WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 8 SEPTEMBER 2011
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2011/0358/OP

QUEEN ELIZABETH II HOSPITAL, HOWLANDS, WELWYN GARDEN CITY, AL7 4HQ

OUTLINE APPLICATION (WITH ALL MATTERS RESERVED APART FROM MEANS OF ACCESS) FOR THE CONSTRUCTION OF A NEW LOCAL GENERAL HOSPITAL INCORPORATING A LOCAL A & E FACILITY AND RAPID ASSESSMENT CENTRE (PHASE 1) AND ASSOCIATED AMENDMENTS TO EXISTING CAR PARKING, SERVICING, INTERNAL ROAD LAYOUT, LANDSCAPING AND OPEN SPACE

APPLICANT: Assemble Community Partnership

(Howlands)

A  Background

A.1 The application was deferred from the meeting on 11 August 2011 for the following reason:

Notwithstanding the information submitted with the application, members remain unconvinced that the proposal would not give rise to an unacceptable impact on, on street parking within the local area due to the uncertainty of the future management of the facility and its car parking. Members acknowledge the inclusion of the deck to address these concerns but again, remain unconvinced that this can be secured by a planning condition and instead it should be provided for in the S106 legal agreement, along with the obligations referred to in the Planning Officers report. Members instruct officers to negotiate monitoring and the trigger points for the implementation of the deck with the applicant and that this application with these amendments be reported back to the committee within 3 months of the date of this meeting.

A.2 The applicant has submitted draft planning obligations to the Council for consideration and these can be summarised as follows:

1. Temporary Car Parking (225 spaces for use by employees of and visitors to the hospital)

   • No later than three months prior to the date for the commencement of development the details for the provision of and use of the temporary car parking spaces have to be submitted to and approved by the Council.
   • Prior to the commencement of the developer, these spaces shall be made available for use, in accordance with the approved details
The developer shall not commence development until the spaces have been provided.
The spaces shall be made available for use until such time that the new car parking provision is provided.

2. Contractor Parking

- No later than three months prior to the date of commencement for development details of the car parking provision and the Contractor’s Construction Phase Management Plan have to be submitted to the Council for approval.
- Prior to the commencement of the developer, these spaces shall be made available for use, in accordance with the approved details.
- The developer cannot commence development until the parking is provided and made available for use.

3. Provision of Deck Car Park

- The developer, within one month of the first anniversary of the completion of the development and on an annual basis for three years thereafter carried out a detailed Transport Survey, the content of which has to be agreed with officers.
- Within one month of the survey being completed, this has to be submitted to the Council along with a report.
- The developer then agrees with the Council any steps that are required to identify issues within the report.
- Where it is deemed reasonable and necessary for the deck to be provided, the details shall be agreed with the Council but based on the proposed deck solution submitted on 28 July 2011.

A.3 Officers have considered the proposals that have been submitted and consider that subject to the normal negotiations in respect of the actual wording of the obligations, the obligations are acceptable and comply with the three statutory tests within Regulation 122 of the Community Infrastructure Levy Regulations 2010, which are:

1. Necessary to make the development acceptable in planning;
2. Directly related to the development;
3. Fairly and reasonably related in scale and kind to the development.

1 Site Description

1.1 The QEII Hospital Site occupies a site area of approximately 8.5 ha. The application site for the New QEII (Phase 1) occupies an area of 2.06 ha and comprises part of the existing QEII Hospital Site, a 350-bed district general hospital, at Howlands, Welwyn Garden City. The Site is currently occupied by:

- Harmer House
- Buildings occupied by Ante-Natal, Diabetes and Social Services
- Accident and Emergency (part)
- Ascot Day Hospital (part)
- Bayford Geriatrics (part)
The QEII site lies on the southern built up edge of Welwyn Garden City, approximately 2km to the south east of the centre of Welwyn Garden City and 4 km from junction 4 of the A1 (M). The Application Site is bounded to the north and west by residential development, known as Hatfield Hyde. Housing density ranges from 17 to 30 dwellings per hectare, primarily in the form of semi-detached housing. To the south west lies a cricket ground and pavilion and beyond that, the Commons Wood Caravan Park. To the south and south east lies The Commons Local Nature Reserve, a 15 ha designated site which comprises The Commons Wood, the Commons Meadow and Blackfan Fen. Commonswood Community Primary School and Nursery lies approximately 600m to the east of the QEII. Ascots Lane forms the boundary along the north west boundary of the site whilst Howlands forms the boundary along the north eastern frontage of the site.

The main route used by visitors and staff to the application site is from Howlands, which serves the public parking areas. The primary bus route passes the site along Howlands with a bus stop and lay-by directly outside Birch Court. There is also a secondary access off Ascots Lane which serves staff parking. All accesses to the site are 2-way. A third access is from Howlands to the east. Ascots Lane leads directly to the A1000 and the A414, which in turn leads to the A1(M).

The area within the immediate vicinity of the application site is a mix of residential use with some recreation, public open space and educational facilities.

The QEII Hospital currently provides a range of acute services to over 300,000 people living in parts of east and south Hertfordshire. It was opened in 1965 and was one of the first new hospitals to be completed in England following WWII. The majority of buildings on site date from the 1960s and 1970s with some buildings being added in the past 20 years.

The site is characterised by the Main Block which has eight floors of accommodation (7 storeys in height), most of it used for inpatient use, divided into the North, West and East Wings. The Hospital contains a total of 350 beds and currently provides a full range of core NHS medical and surgical specialities. The general surgical and medical wards are supported by the following:

- Accident and emergency unit;
- Main and day surgery theatres;
- Intensive care, high dependency and coronary care units;
- Pathology, diagnostic and pharmacy services;
- Maternity Unit;
- Children’s and paediatric services;
- Renal medicine;
- Ophthalmology including an eye casualty unit;
- Outpatient care services;
- Acute elderly medical unit;
- Acute mental health (approximately 65 beds);
- Physio and occupational therapies;

The key buildings on site at present which make up the hospital facilities and shown on are:
• Stanborough and Bayford Wards and Ascot Day Hospital - stroke and elderly care;
• Queens Wing - Anaesthetics, Theatres and Gastroenterology;
• Elizabeth House (Private ward);
• Mental Health Unit and Occupational Therapy;
• South Block One – Radiology and Pathology, Women and Children’s Services, Specialist Surgery, Oncology, Haematology and Palliative Care;
• Vicki Adkins Unit – breast clinic;
• Main Block – Women and Children’s Services, Trust Management, Trauma and Orthopaedics, Specialist Surgery, Specialist Medicine and General Surgery, Radiology and Pathology, Pharmacy, Oncology, Urology, Gastroenterology, Elderly Care, Education and Training;
• Harmer House – administration;
• Social services;
• Princes Wing – Trauma and Orthopaedics;
• Estates Department;
• Social Club.

1.8 In total, the existing hospital occupies approximately 33,000 sq m of gross floorspace which includes approximately:

• 350 inpatient beds;
• 7 main and 2 day surgery operating theatres;
• A&E with 140,000 outpatient attendances per annum.

In addition, the application site includes the following existing facilities:

• Isabel Hospice. The original hospice opened in 1990 and was extended in 2000/1. The facility has 16 in-patient beds.
• Birch Court. This is an H-shaped block of 213 one and two-bedroom apartments for keyworkers.
• Beech Tree Day Nursery. The nursery has children from 6 weeks to 5 years, of whom 50% are children of staff currently employed at the QEII.

1.9 In relation to the existing car parking provision, there are currently a total of 954 official parking spaces on site. These comprise:

• 512 parking spaces for staff
• 197 parking spaces for patients and visitors
• 133 parking spaces for residents of Birch Court
• 64 parking spaces shared between staff and patients/visitors
• 27 parking spaces for the visitors and staff at Isabel Hospice
• 16 parking spaces for the visitors and staff at Beech Tree Day Nursery
• 5 ambulance spaces

1.10 The main access to the site is via a priority junction onto Howlands. This leads to the main entrance and serves the majority of the site including the main patient/visitor car parks, staff car parks and drop off at the main entrance. A secondary access exists from Howlands 360m to the east of the main access which is again a priority junction. This is mainly used by staff and servicing vehicles. A third priority junction access is located on Ascots Lane and is used mainly by staff to access further parking areas and by visitors to Elizabeth House and the Queens Wing. The emergency access for ambulances is from Howlands, with the ambulance drop off being to the west of the main entrance.
1.11 In total, therefore, there are 773 official car parking spaces on site overseen by the Trust, excluding those car parking spaces for the benefit of visitors and occupants of Birch Court, Isabel Hospice and Beech Tree Day Nursery, which gives a total of 954. Of these, 544 (70%) are available to members of staff and 229 (30%) for visitors and patients. There are also a total of 17 spaces available for Blue Badge holders (included within the 229 parking spaces).

1.12 In addition, there are also 88 unofficial parking spaces which have become used on a regular basis over time by staff. These comprise 65 parking spaces on internal roads or within car parks where spaces are unmarked and 23 on grass verges. Adding these unofficial spaces to the official total mean that there are 632 spaces available to staff on site. The majority of the car parking spaces reserved for staff are located at the main entrance off Howlands. Car parking spaces for staff and residents of Birch Court is managed by paid parking permits. All grades of permanent staff are entitled to apply for a permit, although it does not guarantee a parking space. There is a maximum waiting period of six months for a permit. A Pay and Display system is used to manage parking spaces for visitors and patients. The public car parks are managed by a private car park management company. The existing public car parking spaces are all located in a large surface car park at the entrance to Howlands. The car parking areas are very well used with the busiest times during weekdays with least use during the evenings and at weekends.

2 The Proposal

2.1 Two outline planning applications have been submitted for the redevelopment of the hospital. The smaller of the two outline planning applications in terms of site area, and the one addressed in this report, seeks outline planning permission for the new QEII and associated car parking and landscaping. This represents Phase 1 of the overall redevelopment of the Site. The second outline planning application seeks outline planning permission for the remainder of the site, including a new Health Facility, an extension of the existing hospice, new residential development and associated car parking.

2.2 The facility will include a Local A&E unit, available 24 hours a day. The New QEII will also include the following services:

• Local A&E Unit, available 24 hours a day;
• A Rapid Assessment Unit;
• General Outpatients;
• GP services including evenings and weekends;
• Diagnostics including Computed Tomography (CT) and Magnetic Resonance Imaging (MRI);
• Ante and Post Natal Services;
• Vicki Adkins Breast Unit;
• Child Zone, comprising Children’s and Adolescent Mental Health Services (CAMHS), Children’s Development Centre (CDC) and Paediatric Outpatients)
• Therapies; and
• Endoscopy and Day Treatment Unit

There are no day or overnight beds within the hospital building; however as part of the Intermediate Care Strategy the trust is looking into providing beds within the future health care facility.
2.3 The New QEII building will be four storeys in height and have a gross internal floor space of approximately 8,323 sq m. It will have a total of 300 parking spaces, broadly split between patients, visitors, and staff. It is anticipated that at the opening of the New QEII in 2014, there will be 200 staff, rising to approximately 250 by 2026. The vast majority of staff will be clinical staff working a normal day shift with only 30-40 staff required at night. Consequently, total staff numbers will be reduced by 89% from the present number on site. Another cause of this reduction is the type of services that are remaining on site; more staff-intensive services such as surgery and in-patient beds are planned to move off-site.

2.4 In terms of the layout, the layout defined on the application drawing provides an indicative layout of the proposed development zones, access points and open spaces. It also identifies the existing buildings to be retained and their access to be maintained. The emerging design for the New QEII hospital arranges the accommodation around a large central courtyard and creates a series of more private gardens between the building and the mature hedge that forms the northern boundary to the site. The building is formed in three ‘L’ shaped wings that define the courtyard space, around which the main public circulation is arranged. A covered entrance plaza with good drop-off facilities leads to the main entrance with central reception, café, pharmacy and a range of retail, information and community support facilities. The triple height main entrance space connects the external spaces of the plaza and the landscaped central courtyard. Department receptions and sub-waiting zones are arranged around the courtyard and internal open voids, linking these spaces visually.

2.5 As these are both outline planning applications, all matters relating to scale of buildings are reserved and will be addressed in further planning applications for each of the key elements of the QEII Site Redevelopment: the New QEII, Future Healthcare facility, extension to Isabel Hospice and the new residential development. Scale parameters have been established in conjunction with the setting out of an indicative layout, the use and amount of development. These are as follows:

- The New QEII will be four storeys in height, but stepping down in scale towards the north, acknowledging the domestic scale of neighbourhood on the opposite side of Howlands. The scale of the New QEII also takes reference from the existing scale of Birch Court (4-6 storeys) which will be the immediate neighbour to the proposed new hospital. This scale of building provides a suitable presence for a building of significant public status and also generates an efficient relationship between plan form and height. No heights however have been included.

2.6 The following services will be provided in the Outpatients between the hours of 9.00 am and 6.00 pm:

- General Outpatients, including surgical and medical clinics, cardiology, audiology and orthodontics;
- Retinopathy, pre-op assessments and breast clinic

In addition, the New QEII will provide diagnostics, a GP surgery practice and a Local A&E, staffed 24 hours per day, 7 days a week throughout the year.
2.7 Staff numbers on site during the normal working day will fall by 82%, from the present total of 964 to approximately 170 when the New QEII opens in 2014. The number of staff required at night will also fall, from 863 currently to just 30.

2.8 The overall strategy is to relocate all the remaining acute services (excluding outpatients, endoscopy and diagnostics) from the QEII Hospital at Welwyn Garden City to the Lister Hospital site in Stevenage. At the same time, the applicant’s strategy aims to ensure that the New QEII has sufficient capacity to meet projections of demand for community healthcare beyond 2015. Whilst the detailed requirements for the building may change, the applicant states that the facilities at the new QEII will need to respond positively to both local and national policy changes which are expected to occur, including:

- Additional outpatient capacity;
- Additional GP services; and
- Additional imaging capacity and other diagnostics.

2.9 In relation to car parking: The proposed car parking provision on Site, following the completion of Phases 1 and 2 will be as follows:

- **New QEII**
  - Staff – 155 spaces (8 for disabled members of staff)
  - Patients and visitors – 145 spaces (15 for disabled visitors)
  - Isabel Hospice – 60 spaces
  - Future Healthcare facility – 20 spaces
  - Birch Court – 123 spaces
  - Nursery – 16 spaces

2.8 There are no plans to amend the car parking management system in terms of issuing permits for staff and charging for patients and visitors. One significant change, however, will be to move from Pay and Display to Pay on Exit with entry and exit controlled barriers. This is more popular for visitors as payment is charged for actual time spent in the car park rather than an anticipated time. All the existing accesses into the Hospital Site will remain. The existing access from Howlands will serve the New QEII (including the main entrance and the local A&E), Birch Court, the new future healthcare facility and the Isabel Hospice. The eastern access will serve the nursery and the residential units. Ascots Lane access will serve the staff working at the New QEII and the residential units on the western part of the site. The current access for service and refuse vehicles, via the main access off Howlands will remain.

3 Planning History


N6/2008/0832/FP - Erection of four wooden pergolas and associated screening to existing garden space. Approved July 2008


N6/2005/1026/FP - Erection of part three, four and six storey building comprising 213 units of key worker housing, following the demolition of Woolmer House (as variation of planning permission granted on 8th March 2005)


N6/2004/1802/FP - Erection of part three, four and six storey building comprising 213 units of key worker housing, following the demolition of Woolmer House. Approved March 2005


N6/2003/1114/FP - Erection of a single storey extension to provide 2 store rooms. Approved September 2003

N6/2003/0711/FP - Roof top telecom installation comprising three pole and wall mounted sector antennas, two 0.3m dish antennas and ancillary development. Approved June 2003


In addition to the above, there are an additional 22 applications dating back to 1989 for minor alterations, works and extensions.

2009/2322/EI – Screening Opinion that an Environmental Impact Assessment is not required 16 November 2009.

In addition to the above pre-application discussions were entered into in 2009/2010 under N6/2010/0191/PA. Meetings in relation to Transport and Design took place but discussions in relation to parking, environmental issues and S106 Planning obligations were not completed at the request of the applicant.

A Development Consultation Forum (DCF) was also held on 13 July 2011.
4.1 National Planning Guidance

- PPS1 - Delivering Sustainable Development
- PPS3 - Housing
- PPS9 - Biodiversity and Geological Conservation
- PPG13 - Transport
- PPG14 - Development on Unstable Land
- PPG16 - Archaeology and Planning
- PPS22 - Renewable Energy
- PPS23 - Planning and Pollution Control
- PPG24 - Planning and Noise
- PPS24 - Development and Flood Risk

4.2 Hertfordshire Structure Plan Review 1991-2011 (Saved Policies)

None

4.3 Hertfordshire County Council Waste Local Plan 1999

- Policy 3 – Waste Minimisation and New Developments
- Policy 7 – Re-use of Waste Arising from New Developments
- Policy 8 – Use of Recycled materials in new developments
- Policy 11 – Major Developments and Waste Recycling

4.4 Welwyn Hatfield District Plan 2005 (Saved Policies)

- SD1 - Sustainable Development
- R3 - Energy Efficiency
- R4 - Renewable Energy Sources
- R5 - Waste management
- R7 - Protection of Ground and Surface Water
- R9 - Conservation of Water Resources
- R10 - Water Conservation Measures
- R11 - Biodiversity and Development
- R18 - Air Quality
- R19 - Noise and Vibration Pollution
- R29 - Archaeology
- M1 - Integrating Transport and Land Use
- M2 - Transport Assessments
- M3 - Green Travel Plans
- M4 - Developer Contributions
- M5 - Pedestrian Facilities
- M6 - Cycle Routes and Facilities
- M9 – Bus and Taxi Facilities
- M14 - Parking Standards for New Development
- IM2 - Planning Obligations
- D1 - Quality of design
- D2 - Character and context
- D3 - Continuity and Enclosure
- D4 - Quality of the Public Realm
- D5 - Design for Movement
- D6 - Legibility
- D7 - Safety by Design
- D8 - Landscaping
- D9 - Access and Design for people with disabilities
4.5 Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

4.6 Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

4.7 Welwyn Hatfield 2021: The Borough’s Sustainable Corporate and Community Strategy, May 2009, sets 5 Corporate Priorities –

1. People and safer communities.
2. Maintaining and enhancing a cleaner and greener environment.
3. Encouraging prosperity and a healthier community.
4. Improving homes and neighbourhoods.
5. Accountable to the community.

4.8 Circular 11/95 – The Use of Conditions in Planning Permissions
Circular 1/2006 – Guidance on Changes to the Development Control System
Circular 05/2005 – Planning Obligations

5 Constraints

5.1 The site lies within the Specified Town Settlement of Welwyn Garden City as designated in the Welwyn Hatfield District Plan 2005. The site also lies adjacent to Urban Open Land 120 (Howlands Green Fingers), Wildlife Site 80 (Blackfan Fen and the Commons Meadow) and Local Nature Reserve 3 (Commonswood)

6 Representations Received

6.1 This application has been advertised by site notice, newspaper notice and neighbour notifications. Ten representations have been received from residents of Howicks Green, Ascots Lane, Howlands. In addition, representations were received from Welwyn Hatfield Access Group, Isabel Hospice, Commonswood Naturewatch and Gascoyne Cecil Estates. Four of the letters were objections to the scheme, four were requesting information and two were comments in relation to specific matters (Isabel Hospice and Gascoyne Cecil Estate).

6.2 The following points have been raised:

- The hospital would overlook my garden and would have a visual impact from the street. I work for the NHS trust and am concerned over the size of the new facility. The hospital could be visual from the street.

- Concerns that there will not be enough car parking spaces. Currently there are problems with the hospital, many people struggle to find a space and often park in the surrounding residential areas which inconveniences residents.
• Unless there is ample parking on the residential element the surrounding area will suffer greatly because of an influx of cars.

• Concern about arrangements for the removal and delivery of demolition spoil, building materials and supplies generally. Ascots lane already has a weight restriction and the road is in need of repair and is not suitable for heavy construction traffic.

• Ascots Lane should not be a permitted route for any vehicle accessing or egressing the site.

6.2 Gascoyne Cecil Estates – The Estate has restrictive covenants over this site which prohibit use other than as a hospital with associated community facilities. We are concerned to ensure that the principles of the original covenants are upheld in terms of replacement facilities for Welwyn Garden City. We have no objection to the new local general hospital but the residential development is contrary to the covenants. We have sought to enter into discussions with the NHS but as of yet, have not had any meaningful exchange of views. We also echo the concerns of the Isabel Hospice in Nigel Furlong’s letter dated 13 May 2011.

6.3 Welwyn Hatfield Access Group – We thank you for providing this number of disabled parking spaces, which are possibly equivalent to the existing number of disabled parking bays. Clause 6.5 of the New QEII Hospital Travel Plan confirms there are currently 954 official and 88 unofficial parking spaces, and that at peak times there is a shortage of spaces on site. While appreciating the new facility will have a different method of operating from the existing facility, the major reduction in car parking spaces is considered inappropriate as out patient activities will remain. In a similar vein, the writer, a frequent visitor to the existing hospital, has been unable to find a vacant disabled parking bay at various times throughout the day. Is it possible to further increase the proposed number of disabled bays to 20 or maintain the proposed 15 spaces whilst providing 5 enlarged standard spaces? As there are insufficient spaces on the current site, where do you foresee overspill parking taking place once the new site is operational? We note table 9.2 under ‘Vehicles’ makes reference to overspill parking and actions to be undertaken. We strongly suggest the comments and actions underestimate the importance and significance of this issue.

6.4 Clause 6.15 of the New QEII Hospital Travel Plan confirms there are good quality footways provided along all rounds within the vicinity of the site. We question this statement in that the footways are currently the footpaths are potholed and uneven making them hazardous for the elderly and mobility impaired. We note table 9.2 states there should be dialogue with the Local Authority to improve the footpaths.

6.5 Table 6.2 provides a summary of the local bus services. Of all the listed services, only service 724 will have a guaranteed wheelchair accessible provision. What guarantees can be obtained from the bus operators to provide transport that is wheelchair/pushchair accessible?

6.6 We would like to point out the number of buses servicing the hospital has declined and is likely to decline even more. Are there any plans to negotiate with local bus companies to instigate more frequent services between WGC and the Lister Hospital in Stevenage?
6.7 Currently, there are no resources available at the QEII to instigate the bus shuttle service from there. Equally, the service currently is totally resource dependent and operates accordingly. We would also like to correct the statements contained in 6.23 of the New QEII Hospital Travel Plan which states “the health shuttle is available to any patient, visitor or member of staff who wants to travel between the QEII and Lister Hospital Mondays to Fridays. The service can be booked by telephone and costs £4.00 per single trip”. As at 1 April, the charge has increased to £8.00 per single journey /£17.00 return and the facility can only be booked through the Lister Hospital and is available Monday to Thursday. When are resources being made available so that this service can also be booked at the QEII site?

6.8 This application includes provision for a residential development of up to 202 dwellings. Clause 1.14 in the Planning Statement Summary lists Planning Policy R7 (Affordable Housing) and R10 (Lifetime Homes). In general terms, we believe all dwellings should be built to Lifetime Homes Standards and that a minimum of 30% of all dwellings should be classified as affordable housing.

6.9 Isabel Hospice – Following changes to the Masterplan layout as per the submitted plans on 6 July 2011, the original objections to the masterplan layout have been withdrawn by email dated 18 July 2011.

6.10 Commonswood Naturewatch – Commonswood Nature Watch is concerned about the quality of the information upon which the ecological consultants based the initial assessments of the wildlife impacts. We therefore seek assurances that the Council will guarantee its nature reserve and any protected species that are known to occur around the site and that the Council will seize the opportunity to embrace the current principles of biodiversity offsetting in the S106 agreement with the developer. In addition, that there will be a proper and ongoing consultation with Commonswood Naturewatch. Any conditions and S106 should take account of additional pressures on The Commons LNR created by the new housing.

6.11 Additional comments were received from Commonswood Nature Watch on receipt of the revised plans and updates to the technical reports. They consider that any profit made from the development merits a generous gesture by the developer to benefit from the local community and they would like to see the provision of accesses and pathways for disabled members of the community to be able to enjoy the reserve and this would benefit future patients and new residents.

6.12 The applicant has confirmed that they would be happy to facilitate access from the site into Commonswood but will not be providing any form of contribution to upgrade access within the reserve.

7 Consultations Received

7.1 Welwyn Hatfield Borough Council Landscaping and Ecology - My comments have been considered in conjunction with the planning application for the proposed re-developed of adjacent hospital land (N6/2011/0359/OP). No detailed planting plans or landscape designs have been included. Therefore we have considered the designs on the impressions given in the Masterplan Sketch and Statement.

Access into the Site
I noted that the two existing access points into the complex are to be retained. I assume that the proposed development will have a much higher number of traffic movements due to the combination of hospital, Health Facility and residential. The access road from Howlands which serves the Nursery etc is very narrow and unsuitable for the current traffic which uses it. With increasing use this is going to require work to make it fit for purpose, how would this to be undertaken and what impact will it have?

The area surrounding each of the access junctions and the roundabout at the junction of Ascots Lane and Howlands has been included as part of the site plan even though they are not in the ownership of the applicant. With increased traffic and different flow the Highway Authority may need to amend the road layouts. As many street trees may be affected, what impact would these amendments to the road layout have to the street scene? Will Ascots Lane, from the hospital site to the A1000 be altered?

Existing Landscape and Trees
The existing landscape is minimal as amenity spaces have been nibbled away for new buildings and car parking. Few trees are within the site. The mature oaks are the only trees of interest and require some general maintenance.

Sustainable Urban Drainage System (SUDS)
The car park run off is directed toward a large SuDS scheme which is part of the adjacent planning application. I have expressed numerous concerns with this scheme and how it will fit into the current local ditches and streams without detrimentally effecting wildlife of trees. In this application how is the applicant going to ensure that the surface run off is not going to pollute the system e.g. with de-icing salt or liquids out of cars?

Car Parks
Although the parking area seems to be large with areas for drop off etc is there sufficient parking to accommodate staff, visitors and patients? The amenity spaces are the first thing to be removed when more parking or access is needed.

The species choice indicted for the car park is Acer ‘Streetwise’ and Liquidamber ‘Worplesdon’. These are not large crowned trees which would be desirable to make both a visual impact and increase solar shading. A large car park with only two species would be quite dreary. Although using a hotch potch of species should be avoided, strong design can be achieved with a greater variety of trees, giving more interest.

The Courtyard Space
The text describing the Courtyard sounds appropriate and interesting. More details including access for maintenance would be needed before comments could be given.

The Woodland Fringe
The area to the north of the hospital, between the building and the Council maintained hedge is to be planted in a series of woodland fringe rooms. I have no objections to the concept. As this area is to the north of the building, larger crowned trees could be used.
Green Roof
Green roofs are a desirable feature and I would look forward to more information.

Planting
Thought should be given to using structural soils for trees which are sited in locations where their potential Root Protection Zone contains a proportion of hard standing.

In considering tree planting in large public areas such as car parks it is often useful to have a separate plan showing tree locations, street lighting taller than bollard height and CCTV points. Tree planting locations do not always take these into account and following instillation of cameras & illuminates the trees have to be removed or poorly relocated.

The tree species should be chosen for the maximum stature for the location. If planting native mix hedgerows or meadow plugs in grassland be cautious of using chalk loving natives such as privet as these are not indicative of our area.

Summary
Overall I have no arboricultural or landscape objections to the concept of building a new hospital in this location.

Additional comments were received on 20 July following updates to the masterplan and the technical reports. The revised comments raise questions regarding the suitability of the location of watercourses in close proximity to residential dwellings and the Locally Equipped Area of Play. Levels are not addressed in any detail. There are many mature trees along the southern boundary of the site and in the adjacent wood would appear to be effected by this proposal. How will these fit into the new scheme? The current site levels overall are varied. How much more soil will be excavated for this proposal and how will it be disposed of? As previously noted no mounds or bunds will be approved.

7.2 Environment Agency – No objections subject to conditions and informatives relating to:

1. Development in accordance with revised Flood Risk Assessment
2. Contamination
3. Submission of a verification report for contamination
4. Reports on monitoring, maintenance and contingency
5. No infiltration of surface water drainage
6. No penetrative methods for foundations without consent

7.3 Hertfordshire County Council Archaeology - This office normally asks to be consulted on applications greater than 1ha in size because of the statistical probability of archaeological remains existing in such a relatively large area. The site also lies close to the site of Lower Holwell Hyde Farm which is shown on OS mapping from the nineteenth century (Historic Environment Record 16284).

The proposed development is therefore likely to have an impact on heritage assets, and I recommend that the following provisions be made, should you be minded to grant consent:

1. A rapid archaeological desk based and impact assessment of the proposed development site before any development commences.
2. Such appropriate mitigation measures indicated as necessary by that assessment. This may include:

a) the preservation of any remains in situ, if warranted,
b) an archaeological evaluation of the proposed development site before any development commences. This may be via geophysical survey and/or test trenches/pits and/or a ‘strip map and record’ investigation,
c) appropriate archaeological excavation of any remains before any development commences on the site, including an appropriate programme of environmental sampling, 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 any remains then encountered),
e) and such other provisions as may be necessary to protect the archaeological 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 the policies included within Planning Policy Statement 5 (HE7, HE12 etc.) and the guidance contained in the Historic Environment Planning Practice Guide.

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 wording based on model condition 55 DoE circ. 11/95.

Hertfordshire County Council Transportation Planning and Policy - Notice is given under article 10 of the Town and Country Planning (General Development Procedure) Order 1995 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

Please note that the developer has submitted two separate planning applications (Phase 1 & Phase 2) for the application site. Both of these applications are based upon one Master Plan proposals. Therefore, to assess the cumulative impact, the Highway Authority has considered both of these applications together to formalise the following response.

The Phase 1 (Planning Application: WH/65/2011: District Ref: N6/2011/0358/OP) consist of new QEI proposals involve demolishing the majority of the existing hospital complex to make way for a new hospital which provides an acute patient care. There will be significant reductions in staffing levels when compared to the existing due to proposals of having no in-patients or surgery.

Access - The main hospital access is from Howlands, which is a single carriageway secondary distributor road with 30 mph speed limit. It serves the majority of the site including the main patient/visitor car parks, emergency unit, staff car parks and drop off at the main entrance. To the east, there is a secondary access, which is mainly used by staff and servicing vehicles to the rear. There are further staff parking areas, which are served from the third access located on Ascots Lane. Ascots lane leads directly to the A1000 and A414, which in turn leads to A1(m).

Traffic Surveys - The consultants acting on behalf of the applicant conducted manual classified traffic and surveys on the existing highway and at the junctions...
adjacent to the site to establish the morning and evening base peak flows. On-site parking and travel surveys were also undertaken. Bearing in mind that the traffic flows and parking are fundamental to the assessment of traffic impact, I am satisfied with the data produced from such surveys.

Traffic Generation - The levels of existing traffic generation was derived from the detailed survey undertaken in 2009. Whereas, the methodology for the calculation of the traffic generated for all of the proposed uses is set out below.

New QEII Hospital - Based on the staff and patient parking during the peak periods. • Retained uses (Birch Court, Nursery & Computer Centre): Based upon existing traffic • Hospice Expansion: Same as retained uses. • Residential Development of 177 units: Based upon National Database ‘TRICS’ • Future health facility: Based upon National Database ‘TRICS’

The derived traffic generation assessments for the proposed uses are considered acceptable. This forms part of input data for the transport assessment for which the development traffic is assigned and is included within the highway impact section below.

Highway Impact – HCC have considered the Transport Assessment (TA) covering highway and traffic issues, submitted in support of the application. This document was carefully scrutinized to establish the likely impact of the road network.

The appraisals for the existing access junctions (Main site access; Howlands Eastern Access; Ascot Lane access) were undertaken for both, the year of opening of the development (2014) to year 2026. The capacity outputs of these junctions indicate that there is sufficient capacity to accommodate the future predicted traffic levels, which generate less traffic than at present.

Parking

Acute Hospital - The parking levels for the staff and patients for the Acute Hospital are summarised below:

Car Parking Spaces

Ratio of Staff to Parking spaces between the existing Acute Hospital and the proposed new QEII at 2026, overall 0.35/0.62 and daytime 0.50/0.74

For staff, it is recognised that there will be significant reduction in parking demand due to the significant reductions in staffing levels. Nevertheless, the parking proposals for the new hospital are much higher than existing when compared to the level of activities and number of staff who will be based at the new hospital. This would also address the existing shortfall of staff on-site spaces that currently exists. In addition, there is further deterrent for hospital staff to park on the adjoining residential roads in view of the experimental parking restrictions around the site being made permanent. For patients, the parking levels are calculated based upon peak hour predicted demand plus 50%, providing the figure of 145 spaces. I am therefore satisfied with the overall proposed parking levels for both staff and patients to meet future on-site parking demand.

In terms of future car parking management for patients, the proposals for the new hospital parking are to install an entry and exit controlled barriers, which would allow patients to make payments for the length of parking on exit. There are no changes proposed to the existing arrangements of the issuing of permits to staff.
In terms of public transport, bus stops exist directly outside the hospital and usage of these is high. The QEII is located along an established bus corridor with main services operating between Stevenage, Welwyn, Hatfield, St. Albans and Hemel Hempstead. When a comparison is made between existing patient provision and the new facility there is a reduction of 17% predicted whereby staff will reduce by 78% (day) and 95% (night) overall.

In terms of accessibility to bus services there are certain items that will need to be improved as part of the overall development including:

Improvements to the adjoining bus shelters to meet DDA requirements. (£25,000), placement of two outside departure screens as the County Council is presently procuring AVL/Real Time provision in the area. (£22,000), provision for a new ePIP (electronic passenger information point) within the hospital site (£12,000), placement for a screen within the hospital reception area (£15,000)

Therefore, total financial contributions (see section below) of £74,000 would be required for such improvements.

Construction Traffic

The applicant is proposing a temporary construction access into a construction compound where the parking for contractors will be provided. All construction traffic for the new QEII hospital will use Howlands. For the construction for the western residential units, it will access via Ascot Lane. There are proposals to provide additional parking spaces during the construction period. However an appropriate planning condition is recommended for the submission of a Management Plan/Method Statement for carrying out the construction works. Once details are submitted, appropriate restrictions will be imposed to minimise the off-site implications for local residents.

Travel Plan

A draft Travel Plan has been submitted to comply with the aim of the County Council’s Transport Strategy to encourage the use of sustainable transport choices. However, there are shortcomings within the Plan. These include its failure to take account of the overall site proposals (such as the residential element of the site), freight deliveries issues identified within the TA, Cycle rack allocation etc. The Plan also lacks clear outcome objectives, targets as well as a robust strategy. A planning condition has been recommended accordingly to cover this issue.

Financial Contributions

A financial contribution of £74,000 would be required to encourage further the use of non-car modes by undertaking improvements to adjoining bus stops and the installation of public information screens including ePIP as mentioned in the section above. The exact triggers for payment will need to be agreed between the parties as part of a section 106 Agreement.

The Highway Authority’s formal recommendation is that the grant of planning permission should be subject to the attached planning conditions as well as the Applicant entering into a Section 106 Agreement. The applicant will also need to enter into S278 & 38 Agreements with the Highway Authority to cover design, construction, implementation and adoption of highway works (If the roads in the estate were to be considered for adoption).
I trust the above clarifies the highways Authority’s position and I therefore recommend that planning permission be granted subject to conditions relating to:

1. Submission of a construction management plan
2. Detailed drawings of any highway works to be submitted and approved
3. Submission and implementation of a Green Travel Plan

7.6 **Hertfordshire Biological Records Centre (HBRC)** - 
These comments are based on the Bat Survey Report: Wardell Armstrong LLP; May 2011 which summarised the following:

**Bayford, Stanborough, Queens Wing and Elizabeth House**

- These buildings were surveyed on 9th -10th May 2011.
- No bats were recorded as roosting in any of the buildings.

**Princes Wing, Dining Room and main hospital buildings**

- These buildings were surveyed on 10th-11th May 2011.
- No bats were recorded as roosting in any of the buildings.

**Mental Health Unit**

- The southern end of the Mental Health Unit (MHU) was surveyed on 9th-
-10th and 10th-11th May 2011.
- Bats were recorded emerging from the west side and the east side of the building. On 11th May bats were observed returning to roost beneath the hanging tiles on the west side of the building.
- Several features of the MHU were considered important for bats.
- A European Protected Species (EPS) licence will be required from Natural England before this building can be demolished.

**The Commons:**

We are pleased to see that the potential threat to The Commons from surface run-off (drainage), plus the potential impact of increased numbers of dogs (with resultant pollution from faeces) has been acknowledged.

**Sustainable Urban Drainage Systems:**

We note that a “substantial Sustainable Urban Drainage System will be designed to ensure that there is a reduction in run-off rates....” We look forward to seeing the design of the scheme and will comment on it when it is submitted for approval by the LPA.

**Great Crested Newts:**

We are pleased to see the mitigation strategy for the protection of Great Crested Newts (GCN) and the deployment of amphibian fencing in particular. We agree that the future management of the SUDS will need to consider the presence of GCN.
Biodiversity Enhancements:

We are pleased to note the inclusion of native planting in the landscaping proposals and that the location of the new habitat will act as a buffer between the development site and The Commons Local Nature Reserve. We will comment further when we see the final designs.

We agree with the proposed erection of bat and bird boxes, particularly for Swifts, Starlings and House Sparrows. The design and location of these will be critical, and HBRC will comment on this when the details are submitted.

HBRC Recommendations

1. The Bat Survey Report (Wardell Armstrong LLP; May 2011) has dealt comprehensively with the ‘3 tests’; paragraphs 4.1.6 – 4.1.17.

2. Therefore, the Local Planning Authority can fully consider the ‘3 tests’ in its determination of this application and apply ecological conditions accordingly to protect EPS – bats and their roost sites.

3. All the text given in paragraphs 4.1.6 – 4.1.17 should be used (conditioned) to protect the bats.

4. Details of the replacement roost, proposed timing and methods of working should be supplied to the LPA as part of the determination of Full Permission.

5. The building inspections and bat surveys should be repeated if development has not started within the next 12 months; June 2012.

7.7 Welwyn Hatfield Borough Council Environmental Health – No objections are made regarding Air Quality Assessment. In relation to Energy Efficiency, comments are made on the Energy Statement in relation to:

- A development of this size and with high energy consumption on a 24 hours basis, there may be scope for a higher proportion of energy from renewable which may be considered that has quick economic return on investment.

- For Solar Photo Voltaic and solar thermal technologies to be considered in this development, orientation of building facing South and roof areas available should be adequate. Also the design of the pitch roof should be considered in the building design.

- The document does not make any proposal to consider Ground Source Heat Pumps. In relation to a Biomass CHP with District Heating, However, for a development of this size and nature with such a high heat demand and matching electrical load, with both high demands over a 24 hours and 365 days, and a combination of residential properties and hospital buildings makes District heating scheme a realistic proposal and must be seriously considered. A higher target than 10% renewable energy technology can achieved with the right incentives and funding, for this development. There is
a high energy demand for both power and heat at all times of the day and year.

- Solar Photo Voltaic, Solar Thermal, Combined Heat and Power and District Heating must be a prime consideration for this development. All energy efficiency improvement must be evaluated as per the BREEAM requirements for excellence and the minimum set out under the Part L Building Regulations.

- Long term source of Biomass must be established for this technology to be a serious option. However a District heating scheme powered by natural gas, or a combination of natural gas and bio mass fuel can be a more realistic proposal.

In relation to other Environmental Health matters, standard conditions/informatives to prevent nuisance to neighbours of the site and to ensure that risks from land contamination to the future users of the land and neighbouring land are minimized are required.

7.8 **Natural England** – This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal Environmental Impact Assessment development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species. Adopts national standing advice in relation to protected species.

7.9 **Hertfordshire Fire and Rescue** – Access for fire fighting vehicles should be in accordance with The Building Regulations 2000. Water supplies should be provided in accordance with British Standards. Makes comments in relation to fire hydrant provision.

7.10 **Thames Water** - Waste Comments - Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system. Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

7.11 **Hertfordshire County Council Development Unit** – Makes standard comments in relation Waste and the standard requirement for a Site Waste Management Plan to be adopted for projects over £300,000.
8 Discussion

8.1 This application is presented to the Planning Control Committee because of the significance of the proposals on health care provision within the borough.

8.2 The main issues to be considered are:

1. Whether the proposal is in accordance with the current planning policy framework in relation to the principle of redevelopment for a health care facility
2. The proposals impact on the character and appearance of the area
3. The proposals impact on the highway network, accessibility and car parking including construction traffic and parking
4. Biodiversity
5. Other Material Considerations including energy efficiency and protected species.
6. Planning obligations.

1. Whether the proposal is in accordance with the current planning policy framework in relation to the principle of redevelopment for a health care facility

8.3 During the summer and autumn of 2007, a wide-ranging public consultation took place in north and east Hertfordshire, known as Delivering Quality Healthcare for Hertfordshire (DQHH). Following this consultation, a detailed and thorough assessment was undertaken of all the responses received. Based upon the findings, the Boards of the East and North Hertfordshire NHS Trust, the West Hertfordshire Primary Care Trust, East and North Hertfordshire Primary Care Trust and the West Hertfordshire Hospitals NHS Trust agreed to a range of proposals including consolidating acute hospital services for east and north Hertfordshire at the Lister Hospital in Stevenage. In addition, the Boards agreed to develop a network of eight Urgent Care Centres across Hertfordshire, including one at the QEII site. Further details of the DQHH consultation process is set out in the Statement of Community Involvement which accompanies the current planning application.

8.4 Assemble Community Partnership (ACP) is a long-term partnership between the private sector and local public authorities. ACP is part of a government-led initiative called Local Improvement Finance Trust (LIFT) which brings private sector capital and expertise to the public sector. ACP is currently delivering a range of new build, remodelled and refurbished health facilities that will play a major role in enhancing the quality of health and social care in Hertfordshire, Bedfordshire and Milton Keynes. As a result of this overall proposed development, acute services will be consolidated at the Lister with an investment expected to be over £100 million. Outpatient, diagnostics and urgent care services will continue to be provided at the New QEII site.

8.5 Policy CLT16 of the Welwyn Hatfield District Plan 2005 supports the provision and expansion of health care services at the QEII hospital, subject to its impact on the surrounding area in terms of traffic, noise, pollution, car parking and visual appearance. Proposals for new development have to be considered in the context of an overall masterplan for the site, which is subject to public consultation and should contain proposals to reduce car traffic and manage car parking as part of any future development on the site.
8.6 As set out in section 2, the overall strategy is to relocate all the remaining acute services (excluding outpatients, endoscopy and diagnostics) from the QEII Hospital at Welwyn Garden City to the Lister Hospital site in Stevenage. At the same time, the strategy will ensure that the New QEII has sufficient capacity to meet projections of demand for community healthcare beyond 2015.

8.7 Following a number of concerns raised at the recent Development Consultation Forum in relation to the provision of health care services, whilst the mix of health services is not a matter for consideration under Policy CLT16, the applicant has confirmed the following:

The New QEII will have a local A&E, which will cater for ambulant patients, which is estimated to be circa 65-70% of the current QEII A&E attendees. The local A&E at the new QEII will see people with a range of conditions, including:

- Sprains and strains
- Broken bones
- Infected wounds
- Minor burns and scalds
- Head injuries
- Bites and stings
- Minor eye injuries
- Cuts, splinters, grazes
- Removal of foreign bodies
- Emergency contraception
- Major traumas will be dealt with by the Lister hospital in Stevenage.

8.8 Staff will be trained to manage and treat patients that arrive at the facility, stabilise them and then route them to the appropriate facility. Ahead of any service changes there will be a publicity campaign to help the local public understand what services will be provided at the local A&E. In relation to Spring House, the proposal is for the service currently provided from Spring House to be relocated within the new QEII. Spring House was always intended to be an interim temporary solution. Planning consent for Spring House expires in 2014, scheduled to tie in with the delivery of the new QEII and the land is leased from the Ambulance Trust.

8.9 Accordingly, the principle of the replacement facility is acceptable with regard to Policy CLT16 of the development plan. Whilst there may be concerns with regard to the impact on healthcare provision within the borough, this is not a matter for consideration under this application subject to compliance with other development plan policies. A strategic decision has been made to relocate the acute services to the Lister Hospital in Stevenage and the consideration is therefore whether the provision of new healthcare services at the site is acceptable in terms of its impact on the surrounding area in terms of traffic, noise, pollution, car parking and visual appearance. The proposals for Phase 1 have been developed in accordance with a masterplan that has been subject to revisions following public consultation exercises and discussions with officers. Accordingly, in principle the proposal complies with the requirements of Policy CLT16 of the adopted district plan.

2. The proposals impact on the character and appearance of the area
8.10 The Design and Access Statement which accompanies the planning application demonstrates that the proposed development incorporates a high standard of design, as required by Policy D1 of the development plan. It describes how the design and layout has evolved over time, explains what the buildings and spaces will be used for and where, the range of different uses that will be placed on the site and how they work together with the existing facilities on the site. It describes the amount of development that will be planned, the way the buildings, routes and open spaces are set out, the scale of buildings and how they relate to their surroundings. The statement justifies and explains the hard and soft landscaping and shows how the development responds to opportunities to improve the landscape character of the site. Finally, the statement explains the principles behind the intended appearance of buildings and spaces and how they will inform the final design of the development.

8.11 In accordance with requirements of Policy D7 of the development plan, the proposed development will incorporate features within the design and layout which will improve personal safety of visitors, patients and staff. Wherever possible, public walkways will be overlooked by windows of buildings and all public areas will be well lit at night.

8.12 Members should bear in mind that this is an outline application and accordingly, all matters of detail have been reserved for future applications. Outline applications allow for a decision on the general principles of how a site can be developed. They are typically used where applicants are looking for formal agreement about the amount and nature of development that can take place on a site prior to preparing detailed proposals. As a minimum, therefore, applications have to include information on:

- **Use** – the use or uses proposed for the development and any distinct development zones within the site identified.
- **Amount of development** – the amount of development proposed for each use.
- **Indicative layout** – an indicative layout with separate development zones proposed within the site boundary where appropriate.
- **Scale parameters** – an indication of the upper and lower limits for height, width and length of each building within the site boundary.
- **Indicative access points** – an area or areas in which the access point or points to the site will be situated.

Officers are satisfied that the application includes sufficient information on each of these aspects to enable an informed decision to be made.

8.13 This application seeks outline consent, with all matters reserved apart from the means of access to the site. The future detailed planning submission will provide the details outlined in 8.14 in order that the true impact can be addressed. The applicant has indicated that the details are submitted “for illustrative purposes only” and therefore technically, the Local Planning Authority cannot treat them as part of the development. However a significant amount of work has already gone into the design of the new hospital building and indicative sketch proposals have been submitted with the application. Whilst it is unlikely that the overall siting and scale of the building will change, it is also unlikely, in officer’s experience that this will be the final design of the building.
In accordance with Circular 1/2006, the subjects that now constitute reserved matters now consist of:

- **Layout** – the way in which buildings, routes and open spaces are provided within the development and their relationship to buildings and spaces outside the development.
- **Scale** – the height, width and length of each building proposed in relation to its surroundings.
- **Appearance** – the aspects of a building or place which determine the visual impression it makes, excluding the external built form of the development.
- **Access** – this covers accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network.
- **Landscaping** – this is the treatment of private and public space to enhance or protect the site’s amenity through hard and soft measures, for example, through planting of trees or hedges or screening by fences or walls.

Initial design concepts for the QEII Redevelopment Masterplan and the New QEII have been presented at two Stakeholder events in 2009 and 2010. Both were well attended by key stakeholders and interest groups with feedback informing the early design process. These events were also attended by representatives from Council for Architecture and the Built Environment (CABE), appointed by NHS Hertfordshire to advise on Design Quality and Sustainability. The starting point of the design for the New QEII was a design competition arranged by the PCT and Assemble Community Partnership (NHS Hertfordshire’s LIFT Company). A number of leading healthcare architects were invited to submit initial design concepts for the new hospital based on a brief prepared by the trust and the selection panel included representatives from the PCT, Assemble, CABE and SHINE (a learning network for the provision of healthcare buildings).

The indicative plans show a building sited on the corner of Howlands and Ascots Lane on the site of the existing car park. The demand for the existing QEII Hospital to maintain operational whilst the new hospital is constructed has been the determining factor for the location of the new building and the only suitable area of site is the existing open car park area. This allows the New QEII to be built at the ‘front’ of the site whilst maintaining the access to and the operation of the existing hospital. The building would be four storeys in height, although the full fourth storey would rise to the north. This site ‘constraint’ is also an opportunity, as it allows the new building to have a presence and frontage to Howlands, the main access route from the local neighbourhood. In design terms the positioning of a large scale public building at the ‘front’ of the site ensures good visibility and accessibility, also corresponding well with the scale and context of Birch Court.

The proposed architectural form of the new QEII building responds to the surrounding environment by stepping up from 2 to 4 storeys as the building is approached from the main site entrance in Howlands. The stepping form is accentuated by the undulating roof profile which creates a distinctive presence, particularly to the southern elevation. The form of the building is set back at entrance level to create generous covered colonnades that shelter the approach to the main entrance and the 24 hour local A&E entrance.
8.18 The building does have a significant mass and will form a dominant addition to the streetscene when viewed travelling east along Howlands and when viewed across the landscaped amenity area on the junction with Ascots Lane. Given the presence of Birch Court and the existing hospital (although set back within the site) the resultant built form along this section of the streetscape would be considerable. Much will depend on the quality of the landscaping to the front of the site and the final design of the hospital building which will be critical in softening the impact of the building.

**Landscaping**

8.19 The proposed landscaping proposals set out in the landscaping strategy seek to ensure a balance is achieved between the need for screening to reduce visual impact and the need for public areas to be visible. As outlined by the Council’s Landscape and Ecology service further work is required on the landscape approach. Whilst the amount of landscaping to the front of the site is unlikely to totally mitigate against the impact of a building of this size and scale, landscaping is a reserved matter and therefore further negotiations can take place at the reserved matters stage to try and maximise the softening of the building and the quality of the landscaping. A representation has been received which outlines concerns regarding overlooking, however officers consider that the design of the building has yet to be completed and therefore the actual impact cannot be accurately addressed. This matter would be considered at the detailed stage and there is no sufficient grounds to warrant refusal of the hospital building on the impact on residential amenity of adjoining dwellings.

8.20 Overall officers consider that the hospital building will have an impact on the character and appearance of the area because of its size, scale and siting. However, subject to the final design of the building, this building could have a positive impact and overall it is considered that it will not have a sufficiently harmful impact on the character and appearance of the area to warrant refusal on these grounds alone.

**2. The proposals impact on the highway network, accessibility and car parking**

8.21 In relation to vehicular access, all the existing accesses into the Hospital Site will remain. The existing access from Howlands will serve the New QEII (including the main entrance and the local A&E), Birch Court, the new future healthcare facility and the Isabel Hospice. The eastern access will serve the nursery and the residential units. Ascots Lane access will serve the staff working at the New QEII and the residential units on the western part of the site. The current access for service and refuse vehicles, via the main access off Howlands will remain.

8.22 Concern was raised at the recent Development Consultation Forum that there is a weight restriction at the southern end of Ascots Lane that states no vehicle larger than 2T, except for access is permitted to use the road. For the avoidance of doubt, there is no such restriction at the northern end of Ascots Lane, which is currently used for Ambulances and which, as noted above, is where the construction traffic will access the site. Therefore, this will not affect the construction movement/access that has been proposed. Overall, the Highway Authority recommend that the proposed access arrangements for this proposal,
subject to appropriate conditions would not have a detrimental impact on the safe and free flow of traffic on the adjoining highway network.

Public Transport and Pedestrian Facilities

8.23 In relation to public transport and pedestrian facilities, the existing bus turnaround and stop area at the front of the hospital off Howlands will be retained. There will be some reduction in the demand for public transport because of the significant reduction in numbers of staff working at the QEII. However, this will partly be offset by the demand from occupiers of the new residential units. Pedestrian facilities will be enhanced by providing a covered walkway from the Howlands end of the new building past the local A and E entrance to the main entrance. Users of drop off areas will also be able to access the building from vehicles under cover, protected from the weather and segregated from traffic. The applicant will be required to submit a Green Travel Plan for the development and this can be required by a suitably worded condition.

8.24 In terms of bus stops, stops currently exist directly outside the hospital and usage of these is high. The QEII is located along an established bus corridor with main services operating between Stevenage, Welwyn, Hatfield, St. Albans and Hemel Hempstead. In terms of accessibility to bus services there are certain items that will need to be improved as part of the overall development including, improvements to the adjoining bus shelters to meet DDA requirements, the placement of two outside departure screens as HCC are presently procuring AVL/Real Time provision in the area, the provision for a new ePIP (electronic passenger information point) within the hospital site (£12,000) and the placement for a screen within the hospital reception area. These will be covered by an appropriate Section 106 legal agreement (see recommendation).

Cycle Provision

8.25 In terms of cycling facilities, these will be enhanced on site by providing safe and secure cycle parking numbers in line with adopted standards. A total of 25 cycle spaces will be provided for staff, based on a ratio of 1 per every 10 members of staff. Cycle parking demand for patients is generally low and therefore, five spaces are proposed and use of the cycle facilities will be monitored as part of the Green Travel Plan. Motorcycle parking will be provided in line with current adopted standards. There are no objections to this level of provision, subject to the detailed design of the cycle stores which will be considered as part of any future reserved matters application.

Disabled Persons Parking Provision

8.26 Sufficient disabled parking spaces are to be provided (18), the details of which will be dealt with at the reserved matters stage, Welwyn Hatfield Access Group have commented on the number of disabled spaces being satisfactory subject to the siting and layout. In any event, the exact location and design of the disabled spaces would be dealt with at the reserved matters stage. In respect of the remaining comments made by the Access Group the applicant has been forwarded these comments and a number of the points picked up elsewhere within this report including proposals for passenger information.

Construction traffic access and parking

8.27 In relation to construction traffic access and parking, At this time the applicant has not appointed a contractor, therefore this section is written on the basis that as and when a contractor is appointed they will be required to comply with the
existing undertakings included within the transport assessment and shall be required to seek formal approval from the Local Planning Authority on a discharge of condition application.

8.28 It is proposed that a temporary construction access is provided into the proposed construction compound on the site of the new hospital. The construction route to the site will be from Howlands. There will be no use of Ascots Lane to the south of the construction access point for travel to and from the site. Howlands gives access to the A1001 and onto the A414 to the east and to the B195 via Cole Green Lane to the west. All construction traffic for the new QEII will use the construction access from Howlands. However, there will also be a need to use the existing access from Ascots Lane to ensure that the Acute Hospital can remain operational. All construction traffic using the Ascots Lane access will travel to/from the site via Howlands and will only use the short section of Ascots Lane between the site access and Howlands. Construction traffic for the eastern residential units will access the site via the existing eastern access directly from Howlands or via the existing access onto Ascots Lane for the western residential units. Any traffic using Ascots Lane will only approach the site from the north via Howlands. Normal working hours for construction will be limited to Monday to Friday, 8.00 am to 6.00 pm and Saturdays 8.00 am to 1.00 pm.

8.29 Throughout the construction period for the New QEII the existing Acute Hospital will remain in operation and the parking management arrangements will be in place. This means that contractor parking will be strictly controlled and can only take place in the contractor’s compound. While the services at the existing Acute Hospital will reduce over time it has been assumed that parking demand will remain constant to ensure that a robust assessment of demand during construction is undertaken. This means that throughout the construction of the new QEII the existing level of parking will be maintained through a combination of providing additional parking onsite and offsite parking within walking distance of the site.

8.30 Some construction traffic will be accommodated within the construction site compound, although the applicant acknowledged at the recent DCF that additional parking would be required off site and that the exact location and number of spaces had yet to be agreed as a contractor had not yet been appointed. However, the exact off site requirements in terms of number and location are unknown at this stage. In relation to the displacement of staff parking during construction, at the time of writing the Traffic Assessment the position was that there would be a loss of staff 271 spaces during construction and that this would be offset by the provision of 135 spaces on the site leaving 136 spaces to be found elsewhere. As reported at the Development Consultation Forum the construction compound area has now been defined in more detail and as presented to Members there would be a loss of approximately 186 spaces for construction, which when offset by the provision of 135 spaces on the site leaves 51 spaces to be accommodated off site for members of staff. The 135 spaces will be located in two areas on the site of the existing Stanborough and Baytree wards and the Postgraduate Centre.

8.31 Any parking that is provided offsite will be used by staff with existing staff spaces being converted to spaces for the public where necessary to ensure that parking for patients and visitors is always on the site. A number of opportunities for providing offsite parking within walking distance of the site has been identified.
and in total could provide an additional 195 spaces. This is in excess of the number of spaces required and not all of these opportunities would need to be realised. However, the applicant considers that this demonstrates that adequate parking can be found within walking distance of the site. These opportunities are subject to commercial negotiations with landowners and may need planning permission and therefore the applicant has not considered it is appropriate to list them at this stage. A further option has been identified, but this would require buses to be provided to take staff to/from the site. There may also be a need to look at temporary parking restriction to stop staff parking on roads some distance from the site and walking as this may be quicker than this alternative provision. Due to the complications that this option raises and the additional operational costs this is not currently being pursued, but remains as a fallback option. If permission is granted the applicant has requested that a planning condition be included that requires a detailed scheme for the provision of alternative parking during construction for both construction staff and hospital staff is submitted to and agreed by the Council, then implemented, before construction can commence.

8.32 This is known as a ‘Grampian’ planning condition. Such a condition can provide that a development is not carried out, or is not occupied, until certain works have been carried out on land not under the control of the applicant. However, whilst such a condition may be imposed on a planning permission, when there are no prospects at all of the action in question being performed within the time-limit imposed by the permission, it should not be imposed.

8.33 This means that there has to be a level of certainty that the alternative provision could be made and it is more appropriate to secure this by way of Section 106 legal agreement given the fact that the commercially sensitive nature of discussions that are being held mean no certainty has or can be given by the applicant at this time.

Site Waste Management Plan

8.34 Construction waste disposal will be controlled by a Site Waste Management Plan (SWMP) prepared in accordance with the Site Waste Management Plans Regulations 2008 and as required by Hertfordshire County Council. The Site Manager will be responsible for developing, implementing and updating the SWMP as the construction works proceed. All waste transactions will be recorded to prevent fly tipping. In addition, the application documents state that prior to the commencement of any construction, staff, patients and visitors will be fully informed in advance of the planned works and how the existing hospital will operate during each stage of construction.

8.35 In conclusion, construction traffic will access the site through its own dedicated temporary site entrance via the very top section of Ascots Lane using Howlands. There will be no construction traffic using Ascots Lane, either to or from the site; construction traffic will not at any time mix with any hospital or other such traffic on the site. The contractor will not be allowed to park on the existing hospital or nearby areas and will be restricted to what can be contained within the confines of the construction compound and the applicant will be required to manage the contractor through a Construction Management Plan, agreed in advance of commencement and this can be appropriately conditioned. Accordingly, officers are satisfied that impacts arising from construction traffic can be appropriately mitigated against and therefore there is insufficient reason to warrant refusal on these grounds alone.
Calculating Car Parking Provision

8.36 In relation to the issue of car parking provision for phase 1, there are no adopted standards for this type of use and therefore the car parking provision is based on assumptions in relation to mode share and a review of comparable hospital sites within the widely used trip rate database, Trip Rate Information Computer System (TRICS).

Staff Car Parking Provision

8.37 The existing site employs 964 daytime staff and 863 night-time staff. A total of 512 existing staff parking spaces are provided in addition to a further 197 public spaces, 64 staff/public shared, 60 spaces on Birch Court, 116 private (non-trust) and 5 ambulance spaces, providing a grand total of 954 spaces. There are 88 unofficial spaces, 65 of which are tarmac, and the remaining 23 are on grass verges. The proposed site will employ up to 250 staff (40 of which will work at night) by 2026. The hospital will predominantly focus on outpatient care with a high turnover of patients in comparison to the existing acute care services provided which require a greater proportion of overnight patients and are subsequently more staff intensive. The development proposals will therefore result in a 78.2% reduction of the existing daytime staff numbers, and a 95.4% reduction in night-time staff required. It is anticipated that the reduction in patients to the hospital will amount to approximately 17%.

8.38 The level of proposed parking provision for staff at the hospital was originally proposed to be 155 parking spaces for up to 250 staff, a ratio of 0.62 spaces per staff member. The existing provision at the site is 512 dedicated staff parking spaces for 964 daytime staff, which is a ratio of 0.54 spaces per staff member. A comparison of the originally submitted staff parking ratios demonstrates that a greater provision of parking spaces for staff will result from the development proposals, however this does not necessarily equate to less impact unless the way in which clinics and car parking management for both staff and patients is managed and controlled. This day to day management is outside the control of the Local Planning Authority but has to be anticipated to assess the future parking need.

8.39 In relation to charges for staff car parking provision, in April 2004 Car Parking Charges were introduced for all NHS Trust staff and other occupiers based at the premises of East and North Hertfordshire NHS Trust. All staff who wish to park their vehicles on NHS Trust sites must apply for a staff parking permit for which a charge is made. Possession of the permit allows staff free access to a bay in the staff car parking areas although this does not guarantee a space. Permit charges apply to all grades of employee who choose to use their vehicle to get to and from their place of work and may include staff who are designated essential users and staff who have on call commitments. Staff carrying out essential car user duties and staff carrying out on-call duties are issued with a special permit for that purpose if they can demonstrate that they would not use their vehicle at all to undertake their journey to their place of work Staff who do not apply for a staff permit are not entitled to park in designated staff parking spaces but must use the public pay and display spaces and pay the full pay and display charge. In relation to the existing arrangements for patients and visitors these are controlled through pay and display arrangements, with a sliding scale of charges.

Visitor / Patient Car Parking Provision
8.40 The assessment of future parking demand has been undertaken at 2026 and this means that the parking provision has been assessed on the future predicted level of activity at the new QEII. This aims to ensure that a robust assessment has been undertaken that takes account of future growth in demand. The day to day management, scale and number of facilities, services and outpatient clinics is outside the control of the Local Planning Authority but has to be anticipated to assess the future parking need.

8.41 The peak parking demand from patients will be during the day when the clinics are running and this is when parking demand has been considered but at all other times parking demand will be lower. The PCT anticipate the vast majority of patients will be attending appointments of no longer than 15-20 minutes, thus even allowing for 30 minute wait times, the majority of patients should turnaround within an hour. However, as some patients will visit more than one service at the new QEII they will be on site for more than an hour and this needs to be taken into account in the future calculation of parking demand.

8.42 Based on the Transport Assessment from the amended parking provision set out in 8.4 (an increase of 145 to 175 for patients) patient numbers at the hospital will reduce from the current levels of 284,428 to 234,874 in 2014. Overall this gives a reduction of 17% in patient numbers. The current number of patient parking spaces is 229 (these include both official and unofficial spaces and excludes non-trust facilities) and this will reduce to 175 a reduction of 24%.

8.43 From the calculations undertaken by the applicant in the Transport Assessment the average number of patients per hour is 106 (outpatients 89, therapies 5, GP surgery 7, local A and E 4). Assuming a 50% uplift during the busiest hour gives 159 patients per hour. The average number of patients per hour in 2026 is predicted to be 121 (Outpatients 102, therapies 6, GP Surgery 8, UCC 5). Assuming a 50% uplift this gives 181 patients per hour during the busiest hour. There will be no inpatients and therefore no visitors. Not all patients will drive to the site by car with the existing mode split for patients is 80% by car, which means that approximately 97 will drive to the site per hour. To allow for fluctuations in demand and for some patients being at the hospital for more than an hour the predicted demand has been uplifted by 50% to give a peak parking demand from patients of 145 spaces. The originally proposed parking provision was 155 spaces for staff and 145 for patients.

8.44 Whilst there are no plans to amend the overall parking management strategy, one significant change will be a move from Pay and Display to Pay on Foot with entry and exit barrier controlled. Payment is only made for the length of parking, rather than an estimate for the length of parking needing to be made at the start of the visit.

Car Parking Negotiations

8.45 During determination of the application, the applicant has been requested to provide details of similar facilities and the associated parking provision. The previous assessments that were used for the development at the Lister Hospital in Stevenage were based on parking demand in relation to mode share and a review of comparable hospital sites with the trip rate database TRICS and as part of this, Watford General Hospital had been surveyed. This hospital employees a total of 2,000 employees, has 383 beds and a total of 220 staff parking spaces. The TRICS database does not provide a breakdown in relation to the typical
number of full-time and part-time staff or the number of daytime staff. However; assuming 70% are full-time daytime staff (1,400), this would equate to a ratio of 0.16 spaces/staff member, considerably lower than that proposed for the new QEII or Lister hospitals. This level of staff parking is comparable to the Lister and existing QEII hospital in terms of staff parking provision and the numbers may also indicate a lower parking provision for staff at the Watford Hospital if the part-time/full-time and daytime staff breakdown is assumed to be the same as at Lister Hospital.

8.46 Further plans have been received since the Development Consultation Forum showing an increase in the level of parking provision by 45 spaces, giving an overall provision of 345 spaces, allocated as 170 staff spaces and 175 public spaces. This gives an overall parking provision for the New QEII of 345 spaces, including 23 disabled spaces. This is a ratio of 0.68 spaces per member of staff. The majority of staff will be clinical and will work between the key operational times of between 0800 and 1800 and there will be few administrative staff working 0900 to 1700. There will be a very small number of staff (around 40 by 2026) who work between 2000 and 0800 in the Local A&E or the GP Out of Hours Service. Out of day time staff around 10% of staff are likely to be absent for various reasons on an average day which gives a maximum requirement of approximately 189 staff on site during the day. When coupled with sustainable transport measures this level of parking has been calculated to meet parking demand some 16 years in the future and is a robust analysis. This level of provision is much higher than the provision at the existing hospital when compared to the anticipated level of activities and the number of staff who will be based at the new QE11. Much will depend on the exact operation and management of the various clinics; types of services offered and in many respects this is beyond the control of the Local Planning Authority.

8.47 It was clear from the recent Development Consultation Forum that Members and members of the public still had concerns regarding the impacts of the proposed parking provision on, on- street parking in the surrounding area. It was suggested that an area of the phase 2 housing land could be temporarily set aside for a limited period to compensate for any future impacts on car parking provision that may occur. However, the applicant has confirmed that this approach is not considered to be either practical or economical and will not be supported by the Acute Trust who owns the land, the disposal of which is an intrinsic part of their Business Plan. The applicant has suggested that if it should subsequently transpire that additional parking is required, the proposal would be to provide a deck to part of the car park to create additional spaces.

8.48 Although concerns have been raised with regard to car parking, officers consider that the failure to provide this additional land is, when weighed in balance with the overall application not a sufficient enough reason to warrant refusal. Furthermore, it should be argued that providing more parking than is actually considered to be needed will only encourage staff/patients to drive which is, of course, contrary to the aspirations of the Green Travel Plan and the relevant national and local planning policies. Officers consider that there is insufficient evidence to prove that the level of car parking proposed will have a detrimental impact on the adjoining highway network through increased on street parking to warrant refusal, however as outlined throughout the report much will depend on the services offered at the new hospital and how they operate in the longer term.
8.49 In light of these concerns, the applicant has carried out further work in relation to the feasibility of providing an additional decked car park area. Drawings have been submitted to demonstrate that a 60 space deck car park could be accommodated on the site of the proposed hospital car park. The difficulty of this approach is securing the implementation and in particular the triggers that would need to be reached before such a scheme needs to be implemented. Given the complexity of the wording of any such condition, officers consider that this would be more appropriate to secure through a S106 legal agreement if members consider that without securing this deck, planning permission should not be granted. Officers have considered the proposals that have been submitted as required by the committee resolution on 11 August 2011 and consider that subject to the normal negotiations in respect of the actual wording of the obligations, the obligations are acceptable and comply with the three statutory tests within Regulation 122 of the Community Infrastructure Levy Regulations 2010.

8.50 In relation to other access and parking matters that were raised at the Development Consultation Forum, the applicant has submitted further clarification and confirmed that the parking machines will give change and there will be a 15 minute free drop off period beyond the car park barriers. Furthermore, the applicant has stated that ‘the concerns of the Authority are entirely understandable. However, it should be noted that as well as greatly improving the staff parking ratio, as noted above, the whole scale of the issue will be greatly reduced. As an example, if 10% of the existing staff decided to park off site, this would total some 125 parking off site. However, if the same percentage were to opt to do the same in the new development, this would result in a total of 21 parking off site. Whilst not wishing to decry the issue, it is very clear that the scale of the potential problem will reduce significantly’.

4. Biodiversity

8.51 Ecological Impacts: The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

8.52 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species (‘EPS’) and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

8.53 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species (‘EPS’) might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”
8.54 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
  
  (a) to impair their ability –
  
  (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
  
  (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

  (b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
  
  o e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  
  o e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  
  o e.g. dormice nest (breeding site or resting place (where it hibernates)

8.55 In some circumstances a person is permitted to ‘derogue’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained

8.56 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

a) Consider whether an offence to an EPS is likely to be committed by the development proposal.

b) If the answer is yes, consider whether the three “derogation” tests will be met.

A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
8.57 Following concerns in relation to the original ecological reports, an additional bat emergence survey was submitted to the Council in May. The survey found that bats were recorded emerging from the west side and the east side of the Mental Health Unit building and bats were also observed returning to roost beneath the hanging tiles on the west side of the building. The bat survey deals comprehensively with the three derogation tests and therefore, the Local Planning Authority can fully consider the ‘3 tests’ in its determination of this application and apply ecological conditions accordingly to protect bats and their roost sites. All the text given in paragraphs 4.1.6 – 4.1.17 should be used (conditioned) to protect the bats, details of the replacement roost, proposed timing and methods of working should be supplied to the LPA as part of the determination of the reserve matters and the building inspections and bat surveys should be repeated if development has not started within the next 12 months; June 2012. All of this can be conditioned.

8.58 Turning to other protected species, Commonswood Nature Watch have reported that newts are recorded within 60m of the site in Bennets Close Pond, from several gardens in houses along Howlands and in Commonswood School pond. In addition, newts may use terrestrial habitats within the development site for dispersal. The proposal includes the creation of a series of waterbodies along the southern site boundary as part of the Sustainable Urban Drainage Scheme and as a precautionary approach, newt exclusion fencing will be erected along the woodland edge for the duration of site clearance and construction.

5. Other Material Considerations

8.60 Energy Efficiency: The energy statement accompanying the planning applications concludes that a district heating network involving a biomass boiler with gas fired backup would be capable of meeting the heating demand of the entire development in a cost effective way (Para 11.2.3), but the Planning Support Statement only alludes to this being considered. If it can be achieved cost effectively, this equipment should be included in the development in line with the requirement in Policy ENG1 of the East of England Plan, March 2008, for development on the scale proposed to secure at least 10% of its energy from decentralised and renewable or low carbon sources. Opportunities to improve further on this performance through solar sources and / or ground source heat pumps should also be explored.

8.61 The applicant’s Energy Statement demonstrates that the new QII Hospital will comply with Part L2a2010 of the building regulations. The building will also achieve a 10% reduction in CO2 by on site renewable energy measures through the use of air source heat pumps, solar thermal systems and low energy lighting. A Building Research Establishment Environmental Assessment Method (BREEAM) Healthcare 2008 Pre-Assessment Estimate has been made which indicates that an ‘Excellent’ rating will be achievable. BREEAM Excellent requires a maximum EPC level of 40 and a 10% provision of total energy from renewable low or zero carbon sources.

8.62 A BREEAM assessment uses recognised measures of performance, which are set against established benchmarks, to evaluate a building’s specification, design, construction and use. The measures used represent a broad range of categories and criteria from energy to ecology. They include aspects related to energy and water use, the internal environment (health and well-being), pollution, transport, materials, waste, ecology and management processes. A Certificated BREEAM assessment is delivered by a licensed organisation, using assessors
trained under a UKAS accredited competent person scheme, at various stages in a buildings life cycle

8.63 The statement states that the district heating option is not the Best Practical Environmental Option for the site and a District Heating System on its own for the New QEII is not sustainable. However, as noted previously an area wide system is currently being considered as part of a feasibility study. Whilst the proposed health building has been designed as a standalone facility, it has been designed to be able to connect into a District Heating scheme to provide its energy, when, and if this system becomes available.

8.64 Officers consider that the outline proposal has demonstrated compliance with ENG1 of the East of England Plan and Policy R3 often district plan and accordingly, subject to a condition requiring details of the energy efficiency measures to be submitted and implemented, the proposal is acceptable in this respect.

8.65 **Sustainability**: The future management of the SUDS will need to consider the presence of newts and the various recommendations in relation to biodiversity enhancements in the form of bat boxes and bird boxes for the building and overall biodiversity enhancements can be conditioned. In relation to the issue of Sustainable Urban Drainage, the proposal details a number of swales and storage attenuation ponds that would be used to accommodate surface water runoff after heavy rainfall but these are to be located on the Phase 2 area. However any drainage strategy will need to tie in with these so needs to be considered as part of this application. The Environment Agency have not objected to the application subject to conditions and informatives.

8.66 In relation to the other landscaping matters, there are still some finer matters of detail to be addressed in relation to the levels across the site, retained trees and details of the Swales. However, as this is outline consent these matters are dealt with in the Landscaping details that are required to be submitted as part of any future application for reserved matters and this could include details of any green roofs the applicant wishes to include.

8.67 In conclusion, subject to further details at the reserved matters stage there will be no adverse environmental impact, following the implementation of proposed mitigation measures, arising from construction and operation of the phases of development upon The Commons Local Nature Reserve. The Landscape Strategy identifies opportunities to enhance the provision for public open space, trees and grassed areas within the design layout, in accordance with Policies D8 of the development plan, however it is clear that further work is required in respect of the landscape details. Any conditions relating to anything other than the reserved matters should be imposed when outline permission is granted, because landscaping is a reserved matter there is no requirement to condition the landscaping, but the biodiversity and ecological impacts will need to be conditioned.

**Foul Sewerage and Utilities**

8.68 In relation to waste management, a detailed Foul Sewerage and Utilities Assessment has been submitted which indicates that foul sewage will continue to be discharged to the existing 600mm trunk foul sewer that runs parallel to the Hatfield Hyde Brook. The 20% reduction in total gross floor area will ensure that
capacity of the public system will not be exceeded. Furthermore, no objections have been received in relation to foul sewage disposal.

Bin stores and recycling

8.69 In relation to other waste matters such as bin stores and recycling, because this is an outline planning application, no details of the final waste management strategy for the new hospital have been agreed or submitted. Any future application will need to submit these details in accordance with statutory requirements for healthcare provision. It is therefore considered that these matters do not have to be considered further at this stage.

8.70 **East of England Plan 2008**: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

- He failed to consider the likely environmental effects of revoking Regional Strategies.

8.70 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

8.71 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

Other Issues

8.72 The Gascoyne Cecil Estate have made representations regarding the fact the Estate has restrictive covenants over this site which prohibit use other than as a hospital with associated community facilities. They are concerned to ensure that the principles of the original covenants are upheld in terms of replacement facilities for Welwyn Garden City. This is a civil matter that does not affect the determination of this application as it relates to Phase 1 only and the comments of the Estate appear to be more applicable to the residential development on Phase 2 pursuant to N6/2011/0359/OP.

6. Proposed Planning Obligations

8.73 Hertfordshire County Council as Highway Authority (HCC) were originally seeking £74,000 of S106 contributions in relation to the Phase 1 application (Hospital), split as follows:

- Bus Shelter improvements - £25,000
- Departure Screens - £22,000
- EPIP (Electronic Passenger Information Point) - £12,000
- Screen (in hospital) - £15,000
- Total - £74,000

8.74 Following discussions about these S106 contributions, it has been agreed with HCC that the screen (in hospital) would be the subject of a planning condition. The screens that would be provided by the contribution are on the public highway and therefore HCC are able to implement them under the Highways Act. However, the screen within the hospital is on private land and therefore HCC would require rights to work in the hospital and would need to indemnify the PCT/Assemble against any damage that their contractor may cause and for the contractor’s quality of work. The most practical approach is for the screen to be provided as part of the construction of the hospital by the PCT/Assemble’s contractor. The screen will be provided to a specification that has been agreed with HCC in advance of commencement of the work on the screen, which ensures that the required screen is provided, but in the most cost effective way. Accordingly, the total S106 contributions would therefore be reduced by £15,000 to £59,000 to account for this condition.

8.75 As outlined in the parking section of this report, planning obligations are also required to secure the provision of offsite staff parking during construction and the provision of offsite contractor car parking.

8.76 Officers consider that these obligations are required to enable the grant of planning permission and satisfy the requirements of Policy IM3 of the district plan and the Community Infrastructure Levy Regulations 2010 which require that obligations must be:

0. Necessary to make the development acceptable in planning;
1. Directly related to the development;
2. Fairly and reasonably related in scale and kind to the development.

An appropriate S106 agreement can be prepared to include these and is taken into account in the recommendation below.

8.77 Commonswood Naturewatch have requested that any profit made from the development merits a generous gesture by the developer to benefit the local community and they would like to see the provision of accesses and pathways for disabled members of the community to be able to enjoy the reserve and this would benefit future patients and new residents. The applicant has been informed of this request and has agreed as part of Phase 2 that access will be made from the site into the reserve. However, securing the obligation in relation to the upgrade of pathways has not been agreed to at this stage and is a matter for consideration when N6/2011/0359/OP is determined, which is the reason why the obligation was being requested in the first instance, i.e. because of the increase in the number of residential dwellings and future use of the reserve. At this stage it is considered that the lack of any commitment to accommodate this request is not a sufficient enough reason to warrant refusal of this application.
9 Conditions

9.1 In relation to conditions, once outline planning permission has been granted, it cannot be withdrawn except by a revocation order under section 97 of the Act, and any subsequent approval of reserved matters does not constitute the granting of a further planning permission. Any conditions relating to anything other than the reserved matters should be imposed when outline permission is granted. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those matters. So, where certain aspects of the development are crucial to the decision, local planning authorities will wish to consider imposing relevant conditions when outline permission is granted.

9.2 Aside from the standard planning conditions relating to outline planning applications, based on the above approach conditions are required in relation to the following:

- Contaminated land survey
- Energy efficiency measures
- Construction method statement
- Sustainable Urban Drainage
- Protection of wildlife and habitat management
- Archaeology
- Green Travel Plan

10.3 The imposition of these conditions is considered to be entirely reasonable and necessary and in accordance with the provisions of Circular 11/95 ‘Use of Planning Conditions’. The reason why a replacement passenger information screen is being secured by condition instead of a S106 planning obligation is set out in 8.71 of this report.

10 Conclusion

10.1 The proposed development complies with the relevant national planning policy. The site lies in a location outside a flood risk area and will address climate change by encouraging biodiversity within the site. It makes the best of existing developed land by redeveloping a site that is currently underused. The proposed layout and design reflects the wider context by the site’s location, which is predominantly residential in nature, by retaining and enhancing a key community use. Consequently, the development will contribute to the creation of safe, sustainable, liveable and mixed communities, retaining a significant number of jobs on the site and contributing to the need for additional housing.

10.2 The proposed development incorporates a range of measures which will help ensure that the redevelopment of the QEII site results in a sustainable form of development, subject to the details being approved. The site is previously-developed and its redevelopment will improve the well being of the community by improving healthcare facilities, and deliver high quality design and safe environment whilst creating new opportunities for people to live in the borough.
and the Site will continue to be a focus for employment although the majority of existing staff will be transferred to the Lister Hospital in Stevenage.

10.3 In relation to access and parking, officers consider that there is insufficient evidence to prove that the level of car parking proposed will have a detrimental impact on the adjoining highway network through increased on street parking to warrant refusal.

10.4 Given these local and Member concerns, the applicant has carried out further work in relation to the feasibility of providing an additional decked car park area. Drawings have been submitted to demonstrate that a 60 space deck car park could be accommodated on the site. The difficulty with this approach is securing the implementation of this and primarily the triggers that would need to be reached before such a scheme needs to be implemented. Given the complexity of the wording of any such condition, officers consider that this may be more appropriate to secure in a S106 legal agreement if Members consider that without securing this deck, planning permission should not be granted. Accordingly, officers have considered the proposals that have been submitted and consider that subject to the normal negotiations in respect of the actual wording of the obligations, the obligations are acceptable and comply with the three statutory tests within Regulation 122 of the Community Infrastructure Levy Regulations 2010.

10.5 The application is supported by a number of technical reports which demonstrate there will be no significant environmental adverse impacts during the construction and operational stages of development, subject to appropriate mitigation measures. The mitigation measures that will have to be agreed at the detailed stage are subject to conditions that will seek to protect and enhance biodiversity and natural habitats, during construction and operational works, both on the site and on surrounding land. The redevelopment will result in a reduction in the height of the QEII building and have no adverse impact upon the landscape and townscape character of Welwyn Garden City. The impacts of climate change, the management of waste and the minimisation of impacts from the management and use of resources have been considered in sufficient detail to allow outline planning consent to be granted.

11 Recommendation

11.1 It is recommended that planning permission be approved subject to the satisfactory completion of an appropriate S106 legal agreement before the expiry of 3 months from the date of this resolution to secure the matters set out below and in addition, the following conditions:

- Sustainable transport infrastructure including passenger transport infrastructure contributions of £35,500.

- Off site contractors and staff parking during construction

- Provision of an additional 60 spaces via a decked car park, if deemed necessary
Conditions

1. C.1.1: Reserved matters application to be submitted
2. C.1.2 – Time limit for submission of reserved matters
3. C.1.4: Time limit for commencement of development
4. C.13.1: The development/works shall not be started and completed other than in accordance with the approved plans and details

Pre Development

5. C.7.14 – Contaminated Land Survey
6. C.7.15.1 – Decentralised energy supply (10%)
7. C.7.29 – Construction method statement
8. C.8.5 – Secure cycle storage
10. Non standard condition - Archaeology

No demolition/development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:

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

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment and policy ENV6 of the East of England Plan 2008.

11. Non standard condition - Implementation of Written Scheme of Archaeological Investigation

The building 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,

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment and policy ENV6 of the East of England Plan 2008

12. C.9.16 – Lighting details

13. C.11.2 – No commencement until bat mitigation and licence from DEFRA

14. C.11.6 – Habitat Management Plan

Pre Occupation

15. Non standard condition - Green Travel Plan prior to occupation

Within 6 months of the first use/occupation of the building, a revised travel plan to encourage the use of alternative modes of transport to the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the approved plan shall be fully implemented before the building is first used/occupied. The plan shall be prepared in accordance with the Guidance Note "Developing a Green Travel Plan" by Hertfordshire Technical Chief Officers dated March 2001 (as amended). Subsequently, the occupation and use of the building shall not be carried out other than in accordance with the approved plan, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To promote sustainable transport measures for occupiers at the new development in accordance with PPG13.


Prior to the first occupation of the new hospital building, details of an electronic screen for displaying information relating to public transport shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, the approved screen shall be provided in the main reception area prior to the first use of the hospital building, in accordance with the approved details and shall not changed or removed unless otherwise agreed in writing by the Local Planning Authority.

REASON: To promote sustainable transport measures to the development in accordance with the Policy IM3 of the Welwyn Hatfield District plan 2005 and Planning Policy Guidance Note 13 - Transport.

Post Development

17. C.11.3 - Appropriate mitigation if protected species discovered during works.

18. Non standard condition – Development in accordance with FRA
The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) SD10-0028B dated July 2011 by Wardell Armstrong and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off from the entire site (phases 1 and 2) to approximately 500l/s, representing a 55% reduction in runoff rates.

2. Providing on-site attenuation to manage the 1 in 100 year plus climate change critical storm.

3. Providing the required storage using green roofs, permeable paving, ponds and swales.

REASON: To reduce pressure on the surface water drainage system in the area, thereby reducing the risk of surface water flooding and to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with PPS24 and Policies R7 and R8 of the Welwyn Hatfield District Plan 2005

Summary of reasons for grant of permission (if applicable)

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS3, PPS5, PPS9, PPG13, PPG14, PPS22, PPS23, PPG 24, PPS 24, East of England Plan 2008, and Hertfordshire County Council Waste Local Plan 1999 Policy 3, Policy 7, Policy 8, Policy 11 and policies SD1, R3, R4, R5, R7, R9, R10, R11, R18, R19, R29, M1, M2, M3, M4, M5, M6, M9, M14, IM2, D1, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, H1, H7, H8, H10, CLT16 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer’s report which can be inspected at these offices).

Informatives

1. In relation to the Landscaping requirements of the reserved matters, the Council expect the following details to be addressed in any future submission:

   - Proposed finished levels [earthworks to be carried out]
   - Means of enclosure and boundary treatment
   - Hard surfacing, other hard landscape features and materials
   - Existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction
   - Planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
   - Details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife
   - Details of siting and timing of all construction activities to avoid harm to all nature conservation features
   - Location of service runs
   - Management and maintenance details
2. The applicant must employ the services of a competent specialist contractor to undertake a full type 3 asbestos survey to locate and describe all asbestos containing materials within the building. A full sampling programme will be necessary and all asbestos must be to be removed from the site prior to demolition. The findings of the survey must be forwarded to the Health and Safety Executive and appropriate safe removal of asbestos can be carried out prior to any demolition of the site buildings. A copy of the type 3 report and method statement for the removal of asbestos should also be forwarded to the Local Planning Authority.

3. The applicant is advised prior to the commencement of demolition and construction works a detailed Demolition and Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Method Statement shall detail and advise of the measures in accordance with the best practicable means to be used to minimise construction noise and vibration likely to affect adjacent residential premises. The approved Statement shall be adhered to throughout the construction period.

4. If it is necessary to carry out piling operations during the construction phase, then the quietest method available must be chosen in preference to any impact type method.

5. The applicant’s attention is drawn to the Control of Pollution Act 1974 part of which relates to the control of noise on construction and demolition sites. In addition, in all cases, the best practicable means of minimising noise must be used and guidance is given in British Standard BS 5228: Parts 1, and 2.

6. The Council and Environment Agency recommend the removal of all underground storage tanks that are unlikely to be reused. Such removal should be undertaken following the guidance found in the “Guidance for the design, construction, modification and maintenance of petrol filling stations”, (1999) ISBN 0 85293 217 0, Association for Petroleum and Explosives Administration/ Institute of Petroleum

For the use of infiltration techniques to be approved, you will need to demonstrate:

No soakaways shall be constructed in contaminated land. If contamination is present, we will require the removal/treatment of all contaminated material and provision of satisfactory evidence of this;

The point of discharge should be kept as shallow as possible. The use of surface soakage areas (as opposed to soakaways, and as described in the Environment Agency's "Guide to Sustainable Urban Drainage") is preferred. Deep bored infiltration techniques are not acceptable;

The distance between the point of discharge and the groundwater table should be a minimum of three metres;

Only clean, uncontaminated water should be discharged into the ground. Prior to being discharged into any watercourses, surface water sewer or soakaway system, all surface water drainage from parking areas, roads and hardstandings shall be passed through trapped gullies to BS 5911:1982, and shall be passed through an oil separator.
11.2 It is recommended that planning permission be refused for the following reasons if a satisfactory legal agreement is not completed and signed before the expiry of 3 months from the date of this resolution:

The applicant has failed to satisfy the sustainability aims of the plan and to secure the proper planning of the area by failing to ensure that the development proposed provides the necessary sustainable transport infrastructure, services and facilities (including temporary offsite parking for staff and contractors during construction) which are directly related to the proposal and necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the payment of financial contributions required for sustainable transport measures. The Local Planning Authority considers that it would be inappropriate to secure the required financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy IM2 and M4 of the Welwyn Hatfield District Plan 2005.

Richard Aston (Strategy and Development)
Date 26 August 2011

Background papers to be listed (if applicable)
1 Site Description

1.1 The site is located on Bulls Lane with a vehicular access on to this highway and has an area of approximately 1350m². The site adjoins a steep railway embankment on its western boundary and the northern boundary abuts a ditch and hedgerow that runs along Bulls Lane. To the eastern boundary is a public right of way and beyond this and to the southern boundary, open fields. Beyond, and immediately to the southern boundary is a large pond. The boundaries consist of a close boarded timber fence, approximately 1 – 1.5 metres high and five-bar gated access. Behind the front fence and within the site, landscaping has been planted which would appear to be a Hawthorn hedge.

1.2 The application site was redeveloped in January 2010 and the previous stables and other structures that were present during the assessment of planning application S6/2007/1009/FP have been cleared from the site. The site contains a mobile home, and a detached smaller washroom unit which has a drainage connection underground. A small green shed and other ancillary residential paraphernalia are also within the site.

1.3 A circular concrete base exists towards the centre of the site and surrounding this is loose gravel. The central area formally used to be a base for the gas holder, which historically once occupied this site.

2 The Proposal

2.1 The application seeks full planning permission for the use of the land as a gypsy site comprising 2 pitches. As one of the pitches is already on site, the description seeks ‘retention’ of the use. The indicative layout shows the provision of 2 mobile homes, 2 touring caravans and 2 washrooms. Plans show the mobile homes would measure approximately 13.4 x 4.6 metres and to the ridge would be approximately 4.7 metres. The washroom would be approximately 4.25 x 4.0 metres and to the ridge 3.1 metres.
2.2 This proposal is the same as that submitted last year and refused by Planning Control Committee in October 2010. Further information has been provided in relation to technical studies and supporting text for the proposal.

3 Planning History


3.2 S6/2010/0707/FP Retention of Use of Land for 2 Pitched Gypsy Site, Comprising 2 Mobile Homes, 2 Touring Caravans and Two Washrooms Refused 28th October 2010

The application was refused for the following reasons:

1. The application site lies within Flood Zone 3 defined by Planning Policy Statement 25 as having a 1 in 100 probability of flooding in any one year. Paragraph E9 of PPS25 requires applicants for planning permission to submit a Flood Risk Assessment (FRA) when development is proposed in such locations. In the absence of an appropriate FRA, the flood risks resulting from the proposed development are unknown. The absence of a FRA is therefore sufficient reason for a refusal of planning permission. This reflects the precautionary approach to development in flood risk areas set out in paragraphs 10 and E9 of PPS25. the proposal is therefore contrary to PPS25: Development and Flood Risk and policy H13 of the Welwyn Hatfield District Plan 2005.

2. The application fails to give adequate assurance that the risks of pollution are understood and that measures for dealing with them have been devised. Insufficient information has been provided in accordance with Planning Policy Statement 23 relating to the risk of pollution to controlled waters and whether these may be addressed through appropriate measures. The report titled "Phase I Contaminated Land Desk Study Report, ref:P3389/10, July 2010" identifies likely contamination from the previous use as a gasworks/gas holder and recommends a site investigation. However the report has failed to identify that the site is in a Source Protection Zone 1 and maps show the drift as River Terrace Deposits (sands & gravels). Also the report does not consider that structures for gasworks can extend in depth or the proposed drainage design. It is therefore considered that groundwater as well as the surface waters near the site could be at risk from contamination and need to be considered in more detail as part of further works. Soakaways are not acceptable in contaminated soils. The proposal is therefore contrary to PPS23: Planning and Pollution Control and policies R7 and H13 of the Welwyn Hatfield District Plan 2005.

3. The location and foul drainage of the development proposed is likely to result in a significant risk to ground water resources from which supplies
of potable water are obtained. The site is located within a Source Protection Zone 1 area where development proposals of all types are carefully monitored. Source Protection Zones are designated by the Environment Agency to identify the catchment areas of sources of potable water (that is high quality water supplies usable for human consumption) and show where they may be at particular risk from polluting activities on or below the land surface. Source Protection Zone 1 areas are designated closest to the source of potable water supplies and indicate the area of highest risk to abstracted water quality. In this instance the proposed development would threaten potable water supplies from North Mymms due to the application proposing a septic tank for foul drainage, which will discharge to ground. In line with the Environment Agency groundwater protection policy this is not considered acceptable. Discharging to ground could also create pathways and mobilise contamination. The proposal is therefore contrary to PPS23: Planning and Pollution Control, Environment Agency, Groundwater Protection: Policies and practice (GP3) 2008 Part 4, P4-3 and P4-8, P4-3 Regulatory/planning, P4-8 and policies H13 and R7 of the Welwyn Hatfield District Plan 2005.

4. Insufficient information has been submitted to determine whether the site is suitable for use as a permanent mobile home site given the potential impact from the adjacent railway line. An assessment of noise and vibration from the nearby railway line by a qualified and competent person is in accordance with the provisions of PPG24: Planning and Noise, BS 6472:1992 "The evaluation of human exposure to vibration in buildings" and policies H13 and R19 of the Welwyn Hatfield District Plan 2005.

5. The proposed development would result in significant harm to both the character and appearance of the area by virtue of the proposed development, which would harm the visual amenity of the Green Belt. The applicant has not submitted a case of very special circumstances that outweigh the harm to the Green Belt. The proposal therefore fails to comply with PPG2: Green Belts and Circular 01/2006.

6. Insufficient information has been provided to demonstrate how the development would comply with the sustainability aims of Circular 01/2006, PPS1: Delivering Sustainable Development and policy SD1 of the Welwyn Hatfield District Plan 2005.


3.4 S6/2006/1088/FP Erection of 17 new stables for use as a livery following the demolition of 17 existing stables Withdrawn

3.5 S6/2006/0574/FP Removal of condition 2 of personal permission to enable use of buildings as stables Approved (28 June 2006)
3.6 S6/371/1974 Stables
   Approved (July 1974)

3.7 E/1720-63 Gas Boiler House
   Approved (11 October 1963)

3.8 E/918-53 Gas Holder
   Approved (25th September 1953)

4 **Planning Policy**

4.1 National Planning Policy

PPS 1: Delivering Sustainable Development
PPS: Planning and Climate Change - Supplement to Planning Policy
Statement 1
PPG 2: Green Belts
PPS 3: Housing
PPS9: Biodiversity and Geological Conservation
PPG 13: Transport
PPS 23: Planning and Pollution Control
PPG 24: Planning and Noise
PPS 25: Development and Flood Risk

4.2 East of England Plan 2008

H3 Provision for Gypsies and Traveller

East of England Plan (Single Issue Review): Policy H3: provision for Gypsies and Travellers. The Council are required to provide 17 pitches by 2011 and then a further 7 by 2016. (As part of a regional requirement for 1,237 additional residential pitches and 160 transit pitches). The policy states that local authorities should achieve the levels of provision required by 2011 as soon as possible through development control decisions and Development Plan Documents. This policy should have significant weight attached to it in consideration of developments within the Green Belt (refer paragraph 4.7 regarding ‘weight’).

4.3 Hertfordshire Structure Plan Review

None

4.4 Welwyn Hatfield District Plan 2005

SD1 Sustainable Development
GBSP1 Definition of the Green Belt
R7 Protection of Ground and Surface Water
R15 Wildlife Sites
R19 Noise and Vibration Pollution
R20 Light Pollution
4.5 Supplementary Design Guidance, February 2005

4.6 Supplementary Planning Guidance, Parking Standards, January 2004

4.7 Other Material Considerations

A note has been provided with a number of these considerations regarding weight. This is in reference to the weight that each of these documents or policies should be accorded as part of the overall considerations with this application.

- Housing Act 2004: All local authorities are required under the Housing Act 2004 to undertake Assessments of the Accommodation Needs of Gypsies and Travellers.

- Circular 01/2006: *Planning for Gypsy and Caravan Sites and Circular 04/2007 Planning for Travelling Showpeople*. As part of the Government's proposed reform of the planning system, the Secretary of State for Communities and Local Government has published for consultation, details of a draft Planning Policy Statement. This is intended to replace circular 01/2006 and 04/2007. The Council’s response on this consultation went before Cabinet Housing and Planning Panel on 9th June 2011. In accordance with the Action Plan in the Council’s Housing Strategy, work has also been commenced on a local review of accommodation needs of gypsy and travelers which will inform the Core Strategy of the Local Development Framework. Moderate weight should be attached to this circular, in view of the government’s intention to replace this circular.

- National Planning Policy Framework (NPPF): The Planning Inspector at Foxes Lane took into account the contents of this draft framework, which was published on 25 July 2011. However, the draft NPPF makes no material change to that within existing national policy documents (in particular Planning Policy Guidance Note 2- Green Belts and Circular 01/2006) in relation to this proposal and therefore it can be afforded little weight.

- Gypsy and Traveller Accommodation Assessment (Opinion Research Services, 2006): 45 pitches by 2011 (35 permanent, 10 transit) across Northern and Eastern Herts. Plus 15-20 additional pitches every 5 years thereafter. No evidence to demonstrate that provision needs to be made
in one area over any other. A limited amount of weight should be attached to this assessment.

- Gypsy and Traveller (G&T) Area of Search Report (Scott Wilson, 2007). No sites were identified within the urban area. The study only identified one potential site in Welwyn Hatfield. This site is in the Green Belt and no decision by the Council has been made as to whether any site is considered suitable for allocation. Existing sites were not considered suitable for expansion by the consultants.

- Two Caravans, Foxes Lane, Welham Green – This is a decision allowed on appeal by the Planning Inspectorate on 28th July 2011. The considerations within this appeal in relation to impact of gypsy/traveller developments on the Green Belt, the immediate unmet need within the borough and lack of alternative sites have a significant material weight attached to them for Green Belt sites within the borough, under current planning policies. In addition for this application, the location within Welham Green, its proximity to the built up area and impact upon the purposes of including land within the Green Belt, should also be given significant weight.

- The Communities and Local Government website in relation to travellers advises that the government are proposing:
  - “replacing Planning Circular 01/06 Planning for Gypsy and Traveller sites with new light-touch guidance
  - introducing stronger planning enforcement powers to help local authorities deal with breaches of planning control and limiting the opportunities for retrospective planning applications
  - encouraging local authorities to provide, in consultation with the local community, an appropriate number of traveller sites that reflect local and historic demand. Exploring incentives for site provision and innovative ways in which traveller sites can be funded and maintained
  - co-ordinating action across Government to tackle the discrimination and poor social outcomes faced by Gypsies and Travellers and seeking to remove barriers that are stopping them from taking part in the Big Society.”

4.8 There is, however, no reference to timescales of any replacement guidance, which the article states will outline councils’ statutory obligations. This proposal, in the absence of any further detail from government, is being assessed in accordance with the development plan (national and local plan policies) as well as having regard to other matters such as case law, appeals and ODPM Circular 01/2006.
5 Constraints

5.1 The site lies within the Metropolitan Green Belt, Landscape Character Area (Potters Bar Parkland Landscape Character Area) and Flood Zone 3. Immediately adjacent to wildlife site (WS90) and beyond this Peplins Wood (WS146) as designated in the Welwyn Hatfield District Plan 2005.

6 Representations Received

6.1 This application has been advertised by site notice and neighbour notifications. 57 representations have been received from residents of Holloways Lane, Bulls Lane, Skimpans Close, Brookmans Avenue, Foxes Lane, Peplins Way and Station Road. Four letters have been received which have not been taken into account as part of the proposal due to the responses being anonymous. A response has also been received from North Mymms Green Belt Society and North Mymms Action Group. Each of their comments is detailed within paragraphs 6.2 and 6.3 respectively. The remaining representations may be summarised as:

- Do not understand how this can be called ‘retention of…’
- Site is Green Belt Land
- Development does not meet all the criteria of policy H13
- Condition 21 of application S6/2007/1009/FP should be enforced
- Understood that retrospective applications would no longer be accepted now conservatives in power
- Contrary to policies of coalition government
- Site is within a Flood plain
- Bulls Lane is known to flood
- No occupation of the site has taken place
- No very special circumstances exist
- Site is close to a Wildlife area
- Dangerous access to Bulls Lane
- How can a further application be submitted?
- Entrance is concealed from west
- People already struggling to sell their homes
- Will affect property values
- Same resolve as that applied to ‘Northaw Barn’ should be taken
- Why should a change from stables be considered?
- Why have bailiffs not gone in?
- Has an enforcement notice been issued?
- How can permission be granted for one use and another use take place?
- Thought the site was going to be used for stabling
- No justifiable reason for a further site when one has been approved by the Council in Foxes Lane
- No change since the previous application
- Application represents a significant financial investment which would be redeemable if the application were successful
• Travellers/gypsies should be subject to the same planning rules as everyone else
• Approval would set precedent
• Application is invalid
• Layout is not shown in detail
• Application should be dealt with by Planning Control Committee
• Not a natural extension to village

6.2 North Mymms Green Belt Society object to the proposal, raising the following reasons:

1. “The site is in the Green Belt and this is an inappropriate change of use of the land. The site has never had any connections with the gypsy community, and only has planning permission for stables.

2. We are reliably informed by several nearby neighbours that nobody has lived on the site permanently. Despite the outward signs of habitation such as a few articles being strewn about the site, neighbours advise us that people have only stayed overnight on a few occasions.

3. The Environment Agency has confirmed that this is a Zone 3 flood plain which renders it totally unsuitable for dwellings of any sort. Despite the proposed flood alleviation work, the consultants recommend that the site is vacated whenever there is a flood warning. This cannot lead to a settled form of continued habitation on the site.

4. The documentation is vague as to where the flood prevention walls will be sited, and exactly how the entrance will be modified to form a continuous flood barrier. It does not explain how the entrance will be formed to enable a touring caravan to be moved on and off site, yet still form a flood barrier.

5. The applicant has failed to establish any connection with this site or North Mymms, apart from buying the land recently, to justify why this particular site should be reclassified as a gypsy site.”

6.3 North Mymms Action Group object to the proposal, raising the following points:

• Green Belt location and applicants have pre-empted the legitimate planning process
• Applications in the Green Belt are normally inappropriate
• Consultation document ‘Planning for Traveller sites Consultation April 2011’ deals with current policy inadequacies
• This document clarifies that applications for traveller developments will be dealt with in the same way as from members of the settled community
• Approval would be contrary to Green Belt policy
• None of the circumstances advanced by the applicant support the application
• No presumption that need should be met outside of the planning process
• With regard to harm to the Green Belt, the previous use of the site for stables was appropriate does not equate to the proposed residential use.

7 Consultations Received

7.1 Hertfordshire County Council Transportation Planning and Policy – This application is for the retention of use of land for a gypsy site, comprising 2 mobile homes, 2 touring caravans and two washrooms. Access arrangements are unchanged. Bulls Lane is a classified local access road. To the west of the site the road enters a 30mph speed restriction. Visibility for the access does not meet the required standards and the issue is whether the proposal will cause an intensification of use of the access that would warrant refusal. I consider that the highway authority could not sustain a refusal on the grounds of restricted visibility given the previous use of the site for stables and therefore I have no objections to the grant of permission.

7.2 Environment Agency – Response dated 5th May 2011 - have the following two objections.

Objection 1 We object to this application because the proposed development falls into a flood risk vulnerability category that is inappropriate to the Flood Zone in which the application site is located. We recommend that the application should be refused planning permission on this basis.

Reasons Planning Policy Statement 25 (PPS25) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. PPS25 requires decision-makers to ensure that as part of the Sequential Test, development sites are appropriate to the type of development or land use proposed.

In this case, the application site lies within Flood Zone 3 defined by Planning Policy Statement 25 as having a high probability of flooding. The development type in the proposed application is classified as highly vulnerable in accordance with table D.2 of PPS25. Tables D.1 and D.3 of PPS25 make clear that this type of development is not compatible with this Flood Zone and should not therefore be permitted.

Objection 2 In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on this basis for the following reasons:

Reason The FRA submitted with this application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:-
1. Justify why this particular development is acceptable in Flood Zone 3b, against the guidance in PPS25, when the site is affected by flooding in the modelled 1 in 5 year river flow event.

2. Identify how the site is to be defended against flooding whilst still providing access to the site from Bulls Lane in a flood event.

3. Fully consider the impact of defending the site with a high wall on any surrounding people and property.

4. Provide enough ground levels around the site to justify the flood flow paths identified in the FRA.

5. Identify the rate of onset of flooding and the likely duration of extreme flood events.

6. Identify the lifetime of the development and the appropriate climate change factor.

7. Justify how gas cylinders, contaminants and paints could be stored on the site without being a risk to the water environment.

8. Adequately consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event (as advised by PPS25, paragraph G12 and the PPS25 Practice Guide, paragraph 7.23).

Advice

The Sequential test should have been carried out by the local authority on this site to assess its suitability and guide the decision making process in line with Planning Policy Statement 25. The applicant should be aware that objection two is eclipsed by objection one. Even if the FRA is amended the fact remains that policy states caravans in flood zone three are an unacceptable risk and should be relocated to areas of lower risk. The only way this objection could be overcome is if the flood zones are challenged and it’s shown that the site falls in an area of lower risk. However the site specific Flood Risk Assessment submitted with this application shows the site to be at a higher risk than we believed – within the functional flood plain (3b) and affected by flooding in the modelled 1 in 5 year river flow event.

7.2 An additional survey was undertaken following the initial response from the Environment Agency. The survey, together with additional supporting information was provided to the Environment Agency by the applicant. The Agency have responded with the following, on the 23rd August:

Thank you for consulting us on the supplementary information for the above site, which consists of a letter from Alison Heine of Heine Planning Consultancy dated 11 August 2011 and a letter from Ray Pickering of JBA Consulting dated 29 July 2011 (addendum to Flood Risk Assessment).
We recognise the work that has been done to address our concerns in relation to flood risk, however it remains that this is a highly vulnerable development in flood zone 3b and according to table D.3 of PPS25, this type of development is not appropriate in this flood zone.

In respect of the other points raised in the supplementary information, we have the following comments.

a) In respect of the point in Mrs Heine’s letter regarding the Appeal decision notice for the site at Nuckies Farm, it should be noted that the application was specifically for a temporary planning permission. The siting of the residential units was also at a significantly lower risk of flooding than at Thunderbridge Yard, not flood zone 3b as in this case.

b) We agree with the point in Mrs Heine’s letter that climate change would not be a factor if the proposal was for a temporary consent of 3-4 years.

c) In respect of the Flood Warning and Evacuation Plan, being registered on our Flood Warnings Direct system will not guarantee that the site will receive warning of impended flood threat. This could be because we will not have any specific flow data in the vicinity of the site in order to make that judgement. Secondly, as has been identified in the Flood Risk Assessment (FRA) one of the flood risks to the site is the under capacity of the culvert. Flooding from a blockage to the culvert alone is not likely to result in a general flood warning. This could mean that the residents who do not receive a warning are trapped on the site for substantially longer periods that those quoted in the FRA.

d) The addendum to the FRA in the letter from Ray Pickering at JBA consulting does address some of the matters raised under our previous objection 2. However it does not satisfactorily address all the points raised. The reasons for this are given below and the numbering used under objection 2 in our letter dated 5 May 2011 has been reused here for clarity.

1. The additional information provided does not justify that this development is acceptable in Flood Zone 3b.

2. The provision of a flood gate may improve the access arrangements to the site but there is evidence in the Practice Guide for PPS25 that properties behind flood bunds and floodgates remain at a significant flood risk and can be subjected to rapid inundation if either overtopping or a breach in the defences occurs. The freeboard suggested also appears to be significantly less than that recommended in S6.4.3 of the Practice Guide for PPS25.

3. There is evidence in the Practice Guide for PPS25 suggesting that there are substantial risks from overtopping and breaching with water levels as high as have been indicated, the site therefore must be regarded as unsafe.

4. We do not regard this point as being adequately addressed due to the lack of individual levelling points.

5. We accept the storm profiles that have been explained but severe rainfall can be very unorthodox in its nature and it is quite conceivable that there
could be a shorter warning of a flood event occurring and high levels may be sustained for much longer periods than suggested.

6. We accept in this case that 20% increase for climate change is the appropriate figure to use.

7. We accept the method indicated for the storage of gas cylinders on the site.

8. We do not feel that the flood warning and evacuation planning will be able to ensure the safety of the occupants.

7.3 **Welwyn Hatfield Borough Council Client Services** – refuse and recycling will need to be presented on the boundary of the property.

7.4 **Hertfordshire Constabulary** – no response received (due 6 May 2011).

7.5 **Welwyn Hatfield Borough Council Landscaping** – There are no trees on or adjacent to the site which would be affected by the proposal. Arboriculturally I have no objections to this application.

7.6 **Hertfordshire County Council (Gypsy and Traveller Section)** – have advised verbally that they have not received any complaints regarding this site and would not have any objection regarding its use for a traveller site.

7.7 **Hertfordshire Biological Records Centre** – no response received (due 6 May 2011).

7.8 **Welwyn Hatfield Borough Council Environmental Health (Noise)** – Concerns have been raised regarding this site due to the proximity to the railway line. We would expect a noise assessment to be carried out to ascertain the impact on the residents from any noise sources, such as the railway line, adjacent to the site. The assessment should then go on to explain any mitigating works that could be carried out to eliminate or reduce the impact to an acceptable level.

It is expected a noise assessment of the site be undertaken to include mitigating works. If the there are no reasonable works or remediation measures available to ensure the occupants are not unduly exposed to noise then the application would be objected to.

7.9 **Welwyn Hatfield Borough Council Environmental Health (Contamination)** – The original comments in relation to this application made 30/9/2010 still apply. In summary, we would object to the application if the applicant is unable to provide suitable information to demonstrate that the site is considered acceptable in terms of current noise standards.

When considering the condition of the site in terms of land contamination, the report by Thomas Consulting dated 10th January 2011 (ref P3573-02) confirms the presence of contaminated soils and the need for remedial works. Whilst I have some issues with the findings of this report, I have no objections to the application subject to EA approval. In light of provisional findings of the
Thomas Consulting and the necessary consents from the EA, I would like to recommend the following condition:

Unless otherwise agreed by the Local Planning Authority, prior to the occupation of the site, conditions are recommended.

7.10 **Hertfordshire County Council (Rights of Way)** – no response (due 6\(^{th}\) May 2011).

8 **Town / Parish Council Representations**

8.1 North Mymms Parish Council “object on the grounds that the flood defence proposals would seem to be unachievable, particularly for moving a touring caravan on and off site. The development is inappropriate use of Green Belt land. The Council also comment that the description of retaining the use for gypsy site is incorrect as this is not the designated use of the site.”

9 **Discussion**

9.1 This application is presented to the Planning Control Committee because Councillor Pieri has called it in on the grounds of inappropriate development in the Green Belt and it is development within a flood plain.

9.2 **The main issues to be considered are:**

1. Whether the applicant can demonstrate Gypsy or Traveller status
2. Whether Inappropriate Development or Other Harm in the Green Belt Arises
3. Highways and Parking Matters
4. Provision of Hard standings, Drainage, Waste Collection and Utilities
5. Impact upon the Public Right of Way
6. Convenient Location for Schools and other Community Facilities
7. Whether the Design Policies and Guidance can be met
8. Impact on Nearby Residents
9. Whether the site is affected by Environmental Hazards to affect the Residents’ Health or Welfare
10. Other Material Considerations
11. Temporary Planning Permission
12. Neighbour Representations

1. **Whether the applicant can demonstrate Gypsy or Traveller status**

9.3 Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites defines, for the purpose of the Circular ‘gypsies and travellers’ as meaning

“**Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily or permanently, but excluding**
members of an organised group of travelling show people or circus people travelling together as such.”

9.4 It is necessary as part of the proposal for the applicant to demonstrate their status in order for the development to be determined with regard to the Circular advice, relevant planning policy and any other relevant material consideration. Information has been submitted detailing that consent for the development is sought on behalf of two families – the Sweeney’s and O’Donaghe’s. Information was provided as part of the previous application, as detailed below. The agent advises that this information is relied on for this application.

9.5 Plot 1 – this would be occupied by Mr Sweeney (29) and his wife (26) and their 2 year old child. Details have been provided confirming their gypsy status, employment interests which includes block paving work in the locality of Barnet, Hatfield and Potters Bar.

9.6 Plot 2 – would be occupied by Mr O’Donaghue (27) and his wife and their five children. In addition, the mother of Mrs O’Donaghue would live on site, Nora Casey (63). The details submitted provide evidence of the family’s traveller status as well as Mr O’Donaghue’s employment which mostly comprises ground work and block paving, tree work and scrap dealing.

9.7 The supporting correspondence provides that they “are ethnically Irish Travellers with a preference to live in their caravans. They maintain a nomadic way of life and still travel for work but have need to be settled to access services and facilities and because it is difficult to find roadside stopping places where they can stay for any length of time. Both families have strong local connections having resorted and resided to the Greater London/Essex/Hertfordshire areas all their lives. They have other family living in this part of the Eastern Region.”

9.8 It is therefore agreed that on the basis of information submitted that Traveller Status has been demonstrated.

2. Whether inappropriate development or other harm in the Green Belt arises

9.9 The making of a material change in use of land, is stated by Planning Policy Guidance Note 2: Green Belts (PPG2), to be inappropriate unless they maintain the openness and do not conflict with the purposes of including land in the Green Belt. Circular 01/2006 Sites states (paragraph 49):

“There is a general presumption against inappropriate development within the Green Belts. New gypsy and traveller sites in the Green Belt are normally [author’s emphasis] inappropriate development, as defined in Planning Policy Guidance Note 2: ‘Green Belts’. National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, and the settled population. Alternatives should be explored before Green Belt locations are considered…”
9.10 Paragraph 3.5 of PPG2 states:

“Essential facilities should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it.”

9.11 Appeal decisions within Green Belt, including that at Two Caravans, Foxes Lane, Welham Green have supported this stance, referring to the character and appearance of an area (visual amenities of the Green Belt), openness of the Green Belt and purposes of including land within the Green Belt. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Paragraph 1.5 details the (five) purposes of including land within the Green Belt:

- “to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns from merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”

9.12 It was considered with the previous application on this site for traveller pitches (S6/2010/0707/FP) that the proposal would conflict with the first two purposes of including land in the Green Belt, encroachment and unrestricted sprawl of large built-up areas. However, following the appeal at Foxes Lane, it is now considered that the proposal would not conflict with these two purposes. The remaining three were previously not considered to be affected by the proposal and therefore there would be no breach of these purposes.

9.13 With regard to the decision at Foxes Lane, conflict with the first purpose of Green Belts, “to check the unrestricted sprawl of large built-up areas” would according to the Inspector, paragraph 13,

“…require Welham Green to be a large built up area, or be part of such an area… it was described as a large village. Even if it fell into the category of a small town, I would find it hard to conclude that it could be described as a large built up area. Hatfield is not far to the north, but to all intents and purposes Welham Green sits surrounded by countryside and is relatively self contained…. I see no conflict with that purpose of PPG2.”

9.14 The Inspector’s considerations are considered applicable to this development and therefore there would not be any conflict with this purpose.

9.15 This site has previously been developed and comprised a number of stables. No additional ground coverage is proposed beyond that previously used with the earlier developments. Therefore this proposal would not involve any additional encroachment compared to the site’s previous use. Consequently, none of the purposes would be conflicted with.

9.16 Paragraph 3.4 of PPG2, in reference to new buildings includes:
"The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes:

- essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it”

9.17 Local Plan policy H13: Gypsy Sites is also relevant. This states:

“Planning permission will be granted for small-scale gypsy sites where all of the following criteria can be met:
(i) The proposed site is not within the Green Belt, unless special circumstances exist which might exceptionally make such development acceptable;
(ii) The site has good, safe and convenient access to the road network;
(iii) The site is conveniently located for schools and other community facilities;
(iv) The site will not visually encroach into the open countryside;
(v) The use would not detract from convenient, safe and enjoyable use of a public right of way;
(vi) The site should either have substantial natural screening or be landscaped and screened with new planting;
(vii) The requirements of the appropriate design policies and guidance can be met;
(viii) Hardstandings can be provided and the site is capable of being provided with basic facilities including electricity, water supplies, sewage disposal and waste collections;
(ix) The site will be situated so that it neither affects the visual amenity or character of the area or nearby residents, nor is it affected by any environmental hazards which may affect the residents' health or welfare”

9.18 Therefore, the stationing of residential caravans on land would be inappropriate development which has been agreed by the applicant. With reference to policy H13, Criterion (i) is fully discussed within the following paragraphs. Additionally, the impact upon the visual amenity and character of the area is part of Green Belt considerations and also discussed below. The first part of (ix) will therefore be considered as well as criterion (vi) in relation to landscaping and screening below. Criterion (iv) has previously been addressed, all other criteria will be discussed under the relevant headings.

Criteria (i) – Green Belt and Very Special Circumstances and (ix) Visual Amenity and Character of the Area

9.19 It will be noted that the criteria for (i) of policy H13 does not support development of small scale Gypsy sites in the Green Belt unless “… special circumstances exist which might exceptionally make such development acceptable”. PPG2, requires a demonstration of ‘very’ special circumstances. Policy H13 was adopted prior to the publication of Circular 01/2006 and since this time, there has been a number of applications regarding proposals for gypsy and traveller pitches/sites. Considering the national and local planning
policy framework in the round, it is likely that if planning permission were determined on the basis that a case of ‘very’ special circumstances had been advanced but exceptional’ circumstances had not been demonstrated, the Council may not be supported if an appeal were to arise as the policy requirement could be considered to go beyond what is reasonably required in national planning policy. It is therefore proposed to appraise this proposal, as was the last application and that at Foxes Lane, on the basis of the applicant demonstrating ‘very’ special circumstances.

9.20 A case of very special circumstances has been advanced to justify the development. This comprises:

- “Adopted Policy H13 is a criteria policy. Criteria 1 accepts that sites may within the Green belt where special circumstances ‘might exceptionally make such developments acceptable.’ In May 2010 the Council agreed that such circumstances existed to justify renewing consent for another site in the Green Belt at Great North Road Welwyn on a permanent basis with a personal consent.

- The need for further sites for Gypsies and Travellers regionally, locally and personally for these families;

- The unavailability of suitable alternative sites;

- The extent of Green Belt in the district;

- The families’ personal circumstance (including their status as Gypsy and Travellers), their local connections to this part of Hertfordshire, their health and education needs, together with their Human Rights;

- The consequences for the applicants of the application being refused; and

- The recent appeal decision for Foxes Lane in the same Green Belt.”

9.21 Criterion 1 of policy H13 and Permission at Great North Road, Welwyn

This criterion requires very special circumstances to be advanced when a development is within the Green Belt. Very special circumstances must be advanced with each development proposal that clearly outweighs the harm to the Green Belt (refer paragraph 3.2 of PPG2). Therefore the very special circumstances applicable to the application at Great North Road need not necessarily apply to this proposal. Additionally, each application needs to be determined on its own merits, although decisions on other applications may be a material consideration.

9.22 Need

The East of England Plan 2008 (policy H3: Provision for Gypsies and Travellers) placed a requirement on the authority to provide pitches/sites to meet the identified needs of Gypsies and Travellers. The numbers allocated
to Welwyn Hatfield were within ‘Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England: A Revision to the Regional Spatial Strategy for the East of England’ July 2009, which identified the borough had 51 authorised pitches in January 2006 and a requirement to provide a minimum of 17 additional pitches between 2006-2011, plus a further 14 pitches between 2011 and 2021. Following the recent planning application for Four Oaks, 1-4 Great North Road (N6/2010/0211/S73B), which provided for an additional 3 pitches and the planning appeal at Foxes Lane which also provided for an additional 3 pitches, an additional 11 pitches are required by the end of 2011, plus a further 14 between 2011 and 2021.

9.23 The Gypsy and Traveller Accommodation Needs Assessment (GTAA) was carried out in 2006 in partnership with Broxbourne, East Hertfordshire, North Hertfordshire and Stevenage Borough Councils and Hertfordshire County Council. The assessment concluded that there was a need for 35 residential pitches between 2006 and 2011, most of which would be likely to be needed on public sites. Confirmation, as part of the previous application was received from Hertfordshire County Council, Gypsy and Traveller Section advising as part of the previous application, and verbally repeated with this proposal, that “we are not looking at extending or providing any new sites, there is no date for a review of this, this is due to all grants being withdrawn and no budget for this.” It will therefore be necessary for local authorities to provide, as part of the Local Development Framework, pitch numbers and sites for gypsy and travellers within each of their areas.

9.24 In addition, paragraph 43 of Circular 01/2006 states that GTAAs will be one of a range of information sources that local authorities should consider when assessing the required level of provision to translate into site allocations in a DPD. Paragraph 44 states that other sources of information to consider, in assessing needs and demands of gypsy/traveller sites, could include:

a) A continuous assessment of incidents of unauthorised encampments, both short and longer-term;

The County Council (HCC) maintains “Hotline data” which records known unauthorised developments and encampments. This indicates that between 12/06/2006 and 13/04/2010 there were a number of caravans present for short periods of time, the largest unauthorised development (10 caravans) stayed for just one day. Many others stayed for between 2 days and 2 weeks. It is not considered that this necessarily demonstrates a need for a large number of additional permanent pitches.

This site falls within the “Hotline data” records held by County.

b) The numbers and outcomes of planning applications and appeals;

Planning permission was granted for 3 pitches at Four Oaks earlier this year, prior to the revocation of the RSS. There has also been the appeal that was allowed at Foxes Lane, Welham Green which granted permanent permission for 3 pitches.
It is therefore considered that there is a need for pitches.

c) Levels of occupancy, plot turnover and waiting lists for public authorised sites;

Hertfordshire County Council manages the “public” sites in the county. Holwell, on the A414, is the only publicly managed site in the borough and has 39 pitches with 58 caravans. The HCC waiting list currently has 93 applicants on its waiting list (in October 2010, there were 79 on the waiting list). Of those, 24 want Holwell only, 11 wish to transfer to Holwell, 7 already reside at Holwell and 4 are on other sites within Hertfordshire. There is therefore a steady demand for places at Holwell.

The HCC transit site at South Mimms, which is accessible from Welwyn Hatfield in approximately 15 minutes, has regular vacancies.

d) The status of existing authorised private sites, including those which are unoccupied and those subject to temporary or personal planning permissions;

There are three authorised private sites in the Borough, now providing 19 pitches following the grant of permission at Four Oaks at appeal at Foxes Lane, all of which are occupied. The site at Four Oaks is a personal permission for the extended family in occupation.

A condition was recommended with the Foxes Lane site for the permission on this site to be personal. The Inspector, paragraph 32, did not “…consider it reasonable to make the permission personal to the Appellant and his family since the justification for granting planning permission comes to a significant extent from factors relating to general need for such sites, and the suitability of this site to meet such need.”

e) The twice-yearly Caravan Count undertaken on behalf of Communities and Local Government (CLG) gives a picture of numbers and historic trends.

The counts in January and July 2011 has revealed a number of unauthorised encampments. In January, at the time of the count there were four sites with 16 caravans present. One of these was Foxes Lane with 6 caravans (3 pitches) which has now been allowed on appeal. July’s count has not yet been published, but the figures indicate three sites with ten caravans.

9.25 Notwithstanding, CLG stating that local authorities are not bound by GTAA figures, it is likely, with consideration to PPS3: Housing, paragraph 21

“… Local Planning Authorities should plan for a mix of housing on the basis of the different types of households that are likely to require housing over the plan period. This will include having particular regard to:

- Current and future demographic trends and profiles.
- The accommodation requirements of specific groups, in particular, families with children, older and disabled people.
There will be a requirement for Welwyn Hatfield to make provision to accommodate Gypsies and Travellers. With reference to GTAA, the HCC waiting list, the hotline data and the bi-annual counts, it is considered that a need exists to make provision for the accommodation needs of Gypsies and Travellers, both across the County, and to some extent in Welwyn Hatfield. In addition to this, it should also be acknowledged that the provision of either suitable private or public sites outside of the Green Belt within the borough is likely to be difficult to find given the high land values attributed with previously developed land in the borough. This view was concurred with at the appeal for Foxes Lane.

9.26 The Circular also advises that local planning authorities should not refuse private applications solely because the applicant has no local connection, but they are entitled to refuse private applications in locations that do not comply with planning policies, especially where the authority has complied with this guidance and proceeded properly to ensure needs identified by accommodation assessments are being met. In this case, it is considered that the applicant has demonstrated a local connection to the site and this is therefore not a consideration.

9.27 Unavailability of Suitable Alternative Sites / Extent of Green Belt in the District

Although a need for gypsy and traveller sites is acknowledged, the authority do not to date have identified sites for provision. This proposal, in the absence of any allocated sites, needs to determine whether this site is the most appropriate for such a development. Paragraph 49 of Circular 01/2006 states “New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: ‘Green Belts’ (PPG2)…Alternatives should be explored before Green Belt locations are considered”.

9.28 Detailed information as to why this site has been chosen has not been advanced with the application. However, it has previously been acknowledged that sites outside of the Green Belt would be difficult to find. Alternative sites outside of the Green Belt were also considered within the appeal for Foxes Lane. The Inspector, paragraph 23 considered,

"Much of the Borough is within the Green Belt, and I agree with the assessment that it would be unlikely that a suitable site would be available at financially achievable terms outside the Green Belt. Although it would be wrong to prejudge the forthcoming development plan documents it seems unlikely that any sites would be identified which are outside the Green Belt. The Council has not suggested any such alternatives which are available. I am satisfied that there is a demonstrable lack of alternative locations available to the Appellant. This lack of alternative sites carries significant weight.”
9.29 **Personal Circumstances: Health and Education**

Details have been given of the family’s health problems which would include four children. Considerations of health and education have been considered many times by Planning Inspectors at appeal. The Communities and Local Government website, ‘Travellers’ page, states:

> “Gypsies and travellers face the most serious disadvantages of all ethnic minority groups with a much shorter life expectancy, low income and poor access to finance. Their children have high mortality rates and the lowest educational attainment.”

This is also referred to within Circular 01/2006.

9.30 The supporting statement advises:

> “Mrs Casey [Mother-in-law] is registered disabled and has limited mobility. She is [sic] obesity problems and has breathing difficulties. She relies on… her daughter as her carer. Son … (5) has severe eczema and has to be treated with lotions and oils. There are additional laundry needs for the family.”

9.31 No documentary evidence has been submitted to demonstrate these claims. Details of the children have also been provided which would demonstrate that of the seven children, three are of school age.

9.32 On the basis of the health information being accurate, it would not be disputed that Mr O’Donaghue’s mother-in-law would probably need to have her daughter looking after her and thus they would need to be living on the same site. There is however, no evidence to suggest that either his mother-in-law’s medical condition or his son’s necessitates living on this particular site. Easy access to health services is clearly a benefit, particularly with five young children within the O’Donaghue family and two within the Sweeney family, however it is not evident from the application why these facilities may only be obtained by living on this site.

9.33 The Sweeney family has no health issues and the children are too young for school. However Crystal will be of school age by next summer (2012).

9.34 Limited information regarding the children has been provided:

> “The O’Donaghue children have received very little education. The family have been travelling all summer in Birmingham, Leeds, Liverpool and currently Stoke on Trent where they are part of a group of around 25 caravans with other families (Ward, Stoke, Doyles, McDonagh, Hardy) which group, split up, re-group and move on. The children last attended school when they were able to double up on the Pylon site at Potters Bar during the winter when Mum was waiting to have her baby. They went to the same school as their cousins for a few weeks/ months. They have not been in school since as the family has nowhere to stop.”

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9.35 From the information provided, it would appear that the children have not received an education due to the travelling that the family has undertaken. Notwithstanding this, it would also appear that there are no specific reasons why the children would need to be educated within the Welham Green area rather than anywhere else.

9.36 **Consequences if the application is refused**

No specific details have been provided as part of this very special circumstance. Planning Policy Guidance Note 2 is very clear (paragraph 3.2) that it is for the applicant to advance very special circumstances to outweigh the harm to the Green Belt. It is therefore not for the planning authority to surmise what might be advanced. This therefore has little weight attached to it.

9.37 **Human Rights Act 1998**

The applicant has raised Human Rights as part of this application. They are a material consideration. The Act came into effect in October 2000 when provisions of the European Convention on Human Rights were incorporated into UK law. The Act makes it unlawful for a public authority to act in breach on Convention Rights unless it could not have acted differently under primary legislation. Any interference with a Convention Right must be proportionate to the objective in question and must not be arbitrary, unfair or oppressive. Some rights are “qualified” rights, not “absolute”. It is unlawful for a public authority to act incompatibly with the Convention rights. However, a public authority will not have acted unlawfully under the Act if as the result of a provision of primary legislation (such as another Act of Parliament) it could not have acted differently. The following is a brief summary.

9.38 **Article 8** relates to “Private life and family”. This includes the right to enjoy living in your home without public authorities intruding or preventing you from entering it or living in it. The Article confers the right to the peaceful enjoyment of one’s home. The right may be restricted, provided such interference has a proper legal basis, is necessary in a democratic society and is proportionate.

9.39 **Protocol 1, Article 1**: Protection of property. The right to the peaceful enjoyment of your possessions without interference. A public authority will not breach this right if a law says that it can interfere with, deprive, or restrict the use of a person’s possessions, and it is necessary for it to do so in the public interest. The Article requires public authorities to strike a fair balance between the general interest and the rights of individual property owners.

9.40 None of these confer a right to a home but the right to enjoy one’s home peacefully. Should planning permission not be approved for this proposal, it is considered that there would be a breach of Article 8 by virtue that enforcement action would need to be considered to remove the ‘pitch’ that is currently on the site. This interference must be weighed against the wider public interest. If the development is considered harmful to the Green Belt the very special circumstances advanced do not outweigh that harm, then
permission should be refused. There would be no means of achieving this objective which would be less interfering to the rights of the applicants. Therefore, refusal, if necessary would be proportionate, and would not lead to a violation of their human rights under the above Articles.

9.41 In certain limited cases, Article 2: Right to Life, may also apply. This Article imposes a duty on the ‘state’ (in this case the planning authority) to take positive steps to protect life where it is being threatened. For example, where there is an environmental hazard that poses a very high risk to the life of the people living nearby, the council may have a duty to provide information about that hazard to enable the people to take steps to protect themselves and their families.

9.42 In this instance, due to the risk of flooding and insufficient information to determine this risk in relation to noise and vibration, it is necessary to safeguard the interests of the applicants or other occupiers of the site, should the site be sold prior to the implementation of this, or any subsequent permission. Refusal of this application if considered necessary and proportionate would not result in a violation of the human rights of the applicant and his family or Mr O’Donaghue and his family. This opinion has been agreed with at appeal (East Riding of Yorkshire Council), notwithstanding the proposal being for a temporary period. Referral to an appeal at Nuckies Farm, St Albans [APP/B1930/A/07/2035098] was also made by the applicant in respect to flooding. However, it will be noted from the advice provided by the Environment Agency that they still hold their objection, due to this site being at a higher flood risk than that within the appeal at Nickies Farm.

Visual Amenity and Character of the Area

9.43 The site directly abuts Bulls Lane on the south and to the east of the railway line. Prior to the submission of the application last year (August) for the same development, the site was screened with soft landscaping to the front in varying heights and densities. This has recently been replaced with close-boarded fencing, approximately 1 – 1.5 metres in height. Since the refusal of application S6/2010/0707/FP on 29th October 2010, soft landscaping in the form a hedge has been planted within the site adjacent to the fence where it adjoins the highway. Additionally, following the removal of the former stables, the site has had surfacing material installed, comprising large gravel stones.

9.44 With the previous application, it was considered that due to the location of the site and lack of soft landscaping, that the site would be quite prominent from Bulls Lane and would therefore have an urbanising effect. Compared to the former stables on the site, it was considered that the development would be fairly comparable, although they have been removed and therefore direct comparison was not possible. However, it is reasonable to consider the scheme in relation to the soft landscaping that has recently been planted together with further landscaping.
9.45 The height of the recently planted hedge is just below the top of the fence on the boundary with Bulls Lane, although small branches are becoming visible. The supporting statement details that a total of 150, 6ft high hawthorn/hornbeam trees should be planted mid-January 2011. It would appear that some of these plants have been planted, but it would appear that not all have been. These trees can grow on average to heights of 10 metres and 30 metres respectively depending on the particular species. The type of species is appropriate and would continue the soft edge that is apparent on this side of the site (northern elevation) and the eastern side of the railway bridge. It would also be reasonable to require the same soft landscaping to be provided on the southern eastern boundary of the site to help screen the development, if approved from the public right of way, which is accessed immediately to the east of the site and runs parallel with Bulls Lane eastwards.

**Summary of Green Belt Considerations**

9.46 The summary of the considerations requires a balance between the matters which support the application and those which indicate permission should be refused.

9.47 Against the proposal:

- Harm by inappropriateness, which carries significant weight;
- Harm to Green Belt purposes, which carries little weight;
- Harm to the visual amenity of the Green Belt, which is of little weight; and
- Character and appearance of the area, which carries little weight.
- The environmental constraints of the site – flooding and potential noise and vibration. This carries significant weight.

9.48 In favour of the proposal:

- The immediate unmet needs for sites, which attracts substantial weight;
- The personal needs and circumstances of the applicants and their families. This carries moderate weight.
- The lack of alternative sites, which carries significant weight;
- The extent of Green Belt in the borough, which carries significant weight
- The consequences for the applicants if the application is refused, this carries very limited weight.
Overall, it can be seen that there is greater aggregate weight in favour of the development rather than against it. It is considered that the considerations in favour of the development clearly outweigh the harm to the Green Belt and as such, there are very special circumstances that outweigh the harm to the Green Belt. The proposal therefore complies with criterion (i) of policy H13, as well as criterion (ix) in respect to the visual amenity and character of the area. However, it is necessary to consider the proposal against the other criteria and other matters to ensure that it is appropriate in this location. It is not considered that the environmental constraints of the site, in themselves have any impact upon the Green Belt and that these considerations should be considered separately. These are discussed below under section 9.

3. **Highways and Parking Matters**

9.50 Hertfordshire (Transportation Planning and Policy) have assessed the proposal and advise that the proposal would not have any change on the highway network than the former use. Sufficient space is available on site for parking of vehicles. To increase the sustainability of the site, it would be reasonable, if approved for a condition to be attached requiring the submission of details for the parking of bicycles.

4 **Provision of Hard standings, Electricity, Water, Sewage and Waste Collections**

9.51 **Hard standings:** Following the demolition of the stables, it would appear that the site has been resurfaced. The central part of the site a concrete circular base. Surrounding this to the boundaries is a large shingle surface. This is considered appropriate for the site and no further information or detail is required.

9.52 **Waste Collections:** Welwyn Hatfield Borough Council’s Client Services has advised that refuse would need to be provided on the boundary of the site. This could be provided in a safe location off the highway and therefore this part of the criterion could be complied with.

9.53 **Electricity and Water:** It is understood that when the site was in use as a stables that both water and electricity were supplied to the site. It would therefore be reasonable to conclude that this would be complied with.

9.54 **Drainage/Sewage:** The site is within a Source Protection Zone 1 area, which are areas designated closest to sources of potable water supplies and indicate areas of highest risk to abstracted water quality.

9.55 The Environment Agency have been consulted on the application in connection with proposed drainage and sewage facilities to the site, as well as Environmental Health. Environmental Health have no objection subject to the Agency’s acceptance. As will be noted from the Environment Agency’s advice, they have not commented in this respect, their advice only relates to their concerns regarding the flood risk associated with the site. It is therefore considered, that in comparison with the previous application, that sufficient information has been provided to deal with drainage and sewage on the site.
and subject to all other matters being acceptable, the application should be appropriately conditioned.

5 Public Right of Way

9.56 Comments to this application have not been provided by the Rights of Way department at Hertfordshire County Council. However, the following comments were provided to the previous application, which is identical to this one:

“If and when this development is to proceed the footpath should be protected to its’ present / recorded width (a minimum width of two metres) and its current surface condition.

The location and width of where the public footpath joins the road next to the site must not be changed. As the plans and application lack detail of any fencing or work in this area, this must either be first sent to us or agreed on site.

I would also make the following comments on the potential impacts the development works might entail and the required minimum standards regarding the maintenance of the Public’s rights and safety during and after construction.

• The Public Right of Way must remain unobstructed by vehicles, machinery, materials, tools and any other aspects of the construction during works.

• The condition of the route must not deteriorate as a result of these works. Any adverse affects to the surface (especially overspills of cement & concrete) must be made good by the applicant to the satisfaction of this Authority.

Also if it is necessary to install any pipes/cables etc. under the path, permission must first be obtained from this office.”

9.57 Works have been undertaken to partly implement this planning permission by the bringing on to the land of one touring and one mobile caravan (although only a mobile home is only on the site at present), in addition to what would appear to be a washroom and small green shed. The public footpath would appear to not have been affected by the development and it is unlikely that if planning permission is granted that any harm would be likely to occur to this footpath. Notwithstanding this, if permission were granted the requirements above could be included on a planning permission.

6. Convenient Location for Schools and other Community Facilities

9.58 There is a doctor’s surgery within Welham Green and also a primary school. Secondary schools are located within Brookmans Park and Hatfield. As Thunderbridge Yard is located so closely to dwellings within Welham Green, it
is considered that occupiers of this site would be no more disadvantaged than the settled community.

7. **Whether the Design Policies and Guidance can be met**

Policy D1 of the local plan is applicable to design. This requires developments to meet a high standard of design. Additionally, Good Practice Guide, ‘Designing Gypsy and Traveller Sites’, May 2008, Communities and Local Government is also relevant.

9.59 This document, paragraph 4.4 states that sites are designed to provide for a mobile home, touring caravan and a utility building, together with space for parking. Paragraph 7.17 details that

“It is essential for an amenity building to be provided on each pitch… The amenity building must include, as a minimum, hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bath/shower room; a kitchen and dining area.”

9.60 Amenity buildings also need to meet current Building Regulations. The site is shown to provide a mobile, tourer and washroom for each pitch. The layout plan shows a single washroom measuring approximately 4 metres squared, whereas the elevational drawings show this building at twice the size. For clarification, if approved, it is recommended that a condition is attached to clarify that only two single or one double washroom is permitted.

9.61 The design of the washroom would appear to meet the guidelines. The provision of the appropriate accommodation, parking, landscaping (hard and soft) would also meet the guidelines. It is therefore considered that the proposal would meet the appropriate design standards.

8. **Impact on Nearby Residents**

9.62 The nearest residential property is to the other side of the bridge on the northern side of the road. The site is not visible from this property or those adjoining. Objections have been received on the basis of house values being affected and difficulties selling homes. These are not planning considerations and therefore cannot be considered as part of this proposal. Overall, it is considered that the development would not have an impact on nearby residents.

9. **Whether the site is affected by Environmental Hazards to affect the Residents’ Health or Welfare**

9.63 The following paragraphs consider noise and vibration, contamination and flood risk. These are all matters that are referred to within Circular 01/2006, paragraph 64 ‘Sustainability; as well as policy H13. This requires consideration to and assessment of environmental impacts in the allocation of sites for Gypsy and Travellers. It is necessary, therefore, to ensure that the site is environmentally safe for the families to live.
9.64 **Noise and Vibration:** The site is adjacent to the railway line and therefore would be impacted upon by trains travelling along the line. Information has been provided with this application following the previous application being refused on the basis of noise and vibration.

9.65 Reference is given to an appeal decision within the district of Uttlesford (APP/C1570/C/09/2114934; 35; 36; 38 & 39). The location of that site was within the village of Little Hallingbury, with a frontage to the A1060, but also side on to the boundary with the M11 motorway, at a lower level. This case was related to enforcement proceedings, i.e. the site had already been occupied, which is similar to this site, where the Inspector commented that the “…appellants have placed their development close to an existing noise source.”

9.66 The Inspector agreed that the site, next to and below the M11 was a noisy site. Further information stated:

“Gypsies are often used to living on sites affected by traffic noise, though it seems unfortunate that they should have to live in locations which others would find unacceptable…. However, whilst noise levels are high in the open they reduce considerably within the caravans, even with a window open and, on balance, I do not have evidence before me which would suggest that the noise levels on site are such that they should preclude the grant of a temporary permission.”

9.67 The situation on this site is similar, in that the site is below the level of the railway line. Additionally, dwellinghouses already exist in a similar distance from the railway line to the north of Bulls Lane on the western side.

9.68 Notwithstanding this, Environmental Health has objected because a survey has not been provided and any mitigating works necessary are unknown. Any mitigating works that would involve measures such as additional fencing or a bund would be unlikely to be supported because of the visual impact within the Green Belt.

9.69 Reference has also been made to the application that was approved by Planning Control Committee on 13th May 2010 at Four Oaks, 1-4 Great North Road, Welwyn (N6/2010/0211/S73B), where no objection was raised regarding noise impacts upon residents of that Gypsy/Traveller site. Four Oaks was an existing site and therefore noise impacts would previously have been considered, found acceptable and therefore no objection was raised.

9.70 The site might be acceptable as a Gypsy/Traveller site, however without the appropriate studies it is not possible for Environmental Health to fully consider the impact upon the living conditions of the families and make any conclusions.

9.71 **Land Contamination:** A Phase 1 Contaminated Land Desk Study Report has been undertaken and has been appraised by Environmental Health. Environmental Health do not object to the development, subject to agreement by the Environment Agency. A condition is recommended which includes site
characterisation, submission of a remediation scheme, implementation of the remediation scheme and long term maintenance and implementation.

9.72 **Flood Risk:** The site lies within Flood Zone 3, as defined by Planning Policy Statement 25 as having a 1 in 100 probability of flooding in any one year. Paragraph E9 of PPS25 requires applicants for planning permission to submit a Flood Risk Assessment (FRA) when development is proposed in such locations.

9.73 Information has been provided by the applicant, originally when the application was submitted and also during the course of the application’s consideration to try and overcome the original Environment Agency objection, dated 5th May 2011. The additional information which comprises an addendum to the original Flood Risk Assessment as well as a supporting letter from the agent, together with an appeal decision from St Albans Council, have been assessed by the Agency. They still maintain their objection having concerns regarding the location of the development, being within a highly vulnerable area at risk of flooding. Also, and in summary, the proposed mitigation provided within the latest information does not overcome their concerns regarding the safety of people living on the site should there be a flood in the area and there would be no guarantee that occupiers would receive warning of an impending flood threat.

9.74 It is also a requirement for a sequential test to be carried out by the planning authority to determine the suitability of a site for development according to flood risk from fluvial sources. Information has not been provided by the applicant in connection with having undertaken a sequential test for this development. On the basis of the development being highly vulnerable from flooding and the flood zone being 3a, it is considered, in accordance with the Environment Agency objection that this site is not suitable for this development. Without information detailing why the development should be located here rather than elsewhere, it is recommended that the application is refused for the reasons suggested by the Environment Agency.

9.75 **Summary of Policy H13**

Overall it is considered that the proposal complies with all of the criteria within policy H13 with the exception of environmental hazards – flooding, noise and vibration. It is recommended that the proposal is refused on the basis of these hazards.

10. **Other Material Considerations**

9.76 **Wildlife:** The site directly adjoins a Wildlife Site and the ‘results of an ecological survey’ have been submitted with the previous application (S6/2010/0707/FP). The information submitted is quite limited. A detailed survey was submitted with the application in 2007, S6/2007/1009/FP, which identified:

- Great Crested Newts and their eggs close to the adjacent pond
- Two mallards within the pond
Swallows nests in seven of the existing stables

- Several bats within and close to the site

9.77 The latest information submitted states:

“There are habitats immediately adjacent that may support protected species including: a pond to the north-west that could support Great Crested Newts; and tall ruderals, scrub, trees and hedgerows on all sides that provide suitable habitat for Badgers, common reptiles, nesting birds, Great Crested Newt and commuting/foraging bats. However, the fence provides a barrier to migration onto the site for ground-dwelling species. The only way through the fence is from the road via the five-bar gate, which is surrounded by hard standing. There is no reason why any of these animal species would enter the site because it offers no opportunity for resting places or feeding.”


9.79 Where a European Protected Species (EPS) might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

9.80 The Conservation Regulations 2010, Regulation 41 contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
  
  (a) to impair their ability –
  
  o (i) to survive, to breed or reproduce, or to rear or nurture their young, or
  
  o (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

  (b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of a EPS breeding site or resting place”
o e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
o e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
o e.g. dormice nest (breeding site or resting place (where it hibernates)
o applies all year round

9.81 The information submitted, whilst not a full survey has been assessed by Hertfordshire Biological Records Centre, who are satisfied that a survey has been undertaken by a suitably qualified ecologist and thus the information may be relied on. The survey demonstrates that due to the land condition comprising hard surfacing materials and close-boarded fencing to the boundary that protected species are not present on the site.

9.82 The change in situation compared to 2007 would appear to relate to works that have recently been undertaken in the area. It is understood that the Hertfordshire Constabulary Wildlife Officer is investigating the position. It is not suggested that the applicant has been responsible for any works that might have impacted upon protected species.

9.83 **Caravan Licence:** Environmental Health have advised that a caravan site licence would be required and suggest and informative is added to any permission. This is in accordance with the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968.

9.84 **Sustainable Development:** Paragraph 64 of Circular 01/2006 advises that:

“*Issues of sustainability are important and should not only be considered in terms of transport mode and distances from services. Such consideration should include;*

a) the promotion of peaceful and integrated co-existence between the site and the local community;
b) the wider benefits of easier access to GP and other health services;
c) children attending school on a regular basis;
d) the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment; and,
e) not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.”

9.85 In this case the application clearly fails to comply with (e). (b) and (c) have been previously discussed within paragraphs 9.29 to 9.38. However, granting planning permission on this site would be likely to provide access to health facilities and education for the children that has previously not been attained or only for a very limited period of time, due to the travelling undertaken by the family.
9.86 The location of the site, close to the settlement of Welham Green could lead to peaceful and integrated co-existence between the site and local community. From the information provided, granting planning permission would enable the family to comply with (d). This is on the basis of the following information which has been provided by the applicant (some of this has already been referred to, however for clarity it is being repeated):

"Plot 1.
Mr Sweeney was born in Lambeth and travelled with his family until aged about 10. The family stopped for two short spells in housing in Maida Vale and East Acton but they could never settle in housing and returned to travelling. His mother is from the Casey family. He has 7 brothers and sisters. The family settled on the Wood Green site in Lambeth when he was aged 10. His father did scrap metal dealing and the family continued to travel for much of the year. Mr Sweeney attended St Thomas More school off and on.

When the family were away travelling the Wood Green site was closed down some 10 years ago. The family were left with no where to overwinter. The family bought land at Hovefields in Basildon. These plots have recently been cleared. Their Traveller status was accepted in 2008 at the appeal for sites at Hovefields. Mr Sweeney shared the plot with his mother Norah, brother Martin and his sisters Noreen, Carolyn, Teresa and Bridget and their families.

Mr Sweeney still travels for work. He mostly goes down to the south coast and has spent most of this summer at Devils Dyke near Brighton. Other years they have gone to Poole and Bournemouth where they stop around Kings Park. He travels with the Casey, McCarthy and O’Driscoll families. He also travels to Doncaster and Darlington. He does block paving and buys and sells vans.

Mr Sweeney is the second cousin of Mary Casey on Plot 2. His mother’s first cousin owns the Casey site at Potters Bar and other cousins live on that site. When he lived at the Wood Green site in Lambeth he worked with Uncles doing block paving all round Barnet, Hatfield and Potters Bar and knows the area well. It was through local contacts that he bought this land.

His wife Priscilla was born in Greenwich on 28.10.1984. She has travelled all her life with her parents. Her father did mostly building work. She was stopping with Mr Sweeney at the Hovefields site in Basildon. After she married Mr Sweeney her parents separated and about 2 years ago her mother moved into housing in the Hounslow area but her father is still travelling on the roads. Priscilla has never lived in housing.

The Sweeney’s have two children
Details have only been provided regarding Crystal aged 2
9.87 Additional information has been provided following the submission of the application last year regarding the movement of the family, which details that the Sweeney family have been travelling in the Brighton area.

Plot 2

This plot would be occupied by Mr Keith O'Donaghue (aged 28) who is an Irish Traveller born in Galway but has lived in England since aged 2 and his wife Mary (Nee Casey) aged 30 who was born in Ireland and came to England as a baby. The couple have five children.

Keith aged 12
John aged 10
James aged 6
Tony aged 4
Bonny aged 8 months

Also living on the site would be Mrs Nora Casey (64) mother of Mary. She had been living in a house in Kentish Town before renting a yard alongside the A1 in Hatfield and then doubling up with family on the site at Potters Bar.

Mr O'Donaghue was brought up mostly in the London area and his family pulled on/ off sites at Latimer Road, Portobello and Bashley Road Wembley. They also stopped in the Birmingham and Luton area. As a kid he stopped in a house in the Shepherds Bush area with his parents for about 8-12 months and then returned to travelling as the family could not settle in bricks and mortar.

He married his wife at the age of 17 and they have since travelled all over to Bristol, Luton, Milton Keynes, Watford, Bradford and around Scotland and Wales with family and friends such as the Doyles, Rochfords, Doherty, O'Driscoll, Dunn or Ward families. They usually stop on waste ground or fields. They have also doubled up/ over wintered when they can with Mary’s brother who stops on plots at Marlow Road Stokenchurch Buckinghamshire, the Casey site at Potters Bar next to the M25 where three of Mary’s brothers, Mary’s Uncle and 1st Cousin live and at the Bashley Road site where a sister still lives.

Other family live on sites in Luton (Doyles, Rochford) and in Hatfield (Maloney). He has a sister (married to a Varey) and Uncle (Doyle) on plot land sites at Wormley in Broxbourne in the Lee Valley where there is a concentration of unauthorised plots. The family are known to Mr McCabe the former Gypsy Liaison Officer for Hertfordshire. They have asked about getting plots on other sites including sites at Redbourne and Dunstable where other family live, but have been told they are wasting their time as sites are full, plots when they arise go to existing families on the site and there are long waiting lists. Mr McCabe told them that he had been asked to extend an existing site to make more pitches, but he could not do it.
He does anything he can to make a living but mostly ground work and block paving, tree work and scrap dealing.

Mrs Casey is registered disabled and has limited mobility. She is obesity problems and has breathing difficulties. She relies on Mary her daughter as her carer.

Son James (6) has severe eczema and has to be treated with lotions and oils. There are additional laundry needs for the family.

Having regard to para 15 of C 1/2006 both families are entitled to Gypsy-Traveller status. They are ethnically Irish Travellers and have a cultural preference to live in their caravans. They maintain a nomadic way of life and still travel for work but have need to be settled to access services and facilities and because it is very difficult to find roadside stopping places any more where you can stay for any length of time. Both families have strong local connections to the area having resorted and resided to the Greater London/ Essex/ Hertfordshire areas all their lives. They have other family living in this part of the Eastern region.

9.88 Information has also been provided with this application detailing the movements of the families since the submission of the last application:

“The family have been travelling all summer in Birmingham, Leeds, Liverpool and currently Stoke on Trent where they are part of a group of around 25 caravans with other families (Ward, Stoke, Doyleys, McDonagh, Hardy) which group, split up, re-group and move on. The children last attended school when they were able to double up on the Pylon site at Potters Bar during the winter when Mum was waiting to have her baby.

The Sweeney family have been travelling in the Brighton area for most of the summer…”

9.89 A sustainability checklist has been completed as part of the proposal. Within the checklist, it has been indicated that water consumption will be minimised by use of water efficient fixtures, encouraging energy efficient modes of transport – for example, cycle, walking and buses and permeable surfaces would be provided. It is considered that these measures, together with complying with the criteria within circular 01/2006 is acceptable. The proposal does however fail in respect to being located within a flood zone and insufficient information being provided in relation to impacts from noise and vibration from the adjoining railway line.

9.90 **Equality:** The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment. Part 11, Section 149 provides the following ‘Public sector equality duty’ on authorities:
“(1) – A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

9.91 Welwyn Hatfield Equalities and Diversity Policy 2009 and Welwyn Hatfield Council’s Single Equality Scheme 2011-2014 require the Council to properly consider its duty in relation to this area of legislation. It is therefore necessary for the authority, in consideration of this application, as with consideration of any other application, to ensure that the above requirements have been met.

9.92 The location of the site is separated from the settled community by virtue of the railway line. It is however close to services which would enable any future occupiers of the site to integrate themselves with the existing community. It would be difficult, as previously discussed, to find land within urban area for travellers and gypsy’s to settle on. This location of this site, which is right on the edge of a built up area would, subject to all other considerations being complied with, be appropriate for such a development.

11. **Temporary Consent**

9.93 The application, within the supporting statement, has indicated that they are seeking a temporary planning permission of no less than 3-5 years. With regards to temporary planning permission, Circular 01/2006 details that:

*Advice on the use of temporary permissions is contained in paragraphs 108 – 113 of Circular 11/95, The Use of Conditions in Planning Permission. Paragraph 110 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission. Such circumstances may arise, for example, in a case where a local planning authority is preparing its site allocations DPD. In such circumstances, local planning authorities are expected to give substantial weight to the unmet need in considering whether a temporary planning permission is justified. The fact that temporary permission has been granted on this basis should not be regarded as setting a precedent for the determination of any future applications for full permission for use of the land as a caravan site. In some cases, it*
may not be reasonable to impose certain conditions on a temporary permission such as those that require significant capital outlay.

9.94 The Circular also advises that local planning authorities should not refuse private applications solely because the applicant has no local connection, but they are entitled to refuse private applications in locations that do not comply with planning policies, especially where the authority has complied with this guidance and proceeded properly to ensure needs identified by accommodation assessments are being met. In this case, it is considered that the applicant has demonstrated a local connection to the site.

9.95 There is a target through the RSS to provide 17 pitches by 2011 and the authority has achieved the provision of 6 of these to date. The Council is preparing the Core Strategy, which is likely to be submitted in summer 2012 with a Site Allocation Development Plan Document to follow.

9.96 The recent appeal decision for Foxes Lane addressed the Council’s position in relation to providing a temporary planning permission. The Inspector at paragraph 34 states:

“The Council has suggested that if the threshold of planning permission is achieved, then any permission should be time limited, in order that development plan proposals could be finalised. My judgement does not accord with that view in this case. In the event that the Council brings forwards its proposals within the planned timetable there would still be a period of 3 years or more when no new provision would be likely. Of greater importance, however, is the fact that in an area with such a high proportion of Green Belt land, with the likelihood of many if not all sites being in the Green Belt in the future, the relative lack of harm here makes the site suitable in its own right. A permanent permission is therefore appropriate.”

9.97 Another recent appeal decision for a site, also within the Green Belt, deals with the issue of prematurity (APP/Q3630/A/09/2097459 – Virginia Water, Surrey). In this case, reliance is made on Circular 01/2006 as well as GTAA in identifying numbers of pitches needed. The Inspector as part of the discussion stated:

“Also weighing against the Council are the facts that the DPD is still at a very early stage and there are as yet no development plan policies against which to assess potential sites for Gypsies and Travellers. I conclude on this issue that the development is not prejudicial to the plan led approach and so I do not consider it to be premature.”

9.98 This application requires a balanced judgement to be made given the present set of circumstances; however it should also be acknowledged that the Circular advises that substantial weight should be given to unmet need. On balance, a 4 year temporary permission could be considered for this site if all policy requirements have been met in order to give the local authority a reasonable opportunity to review its position in light of recent announcements from the Department of Communities and Local Government and in order to
progress this issue through its Housing Strategy and the LDF. A permanent
permission would be unlikely to be appropriate due to the potential impacts of
noise and vibration upon occupiers.

9.99 Any permission should, as well as limiting the time period, require the site to
be restored. The permission is also considered should only be occupied by
persons defined as gypsies and travellers according to paragraph 15 of
ODPM Circular 01/2006 (or as amended) and to limit the number of pitches
on the site to no more than 2 (such that only 1 mobile and 1 touring caravan
and 1 washroom) for each pitch may be sited on the land at any one time.

9.100 **Commercial Use:** No suggestion of an associated commercial use of the site
has been submitted as part of the application. Due to the site being within the
Green Belt and to ensure the visual amenities of the site and impact upon
anyone using the public Right of Way, it is suggested that a condition is
included preventing the use of the site for commercial purposes.

12. **Neighbour Representations**

9.101 The majority of neighbour representations have been addressed within this
report. There are still a number that have not been discussed as part of the
report, these are discussed below.

9.102 Has an enforcement notice been issues and why have bailiffs not gone in? –
an enforcement notice has not been issued to date as this application had
been submitted and was under consideration. Dependent upon the outcome
of this application, further consideration can be given to issuing a notice. It is
not possible for the council to instruct bailiffs to enter when formal action has
not been taken.

9.103 Condition 21 of application S6/2007/1009/FP should be enforced – It is only
possible to enforce a planning condition when that planning permission has
been carried out. As that application was for stables and that permission has
not been implemented, there are no conditions to be enforced.

9.104 Understood that retrospective applications would no longer be accepted – the
suggested rules from the coalition government regarding retrospective
planning permissions is not yet in force.

9.105 How can a further application be accepted – legislation allowing councils to
refuse to accept repeat application is only applicable when certain criteria are
met Section 43 of the Planning and Compulsory Purchase Act 2004, has
substituted sections 70A and 70B into the Town and Country Planning 1990
Act which provides the legislation for planning authorities to have the power to
decline to determine planning applications.

9.106 The conditions are that either an appeal has been dismissed within a period of
2 years or that more than one similar application has been refused by the
authority in the requisite period (of 2 years). There are also other conditions,
but it is not necessary to refer to these in this case as this proposal does not
fall within either of these two criteria.
9.107 Thought the site was going to be used for stabling / why should a change from stables be considered? – Each application must be assessed on its own merits. Regard will be made to the history on the site, but this would not necessarily preclude other or different uses being granted permission.

9.108 Same resolve as ‘Northaw Barn’ should be taken – this case is very different to that at Northaw Brook Meadow, where the owner deliberately deceived the planning authority. There are no comparisons between that development and this.

10 Conclusion

10.1 The proposal is for the retention of a 2-pitch gypsy site within the Green Belt, one of the pitches has been provided on the site. The development is considered to be inappropriate development. The applicant, in accordance with PPG2: Green Belts, paragraph 3.2 has submitted a very special circumstances case to support their application. These are considered to outweigh the harm to the Green Belt and would therefore accord with PPG2.

10.2 Additionally, the site is constrained by flood risk, wildlife, noise and contamination. Insufficient information has been provided to enable an assessment of noise and vibration and the Environment Agency has raised an objection in relation to the flood risk associated with this site. Accordingly the development fails to comply with the relevant policy considerations.

10.3 It is not considered that Human Rights Act 1998 or The Equality Act 2010 should outweigh the considerations to each of the matters addressed above.

11 Recommendation

11.1 It is recommended that planning permission be refused for the following reasons:

1. Planning Policy Statement 25 (PPS25) classifies development types according to their vulnerability to flood risk and gives guidance on which developments are appropriate in each Flood Zone. The application site lies within Flood Zone 3 defined by Planning Policy Statement 25 as having a 1 in 100 probability of flooding in any one year. In accordance with PPS25, a sequential test has been undertaken by the authority which determines that the development is highly vulnerable in accordance with table D.2 of PPS25 to the effects of flooding. Justification has not been provided why this site has been chosen. This development is not compatible within this Flood Zone and therefore the proposal is contrary to PPS25.

2. The Flood Risk Assessment (FRA) submitted with this application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS 25). The submitted FRA does not therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:-
a. justify within the original statement together with the additional information supplied, that this development is acceptable in Flood Zone 3b, against the guidance in PPS25, when the site is affected by flooding in the modelled 1 in 5 year river flow event.

b. identify satisfactorily how the site is to be defended against flooding whilst still providing access to the site from Bulls Lane in the event of a flood event

c. fully consider the impact of defending the site with a high wall on any surrounding people and property. The supplementary information provided does not overcome these concerns and evidence within the Practice Guide for PPS25 suggests that there are substantial risks from overtopping and breaching with water levels as high as have been indicated. The site therefore must be regarded as unsafe.

d. provide enough ground levels around the site to justify the flood flow paths identified in the FRA

e. identify from the supplementary information provided, that the rate of onset of flooding and the likely duration of extreme flood events.

f. adequately consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event (as advised by PPS25, paragraph G12 and the PPS25 Practice Guide, paragraph 7.23).

3. Insufficient information has been submitted to determine whether the site is suitable for use as a mobile home site even on a temporary basis of 3-5 years, given the potential impact from the adjacent railway line. An assessment of noise and vibration from the nearby railway line by a qualified and competent person is required in accordance with the provisions of PPG24: Planning and Noise, BS 6472:1992 “The evaluation of human exposure to vibration in buildings” and policies H13 and R19 of the Welwyn Hatfield District Plan 2005.

**Refused Plan Numbers:** 1040/1 & 984/8 received and dated 8th April 2011

Lisa Hughes (Strategy and Development)
Date (24 August 2011)

Background papers to be listed (if applicable)

Two Caravans, Foxes Lane, Welham Green appeal – APP/C1950/A/10/2140660

‘Proposed Housing Strategy Interim 2010’

The Equality Act 2010
1 Site Description

1.1 The application site is located along Parkway which is a main route into the centre of Welwyn Garden City. Parkway is a wide formal landscaped boulevard with a variety of forms of development along it. This part of the Central Welwyn Garden City Conservation Area is characterised by the formality of its architecture and layout and the integration of its landscape with the built form.

1.2 The immediate surrounding area is characterised by a variety of houses and apartments with the majority being two storey, although there is a medical centre directly to the north of the application site. The degree of spaciousness of the setting of dwellings in the vicinity deriving from the rear and front garden sizes and the space between the properties is often generous and this sense of openness contributes positively to the character and appearance of the Central Welwyn Garden City Conservation Area.

1.3 The site is currently occupied by the original Parkway School, a single storey building designed with a hipped roof, which is now used as offices. It is set back from the front of Parkway but extends across the majority of the width of the plot. There is a mature hedge along the front of the site which divides the site from Parkway. To the rear of the former school building is an area of hardstanding which was used for the parking of vehicles associated with the office use.

2 The Proposal

2.1 This application seeks planning permission for the demolition of the existing building and the erection of ten dwellings which would be a mixture of terrace and semi detached, but would all comprise of three bedrooms.

2.2 The proposed dwellings would be separated into three blocks of properties which would include two rows of four terraced properties along the frontage of the site, facing towards Parkway, and a pair of semi detached properties to the rear of the site facing towards Parkway Gardens.
2.3 The properties along the Parkway frontage would have the same design and appearance as each other which would include hipped roofs with a parapet in the centre. Flat roof dormer windows would be within the roof space. A single storey flat roof element would be attached to the side of the central end of terrace dwellings. The width of the two storey element of these properties would be approximately 9.8m, with the single storey element adding about an additional 2.7m. The depth of the dwellings would range from about 9.2m to 11.6m and they would have a ridge height of approximately 9.3m. These properties would have front and rear gardens.

2.4 To the rear of the site there would be a pair of semi detached properties which would be sited adjacent to No. 1 Parkway Gardens. This property would also be designed with a hipped roof to a height of about 9.3m, depth of about 9.9m to 11m and width of approximately 12.8m. These properties would look towards the proposed parking area for the development and would therefore have a small landscaped area to the front and a rear garden.

2.5 Access to the site would be gained from Parkway Gardens from a new access proposed which would be sited to the west of the existing access which would be closed up and landscaped. The access would lead to an area of hardstanding at the rear of the site which would be constructed from bound material and would provide 22 parking spaces for the development, which would include ten garages. The garages would be separated into four blocks around the rear of the site which would be designed with pitched roofs. Landscaping would also be provided to the rear within the parking area and around the boundaries of the site.

2.6 All the properties would be constructed from red brick and roof tiles which will be agreed. Each property has been provided with a refuse area within its rear garden.

3 Planning History

3.1 Pre-application advice has been given at this site with regard to residential development on this site. These are provided below.


It was considered that the new development would be in contrast to the existing building on the site and the surrounding development. The development would have limited space around it and apart from the access and vehicle parking area the only other amount of land would be a small amount of amenity space for the properties and the flats. This relatively confined siting would contrast abruptly with other nearby properties and development in Parkway and Parkway Gardens which are set within a spacious setting which contribute to the character of the area. The proposed development would be unduly cramped detracting from the general character and appearance of the area and as such would be contrary to PPS1, PPS3 and PPS5 and Policies GBSP2, D1 and D2 of the District Plan. In addition the varied design of the properties would be in contrast to the formal architecture of the locality and the design of the development would fail to enhance the character and context of the area contrary to PPS1, PPS3 and PPS5 and policies GBSP2, D1 and D2 of the District Plan. Furthermore, the level of parking proposed was well below the Council’s adopted standards that should be provided for the development. In
this instance I consider that objection would be raised to the lack of parking and
the potential subsequent impact of the development on highway safety. However, you are advised that with any scheme where there was a shortfall of
parking this would be required to be justified as part of the application.

3.3 N6/2010/2501/PA: Demolition of existing building and erection of 14 units with
associated parking and landscaping. 10 December 2010.

It was concluded that although the current proposal would make effective use of
previously developed land within the confines of the existing built up area, the
number scale, density detailed design and layout of the dwellings would be out
of keeping with the established character and more spacious qualities of the
immediate surroundings, and would represent an unduly cramped over
development of the site which would not respect and complement the distinctive
character and qualities of the surrounding area contrary to PPS1, PPS3 and
PPS5 and Policies GBSP2, D1, D2 and H6 of the District Plan. Therefore, the
proposed development would be unlikely to receive a favourable officer
recommendation. In addition a favourable recommendation for conservation
area consent would also be unlikely to be given as the loss of the building
would not be justified on the merits of the proposed development.

3.4 N6/2011/0393/PA: Demolition of existing building and erection of ten units. 30
March 2011.

It was considered that the proposed development has improved from the
previous schemes however there were still some concerns with the design of
development along the Parkway frontage and the garage sizes. However, if
alterations were made to overcome these concerns, a favourable
recommendation could be given at officer level.


Concerns were raised regarding the re-provision of medical facilities and the
applicant was advised that the application would need to demonstrate that this
facility is accessible to all users and that there would not be an impact on health
care provision. With regard to parking there would be a deficit and a
justification would be required to be submitted.

3.6 N6/2008/0129/PA: Proposed medical centre, community centre with residential


3.8 Planning and other applications on this site have included:


4 Planning Policy

4.1 National Planning Policy
4.2 East of England Plan 2008

SS1: Achieving Sustainable Development
SS2: Overall Spatial Strategy
ENV6: The Historic Environment
ENV7: Quality in the Built Environment
T14: Parking

4.3 Welwyn Hatfield District Plan 2005

SD1: Sustainable Development
GBSP2: Towns and specified settlements
R2: Contaminated land
R3: Energy efficiency
R4: Renewable energy sources
R5: Waste management
R7: Protection of ground and surface water
R11: Biodiversity and development
R15: Wildlife sites
R17: Trees, woodland and hedgerows
R19: Noise and vibration pollution
R29: Archaeology
IM2: Planning Obligations
M1: Integrating transport and land use
M2: Transport assessments
M4: Developer contributions
M5: Pedestrian facilities
M6: Cycle routes and facilities
M8: Powered two wheelers
M14: Parking standards for new development
IM2: Planning obligations
D1: Quality of design
D2: Character and context
D3: Continuity and enclosure
D4: Quality of public realm
D5: Design for movement
D6: Legibility
D7: Safety by design
D8: Landscaping
D9: Access and design for people with disabilities
D11: Design statement
D12: Development briefs
H1: New housing development
H6: Densities
H10: Accessible housing
4.4 Supplementary Design Guidance, February 2005 sections

Design Principles
General Design Guidance
Sustainability Checklist
Residential Design Guidance
Design Statements
Development Briefs

4.5 Supplementary Planning Guidance, Parking Standards, January 2004

5 Constraints

5.1 The site lies within the specified town settlement of Welwyn Garden City, the Central Welwyn Garden City Conservation Area and is an Unregistered Historic Parks and Gardens as designated in the Welwyn Hatfield District Plan.

6 Representations Received

6.1 This application has been advertised by site notice, newspaper notice and neighbour notifications. Six representations have been received from residents of Parkway, Parkway Gardens and one from the Welwyn Garden City Society.

6.2 Summary

- Concerns with the location of the semi detached properties to the rear;
- The size of the semi detached properties is larger than the adjacent dwellings in Parkway Gardens and will be dominating;
- There is a gap of only 3m between the proposed semi detached properties and the properties in Parkway Gardens which is in contrast to the general spacing;
- Too many houses are proposed on the site;
- Concerns that the development will cause a loss of light to neighbouring properties;
- Concerns with the increase to traffic;
- Concerns that the development is too close to the boundary with Parkway Gardens;
- Concerns with the perimeter wall fronting on to Parkway Gardens and its location and height where shrub will not be able to grow;
- Concerns that it will affect visual aspects from neighbouring properties;
- Concerns that provision for cycle parking is not provided;
- Concerns with a loss of privacy;
- Concerns with a loss of light and shade within the garden area;
- Locations of the garages are dangerous.

Welwyn Garden City Society object to the proposed development and have raised concerns that the front mass of the building and its height from the front will be out of keeping with this important vista and very different from the Parkway School it is replacing. Until the developer shows the current elevation and the proposed new one side by side to the same scale it is impossible to judge the impact properly. In particular the concerns are raised with the height which appears to be different and this impact so close to the highway will give a very different feel to the area. In addition, they consider the drawings should be
submitted of the development from the north. The development shown not appear to overawe the vistas looking south over the neighbouring health centre.

7 Consultations Received

7.1 Hertfordshire County Council Transportation Planning and Policy Department – HCC as Highways Authority states that they do not wish to restrict the grant of development subject to conditions which are related to the access being constructed, visibility splays, car parking laid out and unbound material used within 20m of the highway boundary.

Their comments state; ‘Parkway is an unclassified road designated as a local distributor road and Parkway Gardens is an unclassified road designated as a local access road. It is a cul-de-sac serving residential properties. Access to the parking forecourt is shown from Parkway Gardens. The proposed point of access has been moved west from the existing access and due to the road geometry this proposed change appears to reduce visibility to the east. However a visibility splay of 2.4m x 33m to the far side of the carriageway can be provided on land that is either within the applicant’s site or is public highway. This is considered sufficient for the expected vehicle speeds. The existing vehicle crossover should be closed off and reinstated as footway.

The proposed access will allow for two way traffic in and out of the parking forecourt. Twenty two parking spaces are provided, two for each property and two visitor spaces.

It is Hertfordshire County Council’s policy, approved by cabinet in January 2008, to seek a planning obligation in respect of Sustainable Transport including, but not limited to, highway and rights of way improvements, for all developments. PPG 13 promotes accessibility by sustainable means including bus, cycling and walking, and the provisions of S106 of the Town and Country Planning Act allows that planning obligations, governed by the guidance within circular 05/05, may be used to mitigate the impact of development.

For clarity and ease, HCC have implemented standard charges for residential developments, these charges are tiered reflecting the accessibility of different sites across Hertfordshire. It is considered that this site falls within accessibility zone 3. The applicable charges are £1125 per 3 bed unit. Contributions would be used for schemes identified in the Welwyn Urban Transport Plan’.

7.2 Built Environment Advisory Management Service (BEAMS) – The layout, form and balance of the houses seems appropriate for this relatively prominent conservation area site. Parkway is an integral part of the formal, axial town planning of Welwyn Garden City. The front elevations therefore are especially important in terms of weaving into the fabric of the garden city.

Concrete roof tiles are not acceptable, clay ideally handmade would be acceptable. Lead cheeks and roof for the formers is fine but as drawn they could appear rather boxy and dull. The use of a moulded timber section where the drip is formed for the flat roof edge would add interest and a shadow line details. Alternatively this could be achieved with an ogee section metal gutter. Plastic rainwater goods are not acceptable for a conservation area. In addition, it would be preferable if windows were wooden.
Much of the detailing is vague – bay windows, brick arches over windows, door openings, door cases, surrounds, chimney stacks, boundaries, divisions, hedges particularly fronting parkway. Concrete block paving can be tedious and it is recommended granite setts with bound gravel is more within the Garden City character.

Suitably framed conditions requiring further detailed information and proper large scale drawings with specification notes should suffice.

7.3 **English Heritage** – The application should be determined in accordance with national and local policy guidance and on the basis of your specialist conservation advice.

7.4 **CABE** – No comments received and consultation expired 19 August 2011.

7.5 **Hertfordshire County Council Archaeology** – The proposed development is likely to have an impact on heritage assets and therefore conditions should be placed on any permission requesting an archaeological survey to be undertaken prior to development commencing and that the demolition of the building shall be undertaken in accordance with the Written Scheme of Investigation which will form part of the archaeological condition.

7.6 **Environment Agency** – No comments received and consultation expired 19 August 2011.

7.7 **Environmental Health** –

Noise: No noise survey was submitted where the primary source is from road traffic, but because of the type of road, level of usage and the speed limit this is not exhaustive. Essentially the internal noise levels for habitable rooms should not exceed the levels specified in BS 8233. In addition, the noise levels for external amenity space should not exceed the Welwyn Hatfield’s limits. However, I am satisfied that the barrier effect of the buildings will ensure that this would not be a problem for the rear gardens. A noise report I have for development along Parkway provides enough information to calculate the noise exposure from the traffic. I am satisfied that the internal noise levels for habitable rooms will be satisfactory in terms of day and night time LAeq.

Demolition and construction noise may be an issue due to the proximity of other houses. Working hours will need to be controlled and construction methods and plant choice considered. Dust control will also need to be managed.

In conclusion no objections are raised, however, it is recommended that working hours are limited during the demolition and construction phase.

Contaminated Land: In respect of the contaminated land, I am satisfied that the remediation/alleviation measures recommended in the report are appropriate and necessary. I would recommend that any approval should be conditioned to the effect that these measures indicated in the report should be carried out and that validation evidence should be submitted after the works.

7.8 **Council’s Landscaping Team** – The Information in the arboricultural report is sufficient and the assessment of the trees is appropriate. As long as the tree protection measures within the report are implicated the impact upon the trees should be minimal.
T4 which is situated within the site to the north is proposed to be pruned. There is no objection to this but consent should be sort from the land/tree owner prior to carrying out the work.

The landscaping is generally acceptable.

7.9 **Thames Water** – Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Connections are not permitted for the removal of Ground Water.

The developer should be encouraged to utilise SUDS as the preferred method of surface water disposal and it is noted within the application pack that this is proposed. The fall-back position is a regulated discharge to the public surface water sewer not exceeding 15l/s.

7.10 **Herts Biological Records Centre** – Demolition of the buildings should proceed with caution. In the event of bats being found, work must stop immediately and ecological advice taken on how to proceed lawfully.

7.11 **Natural England** – Advises that further survey effort is required in accordance with bat Surveys – good practice guidelines and additional information should be requested from the application. If it is not provided then the application should be refused.

7.12 **Planning Obligations** - As the application is for 10 residential dwellings it falls above the current threshold where financial contributions are sought to minimise the impact of development on Hertfordshire County Council Services for the local community. I have based the calculation on the information available to date for a development of 10 three bedroom houses all open market and set out the requirements below.

Please note, if the size, number or tenure of any of the dwellings changes, this calculation will need to be reviewed.

**Financial Contributions**
- Primary Education £24,690
- Secondary Education £25,610
- Childcare £1,380
- Youth £500
- Libraries £1,980

All calculations are based on PUBSEC index 175 and will be subject to indexation.

**Provision**
Fire hydrant provision is also sought and should be secured by the standard form of words in a planning obligation.
7.13 **Hertfordshire County Council Minerals and Waste** – It is suggested that a condition is imposed on the planning application if it were to be approved to request further details in respect of the management of waste. There are a number of improvements that could be made the Site Waste Management Plan to ensure it complies with the regulations.

7.14 **Herts & Middlesex Wildlife Trust** – No comments received and consultation expired 19 August 2011

7.15 **Council’s Client Services** – No objections.

7.16 **Fire Protection** – No comments received and consultation expired 19 August 2011.

7.17 **Herts Constabulary** – No comments received and consultation expired 19 August 2011.

7.18 **Hertfordshire Garden Trust** - We are aware that this site on the corner of Parkway is very important for the axial, Beaux-Arts planning of Welwyn Garden City so the treatment of the front of the properties should not detract from the vistas, not only down the length of Parkway but the vistas across the end of the dual carriageway, as pioneered by Parker & Unwin. Grass should form the majority of the ground cover in front of the houses and the retained hedge (now in poor condition) should be in keeping with those adjacent and on the opposite side of the road. We would wish to see more details of the treatment of the north side of the housing block and its landscaping where it is visible down the long vistas. Although details of the treatment of the elevations of the houses are scant, we hope that there is to be no plastic (gutters, windows, doors) and that some Arts & Crafts (eg the on-edge tile keystone motif on the current building) or neo-Georgian (as in the original de Soissons) would be included. Drives/paths of small setts or bound gravel would be more in keeping than tarmac or concrete block paving.

7.19 **Garden History Society** - No comments received and consultation expired 19 August 2011.

8 **Discussion**

8.1 This application is presented to the Planning Control Committee because Cllr Thomson has called the application in as she has concerns with the effect of this development on the local infrastructure, in particular on primary school admissions in the local area.

8.2 The main issues to be considered are:

1. The principle of the development;
2. Character and appearance of the development;
3. Impact of the proposal on the residential amenity of neighbouring residents;
4. Highway safety and parking;
5. Landscaping;
6. Protected Species;
7. Developer Contributions;
8. Archaeology;
9. Sustainable Development;
10. Noise;
11. Lifetime Homes; and
12. Other Material Considerations

1. The principle of the development

8.3 The application site’s lawful use falls within Class B1 and was most recently used by Hertfordshire County Council as offices. Therefore Policy EMP8 of the District Plan applies which refers to Employment Sites Outside of Employment Areas. This policy outlines that proposals for the redevelopment of employment sites outside the designated employment areas should only be approved where the criteria of this policy are met. The criteria are:

- The development would be of a similar scale to the existing activities on the site;
- The development would not have any adverse effects on the residential amenities of any nearby properties;
- The development would provide adequate parking servicing and access arrangements and would not have an adverse impact on the highway network, including highway safety.

8.4 In addition to these considerations, this policy outlines that proposals for residential schemes shall only be granted permission on employment sites that are located outside designated employment areas where it can be shown that the development of the site for a ‘live-work’ mixed use scheme would not be viable.

8.5 In this instance, the building was originally used as B1 offices where the scale of activities would be similar to those on the site. With regard to its effect on residential amenities and parking this is covered within sections 3 and 4 of the report below, but to summarise, no objections are raised with regard to the impact of the development on residential amenity or on highway safety and parking.

8.6 With regard to a live work scheme, the applicant has considered that the site is too small for this and too close to large commercial areas to be viable as a live work scheme. The road system in this area does not lend itself to providing an amount of customer parking or access for delivery vehicles. The scheme provides a proportion of the properties with the facility to have home offices. However, since this site is surrounded predominantly by residential uses, with little scope for ‘live work’ units, the loss of employment land is not considered to be a decisive issue, particularly since more houses are required to be built within the district. Subsequently no objections are raised to the above.

8.7 In addition to the above, Policy H2 of the District Plan is also relevant which refers to the Location of Windfall Residential Development. This policy states that all applications for windfall residential development will be assessed for potential and suitability against the following criteria:

i. The availability of previously developed sites and/or buildings;
ii. The location and accessibility of the site to services and facilities by transport modes other than the car;
iii. The capacity of existing and potential infrastructure to absorb further development;
iv. The ability to reinforce existing communities, including providing a demand for services and facilities; and
v. The physical and environmental constraints on development of land.

8.8 In this instance the site is a previously developed ‘brownfield’ site within the confines of Welwyn Garden City and is within easy reach of a good range of local facilities and services and is served by public transport. Policy GBSP2 directs new development to existing towns and settlements, including Welwyn Garden City. The geotechnical report submitted raises no concerns with regard to the suitability of this site for residential uses in terms of the possibility of contaminated land due to its past use subject to the remediation and validation taking place accordance with this report which would be conditioned in the event of an approval. In addition, there are no known infrastructure constraints and no objections have been received from any consultees that the surrounding development would not be able to absorb the development. It is therefore considered that there are no objections to the principle of this windfall site for residential development in accordance with Policies EMP8, H2, GBSP2, R1, R2 and R7 of the District Plan.

8.9 In addition, with regard to the demolition of the existing property, it is considered that subject to a high quality development on the site which meets the relevant policies within the District Plan, its demolition would not be detrimental to the character and appearance of the locality. However, it would be necessary that any development granted permission was constructed.

2. Impact on the character and appearance of the application site and surrounding area

8.10 The site lies within the specified settlement of Welwyn Garden City which is excluded from the Green Belt by policy GBSP2. This policy seeks to limit development to that which is compatible with the maintenance and enhancement of the character of the area. Additionally Policies D1 and D2 of the District Plan apply. These policies aim to ensure a high quality of design and to ensure that development respects and relates to the character and context of the locality, maintaining and where possible enhancing the character of the existing area. The Supplementary Design Guidance identifies Welwyn Garden City.

8.11 The Council’s Supplementary Design Guidance; Statement of Council Policy 2005 outlines that “The context of a site is crucial, and a clear appreciation of this in the design of new development is the starting point for creating distinctive and attractive places. The design and layout of the development should be informed by the wider context, i.e. with regard not just to the neighbouring buildings, but also to the townscape and landscape in the wider locality.”

8.12 Furthermore it is outlined that it is essential that “the new development responds to building forms and patterns of the existing buildings in the detailed layout and design to reinforce a sense of place.” The Design guidance also introduces a number of issues that should be taken into account when considering the context in which a development it to be located.

8.13 In addition to the above, government guidance contained in PPS1 and PPS3 apply. Both of these documents have an emphasis on design of development
where both state that ‘Good design should contribute positively to making places better for people. Design which is inappropriate in its context or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted’. National guidance in PPS1 emphasises the importance of high quality design and more efficient use of land through higher densities, whilst PPS3 confirms that proposals should complement and be well integrated with neighbouring buildings and the local area in terms of scale, density, layout and access.

8.14 The site is located within the Central Welwyn Garden City Conservation Area where PPS5: Planning for the Historic Environment is relevant. This guidance has a central role to play in conserving our heritage assets and utilising the historic environment increasing sustainable places and outlines that there should be a presumption in favour of the conservation of designated heritage assets. Paragraph 7 of PPS5 requires proposals to conserve the historic environment, and protect and enhance the heritage asset. Policies HE7 and HE9 of PPS5 outline that the more significant the element of the historic environment that may be affected by the relevant proposal the greater the presumption in favour of conservation. Policy HE7 states “Local Planning Authorities should take into account the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment. The consideration of design should include scale, height, massing, alignment, materials and use”. Policy HE9 considers that Significance can be harmed or lost through alteration or destruction of the heritage asset of development within its setting. This is expanded within HE10 which refer to applications for development affecting the setting of a designated heritage asset.

8.15 The number of dwellings proposed by the development is ten dwellings which equates to about 28 dwellings/ hectare. The Council supports Government guidance which seeks to make the most efficient use of land, whilst not adversely affecting the character of an area. Accordingly, Policy H6 of the District Plan requires that all residential development of five or more dwellings should be built at a density of 30-50 units per hectare, provided that the development will not have an adverse impact on the character of the surrounding area and can satisfy the design policies of the plan. It goes on to state that in areas with good accessibility by modes of transport other than the car, residential development will be expected to be close to or exceed 50 dwellings per hectare provided that the development will not have an adverse impact on the character of the surrounding area. In this instance the density of the proposed development is under the specified densities set out in policy H6. However, the development on the opposite side of Parkway is low with about 11 dwellings/ hectare which contributes to the established spacious character of Parkway. The development in Parkway Gardens is significantly more at around 54 dwellings/ hectare. Therefore whilst the proposed development on the site is more than that along Parkway but less than Parkway Gardens, considering the design led approach in development plans the site’s density is not unacceptable. It is the resultant impact of such a density on the character and context of the area, visual and residential amenity, access and highway safety amongst others, which need to be considered.

8.16 The properties located immediately opposite the site along Parkway are substantial dwellings set within spacious landscaped settings, where the space between the properties adds and contributes significantly to the character of the area. Development in Parkway Gardens, which was built in the 1990s, is
higher, however these properties have a formal planned layout with space between which follows the principles of the garden city. Both of these should form a guide to how the development on the application site should be designed.

8.17 The site is currently occupied by the original Parkway School which is a single storey building designed with a hipped roof. It is set back from the front of Parkway but extends across the majority of the width of the plot. Although the building is relatively uncomplicated, as a result of its height, design and siting, the parkway elevation does not appear unduly prominent or visible within the street scene and contributes positively to the spaciousness of the locality, the character and appearance of the area and the image of the garden city.

8.18 With regard to the proposed layout of the development, two rows of terrace properties would front onto Parkway which would be located a similar distance from the boundary of the site with Parkway as the existing building on the site. This would also be reflective of other development along Parkway which is set back a similar distance to the proposed development. In addition, the proposed dwellings would be able to be sited conformably on the plot with approximately 2.7m and 2m to the northern and southern boundaries of the site respectively. This would provide space to the boundaries of the site and consequently would be reflective of the more spacious character of other residential development within the immediate area. The two rows of terrace dwellings would be separated at first floor by about 6.5m, thus also increasing the space on the site and ensuring that it reflected the more spacious qualities of the surrounding area.

8.19 Turning to the mass and bulk of the proposed development, the existing building on the site extends across the majority of the site and has a height along the Parkway frontage of approximately 6.5m. This building does not appear unduly prominent or visible within the street scene and is considered to contribute positively to the image of the garden city. The proposed dwellings that would front Parkway would be 2 ½ storey in height, with a ridge height of about 9.3m, which would be about 2.8m higher than the existing building on the site. However, they would be comparable to the semi detached properties immediately opposite the application site along Parkway. Whilst the development would increase the mass and bulk along the Parkway frontage, it is considered that as a result of the siting of the development, which is set back about 7m from the boundary of the site, the amount of space retained to the boundaries of the site and the space at first floor level between the properties, the development would not appear unduly cramped or visually prominent or intrusive when travelling along Parkway and would adequately sustain the spacious character of this part of the Central Welwyn Garden City Conservation Area.

8.20 A pair of semi detached properties are proposed to the rear of the site which would be accessed from Parkway Gardens and would be sited perpendicular to those properties fronting Parkway. They would be sited adjacent to the side flank elevation of No. 1 Parkway Gardens and would be set back in the site a sufficient distance so that they would not be unduly prominent from Parkway Gardens or Parkway, thus helping to retain the sense of spaciousness that defines the character of Parkway. The proposed dwellings would also be about 9.3m in height and would reflect the eaves and ridge heights of the adjoining
properties in Parkway Gardens. Subsequently these properties are also not considered to be unduly prominent or intrusive within the street scene.

8.21 At the vehicular entrance into the site parking would be provided for the properties which would be partially obscured from Parkway Gardens by proposed and existing landscaping. The parking would be in the form of garaging and parking spaces. The proposed garages have been proposed in four blocks around the rear of the site which would help to reduce their resultant bulk and mass. Their size would mirror the scale and mass of existing garage blocks within Parkway Gardens.

8.22 The visual appearance and design of the surrounding properties fronting Parkway takes the formal architecture and the traditional features of buildings found within the Central Welwyn Garden City Conservation Area. The properties fronting Parkway would reflect the existing housing vernacular opposite with the tall, deep roof pitches, central chimney stacks, canted bay windows to the ground floor and the projecting central portion with dormer windows in the roof space. In addition, the semi detached properties to the rear would be reflective of those in Parkway Gardens with the same eaves and ridge heights and the design of the fenestration. Plus the properties would be constructed from red brick and tiling for the roofs, which subject to control under conditions, would be appropriate to the context. In this instance it is advised that the roofs should be constructed from a handmade clay tile. However, it is considered that the actual detailing of the bay windows, brick arches, door cases, surrounds, chimney stacks and dormers is not shown on the submitted plans. Further plans to a large scale would be required to be submitted on these matters if approval was given which would also be subject to control under conditions.

8.23 Representations have been received which seek to ensure that no plastic features are provided on the house, eg windows, doors and gutters. However this is not considered to be reasonable as within the garden city and within the surrounding areas, many properties have plastic windows, doors and guttering.

8.24 In addition, with regard to the proposed landscaping, this would be appropriate for its context, with the existing hedge along the front of the site being retained. In addition, it would be appropriate to have a hedge along the boundary with Parkway Gardens, which could be secured via condition. This would provide a soft landscaped setting for the development which would reflect the ethos of the garden city. In addition, considering the site’s location it would be appropriate to have bound gravel to the rear of the site, which would be appropriate for the Central Welwyn Garden City Conservation Area.

8.25 At the vehicular entrance into the site parking would be provided for the properties which would be partially obscured from Parkway Gardens by proposed and existing landscaping. The parking would be in the form of garaging and parking spaces. The proposed garages have been proposed in four blocks around the rear of the site which would help to reduce their resultant bulk and mass. Their size would mirror the scale and mass of existing garage blocks within Parkway Gardens.

8.26 The proposed garage blocks to the rear of the site, these are not characteristic of the garden city. Garages found within the garden city are usually attached to sides of properties where it is usual that single storey developments within the garden city are designed with flat roofs. However, the properties within
Parkway Gardens, which is a development of residential units built in the 1990s, have been designed with garages to the front of properties, clearly visible from the street scene and designed with pitched roofs. The overall bulk and mass of the proposed garages would be reflective of the design of the existing garage blocks found in Parkway Gardens. In addition, the proposed garages would not be unduly visible from Parkway which is of a unique architectural heritage where its character and appearance should be respected. Subsequently it is considered that on this basis no objections are raised in this regard.

8.27 In addition to the above, Policy D1 of the District Plan together with the Council’s Supplementary Design Guidance makes it clear that all new residential developments should provide adequate private gardens. The Council has no specific standards, however the guidance states that gardens should be functional and useable in terms of their width, depth, shape and orientation. The need for acceptable standards of private outdoor amenity space is also highlighted in national planning policy, PPS3, Housing, as part of the aim of achieving high quality in housing developments.

8.28 In this instance, all the proposed residential units would have rear gardens which would have a depth similar to those found in Parkway Gardens. Although the depth of gardens along the Parkway frontage that would adjoin the boundaries of the site would have greater depths, which would be visible when travelling along Parkway and Parkway Gardens which would be more reflective of the garden depths of properties along Parkway. Subsequently, on balance, no objections are raised in this regard to PPS3, Policy D1 and the Council’s supplementary design guidance. However, it is considered that due to the garden depths and the location of the development along Parkway, permitted development rights shall be removed from the properties within classes A to E of the GDPO to ensure that any further development does not appear unduly prominent on the site and to ensure that any alterations or extensions to the properties which are visible from Parkway are reflective of the garden city.

8.29 Overall the development is reflective of development within the locality and has a consistent rhythm and appearance. Whilst the development has a higher density than on the opposite side of Parkway, it is considered that the proposed development would retain space to the boundaries and between the rows of terrace properties to reflect the more spacious character of this part of Parkway. The resulting bulk and scale of the development that would front onto Parkway would maintain the character and appearance of this part of Parkway and would be comparable to the spacious character of the surrounding area and the retention of the existing hedge along the frontage would help to maintain the ethos of the garden city. The proposed development to the rear would be acceptable. It is considered that overall the scheme would be adequately compatible with the maintenance of the character and context of the area. In this respect, no objections are raised with regard to PPS1, PPS3 and Policies GBSP2, H6, D1 and D2 and the Supplementary Design Guidance, Statement of Council Policy.

3. Impact of the proposal on the residential amenity of neighbouring residents

8.30 Policy D1 of the District Plan applies which seeks to provide a good standard of design in all new development. The Council’s Supplementary Planning Guidance supplements Policy D1 and expects that development should not
cause loss of light or be unduly dominant from adjoining properties, as a result of either the length of projection, the height or the proximity of the development. In addition, the Council expect that all new residential development should be designed, orientated and positioned in such a way to minimise overlooking between dwellings.

8.31 The proposed dwellings sited along the frontage with Parkway would be a sufficient distance from other nearby dwellings and buildings to cause no detrimental impact to the residential amenity that they currently enjoy.

8.32 With regard to the proposed semi detached properties positioned to the rear of the site, these would be sited adjacent to the boundary with No. 1 Parkway Gardens. This property has secondary windows in the side flank elevation at ground and first floor. The proposed development would be sited alongside this boundary with a separation distance of about 3m from this side flank elevation of No. 1. Therefore, whilst there would be an impact to these windows, these windows serve secondary rooms and therefore no objections are raised. However, the proposed semi detached dwellings would be set back from the front elevation of No. 1 Parkway Gardens and would project past its rear elevation by about 2m. It is considered that given the limited projection past the rear elevation of No. 1 and the distance between the properties, there would be no significant overbearing impact caused to the occupiers of this property. In addition, with regard to light, any loss would be minimal.

8.33 With regard to the health centre to the rear of the site, the rear elevation of the proposed semi detached properties would be about 27m from the rear elevation of the health centre. This is considered to be a sufficient distance to cause no undue detrimental impact in terms of an overbearing impact or a loss of light.

8.34 Turning to privacy and the impact of the development on the existing dwellings the proposed development along Parkway would look towards the rear garden of No. 1 Parkway Gardens. However, the proposed dwellings would be situated about 34m from the boundary of the application site with No. 1. It is considered that the distance between these windows and the rear garden area of No. 1 Parkway Gardens, together with other gardens on this side of Parkway Gardens, would be a sufficient distance to prevent a loss any loss of privacy to the occupiers of these properties. With regard to the semi detached properties and their impact on the existing properties in Parkway Gardens, they would have an oblique view into the rear gardens of those properties and it is considered that they would cause no further loss of privacy than the existing properties in Parkway Garden which also have an oblique view into their gardens. In addition, first floor side windows are proposed which would face towards the side flank elevation of No.1 which does have existing first floor windows. The proposed windows would serve secondary rooms and would be obscure glazed. It is therefore considered that there would be no loss of privacy to No.1. Therefore it is concluded that the proposed window positions would not lead to a loss of privacy to neighbouring properties in Parkway Gardens.

8.35 Turning to the relationship of the proposed dwellings to other proposed dwellings, the layout and positioning of the development would result the semi detached properties being about 18.5m from the rear elevations of the properties fronting Parkway. This is considered to be a satisfactory distance to
cause no undue loss of light or an unacceptable overbearing or dominant impact or cause any undue loss of privacy into rear gardens.

8.36 Furthermore, windows are proposed in the side elevations of the semi detached property at first floor, which would look towards the private rear garden areas of those properties fronting Parkway. These windows would serve a bathroom and Ensuite and would be glazed with obscure glass. Consequently it is considered that given the distance to the garden areas of the properties along Parkway and the rooms that they would serve, no objections are raised with regard to a loss of privacy.

8.37 Therefore, it is concluded that the proposed development would not give rise to an unacceptable loss of residential amenity to the living conditions of existing properties. In addition, the proposed layout of the development would ensure a satisfactory standard of residential amenity was provided for the future occupants.

4. Highway safety and parking

8.38 The application site lies within zone 3 of the Welwyn Hatfield District Plan supplementary design guidance for parking standards 2004, which requires three bedrooms dwellings to provide 2.25 parking spaces. The proposed development therefore requires 22.5 parking spaces to be provided on the site for the proposed development.

8.39 There would be an allocation of 22 parking spaces through parking bays spread across the rear of the site and garaging, which would be a deficit of 0.5 spaces. The maximum standard has not been reached. In addition, it is considered that given the location of the site which is close to the centre of Welwyn Garden City, the deficit of 0.5 spaces, would not be detrimental to the safe and efficient operation of the highway to an extent that would warrant refusal.

8.40 With regard to the parking layout, some spaces, namely those adjacent to the eastern boundary of the site, where the submitted plan refers to them as Nos. 2 and 4, would be quite tight to get into and would involve some manoeuvring. However Manual for Streets states that ‘where space is limited it may not be possible to provide for vehicles to get into the spaces in one movement. Some back and fore manoeuvring may be required. This is likely to be acceptable where traffic volumes and speeds are low’. Therefore, given that the area to the rear would serve only the proposed development and that it would be possible to enter these spaces with some manoeuvring, that there is 6m between these spaces and the proposed visitor spaces to the rear, and that the space to the eastern boundary of the site is larger, it is considered that these space would be able to be accessed and therefore no objections are raised in this regard.

8.41 Turning to cycle parking, the Council’s Supplementary Planning Guidance parking Standards requires that cycle parking is required where no garage or shed is provided. In this instance, all properties would be provided with a garage and therefore no objections are raised in this regard.

8.42 The applicant has submitted a S106 agreement to include a sustainable highways contribution of £11,250 in accordance with policies M4 and IM2 of the District Plan.
In conclusion it is considered that subject to appropriate conditions, the proposed development would provide an adequate level of parking and there would be no detrimental impact to highway safety.

5. Landscaping

Policies D8 and R17 of the District Plan apply which seek to maintain and protect existing landscaping. The application site has mature landscaping surrounding it with mature trees along Parkway and to the north of the application site. The tree survey submitted identifies sixteen individual trees on or adjacent to the site which have the potential to be impact by the development proposals. The report submitted demonstrates that the trees will be protected during the demolition and construction of the development. It is considered that as long as the tree protection measures within the report are implicated the impact upon the trees should be minimal. Therefore if approval was granted this would be conditioned.

With regard to the proposed landscaping scheme, the existing hedge along the front of the site would be retained with a hedge proposed along the boundary with Parkway Gardens. In addition shrub planting is proposed within the area to the rear. This is considered to help this part of the garden city to retain its unique character and the ethos of the garden city. Subsequently, no objections are raised with regard to Policies D8 and R17 of the District Plan. However, a note to the applicant should be placed on any permission given referring to the trees outside the site and that permission should be sought from the owner.

6. Protected Species

The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

>a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions."

The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- "Deliberate capture or killing or injuring of an EPS"
• “Deliberate taking or destroying of EPS eggs”
• “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –

(a) to impair their ability –
   (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
   (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

(b) to affect significantly the local distribution or abundance of the species to which they belong

• “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
  o e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  o e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  o e.g. dormice nest (breeding site or resting place (where it hibernates)

8.50 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

8.51 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should;

   a) Consider whether an offence to an EPS is likely to be committed by the development proposal
   b) the answer is yes, consider whether the three “derogation” tests will be met.

8.52 Two bat surveys were conducted in 2008 and 2010. Both surveys found no evidence of bats roosting at the building. However, both surveys did find suitable access points for bats in the fabric of the building. Therefore it is possible that bats could take up residents. Natural England considers further work is required and if this is not undertaken then permission should be refused. However, HBRC have not objected and consider that development should proceed with caution with appropriate conditions to this effect on any permission, it is unlikely that a EPS offence will occur and it is therefore not necessary to consider the Conservation Regulations 2010 further

7. Developer Contributions
As outlined above a sustainable highways contribution has been requested of £11,250, in accordance with policies M4 and IM2 of the District Plan. In addition, Hertfordshire County Council have sought contributions towards, primary education, secondary education, nursery education, libraries, childcare and youth together with the provision of fire hydrants. A S106 agreement has been submitted with these agreed amounts and therefore the development complies with Policies M4 and IM2 of the District Plan.

8. Archaeology

An Archaeological Desk based Assessment has been produced where Hertfordshire County Council Archaeology consider that the proposed development is likely to have an impact on heritage assets. No concerns have been raised in this regard subject to the inclusion of two conditions on any permission and therefore no objections are raised with regard to Policy R29.

9. Sustainable Development

The applicant has completed the sustainability checklist in accordance with Policy R3 of the District Plan and SD1 of the Supplementary Design Guidance. This includes that the land is previously developed, that pollution would be minimised, water resources would be managed by using local sources for the water supply and disposal of waste and prevent pollution of ground and surface water and minimise water consumption, would be energy efficient, would manage waste, protect habitats and species, contribute to the economy and so forth. It is considered that these measures would be sufficient to achieve a sustainable development and no objections are raised with regard to Policy R3 of the Welwyn Hatfield District Plan statement of council policy 2005.

10. Noise

Policy R19 of the Welwyn Hatfield District Plan is relevant and states that proposals will be refused if the development is likely to generate unacceptable noise or vibration for other land uses or to be affected by unacceptable noise or vibration form other land uses. Furthermore, Policy D1 of the District Plan states that the Council will require the standard of design in all new development to be of a high quality.

The main source of noise for the development is from Parkway, however due to the type of road, level of usage and the speed limit this is not excessive. It is considered that acceptable levels would be within the dwellings and the proposed development will act as a barrier and therefore acceptable levels will be achieved within the rear gardens and therefore no objections are raised with regard to policies R19 and D1. The Council’s Environmental Health department have not raised any objection to the development but have recommended conditions with regard to the working hours for its demolition and construction.

11. Lifetime Homes

Policy H10 of the Welwyn Hatfield District Plan 2005 requires developers to provide a proportion of dwellings to lifetime home standards. Lifetime homes are those which allow for the changing needs of occupants over time i.e. they can accommodate the majority of adaptations with maximum ease at minimum costs. They can accommodate people with moderate disabilities.
The applicant confirms that plots 9 and 10 will be designed to a Lifetime Homes standard and that all users will have convenient access to all buildings along with Part M compliance entrance doors and so forth. This would comply with this policy and no objections are raised.

12. Other Material Considerations

8.60 East of England Plan 2008: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds;

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

- He failed to consider the likely environmental effects of revoking Regional Strategies

8.61 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. The policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

8.62 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

8.63 Waste Management: Hertfordshire County Council Waste department have responded to the consultation. The buildings on the site will be demolished as part of this development. It would be reasonable in accordance with the County Waste Local Plan to request that other materials are recycled and re-used as appropriate. Accordingly, a condition is suggested.

9 Conclusion

9.1 The application site forms an appropriate site for residential development, would appropriately maintain the character and appearance of the surrounding area, would be of an appropriate density, layout and design. Furthermore, the proposed development would maintain the residential amenity that adjoining dwellings and properties currently enjoy and the proposed layout and existing surrounding uses would not give rise to a detrimental impact to the future occupiers of these properties. In addition the proposal would not have a detrimental impact on highway safety, landscaping, waste management, wildlife, archaeology, residential amenity or potential contaminated land to an extent that would justify the refusal of the application on these grounds.

9.2 With regard to the contributions requested, a S106 agreement has been submitted with the requested amounts and meets the aims of policies M14 and IM2 of the District plan.

10 Recommendation
10.1 It is recommended that the planning application is approved subject to the following conditions:

Conditions

1. Time limit for commencement of development - The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
   REASON: In order to comply with Section 91 of the Town and Country Planning Act (As amended)

   REASON: To ensure that the development is carried out in accordance with the approved drawings and any changes must be agreed in advance in writing by the Local Planning Authority.

Pre Development

3. C.5.1 Notwithstanding the details within the approved application, Samples of Materials to be submitted and agreed
   REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005.

4. C.4.1: In addition to the approved landscaping plan, a further scheme of Landscaping to be Submitted and Agreed;
   (a) boundary treatments for rear gardens and the northern boundary of the application site which adjoins the Health Centre;
   (b) the northern boundary of the site shall include a Hornbeam hedge planted to a minimum height of 1.5m which shall be two staggered rows 600mm apart with hedge plants at 900crs which shall help to obscure any boundary treatment from Parkway required by part (a) of this condition;
   (c) notwithstanding the details within the approved application, details of hard surfacing;
   (d) notwithstanding the details within the approved application the height of the hedge planting along the Parkway Gardens boundary shall be hornbeam only and a minimum of 1.5m in height when planted and retained as such;
   (e) details of the locations of the proposed ground cover;
   (e) clarification of shrub planting aa
   (f) clarification that the front and rear garden of properties are to be grass;
   (g) notwithstanding the details on the approved landscaping scheme the proposed Skimmia Japinica Foreenmanii to the front of plots 1 and 8 shall be altered to for example Hebe, Red Edge; and
(h) the height and design of the brick screen wall along the boundary with Parkway Gardens and all gates and railings.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

5. No development shall commence place until details in respect of the management of waste have been submitted to and approved in writing by the Local Planning Authority. Subsequently, the development shall not take place other than in accordance with the approved strategy unless otherwise agreed in writing by the Local Planning Authority

REASON: In order to ensure a satisfactory form of development in compliance with Policy R7 of the Welwyn Hatfield District Plan 2005.

6. No development shall take place on the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions; and:
   1. The programme and methodology of site investigation and recording
   2. The programme for post investigation assessment
   3. Provision to be made for analysis of the site investigation and recording
   4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
   5. Provision to be made for archive deposition of the analysis and records of the site investigation
   6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Subsequently the development shall not take place other than in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: To enable the inspection of the site by qualified persons for the investigation of archaeological remains in accordance with PPS5 and Policy R29 of the Welwyn Hatfield District Plan 2005.

7. No development shall commence until details indicating the drainage works exact position and course, manufacturer's specifications, type and discharge of final effluent are submitted to and agreed in writing by the local planning authority. Thereafter the approved scheme shall be installed and maintained in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

REASON: To protect the surrounding environment from pollution in accordance with Policy R7 of the Welwyn Hatfield District Plan 2005.

8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be
adhered to throughout the construction period. The Statement shall provide for:

i. the parking of vehicles of site operatives and visitors
ii. loading and unloading of plant and materials
iii. storage of plant and materials used in constructing the development
iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
v. wheel washing facilities
vi. measures to control the emission of dust and dirt during construction

**REASON:** To ensure satisfactory provision to protect the residential amenity of adjoining occupiers and highway safety in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

9. No development shall commence until details of any external lighting to be erected within the site have been submitted to the Local Planning Authority for its prior written approval. Subsequently the development shall not be carried out other than in accordance with the approved detailed unless otherwise agreed in writing by the Local Planning Authority.

**REASON:** To avoid any potential for light pollution, in the interests of visual amenity in accordance with policies R20 and D1 of the Welwyn Hatfield District Plan 2005.

10. No development shall commence until details of existing and proposed ground levels, finished floor levels of the dwellings permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and completed thereafter in accordance with the approved details.

**REASON:** In the interests of the character of the area and amenity of occupiers in accordance with policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

11. No equipment, machinery or materials shall be brought onto the site for the purposes of the development until the measures for tree protection as detailed within the Arboricultural Report by ADAS (Robert Davidson) dated June 2011 have been implemented and retained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance within this condition and the ground levels within those areas shall not be altered nor shall any excavation be made without the written consent of the Local Planning Authority. No fires shall be lit within 20 metres of the retained trees and shrubs.

**REASON:** The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policies D8 and R17 of the Welwyn Hatfield District Plan 2005.

12. Prior to the commencement of development the remediation scheme as detailed within the submitted Geotechnical and Geoenvironmental Report from Stats dated November 2007 must be carried out in accordance with its terms unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification
report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the local planning authority.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared which will be subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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 others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

13. No development shall commence until detailed drawings (elevations and cross sections) of the bay windows, brick arches over the windows, door openings, door cases/surrounds, chimney stacks, enclosure railings and dormer windows showing their detailing have been submitted to and approved by the Local Planning Authority in writing. Subsequently the development shall not be carried out other than in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure a satisfactory standard of development in the interest of visual amenity in accordance with PPS1, PPS3, PPS5 and policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005.

Pre-Occupation

14. The development shall not be occupied until the archaeological investigation and post investigation assessment has been completed in accordance with the programmes set out in the Archaeological Written Scheme of Investigation approved under condition 6 and the provision made for analysis.

REASON: To enable the inspection of the site by qualified proposal for the investigation of archaeological remains in accordance with PPS5 and Policy R29 of the Welwyn Hatfield District Plan 2005.

15. The area set aside for car parking shall be laid out and surfaced in accordance with Drawing No. PWAY/AAA/0010, before any of the residential units permitted are first occupied and shall be retained permanently thereafter for the accommodation of residents/occupiers and shall not be used for any other purpose.

REASON: To ensure that the spaces are provided prior to the occupation of the units in the interests of highway safety and in accordance with PPG13 and Policy M14 of the Welwyn Hatfield District plan 2005.

16. Before first occupation of the approved development, the proposed new access onto Parkway Gardens and the closure of the existing access as
shown in principle on drawing PWAY/AAA/0010 shall be completed and constructed to the specification of the Highway Authority and Local Planning Authority’s satisfaction. Subsequently the development shall not be carried out other in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. 
Reason: To ensure that the access is constructed to the current Highway Authority’s specification as required by the Local Planning Authority and to comply with PPG13.

17. Concurrent with the construction of the access, visibility splays of 2.4m x Parkway Gardens shall be provided and permanently maintained within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level. 
Reason: To provide adequate visibility for drivers entering or leaving the site in accordance with PPG13.

18. Before first occupation of the development, Plots 9 and 10 shall be built to Lifetime Homes Standard unless otherwise agreed in writing by the Local Planning Authority. 
Reason: To provide accessible housing to meet the requirements of Policy H10 of the Welwyn Hatfield District Plan 2005.

Post Development

19. C.4.2: Implementation of landscaping Planting
Reason: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with policy D8 of the Welwyn Hatfield district Plan 2005.

20. C.6.1 Control over Permitted Development Rights – excluding Classes A - E
Reason: To enable the Local planning Authority to fully consider the effects of development permitted by that order in the interest of residential and visual amenity in accordance with policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

21. C.6.8 – Excluding conversion of garages

22. C.6.6 – Excluding fences and walls without further permission

23. C.7.10 – Avoidance of overlooking – plots 4 and 5, 9 and 10

24. The first floor side windows in Plots 9 and 10 shall be glazed with obscured glass and shall be top hung opening only and shall be retained in that form thereafter. 
Reason: The protect the residential amenities of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

25. No unbound material shall be used on the proposed access within 20 metres of the highway boundary.
Reason: To prevent the tracking out of materials onto the highway in the interests of highway safety in accordance with PPG13.
INFORMATIVES:

1. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments" and by a contractor who is authorised to work in the public highway. Before proceeding with the proposed development, the applicant should contact the Mid West Hertfordshire Area Office (01727 816025) to obtain their permission and requirements.

2. The applicant is advised that if it is the intention to request the Hertfordshire County Council as Local Highway Authority, to adopt the proposed highways as maintainable at the public expense then the application should contact Mid West Hertfordshire Area Office to discuss the technical and legal requirements. No development shall commence until the details have been approved in writing and an Agreement made under Section 38 of the Highways Act 1980 is in place.

3. As from 6th April 2008 a site waste management plan is required by law for all construction projects that are worth more than £300,000. This aim is to reduce the amount of waste produced on site and should contain information including types of waste removed from the site and where that waste is being taken. Projects over £500,000 may require further information. However a good practice template can be found at www.smartwaste.co.uk or www.wrap.org.uk/construction/toolsandguidance/sitewastemanagementplanning/index.html. For further information on this, please contact Hertfordshire County Council on 01992 556254.

4. With regard to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Connections are not permitted for the removal of ground water. Were the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. The can be contact on 0845 850 2777.

5. Development work should proceed with caution. In the event of bats being found, work must stop immediately and Natural England informed; telephone 010206 796666

6. With regard to condition 4, the Local Planning Authority would expect that the hardstanding to the rear of the site consists of bound material with granite setts which would enhance the Central Welwyn Garden City Conservation Area.

7. With regard to condition 3, the Local Planning Authority would expect that the roof tile was a handmade clay tile.

8. The applicant is advised to look at the comments received from the Council’s Environmental Health comments who give some general guidance on demolition and construction site noise for information. This is available to be viewed on the Council’s website, www.welhat.gov.uk.
9. If any trees outside the application site are required to be chopped or lopped as a result of the development, then the applicant is advised that permission should be sought from the owner and Local Planning Authority before works commence.

10. INF6 Street Numbering

11. INF7 Party Wall Act

12. INF11 Damage to Grass Verges

13. INF 12 Pre-commencement conditions

**SUMMARY OF REASON FOR APPROVAL:**

The proposal has been considered against PPS1, PPS3, PPS5, PPS9, PPS10, PPG13, PPS23, PPG24, and the east of England Plan SS1, SS2, T14, ENV6, ENV7, policies SD1, GBSP2, R2, R3, R4, R5, R7, R11, R15, R17, R19, R29, M1, M2, M4, M5, M6, M8, M14, IM2, D1, D2, D3, D4, D5, D6, D7, D8, D9, D11, D12, H1, H6, H10, of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the Development Plan (see Officer's report which can be inspected at these offices).

Sarah Smith, Senior Planning Officer (Strategy and Development)
Date: 26 August 2011
1 Site Description

1.1 The application site comprises a former cinema building constructed probably in the inter war period and is located on the northern side of The Common, opposite the western section of the Asda car park. The frontage of the site has an Art deco design and forms a prominent feature to the centre of the parade.

1.2 The previous use of the site was as a bingo hall and social club, which ceased trading in March 2007. The unit is situated within a parade of shops that comprise of a mix of A1 (retail shops), A2 (financial and professional services), A3 (restaurants and cafes) and A5 (hot food take-away) units, however, it is located outside the primary retail core designation.

1.3 Part of this application site includes land to the rear of the bingo hall that splays in a T-formation towards Lemsford Road and to the rear of Meridian House. The closest residential properties adjoin to the northern boundary of the application site and front onto Stockbreach Road. Number 2 Lemsford Road is a residential property, which is sited adjacent to the site’s vehicular access.

1.4 The area to the rear of the site is accessed from Lemsford Road adjacent to No. 2 and from The Common through a narrow unmade access between No. 38 and Meridian House.

1.5 The site backs onto residential gardens to the properties on Stockbreach Road and Lemsford Road. There are existing flats above the adjacent retail units on The Common, which have access to the rear. Several of the adjacent retail units have extensions and outbuildings to the rear.

2 The Proposal

2.1 The proposal seeks full planning permission for the following development:
Demolition of the existing former bingo hall building, which has a frontage at 46 The Common.

The erection of a building replacing 46 The Common, which would be part three storey and part four storey. The front of this building would accommodate two units which would have A1/A2 use and student accommodation to the rear. This building has been labelled as block A within the application plans.

Block A would approximately measure 17.6m in width to the frontage and 14m in width to the rear, with a maximum depth of 42m. Block A would have a communal lounge and laundry room at ground floor level. On the fourth storey there would be an enclosed gymnasium to the front of the building. Within block A the accommodation would provide 72 bedrooms within the following types:

- 4 × twin study bedrooms (where two students would share kitchen and bathroom facilities)
- 2 × 3 bed cluster units (where 3 bedrooms have ensuite bathrooms and shared kitchen and living room facilities).
- 4 × 6 bed cluster units (where 6 bedrooms have ensuite bathrooms and shared kitchen and living room facilities).
- 2 × 8 bed cluster units (where 8 bedrooms have ensuite bathrooms and shared kitchen and living room facilities).

A three storey detached block would be built to the north western corner of the site. This development would approximately measure 12.2m in width by 24.6m in depth. This building has been labelled block B on the application plans. Within block B the accommodation would provided 39 bedrooms within the following types:

- 9 × twin study bedrooms (where two students would share kitchen and bathroom facilities)
- 3 × 3 bed cluster units (where 3 bedrooms have ensuite bathrooms and shared kitchen and living room facilities).
- 3 × 4 bed cluster units (where 6 bedrooms have ensuite bathrooms and shared kitchen and living room facilities).

2.2 The accesses to the rear of the site would be rearranged so that Lemsford Road would allow vehicular access and have a pedestrian gate. One of the commercial units has been labelled as a student shop and would provide a link into block A.

2.3 Access to the rear of the numbers 38-44 The Common would be maintained between number 38 The Common and Meridian House. Numbers 48-54 The Common would have access to the rear though the gated entrance shared with the application site off Lemsford Road.

3 **Planning History**

3.1 S6/2011/3088/OP – Outline Planning Application for proposed mixed use development comprising 52 student rooms incorporating 104 study bedrooms within two buildings and 107sq.m of A1 commercial space in 2 units with associated on-site parking, pedestrian access, refuse and cycle storage and vehicle turning head following demolition of redundant bingo hall and associated parking facilities accessed off Lemsford Road – Approved 11/05/2011.

This application was subsequently allowed on appeal.

3.3 S6/2009/2496/PA - Proposed mixed used development of 157sqm commercial floorspace (A1/A2) and 72 student units within 2 buildings new buildings, with 22 parking spaces served by access road, refuse, cycle stores, vehicular turning head and landscaping, following demolition of redundant bingo hall – Several concerns raised within pre-application response. Concerns included management of the site, design of building, legal agreement, sunlight and daylight assessment among other issues. 12/2/2010

3.4 S6/2008/2484/MA – Proposed mixed use development of commercial retail floorspace 147 sq. metres. (A1/A2) and private residential accommodation comprising of 24 residential units within 2 new buildings, with associated onsite parking, refuse & cycle storage, vehicle turning head and landscaping following demolition of redundant bingo hall and associated parking facilities accessed of Lemsford Road – Approved 26/3/2009.

3.5 S6/2006/1543/FP – Proposed demolition of existing bingo hall and erection of one 3 storey front block comprising of three ground floor shop units, two 2 bedroom flats, two studio flats at first floor and second floor level, and two rear 3 storey blocks comprising of twelve 2 bedroom flats and three 1 bedroom flats, with associated parking and landscaping – Refused 14/2/2007.


3.7 S6/2001/541/FP – demolition of existing cinema and erection of two three storey buildings to provide small business units, car parking and landscaping (renewal of consent S6/1996/286/FP) – Approved 17/9/01.

3.8 S6/286/96/FP – demolition of existing cinema, erection of two three storey buildings to provide small business units, car parking and landscaping. (Renewal of consent S6/0436/89/FP) – Approved 5/7/96.

3.9 S6/436/89/FP – Demolition of former cinema, erection of 2 three storey buildings to provide small business units (Class B1) with three Class A1 or A2 units on the ground floor, car parking and landscaping – Approved 5/6/91.

4 Planning Policy

4.1 National Planning Policy

PPS1: Delivering Sustainable Development
PPS3: Housing
PPS4: Planning for Sustainable Economic Growth
PPS9: Biodiversity and Geological Conservation
PPS10: Planning for Sustainable Waste Management
PPG13: Transport
PPG14: Development on Unstable Land
PPS22: Renewable energy
4.2 **Hertfordshire County Council Waste Local Plan 1999**

Policy 3: Waste minimisation and New Developments  
Policy 7: Re-use of Waste Arising from New Developments  
Policy 8: Use of Recycled Materials in New Developments  
Policy 11: Major Developments and Waste Recycling

4.3 **Welwyn Hatfield District Plan 2005**

SD1: Sustainable Development  
GBSP2: Towns and specified settlements  
R1: Maximising the Use of Previously Developed Lane  
R2: Contaminated Land  
R3: Energy Efficiency  
R5: Waste Management  
R7: Protection of Ground and Surface Water  
R17: Trees, Woodland and Hedgerows  
R19: Noise and Vibration Pollution  
R20: Light Pollution  
M1: Integrating Transport and Land Use  
M2: Transport Assessments  
M3: Green Travel Plans  
M4: Developer Contributions  
M5: Pedestrian Facilities  
M14: Parking Standards for New Development  
D1: Quality of design  
D2: Character and context  
D3: Continuity and Enclosure  
D5: Design for movement  
D6: Legibility  
D7: Safety by Design  
D8: Landscaping  
D9: Access and Design for people with disabilities  
D11: Design Statements  
IM2: Planning Obligations  
EMP12: University of Hertfordshire  
TCR25: Small Neighbourhood Centres

4.4 **Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005**

4.5 **Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004**

5 **Constraints**

5.1 The site lies within Hatfield Town Centre as designated in the Welwyn Hatfield District Plan 2005.

6 **Representations Received**
6.1 This application was advertised by neighbour notifications and site and press notices. 4 representations were received from residents in Lemsford Road, The Common and Willow Way.

6.2 The following points were raised:

- The existing Art deco frontage, main building and some of the existing features should be retained;
- The bingo hall building should be retained as a leisure facility;
- The proposal would be overdevelopment;
- The site would have insufficient car parking space;
- The use of the proposed units onto The Common should not compete with the existing shops.
- Concern was raised over whether the adjacent shops would have parking space to the rear of The Common.
- The proposed development obstructing a right of way for the occupiers of the units on The Common.
- The proposal obstructing parking spaces to the rear of the adjacent shop.
- The maintenance of the site party wall.

7 Consultations Received

7.1 Hertfordshire County Council (Transportation Planning and Policy) – Do not wish to restrict the grant of planning permission subject to conditions and the completion of a Section 106 Agreement between the applicants, Welwyn Hatfield Borough Council and Hertfordshire County Council to secure the following:

1. The building shall only be occupied by University of Hertfordshire Students
2. A car parking management plan giving details of how car parking on the site will be managed and controlled.
3. A financial contribution of £22,250 towards sustainable transport measures including passenger transport infrastructure improvements.

7.2 The following conditions were suggested:

1. Prior to the occupation of any part of the development the following items shall be completed in accordance with the details shown on approved drawing 110147 – 300A (a) the new access to Lemsford Road; (b) the car parking spaces; (c) the facilities for cycle storage. Thereafter, these items shall be permanently retained as approved and kept available for the purposes shown on the said plan.

   Reason: To ensure that the spaces are provide prior to the occupation of the units in the interests of highway safety and sustainable travel in accordance with Planning Policy Guidance Note 13: Transport.

2. C.8.20 –The cycle parking provision shall be provided in accordance with the requirements of the Welwyn Hatfield District Plan Review Supplementary Planning Guidance, Parking Standards 2004, details of which shall be submitted to and agreed in writing by the local planning authority prior to the commencement of the development. Subsequently the cycle parking shall be provided in accordance with the approved details unless otherwise agreed in writing by the local planning authority.
REASON: To ensure a satisfactory standard of cycle parking provision in accordance with Policy M6 of the Welwyn Hatfield District Plan 2005

7.3 It was recommended the following advisory notes are included to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980.

7.4 To ensure that work undertaken on the highway is constructed to the current Highway Authority’s specification, to an appropriate standard and by a contractor who is authorised to work in the public highway. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact the Mid West Hertfordshire Area Office (01727 816025) to obtain their permission and requirements.

7.5 Road deposits. Best practical means shall be taken at all times to ensure that all vehicles leaving the development 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. To minimise the impact of construction vehicles and to improve the amenity of the local area.

7.6 Comments: The proposal is a full application for the construction of 33 student units housing 111 students and two retails units. The site has outline planning permission for a similar development under planning permission S6/2010/3088/OP. The application scheme is similar to the scheme granted outline permission with some changes to the internal parking layout and location of cycle parking. The application is accompanied by a draft UU covering a sustainable transport contribution, a car parking management scheme, use of the building by University of Hertfordshire students and a Green Travel Plan.

7.7 The changes between this scheme and the approved outline scheme which could have an impact on the highway are the revised parking layout. The previous layout incorporated a turning head which would allow service vehicles to the student accommodation to serve the properties from the rear access and enter and leave the site in a forward gear. This turning head has now been removed from the scheme which would result in service vehicles not being able to turn within the site and having to reverse in or out from Lemsford Road. Lemsford Road is designated as a local distributor road. Provision has been made for refuse collection and this would reduce the number of service vehicles to the site to occasional deliveries. The highway authority would find it difficult to sustain an objection to the loss of this turning head.

7.8 The value of the sustainable transport was discussed during the previous appeal on this site and the Inspector concluded that it was appropriate for this development. I therefore consider that the sustainable transport contribution should remain as previously agreed at £22,250. The highway authority’s previous concerns regarding the level of parking are addressed through the Unilateral Undertaking which limits occupation to University of Hertfordshire students.

7.9 It is proposed to provide cycle parking for 60 cycles which equates to one space for every 2 students.
7.10 A Green Travel Plan was submitted and was assessed by The County Council’s Sustainable Travel Adviser. The travel plan was not considered to be acceptable in its current form. Suggestions have been made and at the time of writing this report the applicant was amending the document.

7.11 **Hertfordshire County Council Archaeology** – The comments detailed that in a letter dated 5/1/09, it was recommended that an archaeological condition be added if planning consent is granted for application S6/2008/2484/FP. An archaeological condition was also attached to permission S6/2010/1206/MA.

7.12 To date in connection with the process of discharging condition 6 (archaeology) for application S6/2010/1206/MA. The County Archaeologist understands that the applicant has completed an archaeological trial trench evaluation of the site and has undertaken a historic buildings survey. However as the County have not yet received any archaeological reports, they cannot advise you if further archaeological work is necessary, if any publication of the results is required or therefore if the archaeological condition for that application be discharged. Therefore conditions should be placed on any permission requesting an archaeological survey to be undertaken prior to development commencing and that the demolition of the building shall be undertaken in accordance with the Written Scheme of Investigation which will form part of the archaeological condition.

7.13 The proposed development is likely to have an impact on heritage assets, and it was recommend that the following provisions be made:

1. The archaeological recording of the standing structures in their present form, before any demolition/conversion/development commences. Furthermore, any original features/equipment to be altered, demolished, or removed as part of the proposed development should also be recorded. The resultant archive should then be deposited at an appropriate location in order to form a long-term record.

2. an archaeological evaluation of the proposed development site before and development commences.

3. Such appropriate mitigation measures indicated as necessary by that evaluation. This may include:
   a) the preservation of any remains in situ, if warranted,
   b) appropriate archaeological excavation of any remains before any development commences on the site, with provisions for subsequent analysis and publication of results,
   c) archaeological monitoring of the groundworks of the development (also including a contingency for the preservation or further investigation of any remains then encountered),
   d) and such other provisions as may be necessary to protect the archaeological interests of the site.

7.14 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 the policies included within Planning Policy Statement 5 (HE7, HE12 etc.) and the guidance contained in the Historic Environment Planning Practice Guide. 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 (based on model condition 55 DoE circ. 11/95):
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.

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

7.15 If planning consent is granted, The County Archaeologist will be able to provide a design brief detailing the requirements for the investigations and provide information on professionally accredited archaeological contractors who may be able to carry out the investigations.

7.16 Hertfordshire County Council (Mineral and Waste) – require the LPA to be mindful of promoting sustainable management of waste and that there is a duty to refer to polices in the HCC Waste Local Plan. Also that a site waste management plan is required by law for projects over £300,000.

7.17 Welwyn Hatfield Environmental Health – Initially concerns were raised over odours from the adjoining A5/A3 outlets and noise and disturbance from the proposed development. However, these concerns were not upheld in the recent appeal that was allowed. Due to the similarities in the two schemes it would be unreasonable to reintroduce these issues. The Environmental Health Officer also raised concern over the maintenance of the bin store and commented on the proposed management scheme.

7.18 Welwyn Hatfield Council (Tree and Landscaping) – No objection (verbally updated).

7.19 Welwyn Hatfield Council (Strategic Housing) – Comments noted that although the room are an unusual shape they provide an acceptable amount of useable space. Concern was over whether the kitchen facilities provided sufficient space for an appropriate amount of facilities.

7.20 Hertfordshire Constabulary – Comments noted that the layout of the individual student rooms is of concern as it would be very difficult for the intended occupants to secure their valuables. Concern was raised over the safety and security of the individual rooms. The comments suggest that conditions are used to ensure that room doors meet a specific standard and are fitted with closers. It was recommended that each room is fitted with a lockable storage container to allow students to store their valuable items securely when they area away for
extended periods. It was also suggested that all ground floor windows are built to meet a security standard.

7.21 **Welwyn Hatfield Council (Contract Services)** – No comments received. The bin store would be in the same position as the recently approved scheme under reference S6/2011/3088/OP. Comments on this recent application noted that the bin and recycling storage appears to be within close proximity to number 2 Lemsford Road and an approval should include stipulations regarding its construction- i.e. noise reduction and smell reduction measures. The distance of the storage from block B might be a bit far. The storage appears to have a sufficient capacity and is well located in terms of collection.

7.22 **Environment Agency** – No comments received, the previous recent application S6/2010/1206/MA had no objection.

7.23 **Hertfordshire Fire & Rescue** – No comments received, a response from the previous recent application S6/2010/1206/MA suggested that the hardsurfacing is constructed to be sufficient for fire and rescue vehicles and that appropriate fire hydrants are provided.

8 **Town Council Representations**

8.1 Hatfield Town Council “objects to the application considering the proposal an over development of the site, out of character with neighbouring properties and the impact of car parking on the local area has not been fully addressed.”

9 **Discussion**

9.1 This application is presented to the Planning Control Committee because Hatfield Town Council raised an objection.

9.2 **The main issues to be considered are:**

1. The principle of the site’s redevelopment for student accommodation and the loss of a leisure facility
2. Design of the development and impact on the character and appearance of the site and surrounding area
3. Density and use
4. Impact upon the residential amenity of the adjoining occupiers
5. Highways and parking matters
6. Principle of the proposed commercial units fronting The Common
7. Bin and recycling provision
8. Planning Obligations - under Section 106 Town & County Planning Act 1990 (as amended) and related matters (including contributions)
9. Renewable energy and sustainability
10. Chalk mining
11. Surface water drainage & flood risk assessment
12. Archaeology
13. Other material planning considerations

1. **The principle of the site’s redevelopment for student accommodation and loss of a leisure facility**

9.3 The principle of redevelopment of the site has previously been established through the approval of applications prior to the current District Plan and the extant consent granted through application S6/2008/2484/MA. Furthermore,
consent has been granted through the appeal of application S6/2010/1206/MA being allowed and the approval of planning application S6/2010/3088/OP. In granting the previous applications, the Council accepted the loss of the Bingo Hall as a community facility as it was not considered to be a viable use. The Bingo Hall is vacant and has not been used for several years.

9.4 Considering the application recent planning approvals for the site are extant it is not considered necessary for the applicant to demonstrate that the vacant bingo hall is not viable as a leisure facility.

9.5 The recent appeal of planning application S6/2010/1206/MA has allowed a scheme which would accommodate more students within similar buildings to the current proposal. The site is located within zone one as designated by the parking standards of the Welwyn Hatfield District Plan 2005 and is considered to be very accessible to a range of shops, services and transport links. Both the College Lane and De Havilland University campuses can be accessed relatively easily from the application site.

9.6 The Inspector’s decision letter for the appeal of S6/2010/1206/MA noted that the site is in an accessible location, reasonably close to the facilities of the University of Hertfordshire Campus. Future occupiers would also be able to use open space and other leisure facilities within Hatfield.

2. Design of the development and impact on the character and appearance of the site and surrounding area

9.7 The proposed layout has been designed using a similar footprint to the buildings allowed on appeal within application S6/2010/1206/MA. The shape and size of the buildings has been altered slightly from this scheme and slightly fewer parking spaces would be provided. These alterations are improvements that would allow the buildings to have more of a setting within the site and give more space for soft landscaping. The buildings would have a similar appearance to the scheme allowed on appeal and would not be more cramped or prominent when viewed from the surrounding areas.

9.8 When considering the Inspector’s assessment of the appeal buildings, there was no objection to the overall size, design or the loss of the existing frontage. The proposed development would have no further harm upon the character and appearance of the locality.

9.9 Hatfield Town Council has objected to the proposal on the grounds of it being out of character with the neighbouring properties, however, the extant consents are a material consideration when determining this application. The amount of development would be very similar to the scheme approved at appeal and not have a noticeable greater impact. The appearance of the proposal and the appeal scheme would also have a very similar impact upon the character and appearance of the locality. Although different when compared to the design of the neighbouring properties this style of development has previously been agreed.

9.10 The frontage of the proposal to The Common is similar to the scheme approved on appeal. This frontage would replace the existing bingo hall entrance, which has been closed for some time and is now in a dilapidated state. The proposed new frontage would be an improvement to the character of the area and is considered to be acceptable.
An application was recently made to list the existing building as a building of special architectural or historic interest. However, English Heritage assessed the site and considered that the exterior treatment is functional and undistinguished and lacks the design quality to have special interest. The loss of the windows at the facade, and the interior seating, handrails to the stairs and projector fittings are significant alterations which diminish the interest of the building. Although some interior features of note survive, the decorative scheme is understated and lacks aesthetic distinction. Therefore, it was concluded that the building does not merit listing although its local significance should not be overlooked.

When considering the dilapidated state of the existing building and lack of a viable use that has been proposed which could retain the existing building, the benefits of redeveloping the site would outweigh the retention of the current building which does not have a certain future.

3. Density and use

The proposal would have a density of approximately 504 units per hectare, when each bedroom is counted as a unit. The proposed density is considered to be relatively high when compared to surrounding development within the area. But the application allowed at appeal has agreed a higher density of 540 units per hectare.

The proposal would comprise a gated development for students. As the habitable areas of the development would not directly adjoin the habitable areas of the adjacent existing residential properties, the proposal’s density would not be noticeable from the sensitive areas of the neighbouring properties. Due to students not using the units as permanent dwellings and the nature of a student use, a higher density than household residential development is considered to be acceptable.

The proposed rooms sizes and facilities are relatively compact, but are comparable to the development that was allowed on appeal and the application approved under reference S6/2010/3088/OP. The Inspector gave weight to the fact that the proposal would be designed to meet a national standard of accreditation for privately owned student accommodation and he accepted that proposed room sizes and communal facilities would be comparable with schemes in university towns elsewhere in the UK.

It has been noted that Hatfield Town Council consider the proposal would be an overdevelopment of the site. However, the existing approvals have allowed a high density student development on this site. As the proposal would be a reduction in the number of student bedrooms within buildings of a similar size, the proposal would be less compact. Therefore, the impact of the amount of development and resultant activity on the character and residential amenity of the locality would be no worse than the extant consent.

4. Impact upon the residential amenity of the adjoining occupiers

The proposed buildings would be sited similarly to those within the scheme allowed at appeal under reference S6/2010/1206/MA. The proposed development would have no greater impact upon the residential amenity of the adjoining occupiers than this extant scheme.
9.18 The distance separating the windows on block B and rear of the properties on Stockbreach Road is sufficient to ensure that the occupants would not suffer an adverse loss of privacy.

9.19 A gym would be sited to the front of the building on the top floor of block A. This area would be enclosed and the management scheme for the site could control the opening times to the communal areas to prevent an impact on the adjoining occupiers through noise and disturbance.

9.20 The proposed access arrangements would mean that pedestrians generally exit and enter the site away from the adjacent properties. Some pedestrians would exit on to The Common and any increase in activity to this area would not have an adverse impact upon the character of the locality. Additional pedestrians on The Common would add to the vibrancy of the shopping area. The habitable areas of the properties on Lemsford Road and Stockbreach Road are sited a sufficient distance from the proposed buildings and communal amenity areas to ensure that the volume of students would not result in a detrimental impact upon the character of the area. Due to the limited amount of onsite parking provision, the additional activity of vehicular movements would not have an adverse impact upon the character of Lemsford Road.

9.21 The Inspector gave weight to the fact that the development would be fully managed and involves the students signing tenancy agreements. These provisions would prevent the activities of the site creating an unacceptable impact upon the surrounding area. Therefore, although the density of the proposal would be high, the controlled operation of the site would prevent an adverse impact upon the character of the locality.

5. Highway safety and parking

9.22 Hertfordshire County Council (Transport Planning and Policy) have assessed the application and not raised objection to the proposal. If approved conditions have been suggested and following requirements should be contained within an appropriate legal agreement:

1. The building shall only be occupied by University of Hertfordshire Students.
2. A car park management plan giving details of how car parking on site would be managed and controlled
3. A financial contribution of £22,250 towards sustainable transport measures including passenger transport infrastructure improvements.

9.23 Additionally, they have suggested conditions ensuring that the car parking spaces and cycle storage is provided and retained as illustrated within the application. It was also suggested that details of the cycle storage are submitted and agreed. The applicant has provided further detailed illustrations of the proposed cycle storage, which are considered to be acceptable.

9.24 The application site is approximately 250m from bus stops which serve the University campus. Although outside of normal accessibility criteria Hatfield Train Station is also accessed by nearby bus routes. When considering the site’s accessibility, it is possible that an appropriate Green Travel Plan could be produced for a development within this location. The Inspector allowed the scheme under reference S6/2010/1206/MA including a unilateral undertaking,
which would ensure that a green travel plan and parking management plan are submitted to and approved by the Council.

9.25 The proposal would include 18 parking spaces of a standard size and 2 spaces which would allow disabled access. Subject to the requirements of Hertfordshire County Council (Transport Planning and Policy), which would ensure management of parking and travel, the proposed provision of parking space is considered to be acceptable.

9.26 The proposed parking area would have 2 less standard sized spaces than the previously approved applications. The number of parking spaces has been calculated using the requirements for halls of residences from the Parking Standards of the Welwyn Hatfield District Plan 2005. Although the proposed development is not considered to form a hall of residence as it would be an independent off campus facility, the Inspector allowed the previous appeal which had used the same standards to determine the amount of parking spaces.

9.27 The applicant has submitted a unilateral undertaking, which is similar to the approved undertaking within appeal application and this is considered to be sufficient to manage the development in a way that would promote sustainable travel choices.

9.28 The proposal would include cycle storage space for 60 bicycles within the site. This would be a similar ratio of cycle parking spaces per bedroom as the scheme approved on appeal. When considering the similarities between the schemes the proposed cycle parking would be acceptable in this location.

9.29 The site layout has been altered to remove a turning head within the site and to alter the parking layout. Although the turning head would have made manoeuvring within the site more convenient, the proposed vehicular access would be relatively wide. Hertfordshire Highways (Transportation Planning and Policy) have noted that the proposed layout would prevent service vehicles from entering and leaving the site in a forward gear but it would be difficult to sustain an objection based on the loss of the turning head resulting in an impact on highway safety.

9.30 The proposed bin store would allow collection from Lemsford Road and not require refuse vehicles to enter the site, which would be an acceptable arrangement. On The Common to the front of the site there is a lay-by parking area which would allow general deliveries and short visits to access the site via the main entrance and student shop. This would be more appropriate than entering the controlled vehicular entrance as visitors would have to identify themselves on arrival. Therefore, the proposed layout is considered to be acceptable and would not have an adverse impact upon the safety of the surrounding highway network.

9.31 Access would be maintained to the rear of the neighbouring premises on The Common. Although the right of access to the rear of the neighbouring shops and parking space within the site for the neighbouring shops has been raised as an issue, these are civil matters for the applicant to address with the adjoining occupiers. The enclosure to the rear of the shops would not differ significantly from the scheme previously approved on appeal.

6. The principle commercial units fronting The Common
9.32 As existing the adjacent retail units contain a majority of A3 and A5 uses. Although these offer a service to the area, additional A1 or A2 units would diversify the uses and increase the number of visitors. The proposed student use is also likely to benefit from additional A1 units. The proposed uses would reflect the scheme approved on appeal and are considered to be acceptable. Furthermore, A1 and A2 units should not result in an adverse loss of residential amenity to the adjoining occupants of the existing and proposed properties.

9.33 One of the proposed retail units would be smaller than previously approved and has been labelled as a student shop. This unit would have access into block A and would provide an easily accessible shop, which could add to the provision of services required by future students. The entrance into block A through this shop would have to be controlled but this is the case with all of the entrances to the site. This would also provide an area for the site’s staff.

9.34 The replacement of the redundant bingo hall frontage would add to the vitality and viability of The Common and Hatfield Town Centre and would support the function of this group of shops as a small neighbourhood centre. Details of the access arrangement of all entrances to the site would have to be agreed within a site management plan, which would be ensured through the unilateral undertaking.

9.35 Concern was raised within a letter from a neighbouring occupier that the new shops could result in competition with the other shops on The Common. When considering the previous approval allows both use classes A1 (retail shops) and A2 (financial and professional services) within the proposed units, creation of new commercial premises has been established. Due to the different types of shops and services which fall within use classes A1 and A2, the units could have a similar use to the existing units on The Common. However, it would not be reasonable or possible to restrict the shop type from selling goods or operating in a way that would not compete with the neighbouring shops.

7. Bin and recycling provision

9.36 The application has proposed a refuse store sited close to the vehicular entrance of the site. This area is the same as the approval of application S6/2010/3088/OP, which has been assessed by the Council’s Client Services department who consider it to be an appropriate capacity and good siting for collections. Concern has been raised over the siting as it is adjacent to number 2 Lemsford Road and therefore there is a possibility of its use resulting in odours and noise to the adjacent occupiers.

9.37 However, the proposed refuse store has been illustrated to be brick built and fully enclosed. The adjacent parking would have a 2.1m high acoustic fence on the boundary with number 2 Lemsford Road. The management plan for the site could ensure that the bin storage is maintained, monitored and regularly cleaned. Provided the bin storage is regularly serviced and kept clean it would not have an adverse impact upon the residential amenity of the adjoining occupiers.

8. Planning Obligations - under Section 106 Town & County Planning Act 1990 (as amended) and related matters (including contributions)

9.38 Where a planning obligation is proposed for a development, The Community Infrastructure Levy Regulations 2010, which came into effect from 6 April 2010,
has introduced regulation 122 which provides limitations on the use of planning obligations.

9.39 In summary, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is –

(a) necessary to make the development acceptable in planning terms;

(b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

9.40 Regulation 123 introduces further limitations and these relate to the use of planning obligations for the purpose of infrastructure. Where a local authority has a published list for infrastructure projects, the authority may not seek contributions through an s106 legal agreement. In this case, the authority does not have a published list and therefore it is appropriate to seek contributions through an s106 legal agreement. This would be in accordance with policies M4 and IM2 of the Welwyn Hatfield District Plan 2005.

9.41 Hertfordshire County Council (Property) have in accordance with the "Planning Obligations Guidance - Toolkit for Hertfordshire" (Hertfordshire County Council's requirements) January 2008 not requested any financial contributions, other than contributions towards sustainable transport infrastructure.

9.42 At the time of writing this report a unilateral undertaking had been submitted, which used the previously agreed undertaking from the appeal of S6/2010/1206/MA as a template. Due to the similarities between the proposed scheme and the scheme approved at appeal this was considered to be acceptable. The undertaking would ensure the provision of the contributions towards sustainable transport infrastructure improvements. The undertaking would also be used to secure a management covenants and a plan for the site, occupation, parking management plan, green travel plan, highway works and fire hydrants.

9.43 The previous similar unilateral undertaking’s clauses had been assessed and agreed by the Inspector and the Council. The Inspector considered that the undertaking would provide a sufficient mechanism for the occupation of the site to be secured to only students from the University of Hertfordshire. Due to this scheme being implementable and accepted, the same provisions should be allowed for this application.

9. **Renewable energy and sustainability**

9.44 The applicant has submitted an energy statement which details that it would be feasible for the development to meet the requirements of Policy ENG1 and that a 10.6% reduction of CO$_2$ emissions could be achieved through the use of renewable energy technology. Although Policy ENG1 requires 10% of the site’s energy requirement to be create from renewable energy technology, rather than a 10% CO$_2$ reduction, the Inspector previously considered that the areas of flat roof were sufficient to provide solar photovoltaic panels, which would achieve the policy’s requirement.

9.45 The energy statement has shown that this reduction could be achieved by 140m$^2$ of photovoltaic cells on the roof of block A and 50m$^2$ of photovoltaic cells on the roof of block B. Additional information has been provided illustration that the
photovoltaic cells would be fixed flush to the roof. Due to the design and height of the proposed buildings, the panels would not appear prominent from the surrounding area. Therefore, if planning consent is granted it would be acceptable to condition that the solar panels are fitted and operational prior to occupation of the building.

9.46 With regards to other matters of sustainability, the sustainability checklist details that the development will minimise water consumption through the use of water efficient fixtures and fittings, recycle construction materials where possible and provide facilities for recycling for occupiers of the development, provide secure cycle storage as well as minimising impacts upon the surrounding area (noise, dust etc.) during construction. The measures suggested are acceptable and comply with development plan policies.

10. **Chalk Mining**

9.47 As with all developments across Hatfield, the suitability of the development in accordance with PPG14: Development on Unstable Land needs to be assessed. In accordance with guidance from the Council’s engineering consultants (Hyder), and taking into account the requirements of PPG14, the Council may impose planning conditions or require detailed chalk mining surveys depending on the level of risk.

9.48 A risk assessment of the site indicates that the development would have a low risk of being affected by historic chalk mines. Considering the existing development on the site and the additional weight of the proposal, it is sufficient to inform the applicant of this risk by an informative.

11. **Surface Water Drainage & Flood Risk Assessment**

9.49 The Environment Agency did not object to the previous similar applications. In determining the appeal of application S6/2010/1206/MA, the planning Inspector chose to include a condition to ensure that if any contamination is found during construction a remediation scheme is agreed with the Council. It is therefore appropriate to include a similar condition if planning consent is granted for this application.

12. **Archaeology**

9.50 It had been noted by the County Archaeologist that the site has potential for accommodating some significant archaeological remains. During the course of the application an archaeological scheme of investigation has been provided, which illustrates details to address the requirements of a condition of the previous application under reference S6/2011/3088/OP.

9.51 The County Archaeologist is currently reviewing this document to see if the pre-commencement condition is still required. At the time of this report being written a response had not been received and it is necessary for the condition to be reused unless there is a decision prior to the determination of this application.

13. **Other material considerations**

9.52 **Disabled Access:** The site is relatively flat and a condition if consent is granted would be to ensure that appropriate levels are agreed. The development would have several ground floor units and with appropriate management of the allocation of units, it appears a reasonable level of disabled access could be
achieved. This information could be agreed within a site management plan which is a requirement within the unilateral undertaking.

9.53 **Planting and Landscaping:** As existing the rear of the site is not landscaped and does not have an attractive appearance. The proposal would include a variety of trees and shrubs which would create buffer zones around the buildings and hardstanding areas. The proposed planting would be varied and make good use of a space that has a limited size.

9.54 **East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and
- He failed to consider the likely environmental effects of revoking Regional Strategies

9.55 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

9.56 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

9.57 **Protected Species:** The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

9.58 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species (‘EPS’) and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

9.59 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species (‘EPS’) might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

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9.60 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- "Deliberate capture or killing or injuring of an EPS"
- "Deliberate taking or destroying of EPS eggs"
- "Deliberate disturbance of a EPS" including in particular any disturbance which is likely –
  
  (a) to impair their ability –
  (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
  (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

  (b) to affect significantly the local distribution or abundance of the species to which they belong
- "Damage or destruction of a EPS breeding site or resting place" (applicable throughout the year).
  
  - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  - e.g. dormice nest (breeding site or resting place (where it hibernates))

9.61 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained

9.62 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

  a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
  b) If the answer is yes, consider whether the three “derogation” tests will be met.

9.63 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
9.64 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would an EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

9.65 **Planning Conditions:** Hertfordshire County Council (Transportation Planning and Policy) have suggested a condition to agree cycle parking, however, the applicant has submitted full details of the proposed cycle stands which are considered to be acceptable.

9.66 Hertfordshire Constabulary have suggested conditions relating to security and to ensure that locks and doors are fitted to and appropriate standard. As the management plan required for the site contains several security requirements, these provisions would be best included within the management plan. The plan also requires the site owners to monitor and amend the plan where it is not sufficient, which would be more appropriate to provide security than a planning condition. The maintenance and cleaning of the bin store would also be more appropriate to control through the requirements of the site management plan.

9.67 The archaeological condition that the Inspector imposed to the appeal application would be repeated. This is more precise than the suggestion from the County Archaeologist. The applicant has also been informed of the detailed requirements to discharge this condition within a letter from the County Archaeologist.

10 **Conclusion**

10.1 The proposed development would not have an adverse impact upon the character and appearance of the locality or the residential amenity of the adjoining occupiers. Subject to an appropriate unilateral undertaking and site management plans the proposed development would not have an adverse impact upon the surrounding environment. The application is considered to be acceptable and complies with the relevant requirements of the Welwyn Hatfield District Plan 2005, subject to the completion of a legal agreement.

11 **Recommendation**

11.1 It is recommended that planning permission be approved subject to the unilateral undertaking dated 22 August 2011, which secures the matters set out below and the following conditions:-

- Sustainable transport infrastructure including passenger transport infrastructure £22,250
- Management covenants
- A management plan for the site
- Occupation of the site
- Parking management plan
- Green travel plan
- Highway works
• Fire hydrants

1. C.2.1: Time limit

2. C.13.1: The development/works shall not be started and completed other than in accordance with the approved plans and details: 110147-300 A & 110147-301 & 110147-301 & 110147-302 & 110147-303 & 110147-304 received and dated 24 May 2011 & Cost Saving Pillars Bike Racks sheet & Double Entry Cycle Shelter sheet & Endon Yg-6002-SS stainless steel bollard Light sheet received and dated 14 July 2011.

REASON: To ensure that the development is carried out in accordance with the approved drawings and any changes must be agreed in advance in writing by the Local Planning Authority.

Pre Development

3. C.5.1: Materials to be submitted.

4. Scheme of landscaping to be submitted and agreed

No development shall take place until full details of the following items have been submitted to and approved in writing by the local planning authority:

a) Hard surfacing materials
b) Existing and proposed levels, including finished floor levels of buildings and levels of parking areas, access roads and footpaths

These works shall be carried out as approved prior to the occupation of the development and shall thereafter be permanently retained as such.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

5. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment and policy ENV6 of the East of England Plan 2008.

6. Prior to the occupation of any part of the development the following items shall be completed in accordance with the details shown on approved drawing 110147-300A: (a) the new access to Lemsford Road; (b) the car parking spaces; Thereafter, these items shall be permanently retained as approved and kept available for the purposes shown on the said plan.
Reason: To ensure that the spaces are provide prior to the occupation of the units in the interests of highway safety and sustainable travel in accordance with Planning Policy Guidance Note 13: Transport.

Post Development

7. C.4.2: Implementation of Landscape Planting

8. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low carbon energy sources (as described in the glossary of Planning Policy Statement: Planning and Climate Change (December 2007)). This shall be achieved by implementing the photovoltaic cells to the roofs of the student buildings as illustrated within drawing 110147-300A prior to first occupation of the development. This energy supply shall be permanently retained and maintained unless otherwise approved in writing by the Local Planning Authority.

REASON: To ensure that the development contributes towards Sustainable Development and Energy Efficiency in accordance with Policies SS1 and ENG1 of the East of England Plan 2008 and Policies SD1 and R3 of the Welwyn Hatfield District Plan 2005.

9. If, during construction, contamination is found to be present at the site then no further development shall be carried out, unless otherwise agreed in writing by the local planning authority, until a remediation strategy has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved remediation strategy.

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 others offsite in accordance with policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

Informatives

1. INF.9: Chalk Mining

2. To ensure that work undertaken on the highway is constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the public highway. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact the Mid West Hertfordshire Area Office (01727 816025) to obtain their permission and requirements.

3. Road deposits. Best practical means shall be taken at all times to ensure that all vehicles leaving the development 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. To minimise the impact of construction vehicles and to improve the amenity of the local area.

**SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:**

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS3, PPS4, PPS9, PPS10, PPG13, PPG14, PPS22, PPG 24, PPS 25, East of England Plan 2008, and Hertfordshire County Council Waste Local Plan 1999 Policy 3, Policy 7, Policy 8, Policy 11 and policies SS1, T1, T2, T4, T13, T14 and development plan policies SD1, GBSP2, R1, R2, R3, R5, R7, R17, R19, R20, M1, M2, M3, M4, M5, M14, D1, D2, D3, D5, D6, D7, D8, D9, D11, IM2, EMP12, TCR25 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer’s report which can be inspected at these offices).

Damian Manhertz (Strategy and Development)
Date: 25 August 2011

Background papers to be listed (if applicable)

S6/2010/3088/OP
S6/2010/1206/MA
1 Background

1.1 This application follows planning application N6/2010/2118/FP for the erection of a two storey side and rear extension, and single storey side and rear extension. The application also included a pitched roof to the outbuilding. Members will remember that they granted planning permission for this application on 25 November 2010. The current application is proposed as a more affordable, alternative scheme.

2 Site Description

2.1 Canonsfield is located on the north eastern edge of Oaklands. The road is characterised by its eclectic mix of residential properties and range of mature landscaping. 11 Canonsfield is sited on the eastern side of the highway. The application site measures approx. 85 metres long by 15 metres at the front of the site narrowing to 3 metres at the rear. The ground level slopes down from the front to the rear of the site.

2.2 The site contains a two storey, semi detached property. The main body of the dwellinghouse has a tiled gable roof, with low lying eaves on the southern side of the front elevation and a gable sited centrally. This property is finished with a combination of facing brickwork and a plain tile roof.

2.3 To the southern side and to the rear of the dwelling is a flat roof garage. It is approximately 10.3 metres in length and increases in height from 2.7 metres at the front to 4.2 metres at the rear. Between the garage and the front of the site is a 15 metre long driveway.

3 The Proposal

3.1 It is proposed to erect a single storey rear extension to the dwellinghouse and a front extension and pitched roof to the existing garage outbuilding.

3.2 A single storey rear extension would span the full width of the dwellinghouse and would have a flat roof encased by a parapet wall. It would extend approximately 3.6 metres from the rear elevation and stand to a height of 3.3 metres to the top of the parapet.
3.3 The new roof to the garage would be dual pitch, with a central ridge line. It would increase the height of the garage by up to 1.3 metres. The front extension would form a seamless addition to the outbuilding and would extend approximately 2.8 metres from the front elevation of the garage.

3.4 The single storey rear extension has been designed to link to the extended outbuilding. The link would be between approximately 1.6 and 2.1 metres in width and would extend a further 3 metres from the rear elevation of the dwellinghouse. It has also been designed with a flat roof encased by a parapet wall.

3.5 All materials are proposed to match existing.

3.6 The differences from the previous planning permission (N6/2010/2118/FP) are:

- The first floor side and rear extension has been removed
- The single storey side extension has been removed
- A link has been added between the single storey rear extension and the existing garage.
- A front extension has been added to the garage, although it would still be located to the rear of the dwellinghouse.
- A roof lantern has been added on the single storey rear extension, along with a parapet wall along its rear elevation.

4 Planning History


4.3 9 Canonsfield

N6/1999/0720/FP - Two storey side extension and porch – Granted 18/10/1999

4.4 24 Canonsfield


N6/1984/0592/ - Conservatory – Granted 14/09/1984

N6/1979/0060/ - First floor rear extension – 12/03/1979

N6/1975/0019/ - Two storey rear extension - 02/04/1975

5 Planning Policy

5.1 National Planning Policy:

PPS1: Delivering Sustainable Development
PPS9: Biodiversity and Geological Conservation
PPG13: Transport

5.2 East of England Plan 2008:
5.3 Welwyn Hatfield District Plan 2005:

SD1: Sustainable Development
GBSP2: Towns and Specified settlements
R3: Energy Efficiency
M14: Parking for New Development
D1: Quality of Design
D2: Character and Context

5.4 Supplementary Design Guidance, February 2005 sections:

- 2. Design Principles
- 3. General Design Guidance
- 5. Residential

5.5 Supplementary Planning Guidance, Parking Standards, January 2004

6 Constraints

6.1 The site lies within the settlement of Oaklands, Welwyn as designated in the Welwyn Hatfield District Plan 2005.

7 Representations Received

7.1 This application has been advertised by neighbour notifications. No representations have been received. Period expired 8 August 2011.

8 Town / Parish Council Representations

8.1 Welwyn Parish Council has objected to this application. They consider that the proposal would represent overdevelopment of the site adjacent to existing boundaries and the height would be over-dominant to neighbouring properties.

9 Discussion

9.1 This application is presented to the Planning Control Committee because Welwyn Parish Council has raised an objection to the proposed scheme.

9.2 The main issues to be considered are:

1. Impact on the character and appearance of the area.
2. Impact on the amenity of adjoining occupiers.
3. Whether sufficient parking provision is maintained on the site.
4. Whether the proposal would comply with the sustainability aims of the local development plan.
5. Impact on protected species
6. Other Material Considerations

1. Impact on the character and appearance of the area

9.3 Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan set out the general design approach to be adopted in respect of development proposals.
within the Borough. The Supplementary Design Guidance; Statement of Council Policy 2005 provides further detailed guidance as to how new development should respect and relate to the character and context of the area in which it is located.

9.4 The proposed extensions are considerably smaller in scale than the extensions previous granted consent in application N6/2010/2118/FP and would be clearly subordinate to the scale of the original dwellinghouse. Sited to the rear of the dwellinghouse the single storey extension would not be visible within the streetscene and would not, therefore, alter the appearance of the dwellinghouse when viewed from that perspective. Glimpses of the front extension to the garage would be visible through the gap between 11 and 13 Canonsfield, but set back behind the dwellinghouse it would form recessive feature that would have little to no presence within the street scene. The same is true for the dual pitched roof proposed to the outbuilding. In addition, sufficient amenity space would be retained to the rear of the dwellinghouse for the enjoyment of the occupiers of this dwelling and the proposal would not result in an overly cramped form of development.

9.5 Both elements of the proposal would reflect the design and form of the extensions proposed in the previous application. These were considered acceptable in the previous application. The policy context has not changed since the determination of that application and the Local Planning Authority is not aware of any new material planning considerations that would lead to a different conclusion being reached now.

9.6 The design, form and scale of the extensions also have to be considered in the context of the street scene. In the immediate area 9 and 24 Canonsfield have already been subject to extensions and alteration that are considerably larger and more prominent than the proposed extensions and alterations. In wider area there are an eclectic mix of extensions in terms of their form, scale and siting, to match the eclectic mix of dwellings within both Canonsfield and Dolesbury Drive. The proposal would not directly reflect the design of any of the other extension, but would therefore maintain the varied character of the area.

9.7 It is considered that the proposal, by virtue of its design, siting, scale and form, would maintain the character and appearance of the application site and the surrounding area in accordance with Policies GBSP2, D1 and D2.

2. Impact on the amenity of adjoining occupiers

9.8 The impact of the proposed development on the residential amenity of neighbouring dwellings is considered in terms of the impact on neighbouring properties access to day/sun/sky light, privacy and overshadowing.

9.9 13 Canonsfield would be sited south-southeast of the application site. The orientation of these properties ensures that the proposal would not block any sunlight from 13 Canonsfield. The dual pitched roof on the garage would have a pitch of 35 degrees and would slope away from the boundary line. It is considered that the proposal would not block an unacceptable level of daylight or have an overbearing impact.

9.10 9 Canonsfield is sited north-northwest of the application site. The single storey rear extension would adjoin the boundary shared between the application site and 9 Canonsfield and it is considered that the proximity of this element to the
boundary that would mean it would have the greatest potential impact on the amount of daylight and sunlight received by the neighbouring property. This element of the proposal has not been altered from the scheme in planning application N6/2010/2118/FP, which was approved by the Planning Control Committee. It would not, therefore, have a greater impact on the amount of sunlight and daylight received by 9 Canonsfield.

9.11 All of the windows would face out to the front and rear of the site and would not cause any direct overlooking on the adjoining properties. It is considered that the proposal would not result in an unacceptable level of overlooking.

9.12 Giving consideration to the scale of the proposal, the siting of windows in the adjoining properties and the orientation of the dwellings, it is considered that the proposed extensions would not have an unreasonable impact on the daylight or sunlight afforded to the neighbouring residency or the level of privacy they currently enjoy.

3. Whether sufficient parking provision is maintained on the site

9.13 A zoning process is outlined in the Supplementary Planning Guidance – Parking Standards, which is the recommended system by which reductions to the maximum car parking standards can be made. This supplementary guidance on car parking indicates that residential development will generally be expected to accommodate all parking demand on site. Located in Zone 4 a three bedroom property should 2.25 parking spaces on site.

9.14 The proposed extensions would not increase the requirement for on-site parking spaces. The proposal would result in the loss of a parking space through the conversion of the garage, although more than sufficient space would still be available to park two cars on the site.

9.15 It is considered that the proposal would, therefore, comply with the requirements of Policy M14.

4. Whether the proposal would comply with the sustainability aims of the local development plan

9.16 The applicant has submitted a statement assessing the proposals against the sustainability checklist contained within the Supplementary Design Guidance. The sustainability checklist states that the proposal would be built to comply with current building regulations and considers the benefits of passive solar gain and water efficiency. The proposals are considered to be in accordance with policies R3 of the District Plan and SD1 of the Supplementary Design Guidance.

5. Impact on protected species

9.17 The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

9.18 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species (‘EPS’) and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a

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9.20 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
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  - (a) to impair their ability –
    - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
    - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
  - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of an EPS breeding site or resting place”
  (applicable throughout the year).
  - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  - e.g. dormice nest (breeding site or resting place (where it hibernates)

9.21 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

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9.22 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:
a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
b) If the answer is yes, consider whether the three “derogation” tests will be met.

9.23 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

9.24 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would an EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

6. Other Material Considerations

9.25 **East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and
- He failed to consider the likely environmental effects of revoking Regional Strategies

9.26 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

9.27 The application has been considered against policy(ies) in the East of England Plan, which at the time of this decision forms part of the development plan for the borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

10 Conclusion

10.1 It is considered that the proposal, due to its siting, scale and design, would maintain the character and appearance of the application site and the surrounding area in accordance with PPS1 and Policies GBSP2, D1 and D2.

10.2 The proposal would maintain the amenity of adjoining residents in accordance with Policy D1 and has sufficiently addressed the sustainability aims of the plan.

10.3 There is not a reasonable likelihood of EPS being present on the site.

11 Recommendation

11.1 It is recommended that planning permission be approved subject to the following conditions:
1. C.2.1 – Three Year Time Limit

2. C.13.1 – Development in accordance with the approved plans and details received and dated 4 July 2011.

Post-Development

3. C.5.2 – Matching Materials

**Summary of reasons for grant of permission**
The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS9 and PPG13, East of England Plan 2008 policies SS1, ENV7, T14 and development plan policies GBSP2, SD1, R3, D1, D2 and M14 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the Development Plan.

Sam Silcocks (Strategy and Development)
Date 11/08/11

Background papers to be listed (if applicable)
1 **Site Description**

1.1 The application site comprises a detached dwellinghouse which fronts onto Lemsford Road with a rear boundary adjacent to Ely Close. The plot has a street frontage of approximately 14 metres onto Lemsford Road and a depth of approximately 46 metres with a frontage of approximately 14.5 metres onto Ely Close.

1.2 The adjoining site at No.37 Lemsford Road is currently a detached dwelling and alongside this property is a development site which has recently been completed following planning permission granted in 2007 for 10 flats in two separate blocks (S6/2007/703/FP).

1.3 The property at No.33 Lemsford Road is a detached two storey dwelling. To the rear of this dwelling is a pair of semi-detached dwellings at Nos. 74 & 76 Ely Close.

1.4 There are a row of terrace houses in Ely Close opposite the application site. To the front of the site, and across Lemsford Road, is a development of terraced dwellings.

1.5 The application site has a mature group of five pine trees on the rear boundary to Ely Close which are protected by a group Tree Preservation Order (TPO 329 – G1). These are the only notable trees on the site.

1.6 The ground level of the road frontages of the application site in Lemsford Road and Ely Close at each end of the site are almost identical, however, the ground level rises to just over a metre between these highways.

2 **The Proposal**

2.1 The proposal is for the demolition of the existing dwelling and for the erection of 5 residential units in total. These would comprise of 5 three bed dwellings of which 3 are terraced facing onto Lemsford Road and the remaining are a pair of semi-detached dwellings facing onto Ely Close.

2.2 The proposed accommodation for the terraced block is over three levels, and the layout for each unit is similar, with kitchen/dining, lounge and WC on the ground floor, 2 bedrooms and a bathroom on the first floor and a bedroom with an en-
suite on the top floor. The street frontage width of each unit is around 4m. The depth of the terraced block is approximately 9m. The maximum height of this terraced block is approximately 8.4m.

2.3 The proposed type of accommodation for the pair of semi-detached bungalows comprises a study, kitchen, lounge and WC on the ground floor and three bedrooms and bathroom on the first floor.

2.4 The proposed external materials included in the application form is smooth painted render with brick soldier courses and Redland stonewold II – slate grey for the roof finish.

2.5 The proposed rear garden of the development will have boundaries that will comprise a 2m high wooden panel fence and 1m high wooden fencing to side boundaries at the front. No boundary walls are proposed to Lemsford Road or Ely Close. The proposed hard surface areas are to be block paviors Brett ‘Omega’ paving in charcoal.

2.6 The proposed roofs are pitched with half hip gable ends to the terrace block facing onto Lemsford Road. Full height gable end roofs are proposed to the pair of semi-detached bungalows to the rear.

2.7 The terraced block facing onto Lemsford Road is separated from the side boundaries with Nos.33 & 37 by a minimum of 1 metre. The minimum setback for the terraced block facing onto Lemsford Road from the edge of the highway footpath is approximately 6.4metres.

2.8 The proposed semi-detached dwellings in Ely Close are separated from the side boundary with No.74 Ely Close by a minimum of approximately 1 metre. The separation distance from the common boundary with No.37 is approximately 2 metres. The minimum setback for these properties facing onto Ely Close is approximately 5.6 metres.

2.9 Eight parking spaces are proposed in total with four spaces serving the properties facing onto Lemsford Rd and four spaces for the semi-detached bungalows in Ely Close.

2.10 Two new crossovers are proposed from Lemsford Road each serving two parking spaces. Parking for the other properties is directly from Ely Close as there is no pavement to cross, with the spaces being cut through an existing wide grass verge.

2.11 Each unit will have a rear garden, which can be accessed via a side path for all the properties apart from the middle terraced unit. The depth of these rear gardens vary from a minimum of approximately 6.8m to a maximum of 8.9m with widths varying from approximately 3.8m to 7.6m.

2.12 In the rear gardens of the proposed dwellings provision is made for a cycle store/shed for each property. At the front of all the properties a bin & recycling store is proposed.

2.13 The existing protected pine trees close to the rear application boundary with Ely Close are to be removed and new planting is proposed in the front planting areas to the new dwellings in this road frontage.
3 Planning History

35 Lemsford Road

3.1 S6/2011/0397/FP - Demolition of existing dwelling and erection of one terrace of three houses and one pair of semi-detached dwellings – refused 19/05/11.


3.3 S6/2010/0769/FP – Demolition of existing dwelling and erection of two terraces of three houses - Refused 21/06/10 and dismissed at appeal 27/01/11.


3.5 S6/2008/1209/OP - Outline planning for erection of one block of 12 flats facing Lemsford Road and one block of 12 flats facing Ely Close following demolition of existing dwellings (with landscaping as a reserved matters) – refused 10/10/08.

3.6 S6/2005/0077FP – Erection of 1no. detached dwelling and 2 no. semi detached dwellings following demolition of existing dwelling – withdrawn 8/12/08.

3.7 S6/1984/0355/ - Single storey rear extension – approved 30/07/84.

37 Lemsford Road

3.8 S6/2007/0703/MA – Demolition of existing dwelling and proposal to erect 10 new flats in 2 blocks of 5 - Approved 08/06/07.

3.9 S6/2006/1357/MA – Erection of ten flats in two blocks of 5; following demolition of existing dwelling - Refused 12/11/06.

4 Planning Policy

4.1 National Planning Policy

PPS1 – Delivering Sustainable Development
PPS3 – Housing
PPG13 – Transport
PPG14 – Development on unstable land

4.2 East of England Plan 2008

SS1 – Achieving Sustainable Development
SS2 – Overall Spatial Strategy
ENV7 – Quality in the Built Environment
ENG1 – Carbon Dioxide Emissions and Energy Performance
T14 – Parking

4.3 Hertfordshire Structure Plan Review

None

4.4 Hertfordshire County Council Waste Local Plan 1999
4.5 Welwyn Hatfield District Plan 2005

SD1 – Sustainable Development
GBSP2 – Towns and Specified Settlements
H2 – Location of Windfall Residential Development
H6 – Densities
H10 - Accessible Housing
R1 – Previously Developed Land
R3 – Energy Efficiency
R4 – Renewable Energy Sources
R17 – Trees, Woodland and Hedgerows
R19 – Noise and Vibration
M14 – Parking Standards for Development
D1 – Quality of Design
D2 – Character and Context
D9 – Access and Design for People with Disabilities

4.6 Supplementary Design Guidance, February 2005 sections

4.7 Supplementary Planning Guidance, Parking Standards, January 2004

5 Constraints

5.1 The site lies within the excluded settlement of Hatfield as designated in the Welwyn Hatfield District Plan 2005. The application site is also the subject of a Tree Preservation Order TPO 329 – G1.

6 Representations Received

6.1 This application has been advertised by site notice and neighbour notification letters. 2 neighbouring properties have objected which are 11 Ely Close and No.37 Lemsford Road, as well as Welwyn Hatfield Access Group. These are summarised as follows:

- Traffic congestion in Ely Close
- Insufficient parking for units in Ely Close
- Noise and disturbance during the development stages to No.35
- Loss of protected trees and inadequate space for replacement planting.
- The previous planning appeal is a definitive judgment effectively prohibiting any development to the rear of No.35
- The proposal would result in an unacceptable loss of sunlight and overshadowing to the rear garden of No.37 – 2 letters showing detailed calculations and shadow plans have been submitted by No.37 in support of this objection dated 27/7/11 & 15/8/11)
- The proposal would appear over bearing and over dominant to the rear of No.37
- The rear garden to No.37 would be effectively sandwiched.
• Loss of Privacy to the rear garden of No.37
• Ambiguity over the number of parking spaces with 2 in the D&A and 4 on the plans.
• The present protected trees which will be removed are a focal point of an oasis of greenery
• The reduction of grassed highway verge will result in a loss of public amenity.
• The two new houses to the rear of No.33 were not built in gardens but replaced an industrial garage to the previous tyre and exhaust centre and so does not form a precedent in this application.
• The D&A refers to the site as Previously Developed Land (PDL) but conflicts with the Council’s definition in the previous report to committee.
• Loss of outlook from the music room to No.37 from rural to an overbearing presence of Block B
• The increased density will result in over development of the site.
• The location of the buildings at No.37 is incorrect with the common boundary with the application site.

6.2 **Welwyn Hatfield Access Group** – comment that the provision of parking appears to be in line with recommendations. It is also stated that there will be good access to buildings for everyone including wheelchair users, but confirmation that the main entrance and toilet comply with recommended dimensions is requested. It is also noted in the application that no reference is made to Part M of the Building Regulations, lifetime homes or affordable housing.

7 **Consultations Received**

7.1 **Hertfordshire County Council Transportation Planning and Policy** – advise as follows:

Decision
Notice is given under article 10 of the Town and Country Planning (General Development Procedure) Order 1995 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

1. Before first occupation of the approved development, the proposed new vehicle crossovers onto Lemsford Road and Ely Close and the closure of the existing vehicle crossovers shall be completed and constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction.

Reason: To ensure that the accesses are constructed to the current Highway Authority's specification as required by the Local Planning Authority and to comply with those policies of the development plan.
2. Concurrent with the construction of the accesses, visibility splays of 2.4m x 43m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2 m above the carriageway level.

Reason: To provide adequate visibility for drivers entering or leaving the site.

3. C8.12 - The area set aside for car parking shall be laid out and surfaced, in accordance with a scheme which has been submitted to and agreed in writing by the local planning authority before the buildings hereby permitted are first occupied and shall be retained permanently there after for the accommodation of residents and shall not be used for any other purpose.

Reason: To ensure that the spaces are provide prior to the occupation of the units in the interests of highway safety.

4. C8.13 - No unbound material shall be used on the proposed access within 20 metres of the highway boundary. Details of the proposed surface dressing shall be submitted to and agreed in writing by the local planning authority, prior to the commencement of the development and implemented in accordance with those details.

REASON: To prevent the tracking out of materials onto the highway in the interests of highway safety.

Section 106 Agreement Planning permission be granted subject to the completion of a Section 106 Agreement between the applicants, Welwyn Hatfield District Council and Hertfordshire County Council to secure the following: A financial contribution of £3,000 towards sustainable transport measures.

Informatives I recommend inclusion of the following advisory note to ensure that any works within the highway are carried out in accordance with the provisions of the Highway Act 1980. AN1. All works to be undertaken on the adjoining highway shall be constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the public highway and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - A Guide for New Developments". Before proceeding with the proposed development, the applicant should contact Mid West Hertfordshire Highways Area Office at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts, AL7 3AX to obtain their permission and requirements.

AN2 . The verge area in Ely Close which is part of the public highway contains both a telegraph pole and a lighting column. All costs associated with any necessary relocation of these will be the responsibility of the developer.

COMMENTS:

The proposal is for a development of 5 dwellings following the demolition of the existing dwelling. It is proposed to provide 8 parking spaces to serve the site, 4 accessed from Lemsford Road and 4 from Ely Close. Lemsford Road is an unclassified road as a designated local distributor road and Ely Close is an unclassified road designated as a local access road. Both roads are subject to a 30mph speed limit. The spaces in Lemsford Road are arranged in pairs.
perpendicular to the carriageway and there is no provision for turning space, however there is adequate visibility between the parking spaces and vehicles travelling along the highway. There is an area of verge in Ely Close which is part of the public highway and the vehicle access to the parking spaces in Ely Close will be taken across this area of verge. It is unclear from the plans where the proposed crossovers are in relation to the existing telegraph pole and lighting column however to provide access to the parking spaces it is likely that these would have to be relocated as part of the vehicle crossing works. The applicant should be aware that all costs associated with their relocation will be the responsibility of the developer. The applicant is advised to discuss the requirements of the vehicle crossovers with Hertfordshire Highways.

Six proposed trees are shown in Ely Close, three within the site boundary and three within the grass verge which is public highway. The applicant would need agreement from the highway authority to provide trees within the highway and this may not be given. All planting should be provided within the site.

The appeal decision for the previous application S6/2010/769/FP accepts the need for a S106 obligation towards various items of infrastructure including sustainable transport. For clarity and ease, HCC have implemented standard charges for residential developments, these charges are tiered reflecting the accessibility of different sites across Hertfordshire. This site falls within accessibility zone 2. The applicable charges are £750 per 3 bed unit, equating to a contribution of £3,000 for this development after making an allowance for the existing 3 bed property on the site.

The Hatfield UTP sets out the proposed transport improvements for Hatfield and aims to promote sustainable travel by placing stronger emphasis on walking, cycling, bus and rail use. The UTP recognises that currently there are barriers to walking within Hatfield and improvements to dropped kerbs and access to the town centre could all help in promoting walking as an alternative to car use. The design and access statement also states that the development meets the requirements for the preparation and implementation of a Green Travel Plan however no Travel Plan has been provided and so it is not clear what is meant by this statement. A Travel Plan for this site is not a requirement of Hertfordshire County Council.

Hertfordshire County Council as Highway Authority considers the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways subject to the inclusion of the above conditions and informatives.

7.2 **Thames Water** – advise as follows:

**WASTE COMMENTS**

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to
ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

WATER COMMENTS
With regard to water supply, this comes within the area covered by the Veolia Water Company. For your information the address to write to is - Veolia Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.

7.3 **Welwyn Hatfield Borough Council’s Landscape Service** – advise as follows:

I have reviewed the proposal for the above site and refer to drawing number 2306-P100.

Arboriculturally: Several new trees are indicated on the plan. No planting size or species are indicated on the plans. The three trees to the front of the proposed buildings will create a certain amount of screening and replace the existing trees.

Details should also be given for the trees planted in the gardens.

Summary: Overall I have no objections to this application but a condition of approval should be the tree planting details. I hope that these comments are clear and that if you need anything further then please contact me.

7.4 **Hertfordshire County Council Obligations Officer** – advises as follows:

I refer to your email on the above mentioned application. I am writing in respect of planning obligations sought towards education, library and fire and rescue services to minimise the impact of development on Hertfordshire County Council Services for the local community.

As the application is for 5 residential dwellings it falls above the current threshold where financial contributions are sought to minimise the impact of development on Hertfordshire County Council Services for the local community. I have based the calculation on the information available to date for a development of 5 three bedroom houses all open market with the demolition of 1 three bedroom house and set out the requirements below. I am currently awaiting the need for the contributions towards secondary education, nursery education and childcare to be confirmed by CSF.

Please note, if the size, number or tenure of any of the dwellings changes, this calculation will need to be reviewed.

**Financial Contributions**

Primary Education £9,876
Secondary Education £10,244 (to be confirmed)
Nursery Education £1,360 (to be confirmed)
Childcare £552 (to be confirmed)
Youth £200
Libraries £792
All calculations are based on PUBSEC index 175 and will be subject to indexation.

Provision

Fire hydrant provision is also sought and should be secured by the standard form of words in a planning obligation.

Justification

The above figure has been calculated using the amounts and approach set out within the Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements) document, which was approved by Hertfordshire County Council's Cabinet Panel on 21 January 2008 and is available via the following link:  www.hertsdirect.org/planningobligationstoolkit

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

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

Recognition that contributions should be made to mitigate the impact of development are set out in planning related policy documents and Circular 05/05. PPS1: Delivering Sustainable Development, sets out the planning system. It seeks to ensure that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community. It also advises that the provision of a transparent flexible, predictable, efficient and effective planning system through the provision of a plan led approach is needed to deliver sustainable development. PPS3: Housing, covers the Government’s objectives on planning for housing. It indicates that developments should be located in areas with good access to key services and infrastructure.

The development plan background supports provision of planning contributions. The Development Plan comprises the Welwyn Hatfield District Plan 2005 and Policy IM2 of the Plan covers the requirement for developers to finance the cost of infrastructure provision and improvements which are directly related to and necessary to the granting of planning permission. The provision of community facilities is a matter that is relevant to planning. The contributions sought will ensure that additional needs brought on by the development are met. The approach to seeking contributions as set out within the Toolkit is consistent, fair and transparent, providing certainty to all involved in the process.

The production of the Toolkit document reflects the advice at paragraphs B25-30 of Circular 5/05, which among other things requires all tiers of government with legitimate land-use planning interests to be involved at an appropriate level and in a focused way in providing an evidence base and setting planning obligation policies, providing certainty to all involved in the process. The cumulative impact of development on local service provision is also an important consideration. As set out in paragraph 10.2 of the Toolkit, the use of formulae and standard charges is a means of addressing the likely cumulative impact of development in a fair and equitable way. Accordingly, financial contributions may be pooled to address cumulative impact, as set out in paragraphs B21-B24 of Circular 05/05 and paragraphs 7.5 and 16.4 of the Toolkit.
The provision of public fire hydrants is not covered by Building Regulations 2010 (Part B5 as supported by Secretary of State Guidance ‘Approved Document B’)

(ii) Directly related to the development;

The occupiers of new residential developments will have an additional impact upon local services. The financial contributions sought towards the above services are based on the size, type and tenure of the individual dwellings comprising this development following consultation with the Service providers and will only be used towards services and facilities serving the locality of the proposed development and therefore, for the benefit of the development’s occupants. (As set out within HCC’s Toolkit and template Section 106 deeds) Only those fire hydrants needed to serve the proposed development are sought to be provided by the developer (as set out within HCC’s Toolkit and the template Section 106 deeds)

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

The above financial contributions have been calculated according to the size, type and tenure of each individual dwelling comprising the proposed development (based on the person yield) (as set out within HCC’s Toolkit) Only those fire hydrants needed to serve the proposed development are sought to be provided by the developer (as set out within HCC’s Toolkit and the template Section 106 deeds)

Please note, financial contributions and provisions are requested based on current service information for the local area however these may change over time, for example, as a result of school forecast information being updated. Accordingly, future applications on this site will be reassessed at the time of submission and the requirements may differ from those identified above.

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

7.5 Welwyn Hatfield Borough Council’s Client Services – No comments, response due 01/08/11

7.6 Environment Agency - No comments, response due 01/08/11

8 Town Council Representations

8.1 Hatfield Town Council – advise ‘The Committee objected to this application due to the loss of light to neighbouring properties. Members hoped that the developer would come to an amicable agreement with neighbours to provide suitable alternative accommodation for them which suits their family needs for the foreseeable future’.

9 Discussion

9.1 This application is presented to the Planning Control Committee because Councillor Maureen Cook has ‘called-in’ this application for 2 reasons:
1. That these dwellings facing on to Ely Close would result in a significant loss of sunlight and overshadowing to much of the rear garden of 37 Lemsford Road for a substantial part of the day which would be unacceptable. Therefore the proposal would be contrary to Policy D1 of the Welwyn Hatfield District plan 2005 and the Supplementary Design Guidance February 2005 which together seek to achieve a high standard of environment.

2. The applicant has failed to satisfy the sustainability aims of the local plan in failing to ensure that the development proposed provides the necessary contributions for sustainable transport infrastructure, services and facilities which are directly related to the proposal (mainly provision of parking). Therefore the proposal is contrary to Policies IM2 and M4 of the Welwyn Hatfield District Plan 2005.

9.2 The main issues to be considered are:

1. The principle of development
2. The quality of the design and the impact of the proposal on the character and of the surrounding area.
3. The residential amenity of future occupiers
4. The impact of the proposal on the residential amenity of neighbouring uses
5. Parking requirements
6. Chalk mining
7. Other material considerations

1. The principle of development

9.3 The recent changes to PPS3 have removed private residential gardens from the definition of previously developed land. As a result of these changes to PPS3, the application site would now be classified as 'non-previously developed land' and will have to be considered in that context.

9.4 At a local level, Policy R1 is relevant and states that:

“In order to make the best use of land in the district, the Council will require development to take place on land which has been previously used or developed. Development will only be permitted on ‘greenfield’ land where it can be demonstrated that no suitable opportunities exist on previously used or developed land”.

However, the Council is yet to determine the number of houses it wishes to provide under the Government's ‘Localism Agenda’, and subsequently it has not published its Housing Allocation Development Plan Document. When this is considered in conjunction with the fact that, at a national level, the country is not building houses at a sufficient rate to meet the current need, the Council considers that it would be unreasonable to refuse applications solely on the grounds that they are on ‘greenfield sites/non-previously development’ land.

9.5 Policy H2 (Location of Windfall Residential Development) states that all applications for windfall residential development will be assessed for potential and suitability against a set of five criteria. The five criteria in policy H2 and the consideration of some of these will be elaborated on in the following sections of the report. In addition, the application site is already a residential site located in a designated settlement. It is considered that none of the criteria set out in Policy
H2 would rule out the principle for using this site for Windfall Residential Development. Notwithstanding this, the proposed development still needs to comply with all of the other relevant Development Plan Policies.

2. **The quality of the design and the impact of the proposal on the character and of the surrounding area.**

9.6 Policy D1 and D2 of the local plan are considered to be relevant along with the Supplementary Design Guidance (SDG) and National Policy Documents PPS1 and PPS3 and East of England Plan 2008 Policy ENV7.

9.7 The quality of the external design of the proposed terraced dwelling buildings and semi-detached dwellings, if taken in isolation of its wider context, is considered to be acceptable.

9.8 The proposed external materials are indicated in the application form as being painted render, however, this would need to be considered as part of a planning condition, as this type of finish may not be appropriate where the majority of dwellings in the area are finished in facing brickwork.

9.9 The proposal, therefore, in terms of design quality of the external appearance of the proposed dwellings is considered to be acceptable, and so complies with this part of Policy D1 and the Supplementary Design Guidance (SDG) subject to these suggested conditions.

9.10 A further assessment is also required in whether the proposed design would also be appropriate for this location. This is a particular requirement of Policy D2 and the relevant section of the SDG and PPS3. In regards to character and context Policy D2 and the SDG require new development to respect and relate to the established character and context of the surrounding area.

9.11 The wider pattern of development in this part of Hatfield is of mainly two storey terraced dwellings, however, there are other types nearby such as the detached dwellings at Nos. 33 & 37, the semi-detached dwellings at Nos. 74 & 76 Ely Close and also the recently completed flat development at No. 39 Lemsford Road. The principle of terraced and semi-detached dwellings in this location is therefore not considered unacceptable taking into account the mix of housing types which already exist in this locality.

9.12 Although three storey dwellings are not a common feature in this locality it is accepted that the new development at No. 39 has dormers at third storey level and this is a material planning consideration. The use of dormers at first and second floor level is therefore not out of keeping with the area as dormers already exist at No. 39 Lemsford Road.

9.13 Other dwellings in the locality have road frontages and are set back from the highway by varying distances. The proposed dwellings are also set back from the highway and so this reflects the established character of the area.

9.14 In regards to soft landscaping, the proposed design drawings show areas for soft landscaping allocated to the front of the blocks. The block facing onto Lemsford Road has a reasonable area of landscaping allocated.

9.15 The semi-detached properties facing onto Ely Close have less area for landscaping immediately in front of the properties. In regards to the wider area, however, the proposed front gardens are not notably smaller than the properties...
at 74 & 72 Ely Close. The size of these proposed gardens are therefore not out of keeping with those on these neighbouring properties.

9.16 There is a concern, however, about the loss of the protected trees in the application site which are located in the streetscene of Ely Close. There is, however, the opportunity to replace some of these trees in the soft landscaped areas proposed. The Council’s arborist has previously advised on earlier applications that the condition of the current protected trees means that it would be difficult to defend their proposed removal. The Council’s arborist reconfirms that there is no objection in this application for the replacement of these trees subject to a tree planting condition.

9.17 These trees have been noted by a previous planning Inspector (application S6/2010/0769/FP) as being important trees which provide ‘visual relief and an element of greenery in an otherwise hard environment’. The same Inspector in this previous scheme also noted that ‘there would be very little room left for tree planting because most of the width of the appeal site would be taken up with four parking spaces accessed across his land’.

9.18 The current proposal is for two residential units facing onto Ely Close rather than four in the earlier appeal scheme. The number of proposed parking spaces is also the same with four parking spaces. Notwithstanding this, with four parking spaces there is some opportunity for replacement tree planting as in an earlier application (S6/2010/2190/FP), where it was considered that no objection was appropriate in regards to the loss of trees if replacement planting was subject to a planning condition. There is also a small strip of garden area alongside the flank wall adjoining the common boundary with No.37 where additional space would potentially exist for replacement tree planting.

9.19 On this scheme, as with a previous application (S6/2010/0769/FP) the provision for replacement tree planting still remains acceptable. A planning condition to agree the location and species of trees can secure this provision.

9.20 In regards to the site layout in design terms, the dwellings have a minimum back to back separation distance of approximately 15.4m, which is less than previous proposals for this site. The reason why this space has been reduced is that the depth of the rear block facing onto Ely Close has increased by approximately 1.2m. In the previous applications the level of separation between blocks was considered to be acceptable, however, this further reduction will result in a greater potential for overlooking between the two blocks and reduction in depth of rear gardens. On balance, however, and taking into account the development at No.39 Lemsford Road where a similar separation exists between blocks, this is still considered acceptable.

9.21 In regards to density, it is accepted that this will increase by five fold. Notwithstanding this, a higher density on this site cannot justify withholding planning permission if all other policy requirements are complied with in regards to, for example, design and residential amenity, parking etc.

9.22 In summary, the architectural quality of the individual residential units is considered acceptable subject to planning conditions to agree external finishes and landscaping and so complies with Policy D1 and the SDG.

9.23 In regards to Policy D2 and the SDG, there is a requirement that the proposal reflects the character and context of the area. Policy R17 is also relevant for trees.
9.24 The loss of the protected pine trees is acceptable subject to the opportunity being provided for their replacement. Alternative suitable locations on the application site do exist to allow this.

9.25 Overall, the proposal therefore complies with the design requirements set out in Local Plan Policy D1, D2, R17 and SDG, along with PPS3, ENV7 of the East of England Plan.

3. The residential amenity of future occupiers

9.26 Local Plan Policy D1 and the Supplementary Design Guidance are also relevant along with PPS1 in regards to assessing the amenity of future occupiers

9.27 With regard to privacy, the separation between the first floor bedrooms between the blocks, as previously discussed above, is still considered sufficient to provide a reasonable level of privacy.

9.28 In respect to the outside private amenity space, this is considered to be adequate for the three bedroom terraced dwellings. For the semi-detached dwellings with wider garden areas, the depth of gardens has been reduced to approximately 6.7m compared with the previous application (S6/2011/397/FP) of approximately 7.5m. This reduction in depth has however been compensated by the width being increased for the smaller garden, and so the overall area is not dissimilar to that accepted in application S6/2011/397/FP.

9.29 In summary, the proposed amenity for future occupiers is considered to comply with the requirements of Policy D1 and the SDG of the Local Plan.

4. The impact of the proposal on the residential amenity of neighbouring uses

9.30 Local Plan Policies D1 and the Supplementary Design Guidance are relevant along with PPS1 in regards to assessing the amenity of existing neighbours.

9.31 The properties which would be most impacted by the proposed development would be, 37 Lemsford Lane, 74 Ely Close & 33 Lemsford Lane. Each of these will be discussed in turn.

9.32 37 Lemsford Lane : This detached two storey property has an existing deep rear extension which was constructed by the applicant following planning permission granted by application S6/1984/355/FP. There is also a separate garage located towards the rear boundary with Ely Close. Between these buildings is this property’s remaining principal garden area. There is also a beech hedge that forms the common boundary with the application site with No.37.

9.33 On the other side of No.37 is a development site which has been granted planning permission for 10 flats (S6/2007/0703/MA) which is a material planning consideration. Works for this neighbouring development, including the rear block facing onto Ely Close, appear to be completed.

9.34 The location of the terrace facing onto Lemsford Road, is no different to that which was subject to the planning appeal for application S6/2010/0769/FP. The Planning Inspector raised no concerns on the impact of the terraced block on No.37, and this is a material planning consideration for the purposes of this application. The impact of this terraced block is not considered to be harmful to the residential amenity of No.37.
Turning to the proposed semi-detached properties, facing onto Ely Close. The impact on this block has been considered in previous applications to have the potential to be more significant to the residential amenity of No.37 and this remains the same in this application. It was also this part of the application site facing on to Ely Close which the Planning Inspector had concerns with.

It is necessary to take into account the new flat development of No.39 which has been constructed to assess whether the rear garden of No.37 would be effectively ‘sandwiched’ between these two new residential schemes.

The previous applications for this site (S6/2010/2190/FP & S6/2011/0397/FP) are also relevant as well as the planning appeal decision to assess whether the changes in this application are significant to overcome the previous concerns in these last three proposals.

The appeal scheme comprised of a terraced block of three dwelling with three levels of accommodation facing on to Ely Close, which were set back from the common boundary with No.37 by 1m. Application S6/2010/2190/FP reduced the number of units to 2, with the dwelling nearest No.37 being stepped down to two levels of accommodation, whilst maintaining the same 1m separation distance from the common boundary with No.37. Application S6/2011/0397/FP has kept the same number of units (2) but increased the separation distance from the common boundary with No.37 from 1m to approximately 4m. The height of the dwelling nearest No.37 reverted back to that of the appeal scheme of three levels.

This third attempt, has now reduced this rear block back to two levels, but reduced the separation distance from the common boundary in the last application from 4m to 2m. In this application the depth of the block has also increased by approximately 1.2m.

The impact on the enjoyment of this garden by No.37 has already been considered by the Planning Inspector and the Council in application S6/2010/0769/FP, and was considered to be unacceptable. These concerns related to the loss of sunlight to the rear garden of No.37, and that the development would have an oppressive and overbearing impact on the ground and first floor windows of this adjoining neighbour. Additional concerns were raised by the Inspector of overlooking, but this was considered to be overcome in the last applications (S6/2010/2190/FP & S6/2011/0397/FP) and was not a reason for refusal.

The impact of the current proposal on the residential amenity to the rear of No.37 now needs to be reassessed in regards to sunlight, privacy and whether it would appear overbearing and/or over dominant.

In regards to sunlight, the application has been submitted with a detailed sunlight/daylight report prepared by MES Energy Services. This report considers the matters of ‘sunlight’, skylight’ and ‘sun path analysis’ and concludes that the proposal complies with the criteria set out for national guidance in ‘Site Layout Planning for Skylight and Sunlight’ (SLPDS).

In previous applications and the appeal the issue centred on the loss of sunlight to the rear garden of No.37 Lemsford Road, and not to the windows of this neighbouring property. It is this issue which is still the area of concern in this application, so while the Sunlight & Daylight Report confirms that the impact on the light reaching No.37’s windows is acceptable, it is the ‘sun path analysis’ which is of key relevance.
9.44 The SLPDS document by the British Research Establishment (BRE) is referred to in the Supplementary Planning Guidance (Sunlight & Daylight) and so is an appropriate point of reference in regards to gardens. This document states that ‘

‘it is difficult to suggest a hard and fast rule. However, it is clear that the worst situation is to have significant areas on which the sun does not shine for a large part of the year. These areas will, in general, be damp, chilly and uninviting. The equinox (21 March) is a good date for assessment’

9.45 This document continues by saying that it is usually possible to redesign a layout to minimise these areas, but:

‘where this is not possible, it is suggested that no more than two-fifths, and preferably no more than a quarter, of any of the listed amenity areas should be prevented by buildings from receiving any sunlight at all on 21 March’.

9.46 It is clear from the BRE document that a specific rule to judge the impact of a proposed development on the sunlight to neighbouring gardens is difficult. While a shading diagram for the 21 March to show the impact of a development is of assistance, it is not a definitive judgement and should be used as only one tool as part of an overall planning judgement to assess whether it is reasonable to grant planning permission.

9.47 The shading diagram in the applicant’s report for 21 March (existing and proposed) shows a 3D modelling of how the shadows would be cast across the rear garden of No.37. The main impact appears to occur during the first part of the day from the proposed development, while in the second part of the day the impact is from the development recently completed at No.39.

9.48 Although a snapshot at midday shows the garden immediately to the rear of No.37 being clear of shadow, this does not tell the full story. On a site with this particular context, it is the combined impact of the shadowing from the proposed development and that which has been recently completed at No.39 Lemsford Road which should be considered for this application. The submitted report shows that the impact on the rear garden at No.37 in the later part of the day from No.39 Lemsford is substantial and so it is only a relatively short period of the day when a reasonable part of the rear garden to No.37 has unobstructed sunlight. It is also worthy to note that the overshadowing is likely to be even more significant at other times of the year, as the 21 March is taken only as a median being the Spring Equinox.

9.49 In summary, while reference to the BRE document is a material consideration, the conclusion in the applicant’s report that the impact of the proposed development is ‘minimal’ it does not provide the reassurance that ‘a satisfactory level of sunlight and daylight’ as required by the SDG will be maintained to the rear garden of No.37. Finally, the Block Plan Drawing on page 6 of the applicant’s report may have been used to locate the proposed rear block to carry out the assessment. If this is the case, the overshadowing may be more severe on the rear garden that shown in 3D drawings in the applicants report as this Block Plan (which also appears to be the same as submitted with the design drawings 2306-P-04) appears to show the semi-detached bungalows further away from the common boundary than proposed on the larger scale plans. Notwithstanding this possibility, the applicant’s report still shows the combined
level of overshadowing from No.39 & 35 Lemsford Road resulting in an unsatisfactory level of sunlight for the neighbour at No.37 in between these developments.

9.50 Concerns have been raised by the owner of No.37 in regards to the proposed development still appearing overbearing.

9.51 Whilst it is accepted that the reduced height of the dwellings and also the flank wall for the proposed chalet bungalow is relevant when compared to the previous application (S6/2011/0392/FP) for a three storey dwelling, the potential benefits derived from changes are lost through the separation distance being reduced from approximately 4m to 2m and the depth of the block being increased by approximately 1.2m. In the previous application, the overall improvements were significant enough to overcome the issues relating to whether the development would be overbearing or over dominant. However, in this revised scheme, these earlier improvements have been lost and the proposed development will now appear overbearing and over dominant when viewed from the rear garden or from the rear windows of this neighbour at No.37. The previous concerns of outlook raised by the Inspector are considered to therefore remain.

9.52 Finally, some degree of overlooking, could result to the rear garden of No.37 from the first floor windows of the semi-detached dwelling into the garden area. In this application this first floor window for a bedroom has moved closer to the common boundary with No.37.

9.53 It is considered that the loss of privacy to the garden of No.37 from this first floor rear window of this proposed dwelling would still be limited to mainly oblique views, and on its own would not justify withholding planning permission.

9.54 In summary, the lack of separation distance of the dwellings facing onto Ely Close from the common boundary with No.37, combined also with the height and depth of the proposed flank wall, is considered insufficient to overcome the previous concerns of the development appearing overbearing or over dominant. The impact on the outlook from the rear of No.37 and the living conditions for this neighbour from the proposed development would be unacceptable.

9.55 Sunlight, also remains a fundamental issue and the height of the proposed dwellings facing onto Ely Close would still result in the proposal cutting off sunlight to much of the rear garden to No.37 for a substantial part of the day. The proposal therefore fails to comply with the requirements of Local Plan Policy D1 and the Supplementary Design Guidance.

9.56 No.74 Ely Close & No.33 Lemsford Road: - No concerns have been raised by the Planning Inspector of the development’s impact on these neighbouring properties. The current scheme, however, has increased the depth of projection beyond the rear wall of No74 Ely Close by around 1.2m when compared to the last application. This increase is will have a greater impact on this neighbour, but as the proposed eaves level is reasonably low for the proposed block, the overall difference will not be significant, compared to the last application. The proposal would therefore not harm the residential amenity of No.74 Ely Close.

9.57 In summary the proposal is considered to fail to comply with Policy D1 and the SDG due to the harmful impact on the residential amenity of No. 37 due to the loss of sunlight and the harm to this neighbour’s rear outlook due to the rear block appearing over bearing and over dominant.

5. Parking Requirements

9.59 The application site is located in Zone 2 where the number of parking spaces for 5 three bedroom dwellings is 7.5 spaces. 8 spaces have been provided and so sufficient parking provision has been proposed.

9.60 Subject to this condition, it is considered that the proposal complies with Policy M14 and the SDG.

6. Chalk Mining

9.61 PPG14 is relevant. This application site is identified in the Chalk Mining Risk Assessment map produced by the Council’s external Consultants as being in a low risk area. The site has also been checked against the Council’s Hatfield Chalk Mining Risk Assessment Tool and is designated as being ‘Low’.

9.62 An informative would be reasonable for any permission granted to bring to the attention of the applicant the historic chalk mining activities in Hatfield and their responsibilities in developing the site.

7. Other Matters

9.63 Contributions: have been sought by Hertfordshire County Council (HCC) in accordance with policy IM2 and M4 of the Welwyn Hatfield District Plan 2005. The sums requested at this stage are subject to confirmation. In addition, £3000 has been sought by Hertfordshire Highways for sustainable transport measures.

9.64 Where a planning obligation is proposed for a development, The Community Infrastructure Levy Regulations 2010, which came into effect from 6th April 2010, has introduced regulation 122 which provides limitations on the use of planning obligations. In summary, a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

   (a) necessary to make the development acceptable in planning terms;
   (b) directly related to the development; and
   (c) fairly and reasonably related in scale and kind to the development.

9.65 Regulation 123 introduces further limitations and these relate to the use of planning obligations for the purpose of infrastructure. Where a local authority has a published list for infrastructure projects, the authority may not seek contributions through a s106 legal agreement. In this case, the authority does not have a published list and therefore it is appropriate to seek contributions through a s106 legal agreement.

9.66 At the time of writing the report a Unilateral Undertaking (UU) had not been completed and submitted by the applicant. The Council consider that contributions are required for this site and will be compliant with these tests.

9.67 As the application is not recommended for approval for other reasons, on this occasion, an extension of time to complete the UU is not considered appropriate. If, however, Members are minded to support the application, it is resolved that planning permission is granted subject to an appropriate UU being completed within 2 months of this meeting.
9.68 **Retention of existing dwelling**: If planning permission is granted for two blocks of accommodation for this site, a planning condition will be required for the existing dwelling to be demolished prior to the implementation of works, as if the existing dwelling was retained the relationship between this and the new block would be unacceptable in regards to design and amenity terms.

9.69 **Energy Efficiency**: Policy R3 & R4 are relevant. It is proposed in the Design and Access Statement to maximise solar gain by considering the siting and microclimate of the individual buildings by making best use of the sun and orientation of the windows. Condensing boilers will be used, Pilkington ‘k’ coated glazing and solar heating panels.

9.70 **East of England Plan 2008**: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

- He failed to consider the likely environmental effects of revoking Regional Strategies

9.71 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

9.72 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

9.73 **Protected Species** The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

9.74 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

9.75 In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:
“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

9.76 [The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
  
  (a) to impair their ability –
  
  (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
  
  (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

  (b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).

  o e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  
  o e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  
  o e.g. dormice nest (breeding site or resting place (where it hibernates)

9.77 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

9.78 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

9.79 a) Consider whether an offence to an EPS is likely to be committed by the development proposal.

  b) If the answer is yet, consider whether the three “derogation” test will be met.

9.80 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
9.81 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

9.82 **Sustainable Development:** Policy R3 states that the council expects all development to include measures to maximise energy conservation through the design of buildings, site layout and provision of landscaping. The applicant has submitted a sustainability checklist which states the houses will be constructed using a timber frame and heat loss requirements will exceed Building Control Regulations. All walls, floors and windows will exceed the current Building Regulations standards for insulation and noise, dust and light pollution will be kept to a minimum in accordance with policy SD1 and R3 of the Welwyn Hatfield District Plan, 2005.

9.83 **Accessibility and Lifetime Homes:** Local Plan Policy H10 (Accessible Housing) and D9 (Access and Design for People with Disabilities are applicable. As the development is for 5 dwellings, a proportion of these should be constructed to lifetime homes standards as required by Policy H10. Although no reference in the application is made to this, it is considered that this could be subject to a planning condition. Welwyn Hatfield Access Group has also commented, and their main concern is the dimensions of the main entrance and ground floor toilet need to be compliant. Details of these can be submitted with those required for Lifetime Homes.

10 **Conclusion**

10.1 This amended proposal reopens some of the previous concerns of the earlier applications for this site in regards to the impact of the proposal for the units fronting onto Ely Close on the adjoining neighbour at No.37. The reduced separation distance of the development from the common boundary with this neighbour at No.37 and the increased depth of the rear block, even with the reduced height of the building compared to the last application, is insufficient to overcome the previous issues respect to the proposal appearing over bearing and over dominant to this adjoining neighbour, along with the loss of sunlight to their rear garden.

10.2 The proposal therefore fails to comply with Local Plan Policy D1 and the accompanying Supplementary Design Guidance.

10.3 A completed and satisfactory legal undertaking has not been submitted at the time of writing. As these obligations are considered appropriate the application should also be refused for being contrary to Policy IM2 and M4 of the Welwyn Hatfield District Plan 2005.

11 **Recommendation**

11.1 It is recommended that planning permission be refused for the following reasons:

1. The proposed semi-detached dwellings facing onto Ely Close would result in significant loss of sunlight to much of the rear garden of No.37 Lemsford Road for a substantial part of the day from the overshadowing caused by these proposed dwellings to an extent which would be unacceptable. The proposal would therefore be contrary to Policy D1 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance February 2005, which together seek to achieve a high standard of environment.
2. The proposed 3 bedroom semi-detached dwelling facing onto Ely Close would appear overbearing and over dominant in its relationship to No.37 Lemsford Road when viewed from this neighbour's rear garden and rear first floor bedroom window due to the close proximity of this proposed dwelling to the common boundary of this neighbour, and also due to the resultant depth, height, bulk and mass of this proposed building. Furthermore, the loss of sunlight to the rear garden of No.37 Lemsford Road from the overshadowing caused by this proposed dwelling would be significant and unacceptable. The proposal would therefore be contrary to Policy D1 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance February 2005, which together seek to achieve a high standard of environment.

3. The applicant has failed to satisfy the sustainability aims of the local plan and to secure the proper planning of the area by failing to ensure that the development proposed provides the necessary contributions for sustainable transport infrastructure, services and facilities which are directly related to the proposal and necessary for the grant of planning permission. The applicant has failed to provide a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) relating to the payment of financial contributions required for sustainable transport measures and local services/facilities. The Local Planning Authority considers that it would be inappropriate to secure the required financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy IM2 and M4 of the Welwyn Hatfield District Plan 2005.

Refused Drawing Numbers: 2306-P100 & 2306-P102 & 2306-P-103 received and dated 30 June 2011 & 2306-P04 received and dated 11 August 2011

Peter Jefcoate (Strategy and Development)
Date 24/8/11

Background papers to be listed: Appeal Decision Letter
Title: 35 Lemsford Lane, Hatfield

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Date: 08 September 2011

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Council Offices, The Campus, Welwyn Garden City, Herts, AL6 6AE

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1 Site Description

1.1 The application site comprises of an end of terrace house that is located on the southern side of Lockley Crescent. The dwelling is part of a terrace of three properties, which together appear as a large block. This type of terrace is replicated a number of times in the immediate area.

2 The Proposal

2.1 The proposal is for a two storey side extension which includes the demolition of the existing single storey side extension. The ridge height and roof pitch of the proposal will measure the same as the existing main roof. A small dormer window is proposed on the rear elevation of the proposed roof which will match the design of the existing rear dormer windows.

2.2 The existing front door to the side elevation of the dwelling will be relocated to the front elevation and incorporated into a new porch with a lean to roof measuring 3.4m in height, 4.4m in width and 1.2m in depth.

3 Planning History


4 Planning Policy

4.1 National Planning Policy:

PPS1: Delivering Sustainable Development
PPS9: Biodiversity and Geological Conservation
PPG14: Development on Unstable Land

4.2 East of England Plan 2008:

SS1: Achieving Sustainable Development
ENV7: Quality in the Built Environment
4.3 Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development
GBSP2 - Towns and specified settlements
R3 – Energy Efficiency
M14 - Parking standards for new developments
D1 - Quality of design
D2 - Character and context

4.4 Welwyn Hatfield District Council, Supplementary Design Guidance, February 2005

4.5 Welwyn Hatfield Council, Supplementary Planning Guidance, Parking Standards, January 2004

5 Constraints

5.1 The site lies within the Hatfield Chalk Mining area as designated in the Welwyn Hatfield District Plan 2005.

6 Consultations

6.1 Hertfordshire County Council (Transportation Planning & Policy) does not wish to restrict the grant of permission. This application for extensions will not impact upon highway safety or capacity. Although the proposal results in the loss of a garage, parking for 2/3 vehicles is retained within the frontage and no works within the public highway are required.

7 Representations Received

7.1 This application has been advertised by neighbour notification letters. No letters of representation have been received. Period expired 15th July 2011.

8 Town Council

8.1 Hatfield Town Council object to the relocation of the main entrance to the property considering it out of keeping with similar properties in Lockley Crescent.

9 Discussion

9.1 This application is presented to the Planning Control Committee as Hatfield Town Council has objected.

9.2 The main issues to be considered are:

   1. The impact of the proposal on the character and appearance of the dwelling and surrounding area
   2. The impact of the proposal on the amenity of adjoining dwellings
   3. Other material planning considerations

1. The impact of the proposal on the character and appearance of the dwelling and surrounding area

9.3 Policy D1 requires the standard of design in all new development to be of a high quality. Policy D2 requires all new development to respect and relate to the character and context of the area in which it is proposed. Development proposals
should as a minimum maintain, and where possible, should enhance or improve the character of the existing area.

9.4 Lockley Crescent comprises mainly of terraced properties with projecting roof gables a common feature of the local streetscene. A number of dwellings have extended to the side and rear whilst maintaining the general design features of the locality. No.38 Lockley Crescent is an end of terrace dwelling and the flank boundary adjacent to the proposed two storey side extension is angled. Therefore the front elevation of the extension will be sited 1 metre from the boundary whilst at the rear the extension will be sited only 0.65m from the boundary.

9.5 As a result the proposed extension does not fully conform with the advice given in Policy D1 and the supplementary design guidance. Paragraph 5.2, part (v) of the supplementary design guidance which states, 'for all multi-storey, two storey and first floor side extension, a minimum distance of 1m between the extension and adjoining flank boundary must be maintained ... to prevent over development across plot widths and a terracing effect'. However, given that the adjacent property (No.36 Lockley Crescent) is set further back from the road front than No.38 and that there is a separation distance of 1 metre to the front of the extension it is not considered that a terracing effect will occur within the streetscene.

9.6 The proposed extension is of a design that is sympathetic to the existing dwelling, including matching materials and window designs to the front and rear. The proposal is not considered to have a detrimental impact upon either the character of the terrace to which the dwelling belongs or the streetscene in this part of Lockley Crescent.

9.7 The proposed front porch is of a design and scale that will not appear overly prominent within the streetscene. Whilst porches are not a common feature within this part of Lockley Crescent, the proposed porch is not considered to be of a design which will detrimentally impact on the character of the area to warrant a refusal. It should be noted that a similarly designed porch was recently granted planning permission at 55 Lockley Crescent (planning reference: S6/2011/0521/FP). A mature hedge to the front of the dwelling will be retained as part of the proposal which will also minimise the impact of the front porch on the local streetscene.

9.8 Overall the proposal is considered to comply with policies D1 and D2 of the Welwyn Hatfield District Plan, 2005.

2. The impact of the proposal on the amenity of adjoining dwellings

9.9 Policy D1 and the supplementary design guidance paragraph 5.2 (Section 5 Residential Extensions) states in part iii) the extension should not cause loss of light or be unduly dominant from adjoining properties, as a result of either the length of projection, the height or the proximity of the extension. In addition paragraph 5.7 states that new extensions should be designed, orientated and positioned in such a way to minimise overlooking between dwellings.

9.10 The dwelling to the west of the application site is at an angle to No.38. No windows exist on the side elevation of No. 36 and no windows are proposed on the side elevation of the two storey side extension and therefore the proposal is
not considered to cause additional overlooking or loss of privacy to adjoining
dwellings. In addition, sufficient separation space exists between the flank wall of
the proposal and the flank wall of No.36 not to cause a detrimental impact on
loss of light to No. 36. Overall, the proposal is not considered to cause a
detrimental impact on its residential amenity in accordance with policy D1 of the
Welwyn Hatfield District Plan, 2005.

3. Other material planning considerations

9.11 Chalk Mining: There is a history of chalk mining activity in the Borough which
has left voids beneath the ground surface in some areas. The responsibility for
every development rests with the developer and/or landowner, and it is
recommended that advice is secured from properly qualified experts who can
advise on structural stability matters relating to the proposed development. The
grant of planning permission or of building regulation approval does not warrant
or indicate that the application site is safe or suitable for the development
proposed.

9.12 The site is not located within a probability mine area or adjacent buffer zone.
Due to the proposal being a two storey extension an initial desk top assessment
has been carried out. The site has been assessed as low risk and therefore a
condition and informative have been included.

9.13 Sustainable Development: Policy R3 states that the council expects all
development to include measures to maximise energy conservation through the
design of buildings, site layout and provision of landscaping. The applicant has
submitted a sustainability checklist which states that double glazed windows and
doors will be installed along with water efficient taps, showers and WC’s. All
walls, floors, roofs and windows will exceed the current Building Regulations
standards for insulation and noise, dust and light pollution will be kept to a
minimum in accordance with policy SD1 and R3 of the Welwyn Hatfield District
Plan, 2005.

9.14 Protected Species: The presence of protected species is a material
consideration, in accordance with PPS9 (Biodiversity and Geological
Conservation), Natural Environment & Rural Communities (NERC) Act 2006
(section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

9.15 Protected species such as great crested newts, otters, dormice and bats benefit
from the strictest legal protection. These species are known as European
Protected Species (‘EPS’) and the protection afforded to them derives from the
EU Habitats Directive, in addition to the above legislation. Water voles, badgers,
reptiles, all wild birds, invertebrates and certain rare plants are protected to a
lesser extent under UK domestic law (NERC Act and Wildlife and Countryside

9.16 In the UK the requirements of the EU Habitats Directive is implemented by the
Conservation of Habitats and Species Regulations 2010 (the Conservation
Regulations 2010). Where a European Protected Species (‘EPS’) might be
affected by a development, it is necessary to have regard to Regulation 9(5) of
the Conservation Regulations 2010, which states:
“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

9.17 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
  
  (a) to impair their ability –
  
  (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
  
  (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

  (b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
  
  o e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
  o e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
  o e.g. dormice nest (breeding site or resting place (where it hibernates)

9.18 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

9.19 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

a) Consider whether an offence to an EPS is likely to be committed by the development proposal.

b) If the answer is yes, consider whether the three “derogation” tests will be met.
9.20 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

9.21 The existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

9.22 **Car Parking:** Policy M14 requires parking provision for new development to be made in accordance with the standards set out in the Council’s Supplementary Planning Guidance. The dwellinghouse currently has three bedrooms. The proposal seeks to create a four bedroom dwelling. The standards for a four bedroom dwelling in this area are three spaces per dwelling. Hardstanding exists to the front of the dwelling which will provide three car parking spaces. The proposal therefore complies with policy M14 of the Welwyn Hatfield District Plan, 2005.

9.23 **East of England Plan 2008:** On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

- That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

- He failed to consider the likely environmental effects of revoking Regional Strategies

9.24 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

9.25 The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

**10 Conclusion**

10.1 The proposed development is considered acceptable in terms of its size, scale and design and would not have a serious impact on the visual appearance of this dwelling. There would be limited loss of amenity to neighbouring properties in terms of light, outlook or privacy and the proposal is considered to comply with the policies listed above.

**11 Recommendation**

11.1 It is recommended that application S6/2011/1137/FP should be approved subject to the following conditions:
1. C.2.1 – Time Limit

2. C.13.1 – Development in accordance with the approved plans

2678-OS1 & 2678-OS2 & 2678-PO1 received and dated 13th June 2011

Pre Development

3. C.12.1 - Low & Moderate Risk Sites (Must Be Used In Conjunction With C.12.2)

4. C.12.2 - Low & Moderate Risk Sites (Must Be Used In Conjunction With C.12.1)

Post Development

5. C.5.2 – Matching materials

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against Planning Policy Statement/Guidance PPS1, PPS9, PPG14, East of England Plan 2008 policies SS1, ENV7 and development plan policies SD1, GBSP2, R3, D1 and D2 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer’s report which can be inspected at these offices).

INFORMATIVES
1. INF 9

Jackie Phillips (Strategy and Development)
Date 16/8/2011

Background papers to be listed (if applicable)
<table>
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<th>Drawing Number</th>
<th>Date</th>
<th>Drawn by</th>
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<tr>
<td>56/2011/1137/FP</td>
<td>08 September 2011</td>
<td>Darren King</td>
</tr>
</tbody>
</table>

Title: 38 Lockley Crescent, Hatfield

Scale: DNS

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Action Following Appeal Decisions

1. DCLG Ref No: C1950/A/11/2147901
   Application No: N6/2010/2456/MA
   Appeal by: McCarthy & Stone Retirement Lifestyles Ltd
   Site: The Police Station, The Campus, WGC
   Proposal: Demolition of police station and erection of accommodation for the elderly and associated communal uses, ground floor accommodation of B1 or/and D1 use and provision of car parking and landscaping
   Decision: Allowed – 11 August 11

2. DCLG Ref No: C1950/A/11/2147903
   Application No: N6/2011/0020/CA
   Appeal by: McCarthy & Stone Retirement Lifestyles Ltd
   Site: The Police Station, The Campus, WGC
   Proposal: Demolition of the Police Station and all associated buildings and structures
   Decision: Allowed – 11 August 11
3. DCLG Ref No: C1950/D/11/2154818
   Application No S6/2011/151/FP
   Appeal by: Mr & Mrs Forsyth
   Site: London Lodge, Essendon Place, Essendon
   Proposal: First Floor Rear Extension
   Decision: Dismissed - 18 August 2011

4. DCLG Ref No: C1950/H/2152067
   Application No: N6/2010/2797/AD
   Appeal by: Lidl
   Site: 71-81 Moors Walk, WGC
   Proposal: Retention of Two Pole Signs
   Decision: Dismissed - 19 August 2011

Recommendation: That the report is noted

Andrew Windscheffel (Strategy and Development)
26 August 2011