

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 17 AUGUST 2017
REPORT OF THE EXECUTIVE DIRECTOR (PUBLIC PROTECTION,
PLANNING AND GOVERNANCE)

6/2016/2624/FULL

MERCURY HOUSE, 1 BROADWATER ROAD, WELWYN GARDEN CITY, AL7
3BQ

CHANGE OF USE FROM B1(A) OFFICE TO C3 RESIDENTIAL,
CONSTRUCTION OF ROOF AND SIDE EXTENSIONS, CREATION OF 43
RESIDENTIAL APARTMENTS AND CYCLE STORAGE COMPOUND

APPLICANT: Mr M. Quinn

AGENT: Mr T. Waller

(Peartree)

1 Introduction

- 1.1 Members will recall this application was reported to Development Management Committee on 19th July 2017. At that meeting Members resolved to approve the application subject to relevant amendments which were reported to members, the inclusion of an additional condition and a signed S106 agreement.
- 1.2 Members will be aware that an additional condition was requested by the committee, requiring the applicant to submit details to demonstrate that the materials used in the proposed development were fire retardant. However following discussions with the legal department, it is considered that such a condition would not meet the tests as stated within the National Planning Policy Framework (NPPF) and therefore could not be enforced by the planning service. The NPPF sets out at paragraph 206 that *“planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects”*.
- 1.3 Whilst the motivations surrounding fire safety are acknowledged and understood, it is considered that this falls within the remit of building control and would be dealt with as a requirement of the Building Regulations. Therefore the suggested condition is not considered to be relevant to planning, in the terms of the NPPF and is not enforceable as the basis for considering such a condition would be the Building Regulations. Therefore it is recommended that this matter should not be conditioned as part of the planning application.

- 1.4 The remainder of this report has been amended in line with the updates and amendments that were reported and approved at the last committee. This includes the paragraph within the 'Highway and Parking matters' section and amendments to conditions 9 and 10.
- 1.5 The application is therefore recommended for approval subject to a S106 Agreement and the same conditions as previously stated, with the inclusion of those changes to conditions 9 and 10.

2 Site Description

- 2.1 The application site is located on the corner of the cross roads with Bridge Road East and Broadwater Road and comprises a three storey office building and its associated car park. This site is located within an employment area. However it should be noted that this particular area is changing by virtue of the introduction of residential developments close to the application site, which include the recent permission for the re-development of the Shredded Wheat Factory opposite.
- 2.2 The application site currently benefits from a large car parking area to the side and front boundaries, with limited soft landscaping along its boundaries.

3 The Proposal

- 3.1 The proposal would provide a total of 43 flats, 41 of which would be one bedroom flats and 2 would be two bedroom flats.
- 3.2 The proposed 43 dwellings comprises an increase of 12 dwellings from the development approved under the recent prior approval application (ref. 6/2016/2160/PN11). The proposal would result in the construction of an additional storey, a three storey side extension fronting Bridge Road East with balcony detail serving the additional storey and a roof top terrace.
- 3.3 Members should note that these changes were not possible under the application for prior approval, as the process does not allow for works which would constitute development as these require separate planning permission. The prior approval established that the building can be converted to residential, this application is seeking to justify a greater number of flats and a denser form of residential development.

4 Reason for Committee Consideration

- 4.1 This application is presented to the Development Management Committee by virtue of the proposed development being a departure from the Development Plan.

5 Relevant Planning History

- 5.1 6/2016/2160/PN11 – Prior approval for a proposed change of use from Office (Class B1(a)) to Residential (Class C3 – Granted 5th December 2016

- 5.2 6/2016/1324/PN11 - Prior approval for the proposed change of use of from office (class B1) to residential (class C3) to provide 31 dwellings – Refused 9th September 2016

6 Planning Policy

- 6.1 National Planning Policy Framework 2012
- 6.2 Welwyn Hatfield District Plan 2005
- 6.3 Council's Draft Local Plan Policies, SADM10
- 6.4 Supplementary Design Guidance, February 2005 (SDG)
- 6.5 Supplementary Planning Guidance, Parking Standards, January 2004 (SPG)
- 6.6 Interim Policy for Car Parking Standards and Garage Sizes, August 2014

7 Site Designation

- 7.1 The site is located within the Welwyn Garden City employment area within the settlement of Welwyn Garden City as defined in the Welwyn Hatfield District Plan 2005.

8 Representations Received

- 8.1 The application has been advertised by neighbour notification, site notice and press notice. Two responses have been received as follows:
- *'As planning permission already exists for change of use to residential then it does make sense to maximise the capability and utilisation of the site. This comment is on the basis that all other planning and safety requirements are met , especially in relation to the developments proximity relating to the outer zone of the Gas Holders in Tewin Road ; it looks as though the site boundary plan has been amended from the initial application so that the site falls outside the zones'*
 - *'What a hideous place to live right on top of a very busy, currently traffic-lit junction. Poor choice of location for such a change I feel.'*

9 Consultations Received

- 9.1 **Hertfordshire County Council Transport Programmes and Strategy (HCCTPS)** - No objections.
- 9.2 **Hertfordshire County Council Lead Local Flood Authority** – No objections.
- 9.3 **Hertfordshire County Council Development Services** – No objections subject to securing contributions through a S106 agreement.

- 9.4 **Herts Fire & Rescue** – The provision for access does not appear to be adequate to comply with Approved Document B section 16.3.
- 9.5 **Hertfordshire Constabulary** – Unable to support application due to lack of detail around the type of security features to the block and its entrance features. These would fall within Building Regulations Part Q.
- 9.6 **Hertfordshire Ecology** – No objection subject to an informative
- 9.7 **Thames Water** – No objection.
- 9.8 **WHBC Environmental Health** – recommend planning application is permitted but subject to conditions
- 9.9 **WHBC Conservation Officer** - the proposals would not preserve or enhance the setting of the listed building and would not be of sufficient design standard for this important corner site where the opportunity should be taken to improve and create a decent external environment for the occupants of the building. The proposals would not conform to the NPPF 2012
- 9.10 **Environment Agency** – No comments have been received.
- 9.11 **East & North Herts Clinical Commissioning Group** - No comments have been received.
- 9.12 **Hertfordshire County Council Historic Environment** – No comments received.
- 9.13 **WHBC Landscaping** – No objection subject to a condition requiring a detailed landscape plan to include species, sizes, densities and aftercare. This should include planting along the boundaries.
- 9.14 **WHBC Parking Services** – No comments received
- 9.15 **WHBC Client Services** - The plans refer to space being allocated for 1100l recycling bins, however we do not provide recycling to flats using 1100l bins, so this would need to be reconsidered. Space would need to be allocated for 4 x 1100l bins for the disposal of refuse on a weekly basis and then 4 x mini recycling banks for the disposal of recycling on a fortnightly basis. Each set of mini recycling banks comprise of two 360l wheeled bins which fit into a frame and are for the recycling of paper and glass/cans. It should also be anticipated that this scheme may be extended to include other materials in the future, so additional space should be available. With regard to the location of the bin stores to the rear of the building this is not an ideal location for accessibility, therefore relocating the bin storage to a point closer to the stopping point of the vehicle should be considered.
- 9.16 **Health & Safety Executive** – Consult the HSE Planning Advice Web App for advice on the application.

10 Analysis

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

1. Whether the site is required to meet future employment requirements and business and community needs
2. Whether the principle of residential development is acceptable (Policies EMP1, EMP2, H2 and NPPF Sections 1, 3, 4, 7 and 8)
 - i. Hazardous Zone
3. Density, layout and design and whether the proposal would sufficiently maintain or enhance the character and appearance of the application site and surrounding area (D1, D2, R1, R19 and NPPF)
 - i. Impact on the setting of a listed building
4. Impact on living conditions of adjoining/adjacent occupiers (D1)
5. Highway and Parking Matters (NPPF, M14)
6. Other Material Planning Considerations
 - i. Landscaping (D8)
 - ii. Flooding and Drainage
 - iii. Noise, Contaminated Land and Fire & Rescue (R2)
 - iv. Refuse and Recycling Storage (D1, IM2 & M4)
 - v. Planning Obligations & Legal Agreement (IM2, H7, M4 & Planning Obligations SPD)

1. Whether the site is required to meet future employment requirements and business and community needs

10.2 The application site is located in a designated employment area EA1 – Welwyn Garden City Industrial Area. Saved Policy EMP2: Acceptable Uses In Employment Areas states that, in designated employment areas, proposals for uses other than Classes B1, B2 and B8 should generally be resisted and will only be permitted where it can be clearly demonstrated that the existing land or premises are no longer required to meet future employment requirements and business and community needs. All such proposals will also be required to satisfy criteria (i) to (v) of Policy EMP2 and other relevant policies relating to the proposed use.

10.3 The emphasis of the strategy and objectives in the Employment chapter of the District Plan is on husbanding reserves of employment land to ensure that there continues to be enough land and floorspace in the district, in the right locations and of the right quality, to provide jobs for local people, maintain a diversity of employment uses and accommodate the requirements of local businesses and firms seeking to locate in the area.

10.4 Policy SADM10 of the Council's Draft Local Plan was prepared to accord with guidance in the National Planning Policy Framework and has the same approach to the loss of employment land to other uses, seeking to protect the supply of land for industrial, office and warehousing uses. This approach reflects the strong emphasis on sustainable economic development in the National Planning Policy Framework (NPPF).

Paragraphs 18 to 27 of the NPPF set out the Government's overarching ambitions for building a strong, competitive economy.

- 10.5 Notwithstanding the Council's strong desire to see adequate land remaining for employment uses, in 2016 an application for prior approval for a change of use from B1(a) office use to residential use affecting this site and creating 2 x two bedroom flats and 29 x one bedroom flats (6/2016/2160/PN11) was lodged. Consequently it was agreed that the building could be converted to residential use as permitted development without the Council's prior approval.
- 10.6 On the basis of the recently approved prior approval application, it is considered that the employment use of the building has effectively ceased. Moreover, it is considered that the fall-back position is a material consideration in this instance which carries significant weight. It should however be noted that the red edge on the current application differs slightly from the Prior Approval submission as that application excluded an area of car parking due to it lying within a hazardous zone. However it should be noted that this hazardous zone has been revoked and no longer exists. Accordingly, should a new prior approval application be submitted including the whole site it is likely to be granted.

2. Whether the principle of residential development is acceptable

- 10.7 By virtue of the site having received prior approval for the conversion of the existing building to residential use, the principle of the land and building being in a residential use has been established. Reference should be given to the National Planning Policy Framework (NPPF) which encourages the provision of more housing and states that applications should be considered in the context of the presumption in favour of sustainable development. Local Planning Authorities should encourage the effective use of land by re-using land that has been previously developed provided that it is not of high environmental value.
- 10.8 Saved Policy H2 relates specifically to applications for windfall housing development and states that all proposals of this type will be assessed for potential 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 build new communities to support infrastructure and provide demand for services and facilities;
 - (v) The physical and environmental constraints on development of land.

10.9 The application site is located within the main town of Welwyn Garden City. It is situated in a particularly sustainable location; being within walking distance of the town centre and the train station and being served by various bus services along Broadwater Road. The proposed development would utilise the existing accesses onto Broadwater Road and Bridge Road East, main thoroughfares within the town, providing good access to the surrounding area. Furthermore, there are no known physical or environmental constraints at this site that cannot be dealt with by the imposition of relevant conditions.

10.10 Whilst the site is located in a designated employment area, Broadwater Road itself is changing with more residential sites being witnessed. Most recently planning permission for the re-development of the Shredded Wheat factory for residential development, which is located directly opposite this site has been approved subject to a Section 106 agreement. The introduction of a development of 43 residential dwellings at the host site would not be inconsistent with the evolving and changing character of the area.

i. Hazardous Zone

10.11 It should be noted that part of the application site (car park) was located within a hazardous zone, however this has now been revoked as per the decision made by the Secretary of State dated 23rd March 2017. As such no part of the application site lies within a hazardous zone and therefore no consideration relating to this issue is necessary. Furthermore the consultation response received from the Health and Safety Executive no longer applies and as such has not been taken into consideration in the determination of this planning application.

10.12 It is found that the proposal would not be contrary to policies H2, SD1 and R1 and is considered to represent sustainable development in accordance with the NPPF. Taking all of the above into account, there is no objection in principle to the residential development of this site and the presumption in favour of the residential development should apply.

3. Density, layout and design and whether the proposal would sufficiently maintain or enhance the character and appearance of the application site and surrounding area

10.13 The Government attaches great importance to the design of the built environment. The National Planning Policy Framework (NPPF) notes that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments add to the overall quality of the area; respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation.

10.14 Furthermore, saved District Plan Policy D1 requires the standard of design in all new development to be of a high quality and saved Policy D2 requires all new development to respect and relate to the character and context of

the area in which it is proposed. It notes that development proposals should as a minimum maintain, and where possible, should enhance or improve the character of the existing area.

- 10.15 The character and form of built development in this area is mixed, it is noted that more conventional housing can be found further along Broadwater Road, whilst the area in which the host site is located is predominantly commercial premises, with a pub located opposite, a DIY centre and offices to the south and vacant offices to the east (Accord House) which has recently received a prior approval for office to residential conversion. It should also be noted that a recent planning application was determined at Accord House (6/2017/0903/FULL) for external alterations to the office building, although it is likely the building will be converted to residential once these alterations have taken place. A further notable recent planning permission relates to the Shredded Wheat factory located opposite the site which has a resolution to grant planning permission for a mixture of uses and includes up to 850 dwellings subject to a S106.
- 10.16 The proposed development would, to an extent, maintain the design and appearance of the existing building, by virtue of the distinctive glazed mono-pitched element being maintained, albeit with some alterations of materials.
- 10.17 The building would be extended by virtue of one storey (resulting in a four storey building) and a side extension (fronting onto Bridge Road East), the building would feature balconies together with a roof top communal patio area. The proposed extensions and alterations are not considered to be out of character with the area, with the existing building which is already distinctive in terms of its appearance and design, with a mono pitched corner tower element and large amounts of glazing. The materials proposed are not considered to be detrimental to the character of the area and would make the building appear more residential in character. Whilst the area is currently industrial/commercial in character it is considered that the area is changing and is becoming residential in character.
- 10.18 Landscaping is a key feature of any development, due to the site's prominent location on the crossroads with Broadwater Road and Bridge Road East. Indeed the introduction of landscaping along the frontage of the site would help to soften the bulk and mass of the proposal and to match those developments on the opposite side of the road and to ensure that the proposal is in keeping with the ethos of the garden city. The planting of further vegetation and other planting within the site is encouraged by officers. This again, would help to soften the appearance of the development and to also create a pleasing sense of place and a built environment which is pleasant to live in. The Council's landscape officer has not raised an objection to the scheme but has requested that a condition is imposed on any grant of permission for a full landscaping scheme to be submitted.
- 10.19 The car parking area would provide 43 spaces, which would be to the front of the site in the same area as the existing parking spaces. These spaces

are already clearly visible within the public realm, however it is considered that additional landscaping can be proposed along this frontage to help screen and enhance this prominent site on the corner with Broadwater Road and Bridge Road East.

10.20 Taking account of the above, it is considered that the proposed development would be in accordance with Policies D1, D2, D4, D7 and D8 of the Welwyn Hatfield District Plan 2005, the Supplementary Design Guidance Statement of Council Policy 2005 and relevant parts of the National Planning Policy Framework 2012.

i. Impact on the setting of a Listed Building

10.21 Due to the proximity of the site to listed buildings in the locality, principally the former Shredded Wheat factory located opposite the site and the nearby Roche building, although this is located approximately 403m from the site. It is necessary to consider the impact of the proposal on the setting of listed buildings.

10.22 Paragraph 132 of the Framework outlines that, when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation and the more important the asset the greater weight it should be given. Paragraph 133 states that where proposed development will lead to substantial harm or total loss of significance of a designated heritage asset Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm.

10.23 Where the harm is less than substantial Para 134 states that this should be weighed against the public benefits of the proposal. The NPPF therefore does allow for a degree of harm to a heritage asset but only to achieve significant public benefits.

10.24 The proposed extensions and alterations proposed as part of this application would be within the setting of the Listed Building. Setting is defined in the NPPF as "the surroundings in which a heritage asset is experienced". The NPPF advises that a setting's extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset and may affect the ability to appreciate that significance. The importance of the setting depends upon the contribution it makes to the significance of the heritage asset or the appreciation of the heritage asset.

10.25 Historic England Good Practice Note 3 (2015) provides advice on how to assess proposed developments that affect the setting of Listed Buildings. This guidance advises that not all settings have the capacity to change without harm to the significance of a heritage asset. It can depend upon the location and requires consideration on a case-by-case basis. It advises that the assessment of a setting is a matter of qualitative and expert judgement and involves identifying the heritage significance and setting together with the effect of development upon them.

- 10.26 The Council's conservation officer has been consulted on the application and is objecting to the application as *'it is not considered that the proposals would preserve or enhance the setting of the listed building and would not be of a sufficient design standard for this important corner site where the opportunity should be taken to improve and create a decent external environment for the occupants of the building. As such the proposals would not conform with the NPPF 2012.'*
- 10.27 As previously mentioned within this report, planning consent has been resolved to grant permission subject to a S106 agreement at the Shredded Wheat Factory site immediately opposite and for the demolition of the buildings on site other than the original 1920s listed factory buildings of the grain silos, production hall, grain store and boiler house. This permission also allows for the construction of a major mixed use development including up to 850 new dwellings, a hotel, offices, pub, crèche, and a gym / dance / exercise studio. This would be a very significant new development, which would position new build 5-8 storey development opposite the application site altering the appearance of this part of Broadwater Road and Bridge Road.
- 10.28 In terms of the setting of the listed buildings, paragraph 128 of the NPPF states that "in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting". The applicant has done this in the form of a heritage statement submitted within a revised Design and Access Statement.
- 10.29 The key point made by the applicant is that the resolution to grant permission at the Shredded Wheat Factory for a significant development would set to transform the site and the listed buildings' setting significantly.
- 10.30 In terms of the impact on the setting of the Listed Building, the extensions and alterations proposed to the host building, as part of this application are not considered to have an adverse impact on the heritage asset in that views of the listed building would not be reduced nor would they be impacted by the addition of a further storey nor an extension to the front elevation facing onto Bridge Road East. It is acknowledged that the alterations in its appearance and the use of different materials reflect a change in function of the land from industrial/commercial to residential, but these in isolation do not justify a reason for refusal on heritage grounds.
- 10.31 In this instance the proposed development reflects change over time and it is not considered that the resultant building following any grant of permission would have a harmful impact on the setting of a listed building over the existing building and its more modern character and as such would not lead to the substantial harm of a designated heritage asset.

4. Impact on the living conditions of adjoining/adjacent occupiers

- 10.32 The impact on the living conditions of existing and future occupiers of Policies D1 and the Supplementary Design Guidance 2005 (SDG) aim to preserve neighbouring amenity. The SDG sets out the Council's guidelines

with regard to residential development for the protection of neighbouring residential amenity and living conditions in terms of overbearing impact, day and sun light, privacy/overlooking and noise.

- 10.33 The development site is located adjacent to a large office building to the south and another office building to the east. It should be noted that prior approval was recently granted for the conversion of the office building to the east of the host site into 17 residential flats (6/2017/0525/PN11). Whilst the Shredded Wheat factory opposite the site is currently vacant, as stated above it has permission to be re-developed, which consists of up to 850 residential units.
- 10.34 The proposed development would result in an increase in the amount of built form at the site, by virtue of the extensions proposed. As a result there would be an increase in the amount of fenestration seen to the elevations and additional balcony detailing and a roof top terrace. Accord House, a two storey building, located east of the application site is currently a vacant office building with permission to convert it to residential flats. Due to the proximity of the buildings and the proposed extension to there is potential for direct overlooking into the windows of these properties.
- 10.35 Concerns regarding overlooking have been addressed by virtue of the closest side facing windows being obscure glazed and the closest balconies having a 1.8m high obscure glazed balustrade and a privacy screen seen to the side of the balcony serving flats 2 (Ground Level), 13 & 14 (First Floor) and flats 24 & 25 (Second Floor Level). It is considered that the use of obscure glazing would prevent any direct overlooking into the windows of the current offices or the residential units, should this permission be implemented. As such a condition would be imposed on any grant of consent requiring these windows to be obscure glazed in perpetuity.
- 10.36 With regards to the other fenestration seen at the site, this would predominantly overlook the highway and the parking areas associated with Accord House and Albany Place (an office complex) and therefore no objections are raised in this regard.
- 10.37 Overall it is considered that the proposal would have no significant impact on the occupiers of adjoining/adjacent properties and as such it accords with Policy D1 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance Statement of Council Policy 2005.

5. Highway and parking matters

- 10.38 The HCC Highway Officer has not raised any objections to the proposed development and notes that the proposed change of use of the land to residential and the provision of 43 dwellings would likely result in a significant reduction in the number of journeys to and from the site when compared to the original office use. The site is located in a sustainable location with good access to public transport and good footpath.

- 10.39 The site would provide 2 x 2 bedroom flats and 41 x 1 bedroom flats. Each of the flats would be provided with one off street parking space. As the site is located within Parking Zone 2, the maximum requirement for this development would be 33 parking spaces. The proposal seeks to provide 43 parking spaces, which includes one disabled parking bay. Therefore the proposal would meet the Council's maximum standards. In this instance there would be an overprovision of parking and the proposal would enable each dwelling to have access to one parking space and as such the proposal would comply with the SPG. Furthermore the host site is located a short walk from the centre of Welwyn Garden City where the train station and bus station are located. Additionally bus stops can be seen close to the application site and as such the site is considered to be in a sustainable location.
- 10.40 The internal access road would provide sufficient, safe access and turning areas for parking spaces accessed directly from it, each parking space is of a sufficient width to provide adequate parking, access and turning space.
- 10.41 In the event of permission being granted, conditions would be included requiring that the access, turning areas and parking spaces be laid out and provided in accordance with the submitted Layout Plan, prior to any occupation. In addition, a construction management plan is required to minimise disruption to the surrounding highway network, due to the sites location on a main junction within Welwyn Garden City. No contributions have been sought from HCC Highways.
- 10.42 A cycle store is proposed to the front of the site, this would enable 44 bikes to be storey (double stacked), within a secure enclosure. As such there is sufficient cycle storage available for residents in accordance with the Council's Parking Standards.

6. Other Material Planning Considerations

i. Landscaping

- 10.43 The site is currently occupied by a hard-surfaced car park, with some vegetation located along its boundaries, however it is considered to be of low ecological value.
- 10.44 During the course of the application revised comments from Hertfordshire Ecology were received. It was concluded that due to the building being fairly modern with well-sealed brickwork it would appear to be sub-optimal for bats to use for roosting. As such a precautionary approach is recommended and therefore an informative should be added to any grant of permission.
- 10.45 The Council's Landscaping and Ecology Officer has indicated that there is no objection to the proposed development. Whilst it is acknowledged that there is some landscaping to the front boundaries with Bridge Road East and Broadwater Road, should planning permission be granted it would be

necessary for a condition to be imposed requiring additional soft landscaping to be provided and details of this to be provided.

ii. Flooding and Drainage

10.46 The Lead Local Flood Authority were consulted on the application and do not wish to raise an objection on flood risk grounds. It is noted that the extension of the building will not increase the impermeable area, as works will be on an area of existing car parking. The proposal is to use the existing drainage arrangements that have been investigated by PRC Structural Engineering Services Ltd.

10.47 As the surface water assessment supported by MicroDrainage analysis, shows that flooding may occur only within the car park for the 1 in 100 year +40% rainfall event, it was also stated within previous comments related to this site there is no flood Incident recorded in the vicinity. Therefore no objections are raised subject to conditions.

10.48 It is however necessary for conditions to be imposed on any grant of planning permission. This condition requires a surface water drainage scheme to be submitted for the site.

iii. Noise, Contaminated Land and Fire & Rescue

10.49 The Council's Environmental Health Officer has raised a concern over the proposed development, in particular the noise from Broadwater Road and its impact on the internal noise environment, as this needs to meet the criteria within BS8233:2014. An acoustic report has been provided proving that the glazing is sufficient to meet the required noise levels.

10.50 Opening windows (most likely for purge ventilation during the summer months) will however negate the acoustic insulation provided by the windows leading to noise levels higher than those within BS8233:2014. As such a suitable mechanical ventilation system will need to be incorporated into the building to ensure that the ventilation available to the occupants meet those as stipulated within Approved Document F of the Building Regulations, including the purge ventilation levels. The acoustic report mentions an existing system which will need to be modified to meet the full requirements of Approved Document F. It is recommended that a condition to this effect is placed on the application.

10.51 It has been noted that there is a potential for contamination on the site due to previous uses. However there are to be no outdoor amenity space other than on the roof and as such, it has been recommended that an unexpected finds condition is placed on the application.

10.52 It is noted that Herts Fire & Rescue have commented that the access does not appear to be adequate to comply with Approved Document B Section 16.3. However on clarification, Herts Fire & Rescue are not raising an objection to the scheme they are simply making the developer aware of issues that may arise during the construction phase, and which could be raised at the building control stage. Therefore whilst not a planning

consideration affecting the determination of this application it is considered reasonable for an informative to be placed on any planning consent.

iv. Refuse and Recycling Storage

10.53 An area for the refuse and recycling would be seen to the east of the building along the boundary with Accord House. WHBC Client Services have requested 4 x 1100 litre shared containers are provided at the site and would be emptied weekly. Additionally whilst 1100 litre recycling bins have been shown these are not provided for flats. Comments from Client Services have stated that 4 x mini-recycling centres would be required, each set has measurements of 1.2m in width and 84cm. It is concluded that suitable space would be provided for these bins. It has also been suggested that the bin store should be located closer to the point at which the refuse vehicle would stop, however this is not considered to be possible without the reduction in car parking. Furthermore it is noted that a freighter can enter the site from Broadwater Road and exist the site onto Bridge Road East in a forward gear.

v. Planning Obligations & Legal Agreement

10.54 The Council has not adopted a Community Infrastructure Levy and the requirement is therefore that any planning obligations must meet the following requirements:

Necessary to make the development acceptable in planning;

Directly related to the development;

Fairly and reasonably related in scale and kind to the development.

10.55 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

Affordable Housing

10.56 The application seeks consent for 43 residential units as a result of external alterations and extensions to the existing building. As such and in accordance with the Council's Planning Obligations Supplementary Planning Document, the Council can seek affordable housing on residential sites of 25 units or more. In accordance with Policy H7 a 30% proportion of affordable housing would be sought.

10.57 However as already addressed within the report, this site has permission via Prior Approval for the conversion of the office building to 31 residential

units. The Prior Approval process does not allow the Council to seek any affordable housing and therefore the site has a fall-back position of 31 approved units with no affordable housing provision.

10.58 As part of the submission the applicant has stated that the proposal also seeks an increase in the number of units by 12 and has applied for Vacant Building Credit (VBC). National policy provides an incentive for brownfield development on sites containing vacant buildings. The VBC applies where the building has not been abandoned but local authorities can consider,

- Whether the building has been made vacant for the sole purposes of re-development
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

10.59 Guidance in relation to VBC states that affordable housing contributions may be required for any increase in floorspace. Where there is an overall increase in floorspace in the proposed development, the local planning authority should calculate the amount of affordable housing contributions required from the development as set out in their Local Plan.

10.60 In this instance the Design & Access statement submitted as part of the application states that no affordable housing is to be provided. However no viability evidence has been provided to demonstrate why this is not possible. In this particular case it is considered that affordable housing should be pursued but only on the floor space that is created by virtue of the extensions proposed. Through negotiations the applicant has agreed to provide 30% affordable housing, which has been applied to the increase in units (12) over the Prior Approval permission. As such the applicant has agreed to provide 4, 1 bedroom, shared ownership units. The Council's housing team have confirmed that this proportion would be acceptable.

10.61 As the occupiers of the new residential development would have an impact upon local services, the following contributions have been requested.

WHBC Client Services (Waste & Recycling) - £3,800

WHBC Green Spaces - £3675.86

WHBC Play Facilities - £9641.60

HCC Early Years - £2036.00 (Nursery Education and Childcare Service at the re-provided Peartree School)

HCC Library Services - £3259.00 (Library Service towards the reconfiguration of Welwyn Garden City Library (1st floor) to enable the development of a Creatorspace)

HCC Youth Service - £141.00 (Youth Service towards funding a mobile provision (in WGC) and associated equipment.

Total £22,553.46 (plus indexation)

10.62 The Council considers it reasonable and necessary to seek an additional contribution of £1,127.67 (5% of total contributions), to ensure the continued and effective monitoring of these contributions.

10.63 Although the applicant has agreed in principle to these contributions, no legal agreement is in place at this time. However the S106 agreement is with solicitors and it is anticipated that should permission be granted it is subject to the completion of an acceptable S106 agreement.

11 Conclusion

11.1 The proposed development has been considered in terms of its impact on the design and character of the property, character and context of the area, amenity of adjoining/adjacent occupiers and highway and parking matters. Special regard has been given to the desirability of preserving the character and setting the nearby listed buildings. For the reasons outlined above, it is considered that subject to conditions the proposal complies with relevant national and local planning policies.

11.2 The proposed residential development of 43 dwellings would result in a reduction in traffic movements on the road network and has been designed to reflect the existing character and style of the existing building and is not considered to be out of character within the immediate vicinity nor to the proposed residential development seen opposite the site on Broadwater Road. The scale and design of the buildings are considered acceptable in this location.

11.3 The redevelopment presents opportunities for landscape and habitat improvements and subject to conditions, is acceptable with regard to impacts on highway safety and issues of environmental health.

12 Recommendation

Recommendation A

12.1 It is recommended that planning permission is granted subject to the following conditions; to the applicant entering the necessary S106 Agreement to secure the following obligations; and to the applicant agreeing any necessary extensions to the Statutory determination period to allow the completion of the S106 Obligation.

- WHBC Client Services (Waste & Recycling) - £3,800
- WHBC Green Spaces - £3675.86
- WHBC Play Facilities - £9641.60
- HCC Nursery Education - £1610.00
- HCC Childcare Service - £426.00

- HCC Library Services - £3259.00
- HCC Youth Service - £141.00

12.2 And the following conditions:

PRIOR TO COMMENCEMENT

1. No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby granted have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed.

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

2. No development shall take place until full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

The landscaping details to be submitted shall include:

- (a) original levels and proposed finished levels [earthworks to be carried out]
- (b) means of enclosure and boundary treatments
- (c) hard surfacing, other hard landscape features and materials
- (d) 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
- (e) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
- (g) management and maintenance details of the communal areas

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 GBSP2, D2 and D8 of the Welwyn Hatfield District Plan 2005.

3. No development shall take place until a surface water drainage scheme for the site, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate

the surface water discharge rate generated up to and including the critical storm will not exceed the existing rate following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:

- Extents, depths and volumes of surface water for events greater than 1 in 100 year
- +climate change event shown overlaid to the proposed layout.
- Full details of any required mitigation/management measures of any identified source of flooding

REASON: To reduce the risk of flooding to the proposed development and future occupants. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development has been submitted to and approved in writing by the Local Planning Authority.

4. The construction of 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 Traffic Management Plan shall include details of:

- (a) Construction vehicle numbers, type, routing;
- (b) Traffic management requirements;
- (c) Construction and storage compounds (including areas designated for car parking);
- (d) Siting and details of wheel washing facilities;
- (e) Provision of sufficient on-site parking prior to commencement of construction activities;

REASON: In order to protect highway safety and the amenity of other users of the public highway.

5. No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions A to D 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 D has been complied with in relation to that contamination.

(a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The contents of the scheme and the written report are subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(b) Submission of Remediation Scheme

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 all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. 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.

(c) 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 is subject to the approval in writing of the Local Planning Authority.

(d) 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.

(e) Long Term Monitoring and Maintenance

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.

6. No development shall take place until details of the bin store have been submitted to and agreed in writing by the Local Planning Authority. Once agreed they shall be constructed in accordance with these details

before first occupation of the flats and shall be retained in that form thereafter.

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

7. No development shall take place until details of the cycle store have been submitted to and agreed in writing by the Local Planning Authority. Once agreed they shall be constructed in accordance with these details before first occupation of the flats and shall be retained in that form thereafter.

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

8. Prior to the commencement of the development hereby permitted a scheme shall be submitted to and agreed in writing by the Local Planning Authority demonstrating that the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS 8233:2014. Any associated mechanical ventilation will need to meet the requirements of Approved Document F including a provision of a purge ventilation rate set out within the document. Once agreed the development shall be constructed in accordance with these details before first occupation of the flats and shall be retained in that form thereafter.

REASON: To ensure compliance with a scheme to protect the living conditions and amenity of the residents from noise disturbance in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005.

PRIOR TO OCCUPATION

9. The side facing windows seen to the flat 2 at ground floor level and flat 13 at first floor level of the proposed building shall be glazed with obscured glass and shall be fixed so as to be incapable of being opened below a height of 1.8 metres above floor level, and shall be retained in that form thereafter.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

10. The side facing balcony balustrades serving flats 14 and 25 and the privacy screens seen to flats 24 and 13 shall be glazed with obscured glass and shall be a minimum of 1.8m in height from finished floor level, and shall be retained in that form thereafter.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

11. Prior to the first occupation of the development hereby permitted the proposed access /on-site car and cycle parking / turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

REASON: To ensure the permanent availability of the parking/manoeuvring area, in the interests of highway safety in accordance with the National Planning Policy Framework and Policies M14 and D1 of the Welwyn Hatfield District Plan 2005.

12. All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of five 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 GBSP2, D2 and D8 of the Welwyn Hatfield District Plan 2005.

13. Details of any external lighting proposed in connection with the development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall not be carried out other than in accordance with the approved details.

REASON: In the interests of the visual amenities of the area in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

- 14.1. 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

2. 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
3. All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions
4. 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.

5. 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.
6. 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.
7. All pile driving shall be carried out by a recognised noise reducing system.
8. Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material
9. In general, equipment for breaking concrete and the like, shall be hydraulically actuated.
10. '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.
11. Any emergency deviation from these conditions shall be notified to the Council without delay
12. 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.
13. Permissible noise levels are not specified at this stage.
15. The development/works shall not be started and completed other than in accordance with the approved plans and details:

Plan Number	Revision Number	Details	Received Date
A_0504	E	Existing Floor Plans	12 December 2016
A_0514	B	Existing Elevations	12 December 2016
A_8101	G	Proposed Ground & First Floor Plans	6 June 2017
A_8102	G	Proposed Second & Third Floor Plans	6 June 2017
A_8103	C	Proposed Fourth Floor & Roof Plan	8 February 2017
A_8300	B	Proposed Sections	8 February 2017
A_8200	E	Proposed Elevations	6 June 2017
A_2000	E	Existing Site Plan	12 December 2016
A_8100	D	Proposed Site Plan	29 June 2017
A_0001	B	Location Plan	12 December 2016

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 paragraphs 186-187 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 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.
3. The development will involve the numbering of properties and naming new streets. The applicant MUST contact Welwyn Hatfield Borough Council, Transportation (Lorraine Davis 01707 357546 before any name or number is proposed. This is a requirement of the Public Health Act 1875 and Public Health (Amendment) Act 1907.
4. It is advised that Herts Fire & Rescue have highlighted that the scheme may not comply with BS9999:2008. Therefore in order to comply with Building Control regulations the developer may be required to meet the requirements through alternative means.
5. It is advised that the development of 43 dwellings, hereby approved, shall be constructed to meet the Police preferred minimum security standard of Secure By Design. For further information, please contact Hertfordshire Constabulary Tel: 01707 355225 or information can be found at www.herts.police.uk.
6. If bats or evidence for them is discovered during the course of any works, work must stop immediately and advice sought on how to proceed lawfully from an appropriately qualified and experienced Ecologist or Natural England: 0300 060 3900.
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.

OR

Recommendation B

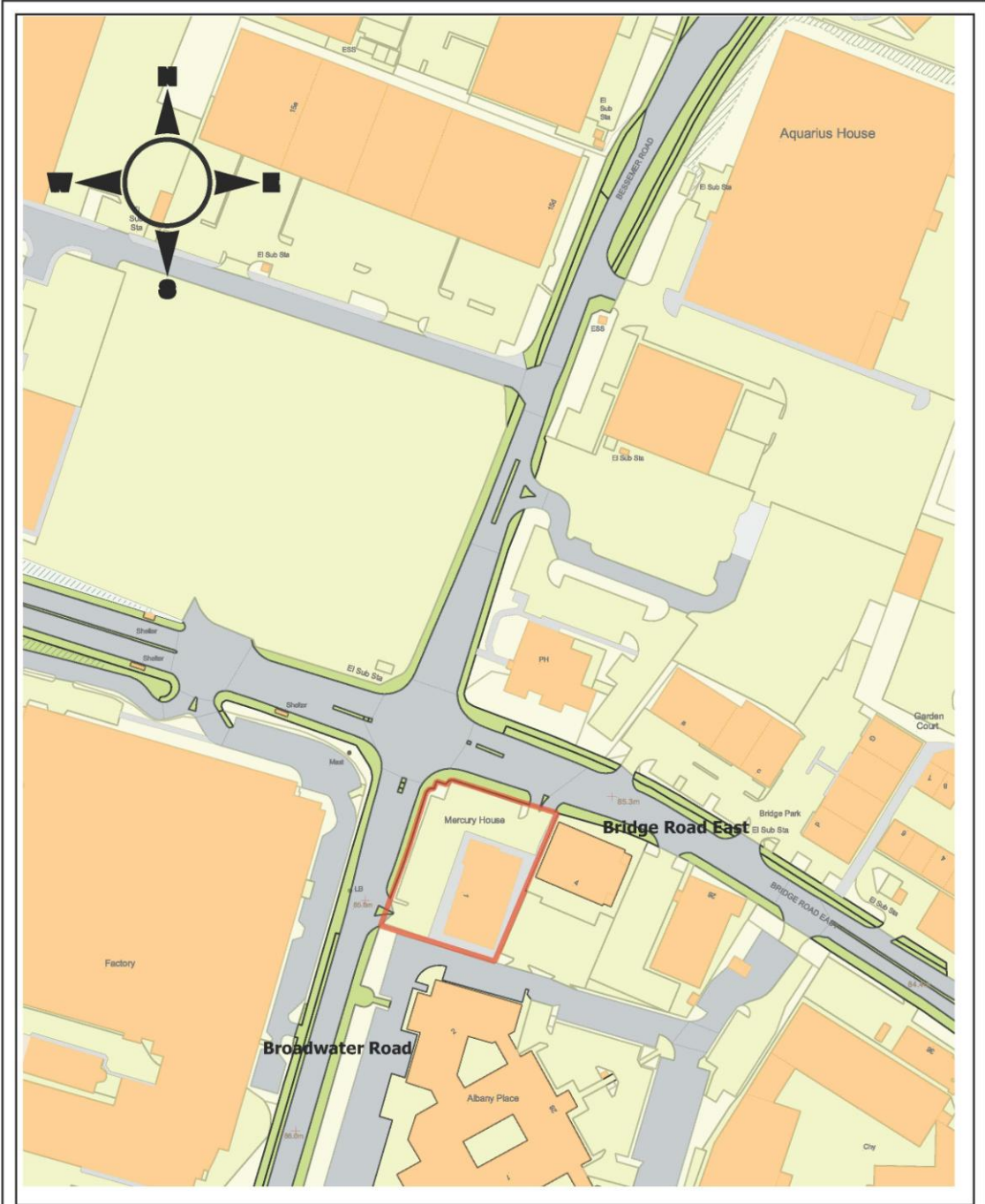
In the event that the applicant fails to agree any necessary extensions to the Statutory determination period, that powers are delegated to the Head of Planning to refuse planning permission on the basis of absence of the completed S106 Obligation for the following reason:

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 and non-financial contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy M2 and M4 of the Welwyn Hatfield District Plan 2005.

Rachael Collard (Development Management)

Date: 3rd July 2017

Expiry date: 21st July 2017



Council Offices, The Campus
Welwyn Garden City, Herts, AL8 6AE

Title: Mercury House 1 Broadwater Road WGC		Scale: DNS
Project: DMC Meeting		Date: 2016
Drawing Number: 6/2016/2624/FULL		Drawn: Baras Mast-Ingle

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