

Part I

Executive Member: Councillor S. Boulton

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 31 JANUARY 2019  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION,  
PLANNING AND GOVERNANCE)

6/2018/1232/FULL

17-19 HOWARDSGATE, WELWYN GARDEN CITY, AL8 6HA

CHANGE OF USE FROM A1 POST OFFICE TO A3/A4 RESTAURANT AND  
DRINKING ESTABLISHMENT WITH ASSOCIATED WORKS

APPLICANT: Mr M.Schooling

(Handside)

**1 Site Description**

- 1.1 The application site comprises a vacant building last used as a Post Office and convenience store. This imposing building is located on a prominent corner plot facing onto Howardsgate and Wigmores North.
- 1.2 The building has been vacant since October 2016 and the entry points are secured against break-in.
- 1.3 The building is located in a designated secondary and mixed use frontage. The application site is located within a primary shopping parade of predominately A3 and A4 units. There is one sui generis unit, one A2 unit and one A1 unit apart from the application site within the same shopping parade. On the first and second floors of the shopping parade are a mix of uses including a church and dwellings.
- 1.4 Adjoining the northern boundary and linked to the application building by a three storey building is a similarly imposing shopping parade in Wigmores North. This shopping parade also contains a mix of uses.
- 1.5 To the east of the application site, the adjacent primary shopping parade in Howardsgate is equally imposing in appearance but includes a greater proportion of A1 units within it.
- 1.6 To the south of the application site is a formal area of open space including the Coronation Fountain. This formal area is also an unregistered historic parks and garden. The rear (northern) boundary of the application site is an enclosed service area confirmed to be within the ownership of the landlord to which appropriate notice has been served.

- 1.7 The application site is located within the Welwyn Garden City Town Centre and Welwyn Garden City Conservation Area. The service yard in which the staircase is located is within flood zone surface water mapping layer (100 and 1000). There is also a cycle pathway which runs along Howardsgate.

## **2 The Proposal**

- 2.1 The application proposes the change of use of the existing building from a Post Office and convenience shop (A1) to a restaurant and drinking establishment (A3 and A4 use)

- 2.2 The proposal seeks to:

- Erect an external staircase, balustrade and steps on the northern elevation;
- Erect a food hoist and associated enclosure;
- Install a glazed roof lantern;
- Install a menu case;
- Install a new fascia board;
- Increase the height of part of the existing roof;
- Paint the main entrance and side doors;
- Remove two rooflights and existing plant equipment on the existing roof and side of existing building;
- Block up the existing delivery bay;
- Install new plant equipment;
- Install new doors and window;
- Replace and enlarge existing windows.

## **3 Reason for Committee Consideration**

- 3.1 This application is presented to the Development Management Committee because the proposed development is a departure from the development plan.

## **4 Relevant Planning History**

- 4.1 Application Number: 6/2017/0878/FULL  
Decision: Refused  
Decision Date: 28 June 2017  
Proposal: Proposed change of use from Class A1 (Retail) to Class D2 (Assembly & Leisure) to form a gymnasium, with associated ancillary development

## **5 Relevant Planning Policy**

- 5.1 National Planning Policy Framework 2018 (NPPF 2018)
- 5.2 Welwyn Hatfield District Plan 2005 (District Plan 2005)
- 5.3 Draft Local Plan Proposed Submission 2016
- 5.4 Supplementary Design Guidance 2005 (SDG)
- 5.5 Supplementary Planning Guidance, Parking Standards 2004 (SPG)
- 5.6 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)
- 5.7 Welwyn Garden City Guide to Shopfront and Advertisement Design 2012
- 5.8 The Welwyn Garden City Conservation Area Appraisal 2007

## **6 Site Designation**

- 6.1 The application site is located within the Welwyn Garden City Town Centre and the Welwyn Garden City Conservation Area as identified in the Welwyn Hatfield District Plan 2005.
- 6.2 The application site is located within the Mixed Use Frontages in the primary retail core of Welwyn Garden City town centre.
- 6.3 The service yard in which the proposed staircase is to be located is within flood zone surface water mapping layer (100 and 1000). There is also a bicycle route which runs along Howardsgate. To the south of the application site is a formal area of open space which is also an unregistered historic parks and gardens.

## **7 Representations Received**

- 7.1 The planning application was advertised by means of neighbour notification letters and a site notice and by advertisement in the local newspaper.
- 7.2 At the time of writing 19 representations have been received. These representations all support the proposal.
- 7.3 Summary of support:
  - Retail sector is under major pressures due to changing consumer behaviours, high rents and business rates and town centres will need to adapt if they are to prosper. Town centres need to offer other options;
  - There is no shortage of available retail space in Welwyn Garden City and losing a unit will not in any way have an adverse effect on the retail offering;

- There is available retail space in the Town Centre and The Howard Centre with low demand;
- Proposal will increase vibrancy/diversity of both daytime and night-time economies; make more of destination;
- Have a positive impact on the conservation area by bringing back into life a prominent boarded up building with a high quality fit out;
- Improve visual appearance of unit and in keeping with other frontages;
- Size and layout is not conducive to retail;
- Act as a catalyst for other retailers / operators to look positively at Welwyn Garden City for future expansion;
- The building has been actively marketed for over 18 months;
- It will still remain in A – class use which is different to the previously refused application for D2 use;
- The boarded up state of the building provides a negative view of the town centre;
- With the conversion of the majority of the first and second floor offices in the town centre to residential there are few other opportunities to create an A4 operation;
- Noise and odour can be mitigated by condition; Town Centre location;
- Extensive comments have been made in regards to the marketing of the unit and consultation response;
- This application does not have the same adverse issues of the Wetherspoons applications for 22 Parkway;
- There are inaccuracies in the policy comments.
- comments along the lines of Council needs to think outside the box.

## **8 Consultations Received**

- 8.1 WHBC Environmental Health- No objection subject to conditions and informatives.
- 8.2 Place Services- No objection subject to conditions.
- 8.3 WHBC Client Services – No objection subject to informatives.
- 8.4 WHBC Parking Services - No objection.

- 8.5 Hertfordshire Gardens Trust - No objection.
- 8.6 Hertfordshire County Council Transport Programmes and Strategy (HCCTPS) – No objection
- 8.7 Welwyn Garden City BID – No objection.

## **9 Background**

- 9.1 A planning application was submitted in 2017 for the proposed change of use from Class A1 (Retail) to Class D2 (Assembly & Leisure) to form a gymnasium, with associated ancillary development.
- 9.2 The planning application referenced: 6/2017/0878/FULL, was refused for the following reasons:

*The proposed change of use of the premises to Class D2 (gym) would result in the proportion of non-A1 uses within the linear shopping frontage to be in excess of the minimum 50% threshold. Accordingly the proposal would be contrary to Policy TCR8 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.*

*No information has been submitted to enable the Local Planning Authority to identify if there would be any noise disturbance to neighbouring occupiers and residential premises. Therefore the application would be contrary to Policy CLT2 part ii) & iii), TCR8, R19 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.*

- 9.3 Since the date of the refused application in 2017, the National Planning Policy Framework has been updated in July 2018. This forms a material consideration and will be discussed in more detail below.
- 9.4 The current planning policies for Welwyn Hatfield are set in the statutory development plan which comprises the saved policies of the Welwyn Hatfield District Plan 2005. The replacement Draft Local Plan Proposed Submission version 2016 was submitted for examination in May 2017. The examination in public is now at an advanced stage but the examination is not yet completed.
- 9.5 However, it is not considered that the design policies and objectives within the emerging Local Plan is fundamentally different to that within the current District Plan 2005. These policies also form a material consideration and will be discussed in more detail below.

## **10 Analysis**

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

- 1. Principle of Development**
- 2. The quality of design and impact on the character of the Conservation Area**

3. **Impact on the living conditions of neighbouring occupiers**
4. **Parking, access and highway implications**
5. **Refuse and recycling**
6. **Crime and Disorder and the Fear of Crime**
7. **Drainage**
8. **Other matters**

## 1. Principle of Development

### Sustainable development

- 10.2 The application site is located within the town centre of Welwyn Garden City. It is situated within a particularly sustainable location; being within walking distance of all the town centre facilities.. Therefore the application site is considered to be within a sustainable location in accordance with the NPPF 2018, Policy SD1 of the District Plan 2005 and SP1 of the Draft Local Plan Proposed Submission 2016.

### Impact on town centre

- 10.3 The National Planning Policy Framework 2018 (NPPF 2018) states in regards to ensuring the vitality of town centres, *'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption' (paragraph 85).*
- 10.4 It further states planning policies should *'promote their long-term vitality and viability- by allowing them to grow and diversify in a way that can respond to rapid changes in the retail industries' (paragraph 85a) and 'define the extent of town centres and primary shopping locations, as part of a positive strategy for the future of each centre' (paragraph 85b).*
- 10.5 Policy TCR8 of the District Plan 2005 is relevant. It states *'Within the designated Mixed Use Frontage in the primary retail core of Welwyn Garden City town centre, planning permission will be granted for changes of use of Class A1, A2 and A3 uses and for uses which provide community, leisure and cultural facilities. A minimum of 50% of any one linear frontage must remain in Class A1 retail use and a minimum of 80% in uses within Class A.*
- In a Mixed Use Frontage where less than 50% of the linear frontage is in Class A1 Retail use, planning permission will not be granted for change of use to non-retail uses'.*
- 10.6 Policy SP5 of the Draft Local Plan Proposed Submission 2016 sets out the strategy for retail development in the borough and defines the retail centre hierarchy, the different function and roles the centres play for addressing town centre needs; as well as the locations, scale of additional retail floor space that may need to be provided, to meet forecasted expenditure growth to 2026. In addition the Policy states that: *'The Council will promote a range of activities in town centres that cater for the whole community, creating a balanced evening economy including entertainment*

*and late night shopping as well as the provision of a range of eating and drinking establishments. In order to reinforce the retail function and viability of Welwyn Garden City town centres, Core Retail Zones have been identified along with their anchor stores, primary and secondary shopping frontages as shown on the Policies Inset Maps”.*

10.7 Policy SP16 of the Draft Local Plan Proposed Submission 2016 sets out the strategy for development in the Welwyn Garden City Town Centre. It indicates that new development should make a positive contribution to improving the town centre’s viability and vitality, support the creation of a comfortable, safe, attractive and accessible shopping environment, as well as improve the overall mix of land uses. Further, it notes that this will be achieved (in line with the Strategy Diagram) through:

- Enhancing the quality of its environment, its open spaces and public realm, recognising the character of the garden city, in order to improve its attractiveness as a centre.
- Increasing the diversity of uses in the centre, in particular cafés, restaurants and pubs, but also residential, hotel, offices and leisure, so enhancing its attractiveness as a centre, extending its life into the early evening and providing a broader range of services to local people.
- Providing opportunities for shopping, community and leisure events to encourage more people to visit the town centre.

10.8 Policy SADM4 of the Draft Local Plan Proposed Submission 2016 is similar to the aims of the District Plan 2005 policies. However, there are additional requirements that have to be met within the policy which are discussed below. Policy SADM4 states *‘Planning permission will be granted for Class A uses within the Secondary Frontage. To maintain the vitality and viability of Welwyn Garden City, within the defined Secondary Frontage, the council will support proposals for changes of use, provided that:*

- i) At least 30% of the defined Secondary Frontage (by length) within which the unit is located will remain in class A1 retail use;*
- ii) There will be no more than five adjoining units in uses other than A1 retail; and*
- iii) There will be no loss of an existing active frontage to a non-active frontage.*

*Planning permission will only be granted as an exception to the criteria in this policy where there are overriding benefits to the overall vitality and viability of the relevant Town Centre. It will also need to be demonstrated through active and extensive marketing over a period of at least 12 months that there is a lack of demand for an A1 retail use in that location’.*

### Context and assessment

- 10.09 The application site is located on Howardsgate, which is within one of the two main town centres of the borough. The site lies within the primary retail core of Welwyn Garden City. The building is located within a designated mixed and secondary frontage. With regard to the general location, i.e. a town centre, this proposed restaurant and drinking establishment is consistent with the definition of main town centre uses noted in the National Planning Policy Framework 2018 and Local Plan Policies.
- 10.10 However it is important to manage the mix of retail and non-retail uses for sites within the primary retail core to ensure that vitality and viability of the town centre is not harmed. Restaurants and drinking establishments have been granted planning permission elsewhere and therefore presently a variety of land uses are situated within the town centre.
- 10.11 The site makes up part of the frontage on the northern side of Howardsgate. The frontage on Howardsgate is made up of 7 units of varying width and has a total frontage of approximately 82m. The units in this row are occupied by Cote Brasserie (A3 use), a Barbers (A1 use), Nail Parlour (sui generis), Vacant (A2 use), The Two Willows Public House (A4 use), Church (entrance door only), Prezzo Restaurant (A3 use) & 17-19 is currently vacant but its last known use fell within an A1 use. The largest units within this frontage fall within an A3 or A4 use. In this instance the majority of the uses that make up this shopping frontage fall outside of an A1 use when planning policy states a minimum of 50% should be retained within any one frontage.
- 10.12 A total of approximately 79m of the shopping frontage would not be within an A1 use and as such this would equate to approximately 96% of the total shopping frontage not located outside A1 use however A total of 97% of the total frontage is in uses within A Use Classes. The proposal would therefore conflict with Policy TCR8 of the District Plan 2005.
- 10.13 Draft Policy SADM4 of the Draft Local Plan Proposed Submission 2016 refines this approach to reflect changes in circumstances over the intervening period and to clarify the approach to the calculation of frontages. It is important to note that the defined frontage differs from that in the current District Plan. It states that planning permission will be granted for Use Class A uses within the Secondary Frontage. This is subject to three criteria where there remain other overriding benefits to the overall vitality and viability of the town centre.
- 10.14 The proposed development would mean that less than 30% of this Secondary Frontage (by length) would remain in Use Class A1 retail use and it would have five adjoining units in uses other than A1 retail. Therefore the proposed development would again fail to meet two out of three of the criteria listed in the draft policy and it would conflict with Policy SADM4 of the Draft Local Plan Proposed Submission 2016. However, it is considered that the proposal would meet the third criteria as an active frontage would not be lost.



- 10.15 The proportion of retail units in this linear frontage is considerably below the threshold and there is a concentration of non-A1 retail units within this shopping parade. Therefore the proposed development is contrary to Policy TCR8 of the District Plan 2005 and some of the criteria of Policy SADM4 of the Draft Local Plan Proposed Submission 2016.
- 10.16 However, the final paragraph of Policy SADM4 of the Draft Local Plan Proposed Submission 2016 states that planning permission could be granted for changes of use as an exception to the above criteria subject to there being an overriding benefit to the vitality and viability of the centre; and that active and extensive marketing has taken place over a period of 12 months.
- 10.17 The onus is on the applicant to provide evidence that active and extensive marketed has taken place over a period of 12 months. Marketing documentation has been received which has been supplemented following further correspondence with the Council.
- 10.18 17-19 Howardsgate has been vacant since October 2016 and the property was extensively marketed between April 2016 and 16 April 2018 (as per the marketing letter). Therefore the premises at the time of submission had been marketed for approximately 24 months.
- 10.19 The applicant has provided evidence which explains that a number of marketing initiatives were undertaken. These included ongoing targeted marketing which included direct conversations with retailers that have published requirements for Welwyn Garden City and the surrounding area. The agents also approached retailers that are acquisitive in the market place and may suit the type of property and location provided that they do not have representation in Welwyn Garden City.
- 10.22 It is explained that JLL undertook an email campaign using bespoke mailing lists including over 1,000 retail specialist agents and directly to retailers. Electronic mailouts were conducted on a regular basis ensuring that the market was/is aware of the premises and its availability.
- 10.23 The property continued to be marketed for a number of town centre uses, with an advertisement board on the building and details advertised in the Estate Agents' windows, local newspapers and on the internet as is standard practice (a list of websites is provided in the marketing letter dated 16/4/2018). Further clarification was provided in regards to this statement in that the impact of some methods of advertising are likely to have had a limited audience. However the agent states that the premises has been on the relevant websites Shop Property between April 2016 until July 2018 and Costar between April 2016 and January 2018. These websites have 16,000 UK subscribers. The premise has also been placed on perfect information property which is a subscriber based website which is widely followed and subscribed to by retailers and retail specific agents.
- 10.24 The marketing campaign has not resulted in any firm offers from a Use Class A1 retail operator. The reasons why no A1 retailer have taken a lease are generally related to the economy or the internal economy of companies and

the size of the premises. In answer to questions asked by the Council why there was no interest in the sub-division of the unit to allow part of it to remain in A1 use agents have said sub-division of the unit is not viable.

- 10.25 The agent has concluded that there is a very low possibility of attracting a Use Class A1 retail tenant on a standard lease term to the property in the near future.
- 10.26 Based on the evidence provided, it would appear that due to a number of variables such as the economic climate or size of premises that the premises is not suitable for an A1 retailer to enter into a lease. The Council is aware that the rents and rates are high for this building. However, based on the evidence provided, it is considered that active and extensive marketing has been undertaken over a period of more than 12 months in accordance with Policy SADM4 of the Draft Local Plan Proposed Submission 2016.
- 10.25 The onus is also on the applicant to provide evidence that the grant of a change of use is an exception to the above criteria listed in SADM4 of the Draft Local Plan Proposed Submission 2016 with there being an overriding benefit to the vitality and viability of the centre. A number of points have been raised within the Planning Statement. The agents consider the proposed restaurant and drinking establishment is to *'make a positive contribution to the vitality and viability of the town centre. The A3/A4 use would be complementary to the wider retail function, attracting more people to the town centre and encouraging those people to remain longer and increase their spend on shopping and leisure through linked trips. The late opening hours would support the night-time economy and increase natural surveillance beyond standard retail opening times. Removal of the current 'dead frontage' would have a positive effect on the character and appearance of the Conservation Area. These benefits are in line with the NPPF's ambition to create competitive and diverse centres that are flexible and meet the needs of shoppers'*.
- 10.26 The Planning Statement provides further justification to why the proposed restaurant and drinking establishment provides overriding benefits to the overall vitality and viability of the town centre. It states that there is an identified need for pubs and restaurants within Welwyn Garden City town centre within the District Plan. The supporting text in the District Plan is supportive of pubs and restaurant developments acknowledging trends within the retail market are constantly changing. Paragraph 13.6 considers that the most successful centres are those which can offer a diversity of uses, such as pubs and restaurants. The District Plan identifies a specific need for such uses within Welwyn Garden City town centre (paragraph 13.7b) and their importance in complementing its shopping function and extending the life of the centre into the early evening is recognised (paragraph 13.28). Paragraph 13.29 expands this point within one of the key objectives for the town centre which is "Increase the diversity of uses in the centre, in particular cafés, restaurants and pubs...enhancing its attractiveness as a centre, extending its life into the early evening and providing a broader range of services to local people." The primary retail

core is also highlighted as a particular area which is suitable for complementary uses including restaurants and pubs (paragraph 13.33).

- 10.27 These references are drawn from the District Plan 2005 and reflect the wording of Policy SP16 of the Draft Local Plan Proposed Submission 2016 which seeks to increase the diversity of land uses in the centre to which specific reference is made for the provision of restaurants and pubs. This continues the theme of the supporting text of the District Plan 2005. Finally, in the District Plan supporting text it states that there is some scope to allow further non-retail uses in the primary retail core, without prejudicing the essential retail function (paragraph 13.34).
- 10.28 Based on the supporting text of the District Plan 2005 and Draft Local Plan Proposed Submission 2016, it is considered that there is scope for the proposed restaurant and drinking establishment within the town centre. The Draft Local Plan 2016 builds on the District Plan 2005 albeit with the need marketing exercise to take place.
- 10.29 It is also acknowledged that the application site has been vacant since October 2016. It is located on a prominent corner position within the Welwyn Garden City Conservation Area and within the town centre. It is a large unit and is currently boarded up. It is acknowledged that the investment of this premises would enhance the appearance of the Conservation Area and is considered a material consideration with significant weight attached.
- 10.30 The investment of the premises would also support economic growth of the town centre in a changing retail environment. Whilst it is acknowledged that there is a concentration of non-A1 uses within this shopping parade, it is considered that the A3/A4 would be complementary to the wider retail function. It is likely that this use through the increase in the opening hours would increase the number of persons visiting the building and town centre compared to the shorter opening hours of the former A1 use.
- 10.31 The premise as it stands vacant does not provide any benefits to the economic growth of the town centre and would be accessible throughout the day and improve the night-economy through its extended hours of operation in comparison to the opening hours of the former use.
- 10.32 In conclusion therefore the proposed development would result in an even higher proportion of non-A1 use class uses and a very low proportion of A1 use class uses within this secondary frontage. It would effectively mean the loss of the whole of this shopping parade to uses other than A1. It is in conflict with Policy TCR8 of the District Plan 2005, and does not meet all the criteria set out in draft Policy SADM4 of the Draft Local Plan Proposed Submission 2016.
- 10.33 However, the final paragraph of Policy SADM4 of the Draft Local Plan Proposed Submission 2016 indicates that planning permission could be granted for changes of use as an exception to the above criteria subject to there being an overriding benefit to the vitality and viability of the centre; and that active and extensive marketing has taken place over a period of 12 months.

- 10.34 It is considered that the marketing evidence demonstrates that there is no market for an A1 use in this location and that the change of use to Class A3/A4 would be appropriate and would support the town centre strategy to increase the diversity of uses in the centre in particular for pubs and restaurants. The Council acknowledges that the proposed change of use would result in a concentration of non-A1 units within this shopping parade and therefore would effectively means the loss of this row of units from the shopping parade. However, the majority of this shopping parade has already been lost to non-A1 units.
- 10.35 There also appears to be a level of support for the re-use of the premise locally.
- 10.36 Therefore taking a balanced approach, the principle of development is therefore in accordance to the aims of NPPF 2018, Policies SD1, GBSP2, and TRC8 of District Plan 2005 and Policies SP1, SP3, SP5, SP16 and SADM4 of the Draft Local Plan Proposed Submission 2016.

## **2. The quality of design and impact on the character of the Conservation Area**

- 10.37 The application site is located within the Welwyn Garden City Conservation Area. The Welwyn Garden City Conservation Area Appraisal 2007 states that the 1970's 'new' Post Office (application site) is a bland institutional building without the character of its predecessor, but it does maintain the rigid composition and proportions of the Howardsgate frontage. Less detail is provided in regards to Wigmores North, however it retains a strong frontage and sense of enclosure.
- 10.38 As the application site is within the conservation area, there is a requirement to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in exercising planning functions. Paragraph 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states;

*(1)In the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

*(2)The provisions referred to in subsection (1) are the planning Acts and Part I of the Historic Buildings and Ancient Monuments Act 1953 [and sections 70 and 73 of the Leasehold Reform, Housing and Urban Development Act 1993].*

*(3)In subsection (2), references to provisions of the Leasehold Reform, Housing and Urban Development Act 1993 include references to those provisions as they have effect by virtue of section 118(1) of the Housing Act 1996.*

*(4)Nothing in this section applies in relation to neighbourhood development*

*orders.*

- 10.39 The National Planning Policy Framework 2018, (Chapter 16) and local planning policies reflect this general duty. In this instance the boarded up appearance of the building does not enhance the conservation area but this is a temporary state only and policies D1 and D2 of the District Plan seek to ensure a high quality of design and to ensure that all development respects and relates to the overall character of the area.
- 10.40 Policy TCR13 of the District Plan 2005 seeks to maintain and enhance the unique architectural character of, and the quality of the environment in, Welwyn Garden City town centre. It states that all new development must be designed to respect the architectural style of the town centre and enhance the public realm. The design of shopfronts must accord with the policies in the Design chapter and Supplementary Design Guidance. The Supplementary Design Guidance 2005, and Welwyn Garden City Guide to Shopfront and Advertisement Design 2012 are also relevant as provide guidance on shop frontages.
- 10.41 The proposal seeks to erect an external staircase, balustrade and steps on the northern elevation. New doors are to be installed on the northern elevation. Due to their location within the enclosed service area, it is not considered that they will harm the appearance of the Conservation Area and are therefore considered acceptable.
- 10.42 The proposed development seeks to install new ground floor doors and a window to replace and enlarge existing windows. On the southern elevation, the existing ground floor openings would be maintained in size and replaced with two pane clear full length glazing. In the panels between these window openings, the stone work would be removed and the small top opening windows would be replaced and enlarged. The post boxes and night safe would be removed and a new window installed. These windows would all be two pane clear full length glazing. This design approach is repeated on the eastern elevation with the replication of two pane clear full length glazing.
- 10.43 The full length ground floor glazing would result in the loss of the rigid composition and proportions of the Howardsgate frontage in this individually designed building. This is primarily through the loss of the stone work between the existing windows. However it is considered that the proposed glazing has sought to retain the character of the existing premises so far as practicable. The internal stone reveals should be retained. However this could be conditioned. The proposed glazing subject to further detailed sections and elevations are considered to respect the scale and proportions of the existing openings and add interest to the building by increasing the level of active frontage in this location. It also would seek to maintain the position and style of windows on the upper levels which is considered acceptable within the Conservation Area.
- 10.44 The proposed glazing also replicates the neighbouring properties at ground floor with full length glazing such as 15 Howardsgate which has similar size and positioned windows on ground floor. Therefore subject to further details

on the glazing, the proposed windows and doors are not considered to harm the appearance of the building or the Conservation Area.

- 10.45 The proposal also seeks to increase the height of part of the existing roof, to install a glazed roof lantern, and erect a food hoist and associated enclosure. The proposal also seeks to install new plant equipment to support the use. The bulk, height and massing of the increase in the height of part of the existing roof is considered acceptable. These works are small scale development and would be located behind the existing external wall. Due to the height of the proposed flue, it is considered that there may be glimpses from some vantage points in Wigmores North. However the impact on the Conservation Area is considered minimal and is considered acceptable.
- 10.46 The blocking up of the existing delivery bay is considered acceptable. It is expected that the materials used to block up the bay match the existing materials which would be conditioned as part of any granted planning application.
- 10.47 The installation of a menu case, and painting of the main entrance and side doors are considered acceptable subject to a relevant materials condition.
- 10.48 The removal of rooflights and plant equipment on the existing roof and side of existing building is acceptable. A condition will be included to ensure that following the removal of these elements that the works are made good. Internal alterations do not require planning permission.
- 10.49 It is considered that the overall scheme has sought to retain the character of the existing premises so far as practicable. The proposed development is considered to respect the scale and proportions of the building and its neighbours so that it harmonises with the streetscene. The shopfront has been considered as part of the whole building design and is sympathetic to the existing architecture and materials. The new shopfront is considered to complement and to not dominate its setting and is reflective of other nearby premises.
- 10.50 It has retained traditional architectural detailing particularly on the northern and eastern elevations. Although the fascia board has been increased in size, its design is considered in keeping with the existing building. Therefore subject to a relevant materials condition, the proposed development is considered acceptable in regards to planning policy and in particular Welwyn Garden City Guide to Shopfront and Advertisement Design 2012.
- 10.51 The design of the proposed development is considered to reflect the character and appearance of the host building and wider Conservation Area. The proposed development would not result in harm to the appearance of the Conservation Area.
- 10.52 It is expected that separate advertisement application and separate change of use planning application are submitted to ensure that full details are provided of the outdoor seated area. An informative will be included as part of any planning application granted to ensure that these separate advertisements are submitted.

10.53 The proposed development does not result in cramped or overly dominant additions which would fail to respect the form and scale of the original premises. The proposed development would therefore be of a good standard of design which has paid special attention to the desirability of preserving the character or appearance of this application site and this part of the Welwyn Garden City Conservation Area and comply with the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, National Planning Policy Framework 2018, Policies D1, D2 and TCR13 of the District Plan 2005 Supplementary Design Guidance 2005, Welwyn Garden City Guide to Shopfront and Advertisement Design 2012 and The Welwyn Garden City Conservation Area Appraisal 2007.

### **3. Impact on the living conditions of neighbouring occupiers**

10.54 The application site is located in a predominately mixed area with dwellings above the neighbouring shopping parades.

10.55 The applicant has provided an odour risk assessment in line with the Defra guidance on the control of odour and noise from commercial kitchen exhaust systems, and as expected is showing that there will be a requirement for high level odour control.

10.56 A list of odour abatement plant has been included, which should ensure complaints regarding odour do not occur and the extract flue is to terminate 1m above the roof height which will help with odour dispersion.

10.57 The proposed restaurant and drinking establishment hours of opening are listed as Monday to Friday 8am-12am, Thursday to Saturday 8am-1am and Sunday 8am-11pm. These hours of operation are longer than other similar establishments in this location, and, in a town centre location are not uncharacteristic. No objection has been raised by the Council's Public Health and Protection team with regards to the opening hours. Therefore these extended hours of opening are considered acceptable.

10.58 Noise from regulated entertainment has not been included within the noise impact assessment, however, a suitable glazing scheme and controlled noise level internally should ensure that no loss of amenity occurs. Looking at the plans, there is a lobby area at the entrance which should have a positive effect on noise escaping from the premises. As per other licensed premises, many of the issues can be controlled through the separate licensing regime. It would be expected that where regulated entertainment is to be provided that doors and windows remain closed, requiring the need for suitable air conditioning and ventilation arrangements – this is likely to be a condition placed on the licence for the premises.

10.59 No objection has been raised by Council's Public Health Protection Team in regards to noise associated with the operation of the proposed restaurant and drinking establishment in regards to the servicing of the unit. It is expected that some level of noise would be generated and some elements such as glass waste would be controlled through the Environmental Health Licence process.

- 10.60 The proposal seeks to include an outdoor seating area but this is on the pavement outside of the application site and will be subject to alternative arrangements if pursued.
- 10.61 Details of noise emissions from the extract system and other proposed plant has been assessed within the noise impact assessment and on the basis of this report this noise level is unlikely to cause a loss of amenity.
- 10.62 The plant and equipment will still need to be maintained to ensure that tonal noise or other distinctive noise elements do not occur.
- 10.63 Subject to suitable conditions, the impact on residential properties nearby is considered acceptable in regards to the aims of the NPPF 2018, Policy R19 of District Plan 2005 and Supplementary Design Guidance 2005.

#### **4. Parking, access and highway implications**

- 10.64 The proposal would retain the existing pedestrian access to the proposed unit and is therefore is considered acceptable.
- 10.65 There will be no change to the current servicing and access arrangements which will continue to be from the rear of the site, ensuring that there is minimal impact on the main public highway. There is a service yard to the rear of the application site. This is within the ownership of the applicant. Therefore it is not considered that there would be an undue impact on the public highway.
- 10.66 There is adequate access and egress for emergency and service vehicles. No objection has been raised by Hertfordshire County Council Transport Programmes and Strategy (HCCTPS) or WHBC Client Services.
- 10.67 The site is adjacent to a busy town centre junction. If planning permission is granted it will be important to ensure any construction phase does not cause problems on the adjacent road network. It is recommended a construction management plan is included with any planning application granted under condition 1.
- 10.68 The Council will treat all car parking standards set out in the Welwyn Hatfield Parking Standards Supplementary Planning Guidance as guidelines rather than maximums. Planning applications will be assessed on a case by case basis to achieve a sensible level of provision taking into account of existing SPG standards, NPPF guidance, the relevant circumstances of the proposal, its site context and its wider surroundings.
- 10.69 Car and cycle parking is required for an A3 use based on the proposed floorspace and number of employees. No car parking spaces are provided. However, the application site is located within the centre of Welwyn Garden City, close to a number of public car parks, the Train station and bus station are within a short walk from the site.
- 10.70 It is considered that there is space for cycle parking within the service yard to the rear of the site. There are no nearby cycle parking within the town



centre. Therefore it is considered reasonable to request a condition for cycle parking within condition 3. The site is considered to be in a sustainable location in compliance with the National Planning Policy Framework 2018, Policy M14 of the Welwyn Hatfield District Plan 2005, Interim Policy for Car Parking Standards and Garage Sizes 2014 and Parking Standards 2004.

## **5. Refuse and recycling**

10.71 The restaurant and drinking establishment will generate significant levels of commercial waste including kitchen waste and glass. Waste collection from the site is likely to be by a commercial contractor. The application form states that details of the refuse and recycling are demonstrated on the site layout plan. However these details have not been shown. The location of the bin storage area is important to prevent generation of noise and possibly flies and vermin if not managed correctly. The management of waste is controlled by other legislation and conditions could be imposed on any planning permission that might prevent bins being emptied at unsocial hours of the day or inappropriate location of refuse bins. Condition 2 has been included as part of this committee report for further details to be provided of the bin storage.

## **6. Crime and Disorder and the Fear of Crime**

10.72 Crime and the fear of crime are material considerations in the consideration of an application. No objections have been raised from residents in regards to anti-social behaviour. Such activity could of course have a potentially adverse effect upon the amenity of residents and the wider area, however they are also matters that are taken into account in connection with the licensing of premises and is controlled by other legislation.

## **7. Drainage**

10.73 Part of the service yard is located within flood zone surface water areas 100 and 1000. The proposed plans demonstrate a staircase in this area. As this is a non-residential element, it is not considered reasonable to request further details in regards to surface water drainage of this area.

## **8. Other matters**

10.74 Policy R3 states that all development is expected to include measures to maximise energy conservation through the design of buildings, site layout, and provision of landscaping and incorporate the best practical environmental option (BPEO) for energy supply.

10.75 17-19 Howardsgate is an existing building. However it is expected that through the proposed development, that the building will be updated to current building regulations. Therefore due to the limited scope that the existing building allows to maximise energy conservation. The proposal is in accordance with the NPPF 2018 and Policy R3 of the District Plan 2005.

## **11 Conclusion**

- 11.1 The proposed development would result in a very high proportion of non-A1 use class uses and a very low proportion of A1 use class uses within this secondary frontage. It would result in the almost total loss of A1 units within this shopping parade. The proposal is contrary to Policy TCR8 of the District Plan 2005, and does not meet all the criteria set out in Policy SADM4 of the Draft Local Plan Proposed Submission 2016.
- 11.2 However, the final paragraph of draft Policy SADM4 of the Draft Local Plan Proposed Submission 2016 indicates that planning permission could be granted for changes of use as an exception to the above criteria subject to there being an overriding benefit to the vitality and viability of the centre; and that active and extensive marketing has taken place over a period of 12 months. It is considered that sufficient evidence has been provided describing the marketing campaign and a lack of demand for A1 use for the premises establishing the facts which have allowed for further on balance consideration of benefits to the overall vitality and viability of the town centre.
- 11.3 It is considered that the marketing evidence demonstrates that there is no current market for an A1 use in this location and that the change of use to Class A3/A4 would be appropriate and would support the town centre strategy to increase the diversity of uses in the centre in particular for pubs and restaurants.

## **12 Recommendation**

- 12.1 It is recommended that planning permission be granted subject to the following conditions:

### **Conditions:**

1. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - (a) the parking of vehicles of site operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials used in constructing the development
  - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - (e) measures to control the emission of dust and dirt during construction
  - (f) a scheme for recycling/disposing of waste resulting from demolition and construction works.

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

2. No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
  - a) Sectional details of windows and doors at scale 1:5 and 1:1;
  - b) Elevational plans of proposed windows and doors at scale 1:20;

The approved details shall be implemented and retained thereafter.

Reason: To ensure a satisfactory standard of development in the interests of visual amenity and to ensure the historic and architecture character of the building is properly maintained in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

3. No development above ground level in any phase of the development shall take place until samples of the materials to be used in the construction of the external surfaces of the building including details of paint colour shall 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.

4. Details of the location, design and specification of the refuse bin and recycling materials storage bins and areas to serve the premise shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the refuse and recycling materials storage bins and areas shall be constructed, equipped and made available for use prior to first occupation and retained in that form thereafter.

REASON: To ensure a satisfactory standard of refuse and recycling provision and to protect the residential amenity of adjoining and future occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

5. Prior to occupation, a scheme for the provision of secure cycle parking on site has 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 scheme.

REASON: In order to ensure that there is adequate provision for secure cycle (powered two wheeler) accommodation within the application site, encouraging alternative modes of transport in accordance Policies M6 and M8 of the Welwyn Hatfield District Plan 2005.

6. Following the carrying out of completion of the building operations or alterations for which consent is hereby granted, all making good of the existing building shall be carried out in materials and finishes which closely match, like for like, those materials and finishing details used in the existing building or structure. If there is any doubt regards the approach to any proposed making good, or any alternative materials are proposed, a precise specification of the materials and finishes shall be submitted to and agreed in writing by the Local Planning Authority. Subsequently the works shall be carried out other than in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure a satisfactory standard of development in the interests of visual amenity and to ensure the historic and architecture character of the building is properly maintained in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

#### DRAWING NUMBERS

7. 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> |
|--------------------|------------------------|--|----------------------|
| 03(06)             |                        | Proposed Elevation E02, E03                    | 9 May 2018           |
| 03(07)             |                        | Proposed Section A A                           | 9 May 2018           |
| 03(08)             |                        | Proposed Section BB                            | 9 May 2018           |
| 01(01)             |                        | Existing Basement Plan                         | 9 May 2018           |
| 01(05)             |                        | Existing Elevation E01                         | 9 May 2018           |
| 01(06)             |                        | Existing Rear Elevation E02, E03               | 9 May 2018           |
| 01(07)             |                        | Existing Section AA                            | 9 May 2018           |
| 01(08)             |                        | Existing Section BB                            | 9 May 2018           |
| 03(05)             |                        | Proposed Elevation E01                         | 9 May 2018           |
| 03(10)             |                        | Site Layout Plan                               | 9 May 2018           |
| 01(02)             |                        | Existing Ground Floor Plan                     | 9 May 2018           |
| 01(03)             |                        | Existing First Floor Plan                      | 9 May 2018           |
| 01(04)             |                        | Existing Roof Plan                             | 9 May 2018           |
| 03(01)             |                        | Proposed Basement General Arrangement Plan     | 9 May 2018           |
| 03(02)             |                        | Proposed Ground Floor General Arrangement Plan | 9 May 2018           |
| 03(03)             |                        | Proposed First Floor General Arrangement Plan  | 9 May 2018           |
| 03(04)             |                        | Proposed Roof Plan                             | 9 May 2018           |
| 03(09)             |                        | Site Location and Block Plan                   | 9 May 2018           |
| 001-559-01         | B                      | Ground Floor HVAC Layout                       | 25 September 2018    |

|            |   |  |                   |
|------------|---|--|-------------------|
| 001-599-02 | F | First Floor HVAC Layout                      | 25 September 2018 |
| 03 (09) B  |   | Proposed Plant Area<br>Elevation             | 25 September 2018 |
| 001-599-03 | C | External Elevations A-A &<br>B-B HVAC Layout | 25 September 2018 |

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

#### 1. 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 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 applicant is advised to take account the provisions of The Party Wall Act 1996 insofar as the carrying out of development affecting or in close proximity to a shared boundary.
4. 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-developerinformation/business-licences/business-licences.aspx> or by telephoning 0300 1234047.
5. 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-developerinformation/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

6. Notwithstanding the consent issued under the Town and Country Planning Act, a licence issued under the provisions of Section 115E of the Highways Act 1980 is required prior to the placement of any tables, chairs or other apparatus in the public highway. The applicant will need to apply to the County Council Highways via either the website <https://www.hertfordshire.gov.uk/services/highways-roads-andpavements/business-and-developer-information/business-licences/business-licences.aspx> or telephone 0300 1234047 to arrange this.
7. Please note that an advertisement consent for signage is required as it falls outside the remit of this planning application.
8. Noise control
  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.

Dust control

1. All efforts shall be made to reduce dust generation to a minimum

2. Stock piles of materials for use on the site or disposal that are likely to generate dust, shall be sited so as to minimise any nuisance to residents or neighbouring businesses. Materials for disposal shall be moved off site as quickly as possible.

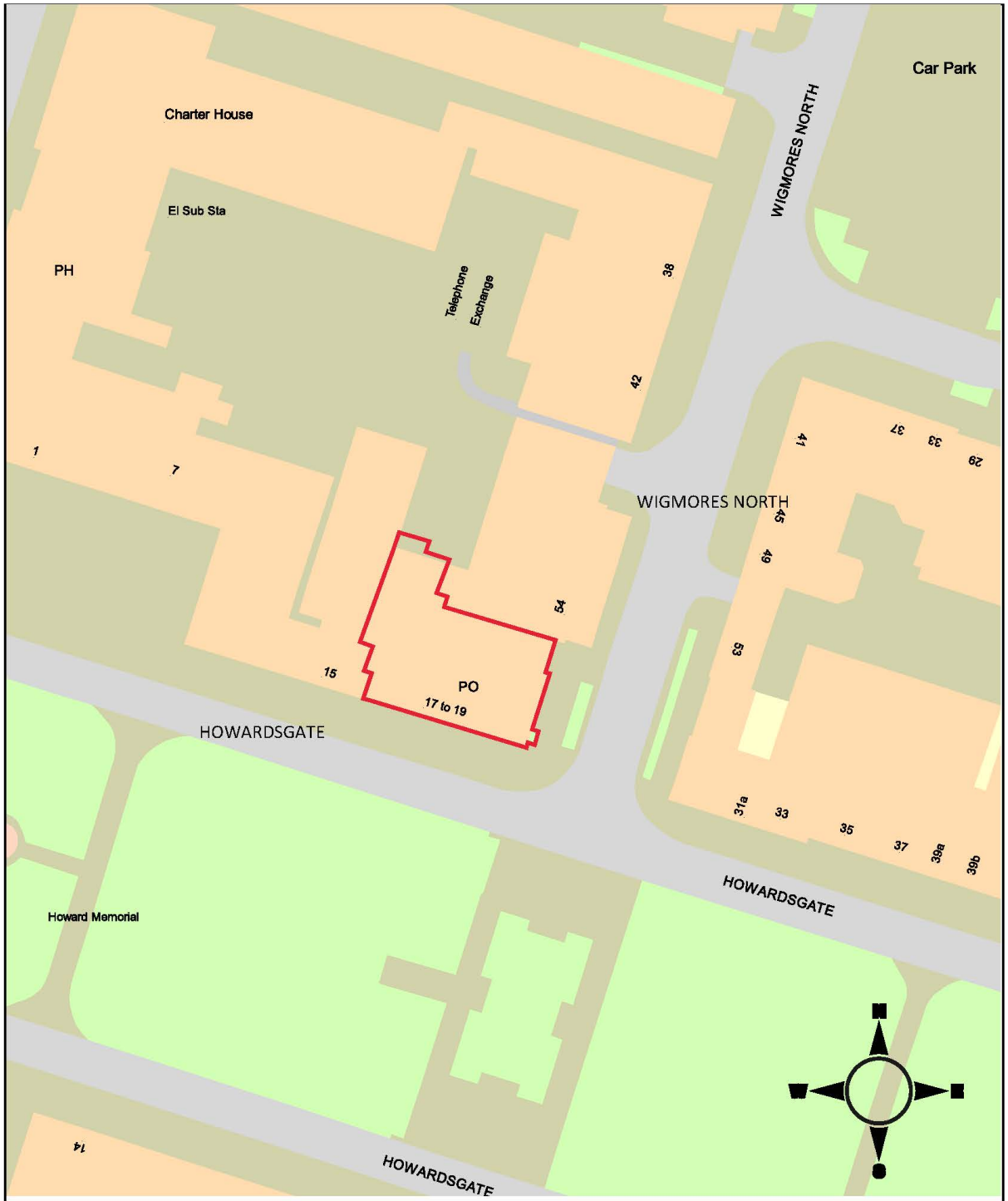
3. Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.


9. Siting of seating and tables on the footpath fronting the building is not permitted by this planning permission and you are advised to seek the approval of the land owner and any necessary licenses/consents and submit a separate planning application for the change of use of the pavement.

Louise Sahlke (Development Management)

Date 07/01/2019

Expiry Date: 30/9/2018



|   |  |                                     |                       |
|---|--|-------------------------------------|-----------------------|
|  <p><b>WELWYN<br/>HATFIELD</b></p> <p>Council Offices, The Campus<br/>Welwyn Garden City, Herts, AL8 6AE</p> | Title:<br>17-19 Howardsgate Welwyn Garden City |                                     | Scale:<br>DNS         |
|   |  |                                     | Date:<br>2019         |
|   | Project:<br>DMC Committee                      | Drawing Number:<br>6/2018/1232/FULL | Drawn:<br>Ida Moesner |
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