

**ITEM NUMBER: 5c**

<b>21/03089/MFA</b>	<b>Construction of 46 dwellings (apartment building and two rows of terraced units), new access road, parking and amenity areas.</b>	
<b>Site Address:</b>	<b>St Margarets Way, Hemel Hempstead, Hertfordshire</b>	
<b>Applicant/Agent:</b>	<b>Dacorum Borough Council</b>	<b>Stephen Taylor Architects</b>
<b>Case Officer:</b>	<b>Martin Stickley</b>	
<b>Parish/Ward:</b>	<b>Hemel Hempstead (No Parish)</b>	<b>Leverstock Green</b>
<b>Referral to Committee:</b>	<b>Council Scheme (Major Development)</b>	

**1. RECOMMENDATION**

1.1 That planning permission be DELEGATED with a view to APPROVAL subject to the conditions below and completion of a S.106 agreement or Unilateral Undertaking to secure a financial contribution in respect of ecological mitigation for the Chiltern Beechwood Special Area of Conservation (SAC), secure 100% affordable housing and off-site Bio-diversity Net Gain.

**2. ADDENDUM TO PREVIOUSLY CONSIDERED COMMITTEE REPORT**

2.2 This application was considered by the Development Control Committee (DMC) on 16<sup>th</sup> December 2021 and it was resolved to delegate the decision with a recommendation for approval subject to completion of a legal agreement to secure affordable housing and contributions to bio-diversity Net Gain.

2.3 A link to the original report, the addendum and the minutes are at Appendix C.

2.4 Since the recommendation was made and approved by the committee, the LPA are now obliged to take into account any new material considerations before issuing a final decision. This addendum therefore provides an update to Members outline any new material considerations.

Chiltern Beechwoods Special Area of Conservation

2.5 Since the DMC of 16<sup>th</sup> December 2021, Natural England wrote to the LPA on the 14th March following the publication of Footprint Ecology Report and as a result, the Council is unable to grant permission for planning applications which result in a net gain of dwellings located within the zone of influence of the Chiltern Beechwoods Special Area of Conservation (CBSAC) until an appropriate assessment of the scheme can be undertaken and appropriate mitigation secured to offset the recreational pressures and adverse effects of new development to the CBSAC.

2.6 As such, in light of the obligations set out in the Conservation of Habitats and Species Regulations 2017, the LPA consider that, as the scheme is for new dwellings and there is a possible likelihood that these dwellings could adversely affect the integrity of the SAC (Chilterns Beechwoods). As such, it is necessary to secure Mitigation to reduce the impact on the SAC (SAMM) and discourage visitors away from the SAC (SANG). Dacorum are currently producing a Mitigation Strategy which will set out specific tariffs towards SAMM and SANG, most likely on a per dwelling calculation to offset the negative impact of the development on the Integrity of the SAC. Once complete, the LPA will be in position to seek these financial contributions by means of a S106 in order to complete its obligations under the Habitat Regulations.

2.7 As such, this addendum seeks to alter the recommendation already approved by the Committee to delegate the grant of this application to officers subject to completion of a S106 to secure financial contributions towards Chilterns Beechwoods SAC by way of SAMM, SANG and

associated monitoring and administration costs together with 100% affordable housing and contributions towards Bio-diversity Net Gain.

### Other Material Changes

2.8 A recent objection to the scheme was received on the 12.09.2022 from 76 Brickmakers Lane, Hemel Hempstead. In summary the objection relates to Energy Efficiency, height of building and Green Space. The full objection is cited at Appendix B to this report.

2.9 In response, the development will need to comply with the standards as required by Part L of the Building Regulations. This matter will be dealt with separately to the planning requirements. In terms of height of the proposal, this has been considered under the section '*Existing Character and Visual Impacts*' of the DMC report considered by members in December 2021 and no objection is raised to the proposed building heights. Finally, the loss of Green Space has been considered and whilst not ideal, on balance the planning benefit associated with the development of much needed affordable housing outweighs this harm. The development will offset the loss of bio-diversity through off site bio-diversity Net Gain as sought by the obligations in the S106 agreement.

2.10 Discussions are still on-going with Thames Water regarding flooding and no further conclusions have been provided by Thames Water on the flooding caused by the Pond last year. The application is still subject to conditions requiring full details of drainage and separate arrangements will need to be reached between the developer and Thames Water in respect of foul water connectivity.

### Conditions and Informatives

2.11 No changes to the conditions are proposed.

## 3. RECOMMENDATION

That planning permission be DELEGATED with a view to APPROVAL subject to the conditions below and completion of a S.106 agreement or Unilateral Undertaking to secure a financial contribution in respect of ecological mitigation for the Chiltern Beechwood Special Area of Conservation (SAC), secure 100% affordable housing and off-site Bio-diversity Net Gain.

### **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. Prior to the first use of the air source heat pumps provided to residential units hereby permitted, an Air Source Heat Pump Noise Impact Assessment, compiled by appropriately experienced and competent persons, shall be submitted to the Local Planning Authority (LPA). The Air Source Heat Pump Noise Impact Assessment shall detail the noise levels associated with the use of the air source heat pumps, and include an analysis of whether any noise mitigation measures are required to control the noise (and if so full details of these mitigation measures), and a timescale for the implementation of these noise mitigation measures. Upon the LPA's approval of the Air Source Heat Pump Noise Impact Assessment, any required mitigation measures**

**shall be implemented in accordance with the approved Air Source Heat Pump Noise Impact Assessment and retained thereafter.**

Reason: To protect the residential amenities of the locality, having regard to Policies CS12 and CS32 of the Dacorum Borough Core Strategy (2013) and Paragraph 130 (f) of the National Planning Policy Framework (2021).

3. (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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with Policy CS32 of the Dacorum Borough Core Strategy (2013) and Paragraphs 183 and 185 of the National Planning Policy Framework (2021).

4. **Any contamination, other than that reported by virtue of Condition 3 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with Policy CS32 of the Dacorum Borough Core Strategy (2013) and Paragraphs 183 and 185 of the National Planning Policy Framework (2021).

- 5. The development permitted by this planning permission shall be carried out in accordance with the approved Drainage Strategy prepared by McCloy Consulting Ltd reference M03001-02\_DG02 dated July 2021 and the following mitigation measures detailed within the FRA:**

- 1. Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off during the 1 in 100 year event plus 40% of climate change event.**
- 2. Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a minimum of 288 m<sup>3</sup> (or such storage volume agreed with the LLFA) of total storage volume in detention basin, permeable paving and cellular storage.**
- 3. Discharge of surface water from the private drain via deep bore soakaways.**

**The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.**

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and reduce the risk of flooding to the proposed development and future occupants in accordance with Policy CS31 of the Dacorum Borough Core Strategy (2013) and Paragraph 169 of the National Planning Policy Framework (2021).

- 6. No development shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.**

- 1. Final detailed drainage strategy and detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs.**
- 2. Provision of robust SuDS management and treatment including for the access road.**
- 3. Final detailed post-development network calculations for all storm events up to and including the 1 in 100 year + 40% climate change storm with half drain down times no greater than 24 hours.**

**4. Exceedance flow routes for storm events greater than the 1 in 100 year + 40% climate change storm.**

**5. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.**

Reason: To ensure that the site is subject to an acceptable drainage system serving the development and to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site in accordance with Policy CS31 of the Dacorum Borough Core Strategy (2013) and Paragraph 169 of the National Planning Policy Framework (2021).

**7. Upon completion of the drainage works for the site in accordance with the timing, phasing arrangements, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:**

**1. Provision of complete set of as built drawings for site drainage.**

**2. Maintenance and operational activities.**

**3. Arrangements for adoption and any other measures to secure the operations of the scheme throughout its lifetime.**

Reason: To prevent the increased risk of flooding, both on and off site in accordance with Policy CS31 of the Dacorum Borough Core Strategy (2013) and Paragraph 169 of the National Planning Policy Framework (2021).

**8. No development (excluding demolition/ground investigations) 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. Please do not send materials to the Council offices. Materials should be kept on site and arrangements made with the Planning Officer for inspection.**

Reason: To ensure satisfactory appearance to the development and to safeguard the visual character of the area in accordance with Policies CS11 and CS12 of the Dacorum Borough Core Strategy (2013).

**9. Prior to the commencement of the development, a Landscape and Ecological Management Plan (LEMP) shall be prepared and submitted to the Local Planning Authority. The LEMP shall describe how it is planned to incorporate biodiversity as part of the development and achieve overall net gains for biodiversity. The LEMP should refer to the recommendations in Section 5 of the Preliminary Ecological Appraisal (Ecology by Design, July 2020) and enhancements identified in Section 6.2 of the Bat Survey Report (Ecology by Design, August 2020). The approved plan shall be implemented in accordance with the approved details.**

Reason: To ensure that the development contributes to and enhances the natural environment in accordance with Policy CS26 of the Dacorum Borough Core Strategy (2013) and Paragraph 174 (d) of the National Planning Policy Framework (2021). These details are required prior to commencement to ensure that an overall on-site net gain for biodiversity can be achieved before construction works begin. The LEMP should include details of when the biodiversity enhancements will be introduced and this may be reliant on the construction process/timings.

10. **Development shall be carried out in accordance with the recommendations in sections 9-11 of the approved Arboricultural Survey and Impact Assessment (reference: LAS\_25, June 2021).**

**The trees shown for retention and protection on the approved Tree Protection Plan (see Appendix 6 of the Arboricultural Survey and Impact Assessment dated June 2021 by LandArb Solutions) shall be protected during the whole period of site demolition, excavation and construction in accordance with the details contained within the Tree Protection Plan, Arboricultural Survey and Arboricultural Impact Assessment. For the duration of the development, the tree protection measures shall be retained in place, shall not be moved and no materials, plant, soil or spoil shall be stored within the area so protected.**

Reason: In order to ensure that damage does not occur to the trees during building operations in accordance with saved Policy 99 of the Dacorum Borough Local Plan (2004), Policy CS12 of the Dacorum Borough Core Strategy (2013) and Paragraph 174 of the National Planning Policy Framework (2021).

11. **Prior to the first occupation of the development hereby permitted the proposed highway works, access roads, on-site car parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.**

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with saved Policies 51 and 54 of the Dacorum Borough Local Plan (2004), Policy CS8 of the Dacorum Borough Core Strategy (2013) and Paragraphs 110 and 112 of the National Planning Policy Framework (2021). The details are required prior to commencement to ensure that the construction of the development does not result in any risks to highway safety.

12. **No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:**

- a. **Construction vehicle numbers, type, routing;**
- b. **Access arrangements to the site;**
- c. **Traffic management requirements**
- d. **Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);**
- e. **Siting and details of wheel washing facilities;**
- f. **Cleaning of site entrances, site tracks and the adjacent public highway; and**
- g. **Timing of construction activities (including delivery times and removal of waste).**

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with saved Policies 51 and 54 of the Dacorum Borough Local Plan (2004), Policy CS8 of the Dacorum Borough Core Strategy (2013) and Paragraphs 110 and 112 of the National Planning Policy Framework (2021). The details are required prior to commencement to ensure that the construction of the development does not result in any risks to highway safety.

13. **Prior to occupation of the development hereby approved, full details of the layout and siting of Electric Vehicle Charging Points and any associated infrastructure shall be**

**submitted to and approved in writing by the local planning authority. The development shall not be occupied until these measures have been provided.**

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).

- 14. No development shall take place until details of fire hydrants or other measures to protect the development from fire have been submitted to and approved in writing by the local planning authority. Such details shall include provision of the mains water services for the development whether by means of existing water services, new mains, or extension to or diversion of existing services where the provision of fire hydrants is considered necessary. The proposed development shall not be occupied until such measures have been implemented in accordance with the approved details.**

Reason: To ensure that the layout of the residential development is provided with appropriate access and makes adequate provision for the fighting of fires in accordance with Policies CS9 and CS12 of the Dacorum Borough Core Strategy (2013) and in the interests of the safety of the occupants of the development in accordance with Paragraph 130 (f) of the National Planning Policy Framework (2021).

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

**275\_A\_00\_100  
275\_A\_01\_100  
275\_A\_10\_100 (Revision PL5)  
275\_A\_10\_101 (Revision PL5)  
275\_A\_10\_102 (Revision PL5)  
275\_A\_10\_103 (Revision PL5)  
275\_A\_10\_104 (Revision PL5)  
275\_A\_10\_105 (Revision PL5)  
275\_A\_10\_106 (Revision PL5)  
275\_A\_10\_107 (Revision PL5)  
275\_A\_10\_108 (Revision PL5)  
275\_A\_10\_109 (Revision PL5)  
275\_A\_10\_110 (Revision PL5)  
275\_A\_10\_111 (Revision PL5)  
275\_A\_10\_112 (Revision PL5)  
275\_A\_10\_113 (Revision PL5)  
275\_A\_10\_120 (Revision PL3)  
275\_A\_10\_121 (Revision PL4)  
275\_A\_10\_122 (Revision PL3)  
275\_A\_10\_123 (Revision PL3)  
275\_A\_10\_200 (Revision PL2)  
275\_A\_10\_201 (Revision PL2)  
275\_A\_10\_202 (Revision PL2)  
275\_A\_10\_300 (Revision PL4)  
275\_A\_10\_301 (Revision PL4)  
275\_A\_10\_302 (Revision PL4)  
275\_A\_10\_303 (Revision PL4)  
275\_A\_10\_304 (Revision PL4)  
275\_A\_10\_400  
275\_A\_10\_401**

275\_A\_10\_402  
 275\_A\_10\_403  
 275\_A\_10\_404  
 275\_A\_10\_405  
 275\_A\_10\_406

**Drainage Strategy (July 2021) (M03001-02\_DG02) by McCloy Consulting  
 Arboricultural Survey and Impact Assessment (June 2021) by LandArb Solutions  
 Preliminary Ecological Appraisal (July 2021) by Ecology by Design**

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

**Informatives:**

1. 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.

**APPENDIX A: CONSULTEE RESPONSES**

Consultee	Comments
No further responses received	

**APPENDIX B: NEIGHBOUR RESPONSES**

Address	Comments
76 Brickmakers Lane Hemel Hempstead	<p>1. Energy Efficiency and Environmental The Energy Strategy Report shows that, whilst MVHR, air-source heat-pumps and underfloor heating are proposed, gas boilers would still be fitted, for exceptionally cold periods. Considering our zero-carbon 2050 commitments, cost of energy crisis, cost of installing gas mains, and costs of annual gas servicing, any new developments must have sufficient insulation and heat-pump capacity to eliminate gas supplies. Ground-source heat pumps addition seemed to have been dismissed out-of-hand.</p> <p>2. Height Four storeys will be out of keeping with surrounding areas which are mostly two storeys, with some three storeys.</p> <p>3. Green Space One of the "garden city" principles on which Hemel is based, is communities separated by green fingers of space. The park area (grass and trees) between St Margarets and Kings Copse estate is 40m wide, and provides connectivity as "green corridor" for biodiversity, children and recreation. This proposal would completely fill that 40m width, so forming a solid urban zone. The allocation of nearby land for Hemel Garden Communities project, (proposing 11,000 homes) should provide new</p>



	housing of a better quality than filling every available space with masonry.
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**APPENDIX C: FULL REPORT FOR 21/03089/MFA**

The full report for 21/03089/MFA when it was provided for the DMC of 16.12.21 can be found at the following link, and then reading Item 5a in the Public Reports Pack (p.6 – 86):

<https://democracy.dacorum.gov.uk/ieListDocuments.aspx?CId=159&MId=2850>