology of site investigation and recording
2. The programme and methodology of site investigation and recording as suggested by the archaeological evaluation
3. The programme for post investigation assessment
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

	<p>Condition B</p> <p>i) Any demolition/development shall take place in accordance with the Written Scheme of Investigation approved under Condition A.</p> <p>ii) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.</p> <p>If planning consent is granted, then this office can provide details of the requirements for the investigation and information on archaeological contractors who may be able to carry out the work.</p> <p>Please do not hesitate to contact me should you require any further information or clarification.</p>
Historic England	<p>We note that the current planning application is an amended scheme for a previous proposal (20/01429/FUL) which was refused planning permission in February 2021.</p> <p>The proposed development site is located on Brownlow Road and lies directly opposite the site of 'Berkhamsted motte and bailey castle' scheduled monument (List Entry Number 1010756) and part of the Berkhamsted Conservation Area.</p> <p>A detailed Heritage Statement has been submitted with the current planning application. We note that the map on Page 2 of the Heritage Statement, which is reproduced from Berkhamsted Conservation Area Character Appraisal &amp; Management Proposals (Map 14: Area 2: The Canal West) 2015 shows an inaccurate representation of the extent of the Berkhamsted Castle scheduled monument. However, the correct extent of scheduled monument is shown on page 12 of the Heritage Statement and is discussed in the text.</p> <p>The amended scheme from that submitted under application 20/01429/FUL includes a slight shortening of the overall length of the proposed replacement dwelling and changes to its construction materials. We agree with the Heritage Statement that the change of the first-floor façade from zinc to timber cladding and the replacement of the first-floor flint façade with suitably toned brick are likely to make the structure more visually recessive than both the existing dwelling and that originally proposed.</p> <p>However, as with the previous application, the proximity of the proposed development to the scheduled monument and conservation area does mean that the replacement dwelling would be visible from within the designated heritage assets.</p> <p>Any appreciable harm to the significance of the designated heritage assets could be mitigated by appropriate planting in front of the</p>

	<p>replacement dwelling.</p> <p>With appropriate mitigation planting in place, Historic England considers that the level of harm, if any, to the significance of the Berkhamsted Castle scheduled monument and Berkhamsted Conservation Area would be at the bottom end of less than substantial harm in terms of the National Planning Policy Framework.</p> <p>Recommendation</p> <p>Historic England has no objection to the application on heritage grounds.</p> <p>We recommend that you consult with your specialist archaeological and conservation advisors as appropriate.</p>
<p>Environmental And Community Protection (DBC)</p>	<p>Having reviewed the planning application I am able to confirm that there is no objection to the proposed development, but that it will be necessary for the developer to demonstrate that the potential for land contamination to affect the proposed development has been considered and where it is present will be remediated.</p> <p>This is considered necessary because the application site is on land which was formally a watercress bed and as such the possibility of ground contamination cannot be ruled out at this stage. This combined with the vulnerability of the proposed residential end use to the presence of any contamination means that the following planning conditions should be included if permission is granted.</p> <p>Contaminated Land Conditions:</p> <p>Condition 1:</p> <p>(a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.</p> <p>(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:</p> <p>(i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;</p> <p>(ii) The results from the application of an appropriate risk assessment methodology.</p> <p>(c) No development approved by this permission (other than that</p>

necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Condition 2:

Any contamination, other than that reported by virtue of Condition 1 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Informative:

The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2019.

The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on [www.dacorum.gov.uk](http://www.dacorum.gov.uk) by searching for contaminated land and I would be grateful if this fact could be passed on to the developers.

	Please let me know if you have any questions.
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**APPENDIX B: NEIGHBOUR RESPONSES**

**Number of Neighbour Comments**

Neighbour Consultations	Contributors	Neutral	Objections	Support
9	3	0	3	0

**Neighbour Responses**

Address	Comments
Berkhamsted Castle Trust	<p><u>14/05/21</u></p> <p>We write in our capacity as managers of Berkhamsted Castle, which lies directly opposite the proposed development, to OPPOSE the proposed above development due to the adverse impact it will have on the scheduled ancient monument site (List entry number 1010756).</p> <p>Historic significance of the proposed development site</p> <p>We note that the applicants have retained the services of The Built Heritage Consultancy Limited in order to prepare their Heritage Statement in support of their application. This is the same heritage consultancy used by ourselves and English Heritage recently to prepare our Conservation Management Plan (CMP) for the Castle.</p> <p>Whilst we agree with their overview of the historical significance of the site (much of the information for which we and English Heritage provided to them during the preparation of the CMP), we would note that the Heritage Statement they have provided for this application erroneously under-represents (at page 2 of the report) the area of the scheduled site, suggesting it only covers the area of the Castle's motte and bailey. As you will see from the Historic England listing map enclosed, the scheduled site actually encompasses the entire area within the roads bounding the Castle, namely Brownlow Road, Whitehill and New Road. This being the case, the site of the proposed development is directly opposite the scheduled site, and is separated from it only by the width of Brownlow Road.</p> <p>Further, the Berkhamsted Conservation Area boundary also runs around the Castle site, with the Castle being within the Conservation Area and the proposed development site immediately outside and abutting it. As a consequence, any development of the site directly impacts the Conservation Area and is clearly visible from within it.</p> <p>As noted in the Heritage Statement, and reflected through the map</p>

regression provided, the proposed development site itself was a former part of the Castle complex, being the old Castle pond and Watercress beds, and an integral part of the moat hydrological system. It can be seen clearly in the 1940s aerial photograph of the Castle in Annex 1. Its relationship to the moat is shown in the cross-sectional plan prepared by the Office of Works in August 1930, also included in that Annex.

When the Manor of Berkhamsted was sold to the Trustees of the Second Earl Brownlow (at that time a minor) by the Duchy of Cornwall, in 1862, the proposed development site was included in that sale (with the Castle ruins themselves being retained by the Duchy). The site was, however, re-purchased from the fifth Lord Brownlow by the Commissioners of Works and Public Buildings on 9th November 1937, on the basis that it was an integral part of the Castle's moat system and would enable the Office of Works "to maintain a satisfactory level of water in the Castle moat". Unfortunately, the area was not very well maintained by the Office of Works in the ensuing years, and became overgrown and stagnant, resulting in complaints from local residents. To resolve this, the area was sold off in the 1950s (even though clearly part of the Castle hydrological structure), infilled and became the site of the present Mabuhay and Fosse House. Had this not been the case, it is highly likely that the site would have been included in the listing for scheduled monument status when the Castle complex was scheduled.

As far as we are aware, no archaeological investigation was done when those houses were originally constructed. Impact on the scheduled monument

The proximity of the proposed development site to Berkhamsted Castle - a nationally significant scheduled monument site - means that the replacement dwelling would be clearly visible from within the scheduled monument, particularly from the path along the outer earthwork on its western side. The scale, mass and bulk of the proposed developed in this revised application remains over dominant and inappropriate for this nationally significant heritage setting. It is out of keeping with the streetscape and would be clearly viewable from the Castle, which as well as being a scheduled monument of national significance is in the Berkhamsted Conservation Area.

The proposed replacement dwelling has a footprint and bulk / massing which is excessive and inappropriate for its location immediately opposite a scheduled monument. The choice of building materials remains questionable, with the continued use of zinc for the roof being particularly likely to be obtrusive and detrimental to the historic setting. The proposed use of brick, with a move away from the more sympathetic use of flint work proposed in the previous application, is to be regretted. A better choice of construction materials, more in harmony with the surroundings, would go a long way to ameliorating the visual intrusion that the proposed development would have for the Castle.

As you may well be aware, the houses along Brownlow Road have traditionally been screened from the Castle site itself by the

maintenance of high hedges. As can be seen from Annex 2, this was the case at the proposed development site until relatively recently (c. 2015), when the owners of the property at that time drastically reduced the hedge height (presumably to afford themselves a "view" of the Castle ruins). This significantly changed the streetscape and meant that the existing property became much more visible from the Castle site. The proposed development would exacerbate this visual intrusion issue, with the increased size of the property, and inappropriate choice of building materials for this sensitive location, being particularly visible in a way that would increase the harm to the scheduled monument setting. This would be less problematic were the property to be screened from the Castle once again in the way we would expect (i.e. with high hedges).

Even with mitigation measures (such as a binding condition requiring proper and permanent screening through appropriate native species planting), the level of harm to the significance of the Berkhamsted Castle scheduled monument site would still be towards the lower end of less than substantial harm in terms of the National Planning Policy Framework. Without such measures, the detriment would be even greater. Accordingly, we OPPOSE the development.

#### Planning conditions

Should the Council nevertheless still be minded to grant permission notwithstanding our, and other parties', objections:

1. We would invite you to impose a planning condition as regards choice of building materials for the proposed development, to ensure that the construction is significantly more sympathetic to the surroundings. Use of zinc for the roof, which would be visible from the

Castle site, should not be permitted.

2. We would invite you to impose a formal and binding planning condition (as opposed to a recommendation) requiring proper and permanent screening of the development through appropriate native species planting. Under no circumstances can a situation arise where the development is allowed to proceed without such mitigation measures being adopted and permanently maintained, i.e. where such measures are installed briefly to comply with planning requirements but subsequently removed. (If there is such a risk, the application must be refused as being detrimental to the historic environment.)

3. Given the historical significance of the proposed development site, we would invite you to impose a planning condition requiring a detailed, on site archaeological investigation of the property before any construction works proceed. We would propose:

No demolition / development shall take place / commence until an Archaeological Written Scheme of Investigation (the content of which shall be agreed with Berkhamsted Castle Trust, English Heritage and Historic England) has been submitted to and approved by the

local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and

A:

1. The programme and methodology of site investigation and recording
2. The programme and methodology of site investigation and recording as suggested by the archaeological evaluation
3. The programme for post investigation assessment, which should include consultation with Berkhamsted Castle Trust, English Heritage and Historic England
4. Provision to be made for analysis of the site investigation and recording
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
6. Provision to be made for archive deposition of the analysis and records of the site investigation
7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

B:

The demolition / development shall take place / commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (A)

C:

The development shall not be occupied / used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis and publication where appropriate.

Other matters: ecology

The castle is a nationally significant site for Great Crested Newt, with sizeable populations (in excess of the Site of Special Scientific Interest threshold) being counted every year that the moat has contained water for the past 30 years. The most recent survey undertaken by the London, Essex & Hertfordshire Amphibian and Reptile Trust, on 20th April 2021 (in less than ideal temperature conditions, given the cold April), nevertheless counted 115 individual examples just in the margins of the inner moat at the Southern edge of the Castle. A conservative estimate is that this year's Great Crested Newt population at the Castle is in the region of 1,500 to 2,000 examples. In view of the

proposed development site's proximity to the Castle, and given its historic connection to the hydrology of the moat, a detailed survey of the proposed development site for Great Crested Newt presence (including possible over-winter hibernation locations) should be conducted before any building works take place.

We would, however, reiterate that we continue to OPPOSE strongly this application and believe that it would be detrimental to the historic status of the Castle.

19/06/21

Dear Sirs,

Objection to Planning Application 21/01682/FUL

Mabuhay, Brownlow Road, Berkhamsted, Hertfordshire HP4 1HB

Demolition of existing detached house, to be replaced with a new detached home (amended scheme)

We write in response to the additional material submitted by the applicant on 11th June 2021, namely:

Proposed Site Plan  
Plan of existing and proposed trees  
Tree planting appraisal  
Response to our letter of Objection of 14th May

We note the various points made, but would suggest that nothing submitted by the applicant substantively alters the proposed development and, accordingly, we continue to OPPOSE the development due to the adverse impact it will have on the scheduled ancient monument site.

We would point out that both we and Historic England are of the view that the proximity of the proposed development to the scheduled monument and conservation area means that the replacement dwelling would be visible from within the designated heritage assets. Likewise, that development would cause appreciable harm to the significance of the designated heritage assets, although this could be mitigated by appropriate planting in front of the replacement dwelling. As Historic England notes in its comments: "With appropriate mitigation planting in place, Historic England considers that the level of harm, if any, to the significance of the Berkhamsted Castle scheduled monument and Berkhamsted Conservation Area would be at the bottom end of less than substantial harm in terms of the National Planning Policy Framework." (emphasis added)

HOWEVER, the proposed trees recommended in the Tree Planting Appraisal and shown on the plan of existing and proposed trees do not, in our view, constitute appropriate mitigation planting. The applicant proposes to plant:

3 x Whitebeam (*Sorbus aria*)  
1 x Hornbeam (*Carpinus betulus*)

	<p>We would point out that both these species are deciduous and, accordingly, the required screening of the development from the scheduled monument site would be lost for a significant proportion of the year, particularly during the autumn and winter months. Whilst Hornbeam generally retains browned leaves during the winter (although this is not guaranteed), this is only one of the four proposed trees. The Whitebeam sheds its leaves completely. Accordingly, the proposed planting scheme does not mitigate the harm proposed by the development, and we must therefore continue to OPPOSE the application.</p> <p>We would invite the applicant, in conjunction with the Council's Trees &amp; Woodlands officers, to propose a planting scheme that delivers effective, year-round screening of the development from the Scheduled monument in a comprehensive manner. Any such planting scheme should, as we identified at point 2 under the "Planning Conditions" heading of our letter of 14th May, be a condition of any planning approval. In addition, we would also invite the Council to impose a Tree Preservation Order in respect of the agreed planting scheme to ensure that the public amenity of this necessary screening is maintained to an appropriate standard going forwards.</p> <p>We would also reiterate that the points raised under the "Planning Conditions" and "Other matters: ecology" headings of our letter of 14th May remain pertinent to any approval of this application. We would, however, reiterate that we continue to OPPOSE this application as currently formulated and believe that it would be detrimental to the historic status of the Castle.</p>
<p>Stonycroft 9 Shrublands Road Berkhamsted Hertfordshire HP4 3HY</p>	<p><u>04/05/21</u></p> <p>I write on behalf of the Berkhamsted Citizens Association Townscape Group, of which I am Chairman. Thank you for the opportunity to comment on the amended scheme for this replacement house in the conservation area. We wish to make the following comments in objection.</p> <p>1 Design/materials: The bulk/footprint is still extensive. It is a shame the design has moved away from flint; brickwork is new and lacks distinction. The continued use of zinc for the roof is a disappointment. The amendments to the southern access to the highway are seen as a problem by Herts Highways.</p> <p>2 Impact on the Scheduled monument: The house would not be screened from the castle in a way we would expect. Full archaeological investigation is needed, given this is the site of the outer moat/ditch and link to the castle pond (now under Fosse House). The Heritage Statement (page 2) only identifies the motte &amp; bailey as Scheduled. In reality, everything within the road boundary (Brownlow Road/New Road/Whitehill) is Scheduled.</p>

The whole area where the houses have been built would have been Scheduled if it had not already been built on in the 1950s, before Scheduling was put in place.

**3 Impact on wildlife:**

The castle is a significant Great Crested Newt site, with a survey done just last week revealing significant numbers. GCNs is a protected species. In view of Mabuhay's proximity and connection to the moat there might well be GCNs there. A survey should be conducted before any building works take place.

18/06/21

I write once more on behalf of the BCA Townscape Group, and in response to the Additional plans of 11th June 2021.

The Additional documents do not change the Group's opinion which is to continue to OBJECT to the proposal.