

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 10 OCTOBER 2019  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING  
AND GOVERNANCE)

6/2019/1851/VAR

THE HOLDINGS, COLE GREEN LANE, WELWYN GARDEN CITY, AL7 4AL

REMOVAL OF CONDITIONS 19 (HOURS OF OPERATION OF MACHINERY) AND 20  
(TIMES OF DELIVERIES) ON PLANNING PERMISSION 6/2018/2726/MAJ

APPLICANT: Mr K Alder-Barber

(Howlands)

**1 Background**

- 1.1 Members may recall the previous planning application for this site (6/2018/2726/MAJ) was reported to Committee on 28 March 2019 which was granted planning permission. The approved scheme was for the erection of 4 industrial/commercial buildings within use class B8 with associated landscaping, access and infrastructure works. The Committee Report is attached at Appendix 1.
- 1.2 That approval followed a previous application (6/2015/2416/MAJ) which was reported to Committee on 26<sup>th</sup> May 2016 and was granted planning permission for eight, two-storey, mixed B class use units with a footprint of 2,910sqm and floorspace of 5,820sqm.
- 1.3 The 2018 application was submitted as the site had been used for landfill and had become contaminated. Remediation works were required by condition on the planning permission. The applicant submits that the costs of the remediation work are higher than anticipated and that a larger development was required to accommodate more floorspace to make it viable.

**2 The Application Site**

- 2.1 The application site comprises approximately 2.25 hectares in area on the eastern edge of Welwyn Garden City. It has a frontage onto Cole Green Lane (B195), near to its junction with Black Fan Road and approximately 1km north of its junction with the A414. There are a number of earth bunds along the site frontage and several mature trees on the site's frontage. The site's main vehicle access is from the east off Cole Green Lane and this has been closed off with concrete barriers and the gate is locked. A second access at the south east corner of the site has also been closed. The northern end of the site is part of Howells Wood. The Cole Green Way a bridle path and cycle way (National Route 61) runs near to the west side (rear) of the site.
- 2.2 The site is currently in the Green Belt but has been included in the Emerging Local Plan as an Employment Site. It is located between the eastern edge of

Welwyn Garden City and the proposed Birchall Garden Suburb as designated in the adopted East Hertfordshire Local Plan 2018.

- 2.3 The site to the south east is used for recycling inert waste and contains a large building. This site is also in the Green Belt and is surrounded by earth bunds several metres high.

### **3 Proposal**

- 3.1 Full planning permission is sought to remove conditions 19 and 20 of planning permission 6/2019/1851/VAR.

- 3.2 Condition 19 states;

*No machinery shall be operated and no process shall be carried out (except for office work) outside the hours of 07:00 – 19:00 Mondays to Fridays, 07:00 – 17:00 Saturdays nor at any time on Sundays, Bank or Public Holidays.*

*Reason: To protect the occupants of nearby properties from noise disturbance.*

- 3.3 Condition 20 states;

*No deliveries shall be taken or dispatched from the site outside the hours of 07:00 – 19:00 Mondays to Fridays, 07:00 – 17:00 Saturdays nor at any time on Sundays, Bank or Public Holidays*

*Reason: To protect the occupants of nearby properties from noise disturbance.*

- 3.4 The applicant outlines that the conditions are required to be removed because it severely limits the operation of a modern purpose built warehouse as they operate on a 24 hour basis. The proposed removal of the conditions would enable the development to proceed with confidence that a viable warehouse operation is possible. There are no alterations to the design, size and layout of the proposed development already permitted.

### **4 Reason for Committee Consideration**

- 4.1 This application is presented to the Development Management Committee because the proposal is a departure from the District Plan, East Herts District Council raise concerns with the development and the Head of Planning considers it prudent to report this application to Members.

### **5 Relevant Planning History**

- 5.1 Application Number: N6/1993/0244/OP  
Decision: Granted  
Decision Date: 2 June 1993  
Proposal: Renewal of outline planning permission for Equestrian centre with club facilities, staff house and garage
- 5.2 Application Number: 6/2015/2416/MAJ  
Decision: Approved subject to S106 agreement (for fire hydrants, Green Travel Plan and Travel Plan monitoring fee)  
Decision Date: 26 May 2016  
Proposal: Two storey office (B1(a)) Use and General Industrial(B2) Use and Storage of Distribution (B8) Use on former Equestrian land as permitted and commenced under planning permission N6/1993/0244/OP

- 5.3 Application Number: 6/2018/2726/MAJ  
Decision: Approved subject to S106 agreement (for fire hydrants, Green Travel Plan and Travel Plan monitoring fee)  
Decision Date: 2019  
Proposal: Erection of 4 industrial/commercial buildings within use class b8 with associated landscaping, access and infrastructure works

## **6 Relevant Planning Policy**

- 6.1 National Planning Policy Framework (NPPF)  
6.2 Welwyn Hatfield District Plan 2005 (Local Plan)  
6.3 Draft Local Plan Proposed Submission 2016 (Emerging Local Plan 2016)  
6.4 Supplementary Design Guidance 2005 (SDG)  
6.5 Supplementary Planning Guidance, Parking Standards 2004 (SPG)  
6.6 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)

## **7 Site Designation**

- 7.1 The application site lies within the Metropolitan Green Belt and Landscape Character Area (Welwyn Fringes) as designated in the Welwyn Hatfield District Plan 2005. Bridle-way (Welwyn Garden City 069) starts on the other side of Cole Green Lane at the northern end of the site.  
7.2 In the Emerging Local Plan 2016, the application site is designated as an Employment Area (EA11) and an Area of Archaeological Interest with Urban Open Land to the north and west. Wildlife Site (WS78) is on the opposite side of Cole Green Lane.

## **8 Representations Received**

- 8.1 The application was advertised by means of site notice, press notice and neighbour notification letters. Two representations have been received from East Herts District Council and from David Locke Associates. These can be summarised as;

David Locke Associates objects to the development:

- The applicant's submission of a Night-Time Noise Assessment (dated July 2019) is noted. However, we consider that insufficient information has been submitted to determine the cumulative effects on BGS, from proposed night-time operations on the application site. The nearest residential receptors identified in the Assessment relate only to existing residential receptors and takes no account of BGS. This is set out in detail in the attached Technical Memorandum prepared by the noise consultants, Cole Jarman.
- It is also considered that the assessment of the noise impacts fails to include information regarding:

Details of the noise survey (duration, location, etc.)

The impact on existing dwellings to the north of the site on Sylvandale.

The noise impact during the evenings and on Sundays.

- The allocation of BGS within the East Herts District Plan, increases the weight that must be given to this planned development in considering the subject application, reinforcing the importance of ensuring its delivery does not adversely affect that of BGS. The submission of additional information with respect to the Noise Assessment, will enable that important judgement to be made. In the absence of such information to provide assurance that issues of noise have been adequately assessed, planning permission should be refused. Only in this way can Policy EWEL 1 of the East Herts District Plan be complied with.
- For the above reasons and until an acceptable Noise Assessment is submitted, we object to this application.

East Herts District state:

- It is requested that our previous concerns are referred to;
- Whilst we acknowledge the need to ensure that new employment thrives and onerous conditions are avoided, the fact remains that there is an allocation for a significant number of homes directly opposite the site and a 24 hour operation involving machinery and large vehicles will inevitably have some impact on the amenity of new residents; and
- Should you be minded to approve the application we request that further noise mitigation is provided on the site itself.

8.2 Additionally a memorandum has been received from Cole Jarman critiquing the noise assessment prepared by Entran Ltd on behalf of the applicant. That outlines that the development would allow for 24 hour use. Cole Jarman's review has highlighted the following area within the assessment and recommend further information is provided in order to provide a full assessment of the noise impact:

- Details of the noise survey;
- Expected noise levels at the proposed dwellings at Birchall Garden Suburb
- The impact on existing dwellings to the north of the site on Sylvandale
- The noise impact during the evenings and on Sundays; and
- The impact of loading/unloading activities on site.

In addition they consider additional assessment above the following points should be considered;

- The noise levels for HGV movements are considered as an LA<sub>max</sub> not an LA<sub>eq</sub> as required by the standards
- A 20 Log distance correction has been used from HGV movements instead of the more usual 10 Log correction
- Maximum noise levels (such as reversing beepers) should also be considered in isolation separately to the main BS4142 assessment; and

- Servicing, loading activity, reversing beepers and any other noise sources should be considered in addition to general HGV movements.

## **9 Consultations Received**

- 9.1 Hertfordshire Constabulary outline that the proposed increase in night-time traffic will certainly effect some of the local residents along the local road network, especially in warm weather when windows are likely to be left open during the night.
- 9.2 No objections, subject to conditions have been received from;
- Welwyn Hatfield Borough Council Parking Services
  - Hertfordshire County Council Transport Programmes and Strategy;
  - Hertfordshire County Council – Historic Environment Advisor;
  - Welwyn Hatfield Borough Council – Public Health and Protection;
  - Hertfordshire County Council Property Services S106; and
  - HCC Archaeology.
- 9.3 No responses were received from the following consultees:  
Lead Local Flood Authority, Client Services, The Herts Society, Herts & Middlesex Wildlife Trust, Environment Agency, Welwyn Hatfield Borough Council Client Services and Welwyn Hatfield Borough Council Landscape Department.

## **10 Analysis**

- 10.1 The main planning issues to be considered in the determination of this application are:

- 1. Whether the removal of conditions 19 and 20 are acceptable**
- 2. Environmental Impact Assessment**
- 3. Planning Obligations**
- 4. Conditions**

### **1. Principle of Development within the Green Belt**

- 10.1 Section 73 allows applicants to apply to vary or remove one of more conditions attached to a planning permission. This results in a new permission with one or more conditions from an extant permission varied or removed and it would sit alongside the original permission, which remains intact and unamended. In determining an application under this section, officers have to have regard to the development plan and all other material considerations but the principle of development should not be re-assessed since that is not an issue in relation to the removal of the conditions.
- 10.2 The applicant seeks to remove conditions 19 and 20 of planning permission 6/2018/2726/MAJ which relate to the hours of operation of machinery and processes and the time of deliveries despatched from the site. The removal of these conditions would have the effect of extending the operational hours of the development to allow a 24hour use. The application is seeking for these to be removed as it severely limits the operation of the business in a marketplace that is extremely competitive. The normal operation of a modern purpose built warehouse operates on a 24 hours basis and the conditions in place, result in the loss of operating time which would prejudice the development and would result in the business locating elsewhere. According the conditions are proposed to be

removed to enable the development to proceed with confidence in the knowledge that a viable warehouse operation is possible.

- 10.3 There are no alterations to any part of the development including its size, design or layout and accordingly the principle of this development has already been accepted and there is no conflict with policy in the District Plan or the emerging Local Plan in this respect.
- 10.4 Comments from the Council's Environmental Health department on application 6/2018/2726/MAJ stated '*There is also the potential impact on the proposed Birchall Garden Suburbs development which must be borne in mind as these properties are likely to be closer (depending on the final site layout)*'. Environmental Health recommended that the application was granted subject to conditions including the two conditions proposed to be removed.
- 10.5 The main consideration in the determination of whether the removal of the conditions is acceptable is associated with the impact of the development on noise and vibration pollution, predominantly from vehicle movements, to nearby residential properties and to potential future occupants of Birchall Garden Suburb, which is an allocated site for housing in the East Herts Local Plan. Officers therefore need to consider whether the additional information that has been received to accompany this application, which includes a Night Time Commercial Noise Report, demonstrates that those 2 conditions are therefore not necessary to result in an approval of this application. A night time noise report is considered by officers to demonstrate the most sensitive times.
- 10.6 It has been found that with regard to other neighbour issues, such as loss of light and an overbearing impact the proposals are found to be acceptable and given there are no alterations to the scheme in his regard, this judgement remains.
- 10.7 Policies D1 and the Supplementary Design Guidance (2005) (SDG) aim to preserve neighbour amenity. Additionally Policy R19 of the District Plan seeks to prevent new development from resulting in noise and vibration pollution to existing sensitive uses such as residential. That policy outlines that planning permission will be granted where appropriate conditions may be imposed to ensure either: an adequate level of protection against noise or vibration or that the level of noise emitted can be controlled. Furthermore Paragraph 127 of the National Planning Policy Framework (The Framework) seeks high quality design and good standards of amenity for all existing and future occupiers of land and buildings. Paragraph 180 states that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life. Policy SADM11 of the Draft Local Plan 2016 aims to preserve neighbouring amenity and SADM 18 refers to noise and vibration.
- 10.8 The application is supported by a Night Time Commercial Noise Assessment which considers the potential impacts attributable to the sound emitted from vehicle movements at the proposed site. Day time activities are consented under the existing planning application. This assessment considers the night time period only (23:00 – 07:00). That report states that the noise impact has been

calculated at dwellings located on the residential estate 325m west of the site and the nearest dwelling to the east located approximately 600m from the site off Cole Green Lane. Comment has been received from Cole Jarman outlining that noise levels from HGV movements should have used a 10 Log correction and used LAeq. Entran have advised that LMax was used as a worse case scenario, and the noise report takes a louder level of noise. With regard to 10 Log, this is associated with the dissipation of noise over distance. Due to the movement of vehicles on site, it is considered that a 20 Log correction is not unreasonable.

- 10.9 The noise report outlines that activities will be assessed to ensure compliance with the relevant standards contained within BS 4142. The report outlines the worse case daytime traffic movement, the expected number of trips during the night time would be 56, equating to 10% of the worse case daytime movement. The proposed night time HGV movements are understood to include up to 8 vehicles arriving or departing per hour, with no more than 2 vehicle movements during any 15 minute period. HGVs would drive on site and park, engines would be switched off when idle. For the purpose of the submitted noise assessment, sources have been assumed to be outside. Vehicles are likely to drive directly into the warehouse buildings and therefore this assessment is considered worse case. The noise sources listed in the report refer to only HGV movements. No mention is provided of loading and unloading activities including reversing beepers, door slams, engines starting, unloading and loading activities, fork lift trucks and refrigeration units on HGVs.
- 10.10 The noise report proposes a 2.5m close boarded solid timber panelled fence at the perimeter of the site together with best practicable means that should be incorporated at the proposed site including switching engines off while vehicles are idle and use of white noise alarms, as opposed to tonal alarm systems where practicable.
- 10.11 The nearest existing neighbours are the residential properties in Thistle Grove and Holwell Hyde, which are approximately 250m away and to the south west and south of the site respectively. There are also dwellings to the north of the site in Sylvandale which are approximately 315m from the site and separated by Blackthorn Wood. With regard to noise, the warehouse structure would be installed along the south west perimeter of the site. The warehouse would therefore provide screening between HGV movements and the nearest residential receptor to the west and south west of the site. A 2.5 metre high close solid timber fence would be installed around the perimeter of the site and vehicle engines would be typically at least 15m from the fence. The applicant outlines that precautions would also be employed including white noise alarms, as opposed to tonal alarms, would be used where practicable. When considering the ambient sound levels, as well as the close proximity to Cole Green Lane the calculated rating levels is unlikely to cause a significant impact at the nearest residential receptor. Whilst the noise from only HGVs has been assessed within the noise report, taking into account the distances to residential properties together with the proposed mitigation, any other noises should not create a significant impact to warrant a refusal in this regard.
- 10.12 Whilst the application site is some distance from the nearest residential properties and it is considered an acceptable relationship would be provided, the application site adjoins land allocated in the adopted East Herts Local Plan to the East of Welwyn Garden City (as Policy EWEL1) and known as Birchall Garden Suburb. This is a joint policy allocation with the Proposed Emerging Local Plan.

- 10.13 The emerging Local Plan outlines at Policy SP 19 South East of Welwyn Garden City, that The Holdings is an area of land previously used for waste operations. These sites are not in the same ownership as most of the rest of Birchall Garden Suburb, but they are quite close to its centre. It is for these reasons that these sites are included within Policy SP 19 as an employment area. Given that some Class B uses and particular waste operations, can be noisy and produce dust, it is important that there is appropriate mitigation to protect the proposed housing and that development does not take place within the proposed employment area that it is likely to prevent new housing being built or adversely affect the amenities of existing housing. The criteria of Policy SP 19 requires that The Holdings is allocated subject to there being no adverse impact on neighbouring residential amenity. Modification to this wording is likely to take place in line with East Herts Local Plan's wording for this site as set out below.
- 10.14 Criterion VII(d) of the adopted East Herts Local Plan policy requires that the employment provision at the Holdings and adjoining land off Birchall Lane currently allocated as a Waste Site (the Highlands) should not have an adverse impact on neighbouring residential amenity.
- 10.15 Concern has been raised by David Locke Associates on behalf of Tarmac that the proposed removal of these conditions would have a detrimental impact on this future residential development. They consider that insufficient information has been submitted to determine the cumulative effects on Birchall Garden Suburb, from proposed night-time operations on the application site. Additionally East Herts District Council consider that due to Birchall Garden Suburb which would be opposite the site and that this proposal would be a 24hour operation involving machinery and large vehicles would have some impact on the amenity of future residents of Birchall Garden Suburb.
- 10.16 It is acknowledged that the submitted noise report makes no reference to the planned development at Birchall Garden Suburb and has not considered the impact on the amenity of the occupants of the residential development at that allocated site. Birchall Garden Suburb located in East Herts District would be located to the north of the application site and is a large scale residential scheme proposed within the emerging Local Plan which would straddle the boundary between Welwyn Hatfield and East Hertfordshire. The application site is quite close to the centre of this planned scheme. However, Birchall Garden Suburb within East Herts District is separated from the application site by Cole Green Lane where the south eastern part of Blackthorn Wood is directly opposite the site, albeit on the opposite side of Cole Green Lane. The distance therefore to the actual boundary of the site at its closest point is approximately 45m, although the Memorandum prepared by Cole Jarman indicates the closest part of the allocated development that will include residential accommodation is approximately 100m from The Holdings.
- 10.17 However, whilst appreciated that the nearest residential properties at Birchall Garden Suburb (within East Herts District) are likely to be closer to the development at The Holdings than the residential properties identified in the submitted Noise Assessment, no planning application for this site has been submitted. There are no exact details of the layout and location of future properties on that site which have been agreed by East Herts District Council, although a parameter plan has been submitted.
- 10.18 It is considered that it would be unreasonable to request the developer/applicant of The Holdings to base their operational mitigation on a site that has not been

provided with planning permission. The current noise impact assessment provided as part of this application shows noise levels at night as below at least 6dB below the background noise level at existing residential properties. It is likely that it would not be too dissimilar for proposed properties to the north at Birchall Garden Suburb.

- 10.19 It is also likely that due to noise from traffic from Cole Green Lane those properties at Birchall Garden Suburb would not be located directly adjacent to the road, providing some level of distance attenuation. Additionally, the existing Eco Aggregates site, Highlands, also to the south of Birchall Garden Suburb is closer to Birchall Garden Suburb and is also likely to result in attenuation to that planned development. Although it is appreciated that the permission on that site has not been allowed to operate at night time. In any event, given The Holdings is a permitted development with planning permission for a B8 use, any future application at Birchall Garden Suburb, would be required to design a scheme based on the characteristics of the surrounding area which would include this site, which as referred to above, is an allocated employment site in the emerging Local Plan, together with the existing Highlands site. Any future application would need to mitigate against noise through the design and layout of the future residential properties and ensure any nearby noise, from any operational sites and Cole Green Lane, was mitigated against so that the residential amenity of those future occupiers of the properties was appropriately designed. Nevertheless, consideration has been made with regard to the impact of noise to Birchall Garden Suburb from this site. Whilst the noise report is based on HGV movements only, conditions are suggested to ensure unloading /loading of any goods shall not take place outside any of the buildings hereby permitted during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays, reversing beepers are only broadband/white noise during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays, fork lift trucks are electric, a 2.5m acoustic fence is erected around the site, refrigeration vehicles on site use electrical hook ups and any plant and equipment installed shall be agreed. Therefore through these conditions it is considered that on balance a reasonable level of amenity would be provided for the future occupiers of Birchall Garden Suburb, including during the evenings and on Sundays, and these conditions mitigate the concerns also raised by Cole Jarman including those raised about servicing, loading activity and reversing beepers. Additionally they take into account the noise report submitted. In the event that complaints are received from future occupiers of Birchall Garden Suburb, the Council is statutorily required to investigate those complaints and then duty bound to take action should a nuisance be found to occur.
- 10.20 Additionally, the application site had an extant permission until 15 September 2019. That permission was application 6/2015/2416/FULL which was granted permission for a two storey office (B1a) Use and General Industrial (B2) Use and Storage of Distribution (B8) Use. That permission included no restrictions on the operation of machinery and processes or indeed deliveries. A condition was associated with noise resulting from the use of the plant, machinery or equipment and was required to not exceed a level of 5dBA below the existing background level (or 10dBA below if there is a tonal quality) when measured according to BS4142:2014, at a point one metre external to the nearest noise sensitive building. A similar condition has been repeated on the 2018 planning permission. That condition (number 15) requires that plant and equipment associated with the development hereby approved shall not exceed anything more than 10dB below the background noise level at the nearest residential

properties which would be repeated on any further approval. Accordingly, whilst the nearest residential property is currently approximately 250m from the site, in the event that a nearer property is built, such as at Birchall Garden Suburb, this condition would also need to be complied with for those dwellings. An informative is suggested on any permission informing the applicant of this.

- 10.21 The permission that exists on this site which this application seeks to amend permits a B8 use only, unlike a B2 use which can be noisy. The noise assessment outlines that the main source of noise would be from vehicle movements. A 2.5m close boarded solid timber fence would be erected around the perimeter of the site with vehicle engines at least 15m from the fence. The applicant has however agreed that this can be an acoustic fence. Additionally in line with the assessment taken place in the noise report, the conditions stated above in paragraph 10.19 should be attached to any permission. Accordingly, it is considered that with such conditions together with restricting the use to a B8 use and the inclusion of a condition requiring approval of details of any plant or equipment, the removal of these conditions is not likely to cause any undue noise and disturbance to neighbouring properties including future properties at Birchall Garden Suburb.
- 10.22 Conditions 19 and 20 attached to the 2018 application resulted in the permitted use not being able to operate during the night. Overall it is considered that given the existing permission for B8 use together with the suggested conditions including an acoustic fence, electric fork lift trucks, broadband reversing beepers during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays, details of plant and machinery to be agreed, refrigeration vehicles to hook up to electrical points and unloading and loading of goods inside the buildings during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays and the distance to Birchall Garden Suburb including Cole Green Lane and Blackthorn Wood which act as a separation between the site, an acceptable level of amenity would be provided for existing and future residential properties. Accordingly to refuse permission for the removal of the two conditions would be unreasonable. Environmental Health Officers are also of this view and after re-assessing the proposals with the additional noise survey consider that an adverse impact to existing or future residential properties would not occur subject to the above conditions. The removal of these conditions is not considered, on balance, to warrant an objection against policies D1, R19 and the SDG or indeed emerging Policies SADM 11, SADM 18 and SP19 and the Framework to warrant a refusal of the application in this regard.

### **3 Environmental Impact Assessment**

- 10.25 Whilst the applicant has not submitted an Environmental Impact Assessment (EIA) screening request, the Local Planning Authority has undertaken one as a section 73 application is considered to be a new application for planning permission under the 2011 Environmental Impact Assessment Regulations. The development is not contained within Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the Regulations). The development does however fall within Schedule 2 of the Regulations as an Industrial Estate Development projects, as listed at 10(a) of Schedule 2.

- 10.26 Therefore the development needs to be screened by the Local Planning Authority to determine whether significant effects are likely and hence whether an EIA is required.
- 10.27 Section 1 of Schedule 3 of the EIA Regulations identifies the characteristics of the development that must be considered and amongst the characteristics to be taken into account are the size of the development, risks to human health, pollution and nuisances. Section 2 of Schedule 3 requires consideration to be given to the environmental sensitivity of the geographical area likely to be affected by the development and, amongst other things, consideration should be given to existing land uses, densely populated areas and landscape, historical, cultural or archaeological significance. Section 3 of Schedule 3 requires consideration of a development's potential impact having regard to the extent of the impact, for example in terms of geographical area and size of the affected population, the nature of the impact, duration, frequency and reversibility of the impact, as well as the possibility of effectively reducing the impact.
- 10.28 The site is over 2ha in size and is contaminated. Residential properties are located some distance from the site and the adjoining land use to the east and south is agricultural land that has previously been used for mineral extraction and landfill. The development is not considered to have a significant impact on the environment and the assessment of the above impacts is capable of being assessed through normal planning procedures, i.e. the consideration of the information expected to be submitted with the application.
- 10.29 Taking into account the selection criteria set out in Schedule 3 of the EIA Regulations, insofar as they are relevant to the proposed development, the scheme, subject to the normal planning controls, would not be likely to have significant effects on the environment because of the nature, size and location of the development. Accordingly the proposed development is not considered to be EIA Development.

### **3. Planning Obligations**

- 10.30 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. 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.
- 10.31 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 legal agreement through section 106 of the Town and Country Planning Act 1990 (S106). In this case, the authority does not have a published list and, therefore, it is appropriate to seek contributions through a S106 legal agreement. This would be in accordance with policies M4 and IM2 of the Welwyn Hatfield District Plan 2005 and the Planning Obligations Supplementary Planning Document 2012.

10.32 The proposed development would give rise to the necessity for the following Obligations;

- i. Sustainable Transport: Green Travel Plan
- ii. Monitoring of the Green Travel Plan £6,000
- iii. Fire hydrants

10.33 This was sought in application 6/2018/2726/MAJ and a subsequent unilateral undertaking to ensure those obligations are carried through on any subsequent permission is sought, which the applicant has agreed to.

#### **4. Conditions**

10.34 In relation to conditions, case law outlines that when issuing a permission after a condition had been removed or amended, that permission should refer to all the terms of the original permission to avoid the possibility of the permission being interpreted as having no conditions or only those that were amended.

10.35 It is therefore considered reasonable that the current planning application should be subject to the same conditions as the previous planning application where they remain in accordance with the tests set out in the Framework. However the removal of conditions 19 and 20 is accepted together with the inclusion of additional conditions requesting the erection of a 2.5m fence around the perimeter of the site and machinery to be agreed, vehicles including broadband reversing beepers during the hours of 19:00-07:00 Mondays to Saturdays and at no time of on Sundays, Bank or Public Holidays, refrigeration vehicles to hook up to electrical points, electric fork lift trucks, details of plant and machinery to be agreed and unloading and loading of goods inside the buildings during the hours of 19:00-07:00 Mondays to Saturdays and at no time of on Sundays, Bank or Public Holidays.

#### **11 Conclusion**

11.1 The removal of condition 19 and 20 are not considered to raise any undue impact to existing or future residential properties. The removal would not have such a significant impact above and beyond the approved scheme that should lead to a different decision being given to that of the original application subject to the inclusion of the relevant conditions from the approved decision notice in addition to additional conditions requesting the erection of a 2.5m fence around the perimeter of the site and machinery to be agreed, vehicles including broadband reversing beepers during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays, refrigeration vehicles to hook up to electrical points, electric fork lift trucks, details of plant and machinery to be agreed and unloading and loading of goods inside the buildings during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.

#### **12 Recommendation**

12.1 It is recommended that planning permission be granted subject to

1. Completion of a S106 planning obligation on or before the 20 January 2020 for:

- i. Sustainable Transport: Green Travel Plan

- ii. Monitoring of the Green Travel Plan £6,000
- iii. Fire hydrants

3. Referral to Secretary of State; and

3. the following conditions:

#### Conditions

##### No Development Shall Commence

1. The development hereby approved shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:
  - a) Construction vehicle numbers, type and routing;
  - b) Traffic management requirements;
  - c) Construction and storage compounds (including areas designated for car parking);
  - f) Timing of construction activities;
  - g) Provision of sufficient on-site parking prior to commencement of construction activities;
  - h) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

REASON: To protect highway safety and the amenity of other users of the public highway and rights of way in accordance with the National Planning Policy Framework.

2. No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions (a) to (c) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (c) has been complied with in relation to that contamination.

##### (a) Submission of Remediation Scheme

In line with the investigation and risk assessment that has been submitted with this application, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include;

- a. a preliminary risk assessment which has identified;
  - i. all previous uses;
  - ii. remediation objectives and criteria including all works to be undertaken,
  - iii. potential contaminants associated with those uses,
  - iv. a conceptual model of the site indicating sources, pathways and receptors, potentially unacceptable risks arising from the contamination at the site.

- v. Timetables of works and site management procedures
- b. A site investigation scheme based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c. The results of the site investigation and the detail risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(b) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. 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 that demonstrates the effectiveness of the remediation carried out must be produced, and if necessary identifies any requirements for longer term, monitoring of pollutant linkages maintenance and arrangements for contingency action and is subject to the approval in writing of the Local Planning Authority.

(c) Reporting of Unexpected Contamination

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 in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is 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 in accordance with condition C.

(d) Where indicated in the approved remediation scheme, a monitoring and maintenance scheme to include, monitoring the long-term effectiveness of the proposed remediation over the agreed period of years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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.

3. No development shall take place until the measures detailed in the Flood Risk Assessment by Hydrack reference 09000-HYD-xx-xx-RP-D-001 dated 1 June 2018 have been implemented together with the following mitigation measures;

- a) Limiting the surface water run-off rates to a maximum of 11l/s for all rainfall events up to and including the 1 in 100 year + climate change event with discharge into the ordinary watercourse
- b) Provide attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event
- c) Implement drainage strategy as indicated on the proposed drainage strategy drawing utilising attenuation basin and an attenuation tank.

REASON: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies R7 and R8 of the Welwyn Hatfield District Plan 2005.

4. No development shall take place until a surface water drainage scheme for the site is submitted to and approved in writing by the Local Planning Authority. No infiltration to the ground is acceptable as this may mobilise existing contamination and change the hydrogeological risk posed by the site. The scheme shall be implemented in accordance with the approved details. The surface water drainage strategy will be based on the submitted Flood Risk Assessment carried out by Hydrack reference 09000-HYD-xx-xx-RP-D-001 dated 1 June 2018. The scheme shall also include:

- a) Detailed engineering drawings of the SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance climate change event;
  - b) Demonstrate an appropriate SuDS management and treatment train and inclusion of above ground features such as permeable paving, swales etc for the access road and reducing the requirements for any underground storage
  - c) Silt traps for protection for any residual tanked elements; and
- Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

REASON: The site is on top of a historic landfill located within SPZ3. It is critical that the development seals off the surface of the site and prevents infiltration to ensure contamination in the historic waste mass is not further mobilised. To prevent the increased risk of groundwater and surface water contamination, both on-site and off-site in line with the National Planning Policy Framework and Policies R2, R7 and R8 of the Welwyn Hatfield District Plan 2005.

5. The protection of the retained trees shrub or hedge shall be undertaken in accordance with the details shown on Drawing Nos. 04 A & 05 before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained 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 with 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 the site is required in order to reduce the visual impact of the development hereby permitted in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

#### Prior to Above Ground Development

6. Prior to the commencement of the buildings hereby permitted any existing building on the site shall be demolished. All the materials arising from such demolition shall be completely removed from the site within 1 month of the first occupation of the development hereby permitted.

REASON: To secure a high standard of development as the site lies outside of established settlement limits and within an area where permission for new buildings is not normally granted and in the interests of preserving the character and appearance of the area in accordance with Policies GBSP1, D1 and D2 of the Welwyn Hatfield District Plan 2005.

7. No above ground development shall take place until samples of materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

8. Prior to occupation of this development and upon completion of the drainage works, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local planning Authority. The management and maintenance plan shall include:
  - a) Provision of a complete set of as built drawings including the final drainage layout for the site drainage network;
  - b) Maintenance and operational activities for the lifetime of the development; and
  - c) Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

REASON: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policies R7 and R8 of the Welwyn Hatfield District Plan 2005.

9. Prior to the first occupation of the development hereby permitted the following works shall have been completed in Cole Green Lane; provision of ghosted right hand turn land (and as directed by the Highway Authority inclusion of central island within approach to right hand turn lane), footway/cycleway improvements to Cole Green Lane (southside), and kassell kerbing to stops at Great Gannett/Little Ganett and Black Fan Road provided to the satisfaction of the Highway Authority. Concurrent with such works, best practical endeavours shall be taken to move the speed limit transition (50mpdh to 40mph) to the Highway Authority acceptance.

REASON: To ensure that the access is appropriate to the development and in the interest of safety and ensuring that the development is sustainable and accessible by all modes of travel and to comply with the National Planning Policy Framework.

10. Prior to the first use of the development hereby permitted the vehicle access and HGV egress shall be provided and thereafter retained at the position shown on the approved plan (SK004) and constructed in accordance with details agreed under Condition 10 above. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

REASON: To ensure satisfactory development of the site and a satisfactory standard of highway design and construction in accordance with the National Planning Policy Framework.

11. Prior to the first use of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved plan. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

REASON: In the interests of highway safety and traffic movement in accordance with the National Planning Policy Framework.

12. Prior to the first use of the development hereby permitted, a scheme for signs at the means of ingress and egress of the site, in compliance with Diagrams 833/834/835/836 as set out in the Traffic Signs Regulations and General Directions 2002 (or any Order/Act revoking, amending or re-enacting those Regulations), shall be submitted to and approved by the Local Planning Authority. The approved scheme of signs shall be installed prior to the first occupation of the development and thereafter retained.

REASON: In the interests of highway safety and traffic movement in accordance with the National Planning Policy Framework.

13. Prior to the first use of the development hereby permitted the areas set aside for car parking, cycle parking, servicing, loading, unloading, turning and waiting shall be laid out, levelled, surfaced, marked out and drained in accordance with the approved plans and shall be retained permanently thereafter for the free parking of vehicles for occupiers of the development permitted and shall not be used for any other purpose.

REASON: To ensure that the parking/manoeuvring areas are provided prior to the occupation of the units in the interests of highway safety in accordance with the National Planning Policy Framework.

14. Prior to the use of piling, deep foundations or other intrusive groundworks (investigation boreholes, tunnel shafts, ground source heating and cooling systems) using penetrative methods full details of such methods shall be submitted to and approved in writing by Local Planning Authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure that any proposed piling, deep foundations or other intrusive groundworks (investigation boreholes, tunnel shafts, ground source heating and cooling systems) does not harm groundwater resources in line with

paragraph 170 of the National planning Policy Framework and Policy R2 (Contaminated Land) of the Welwyn Hatfield District Plan 2005.

15. Noise from plant and equipment associated with the development hereby permitted, shall not exceed anything more than 10dB (LAeq) below the background noise level (LA90) at the nearest residential properties.

REASON: To protect the residential amenity of residents in the nearby vicinity of the site in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

16. Prior to installation of external lighting the applicant shall submit to, for approval in writing by the Local Planning Authority, details relating to the external lighting scheme (including vertical lux diagrams which show potential light trespass into windows of nearby residential properties). This scheme must meet the requirements within the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

#### Post Development

17. All agreed landscaping set out on the approved plans (1826/18-02B & 1826/18-03B & 1826/18-RP02A & Landscape Design Statement ref 1826/18-RP01A & Soft Landscape Works Maintenance and Management Proposals Ref 1826/18-RP02A) shall be carried out in the first planting and seeding seasons following the first occupation of the building, the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policies D1 and D8 of the Welwyn Hatfield District Plan 2005.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), the use of the premises hereby permitted shall be retained in B8 Class only.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by that Order in the interests of ensuring that adequate parking is provided on site and that the proposal would not prejudice highway safety in accordance with Policies D1 and M14 of the Welwyn Hatfield District Plan 2005, the Council's Supplementary Planning Guidance on Parking Standards, the Council's Interim Policy for Parking Standards and the National Planning Policy Framework.

19. No occupation of the development hereby permitted shall commence until details of a 2.5m high close boarded acoustic fence around the perimeter of the site, albeit the approved entrance/exits of the site, have been submitted to and agreed

in writing by the Local Planning Authority. Subsequently the agreed details shall be implemented and retained as such.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

20. Prior to the installation of any plant or equipment full details of the noise, design and location shall be submitted to and approved in writing by the Local Planning Authority. Subsequently those agreed details shall be implemented.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

21. Any forklift trucks on site should not be anything other than electric.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

22. No unloading/loading of any goods or other items from delivery vehicles shall take place externally (outside any of the buildings hereby permitted) during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

23. Any reversing beepers on any vehicles entering the site shall not be anything other than broadband/white noise reversing beepers during the hours of 19:00-07:00 Mondays to Saturdays and at no time on Sundays, Bank or Public Holidays.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

24. Any refrigeration vehicles on site are to make use of electrical hook-ups and the vehicle engine and generators associated with those vehicles shall be turned off.

REASON: To protect the amenity of residential properties in the area in accordance with Policies R19 and D1 of the Welwyn Hatfield District Plan 2005.

25. The development/works shall not be started and completed other than in accordance with the approved plans and details:

<b>Plan Number</b>	<b>Revision Number</b>	<b>Details</b>	<b>Received Date</b>
SK001		Internal Sweep Path Analysis	17 October 2018
SK002		Access Strategy Swept Path Analysis	17 October 2018
SK003		Visibility Review	17 October 2018
SK004		Access Arrangement	17 October 2018
00050	PL2	Proposed Site Location	17 October 2018
02	C	Landscape Concept	17 October 2018
03	B	Landscape Sections	17 October 2018
04	A	Tree Protection Plan	17 October 2018

05		Tree Protection Fence	17 October 2018
09000-HYD- XX-XX-DR- S-0210	P3	Drainage Strategy	17 October 2018
09000-HYD- XX-XX-DR- S-0201	P3	Earthworks Volumes	17 October 2018
09000-HYD- XX-XX-DR- S-0200	P3	Proposed Levels	17 October 2018
00050	PL3	Proposed Site Location	5 November 2018
00052	PL8	Proposed Site Layout	5 November 2018
93100	PL5	Fencing Details	5 November 2018
97001	PL5	Bicycle & Motorcycle Shelter Details	5 November 2018
01100	PL4	Warehouse Ground Floor Plan	5 November 2018
01101	PL5	Mezzanine Floor Plan	5 November 2018
01102	PL4	Roof Ga Plan	5 November 2018
02300	PL9	Elevations	5 November 2018
03500	PL5	Proposed GA Sections	5 November 2018
48100	PL5	Building External Finishes	5 November 2018
94001	PL5	External Finishes	5 November 2018

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

### **POSITIVE AND PROACTIVE STATEMENT**

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

### **INFORMATIVES**

1. This permission does not convey any consent which may be required under any legislation other than the Town and Country Planning Acts. Any permission required under the Building Regulations or under any other Act, must be obtained from the relevant authority or body e.g. Fire Officer, Health and Safety Executive, Environment Agency (Water interest etc. Neither does this permission negate or override any private covenants which may affect the land.
2. The applicant is advised that no development (including demolition) should commence until wheel-cleaning apparatus to prevent the deposit of debris, mud etc on the highway has been agreed with the Highway Authority. Hertfordshire County Council Transport Planning and Policy can be contacted on 03001234040.
3. The decision notice contains conditions which require you to submit information to the Local Planning Authority and have it approved in writing before any development relating to the approval takes place. There is a formal procedure for applying to discharge conditions and further information can be found at

<http://www.welhat.gov.uk/index.aspx?articleid=834> . Failure to comply with this type of condition may result in the development being considered unlawful and enforcement action could be taken. If you require any clarification or information please contact the section on 01707 357000.

4. The granting of this permission does not convey or imply any consent to build upon or access from any land not within the ownership of the applicant.
5. The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.
6. The applicant is advised that all new roads associated with this development will remain unadopted and the developer should put in place a permanent arrangement for long term maintenance. At the entrance of the new estate the road name plate should indicate that it is a private road to inform purchasers of their future maintenance liabilities. Further information is available via the website [www.hertfordshire.gov.uk/services/transtreets/highways/](http://www.hertfordshire.gov.uk/services/transtreets/highways/) or by telephoning 0300 1234047.
7. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
8. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
9. It is an offence under section 148 of the Highways Act 1980 to deposit mud or other debris on the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure

that all vehicles leaving the site during construction of the development are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.

10. No machinery shall be operated, no process shall be carried out (except for office work) outside the hours of 08:00 – 18:00 Mondays to Fridays, 08:00 – 17:00 Saturdays nor at any time on Sundays, Bank or Public Holidays.
11. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of :  
8.00am and 6.00pm on Mondays to  
Fridays 8.00am and 1.00pm Saturdays  
and at no time on Sundays and Bank Holidays
12. The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.

All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions.

All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.

All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.

Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.

All pile driving shall be carried out by a recognised noise reducing system.

Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material.

In general, equipment for breaking concrete and the like, shall be hydraulically actuated.

'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.

Any emergency deviation from these conditions shall be notified to the Council without delay.

Any planned deviations from these conditions for special technical reasons,

shall be negotiated with Council at least 14 days prior to the commencement of the specific work.

Permissible noise levels are not specified at this stage.

13. The applicant is advised that condition 15 is applicable for any new property that is constructed that could be closer to the existing residential properties'.

OR

It is recommended that planning permission be refused for the following reason if a S106 legal agreement is not completed on or before (28 June 2019) subject to the application not being called in by the Secretary of State:

1. 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 would provide a sustainable form of development in mitigating the impact on local infrastructure and services which directly relate to the proposal and which is 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). 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 Policies M2 and M4 of the Welwyn Hatfield District Plan 2005.

#### **POSITIVE AND PROACTIVE STATEMENT**

The decision has been made taking into account, where practicable and appropriate the requirements of paragraph 38 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be viewed on the Council's website or inspected at these offices).

Sarah Smith (Development Management)  
Date 25 September 2019

Appendix 1 – Officer Report for 6/2018/2726/MAJ



 <p><b>WELWYN HATFIELD</b></p> <p>Council Offices, The Campus Welwyn Garden City, Herts, AL9 6AE</p>	Title: <b>The Holdings, Cole Green Lane, Welwyn Garden City</b>		Scale: <b>DNS</b>
			Date: <b>2019</b>
	Project: <b>DMC Committee</b>	Drawing Number: <b>6/2019/1851/VAR</b>	Drawn: <b>Emma Small</b>
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