

Part I

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(Brookmans Park & Little Heath)

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 12 SEPTEMBER 2024  
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

6/2024/0551/FULL

LAND ADJACENT TO BELL LANE, BELL BAR, AL9 7AY

ERECTION OF THREE FOUR-BEDROOM DWELLINGS WITH ASSOCIATED CAR  
PARKING AND LANDSCAPING

APPLICANT: THE JOHN WHITE CUSTODIAN TRUST

**1 Site Description**

- 1.1 The application site has an area of approximately 0.18 hectares and is located to the southern side of Bell Lane. The site comprises a rectangular shaped field with a few trees/hedges lining the boundaries. The whole of Bell Bar lies within the Metropolitan Green Belt.
- 1.2 To the north, east and west of the site lies existing residential dwellings. Agricultural buildings associated with A1 Dairy Farms are located to the south, with Chancellors School beyond. Further to the south-west of the site lies Brookmans Park Golf and Tennis Clubs. Two areas of woodland bound the site to the southeast (broadleaved woodland) and northwest (The Legg north Local Wildlife Site).
- 1.3 The surrounding urban development typically consists of large 1.5 and two storey dwellings in generously sized plots. Neighbouring dwellings are traditional, but with varying styles and features. There are three listed buildings within a 0.35km radius of the site, the closest of which is to the west of the site.

**2 The Proposal**

- 2.1 Full planning permission is sought for the residential development of the site for three four-bedroom dwellings.
- 2.2 The proposal incorporates two storey detached dwellings sited within a linear form. The proposed dwellings would have two storey front gable elements and hipped roof forms.
- 2.3 Materials include red and buff brick and clay roof tiles. Hanging clay tiles and timber windows are also a feature of the proposed dwellings. Plots 1 and 3 are similar in materials through the use of red brick and first floor red/brown clay hanging tiles, whilst plot 2 incorporates a lighter buff brick and brown clay hanging tiles.
- 2.4 The plots are sizeable with a front driveway and rear garden provided for each. An integral garage is also proposed to each dwelling.

2.5 Along with the submission of detailed plans, the application is also supported by the following documents:

- Botanical Survey
- Design and Access Statement
- Landscape Masterplan
- Planning Statement
- Planning Statement Addendum
- Preliminary Ecological Appraisal
- Sustainability Statement

### **3 Reason for Committee Consideration**

3.1 This application is presented to the Development Management Committee because North Mymms Parish Council have submitted a Major Objection.

### **4 Relevant Planning History**

4.1 Application Number: 6/2023/2300/PA  
Decision: Refused  
Decision Date: 09/02/2024  
Proposal: Pre-application advice for the erection of 3 new dwellings

### **5 Relevant Planning Policy**

- 5.1 National Planning Policy Framework 2023 (NPPF)
- 5.2 National Design Guide 2021 (NDG)
- 5.3 Planning Practice Guidance (PPG)
- 5.4 The Welwyn Hatfield Borough Council Local Plan 2016-2036 (Local Plan)
- 5.5 Supplementary Design Guidance 2005 (SDG)
- 5.6 Parking Standards Supplementary Planning Guidance 2004 (SPG)
- 5.7 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)
- 5.8 Hertfordshire Local Transport Plan (2018-2031) 2018

### **6 Site Designation**

6.1 The site lies within the settlement of Bell Bar as designated in the Welwyn Hatfield Local Plan.

### **7 Representations Received**

7.1 The application was advertised by means of neighbour notification letters and site notices. In total, 32 representations have been received, all comprising objections. All representations received are published in full on the Council's website and are summarised below:

- Windfall development is not expected in settlements such as Bell Bar that are lower in the settlement hierarchy than “excluded villages”.
- Bell Bar is not a village, it is a Hamlet, therefore very special circumstances must be demonstrated.
- Infilling is not acceptable.
- Not within a “continuous built-up frontage” as defined by SADM 34.
- The openness of the Green Belt would be reduced by changing open agricultural land into a built environment.
- The separation, and sensitive Green Belt boundary, would be eroded between the existing and differently hierarchical settlements of Bell Bar and Brookman’s Park.
- Loss of view and vista which makes a significant contribution to the character - from an open agricultural landscape into a built-up and overbearing setting.
- The scale, height and bulk of the proposed houses are disproportionate to the surrounding single storey farmhouse and the 2 adjoining small semi-detached houses – overdevelopment.
- All the surrounding houses and gardens would be overshadowed and overlooked, resulting in a major loss of privacy and amenity, in particular the residents of number 58, 60, 62, 64 and 66.
- Loss of view for existing residents.
- The new houses will generate noise and light pollution, spoiling our tranquil, green outlook and sense of space.
- Has the applicant submitted a daylight and sunlight assessment on surrounding properties?
- Car parking is restricted and is already under pressure because of the industrial site at the corner of Bell Lane.
- Bell Lane is dangerous – narrow, parked cars/visibility, speeds, congestion as a result of Chancellors School.
- The farm track that leads from the adopted part of Bell Lane is unmade and is in constant use by farm vehicles and machinery – dangerous.
- This is probably the last section of the original pre 1851 Great North Road (Roman road) which has not been tarmacked over.
- Speed limits along the A1000 not adhered to – hazardous for pedestrians.
- No safe and lit footways from the proposed site to the A1000.
- No direct access to or from Brookmans Park.
- Insufficient infrastructure.
- No primary school within walking distance from the proposed site.
- Very limited access to any form of transportation and there are no bus services nearby.
- The paddock acts as a link between the two areas of adjacent woodland with the unimproved grassland rich in invertebrates which provide food for various local wildlife.
- The grassland biodiversity of the paddock will be totally destroyed resulting in a huge loss of habitat.
- Applicant has not consulted with people affected by its application.
- Timeframe for responses to the application is not adequate.

- Application should not be dealt with under delegated powers – issues are important that the application should be determined by the planning committee.
- Dispute over the tenancy status of the site – the farm has used this paddock for at least 60 years for animal husbandry and storing machinery.
- Site was not included within the Local Plan.
- Set a precedent for other similar sites.
- The farm attracts theft which the police are aware of – introduction of these houses mean that people may wander into the farmyard which is dangerous.
- Drainage and sewage system inadequate.

## **8 Consultations Received**

8.1 The following have responded advising that they have no objections to the proposal in principle, subject to conditions:

- HCC Transport Programmes and Strategy
- Hertfordshire Ecology
- WHBC Client Services
- WHBC Landscape and Ecology

8.2 No response was received from the following consultees:

- HCC Rights of Way

## **9 Town/Parish Council Representations**

9.1 North Mymms Parish Council have raised a major objection to the proposed development for the summarised reasons set out below:

- Proposed development is not in the Local Plan
- Located within the Green Belt, will affect the openness and no Very Special Circumstances
- Lack of car parking
- Loss of amenity

## **10 Analysis**

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

- 1. Principle of development**
- 2. Green Belt**
- 3. Quality of design and impact on the character of the area**
- 4. Residential amenity**
- 5. Highways and parking considerations**
- 6. Other considerations**
  - i) Landscaping and trees**
  - ii) Ecology and biodiversity**
  - iii) Refuse and recycling**
  - iv) Sustainable design and low carbon homes**
- 7. The planning balance**

## 1. Principle of the development

- 10.2 Policy SP1 of the Council's Local Plan states that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Of particular note is that the location of new development should be delivered in a sustainable pattern of development which prioritises previously developed land; minimises the need to travel by directing growth to those areas with good transport networks which are well served by jobs, services and facilities; protects areas of highest environmental value; and avoids areas of high flood risk. Moreover, the Council will take a positive approach when considering development proposals that reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework, as well as the principles set out within Policy SP1.
- 10.3 The site has not been allocated in the Local Plan for additional housing supply and as such comes forward as a windfall residential site. Policy SADM1 therefore applies. This policy states that all applications for windfall residential development on unallocated sites will be granted provided:
- i. The site is previously developed, or is a small infill site within a town or excluded village. In the Green Belt, Policy SADM 34 will apply;*
  - ii. The development will be accessible to a range of services and facilities by transport modes other than the car;*
  - iii. There will be sufficient infrastructure capacity, either existing or proposed, to support the proposed level of development;*
  - iv. Proposals would not undermine the delivery of allocated sites or the overall strategy of the Plan; and v. Proposals would not result in disproportionate growth taking into account the position of a settlement within the settlement hierarchy.*
- 10.4 Land in built-up areas such as residential gardens is not classed as previously developed land, having a lower priority for development, but that does not mean they cannot be built on in any circumstances. The need to make efficient use of urban land remains a policy objective. Whilst the site is not previously developed, it is a small infill site within an excluded village, with an assessment against Policy SADM34 undertaken further within the report.
- 10.5 With regards to criteria ii of Policy SADM1, the site is situated in between the settlements of Brookmans Park (approximately 2km) and Welham Green (approximately 1.5km) which both benefit from railway stations, bus services and a mix of shops and other facilities to meet day-to-day service needs. A petrol station selling convenience goods, a restaurant and a plant nursery are within close walking distance of the site.
- 10.6 The site is located to the west of the A1000 (Great North Road) which is an 'A' classified road and a main distributor road in the Hertfordshire roads hierarchy. A 50-mph speed limit is in operation. A footpath runs alongside the A1000, which leads all the way to Brookmans Park and Welham Green. The walking route via the footpath is considered to be suitably lit and acceptable to accommodate sustainable forms of travel.
- 10.7 For future residents to reach the A1000 by foot or bicycle, it is acknowledged that Bell Lane has a lack of footways and is not lit. In terms of highway safety, this is discussed in further detail within the highways section of this report. The Highway

Authority within their comments advise that the proposal is in accordance with guidance.

- 10.8 Paragraph 109 of the NPPF suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and this should be taken into account.
- 10.9 Therefore, in terms of the principle of development, future occupiers would have access to some public transport options and services/facilities and would not have to be solely reliant on a private car. However, it is still considered highly likely that future occupiers would be primarily reliant on the use of a car to access day to day facilities and services. It is therefore acknowledged that there would be a degree of conflict with Policy SP1 and SADM1. However, a realistic approach is necessary where sites are in more rural areas and where residents are generally more likely to be reliant upon private transport to travel to work, shops, or services. The location and accessibility of the site for residential development of this scale is therefore considered, on balance, to be acceptable.
- 10.10 There is no evidence to suggest that the existing infrastructure nearby would not be able to absorb the development.
- 10.11 There would be a benefit (albeit very limited) on services and facilities in nearby settlements as the future occupants of the new dwellings have the potential to support and provide demand for nearby services and facilities. The proposal meets criteria iii of Policy SADM1.
- 10.12 Finally, the proposal is not considered to undermine the delivery of allocated sites or the overall strategy of the Plan, nor is it considered to result in disproportionate growth.
- 10.13 For the reason above, there is no in principle objection to this site being used for residential purposes in land use terms, subject to the physical and environmental constraints of the site and its immediate vicinity and other relevant planning policies which are discussed below.

## **2. Green Belt**

- 10.14 The application site is washed over by the Metropolitan Green Belt as defined by Local Plan Policy SP3. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The National Planning Policy Framework (NPPF), states, in paragraph 152 that, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 153 then states that substantial weight should be given to any harm in the Green Belt and that “very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

### *Appropriateness:*

- 10.15 Paragraph 154 of the NPPF outlines that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, apart from a limited number of exceptions.

- 10.16 Exception e) of Paragraph 154 of the NPPF is relevant in this case and outlines that limited infilling in villages is not inappropriate in the Green Belt. The NPPF does not specify any criteria for limited infilling in villages.
- 10.17 Policy SADM34 covers all forms of development within the Green Belt. As a consequence of the nature of the proposed development, it is considered that the proposal should be assessed against the requirements and restrictions of infill development. Whilst Policy SADM34 does not alter the fact that the NPPF does not specify any criteria for limited infilling in villages, it does add some additional criteria for development within the Green Belt. Policy SADM34 states as follows:

*Limited infill development will be permitted in villages within the Green Belt provided:*

- i. It is within a continuous built-up frontage*
- ii. It does not extend the existing 'built up' area of the village into the open countryside;*
- iii. It would not result in the loss of a view or vista which makes a significant contribution to the character of the settlement; and*
- iv. It is small scale and would not result in the provision of more than four dwellings (net)*

- 10.18 The policy indicates that all of the criteria must be complied with in order for a development to be acceptable.

With respect to infilling and whether the development would be sited within a continuous built-up frontage (criteria i detailed above), the proposed site would be located between dwellings to the north, east and west, with a small gap maintained between the proposed site and agricultural buildings to the south. The proposed development would maintain a linear formation following the building line with the neighbouring dwellings at Nos.64 and 66 Bell Lane.

- 10.19 It is acknowledged that the site does not meet the 'traditional' sense of being within a continuous built-up frontage as there will be small gap to the south of the site. Notwithstanding, an appeal under reference APP/C1950/W/21/3272408 at The Bungalow in Bell Bar is similar in this regard. The proposed erection of one new dwelling at the aforementioned site was not sited within a continuous built-up frontage as the property to the west was set back behind the application site. In this case, the Inspector found that it would be in a continuous built-up frontage and would be visually and physically related to the development along Great North Road.
- 10.20 In the instance of this application, whilst there is a gap to the south of the site, the proposed development plot does not extend as far south as the gardens of the houses facing Bell Lane immediately to the east of the site, or the houses situated to the west of the site. Although the proposed dwellings would have a frontage facing the road to the west of the site, and therefore would not form a continuous frontage with the existing dwellings to the east, the proposed dwellings would be in alignment with the existing semi-detached pair to the north of the site (Nos.64 and 66 Bell Lane). It would therefore not be unreasonable to conclude that the proposal would be visually and physically related to the existing development.

- 10.21 In terms of whether the site is located within a village has raised concern amongst the representations received. Throughout the appeal under reference APP/C1950/W/21/3272408 at The Bungalow in Bell Bar as mentioned above, the Inspector discussed, at length, whether Bell Bar was a village.
- 10.22 The Inspector within the above-mentioned appeal decision stated that “*whether a site is within a defined village boundary in a development plan is not conclusive to determining whether a site is within a village or not. It is for the decision maker to decide whether, as a matter of fact and degree on the ground, if the site appears to be in a village.*”.
- 10.23 A discussion followed this statement with respect to what Bell Bar comprises of, on the ground. The Inspector noted that the main parties disputed whether Bell Bar is a village or a hamlet, which has consequences in terms of whether the scheme accords with Framework paragraph 154 e). This is also the case within the application that is currently before the Council.
- 10.24 The Inspector went on to set out that there was nothing before them to suggest that a settlement of this scale with houses and associated buildings, such as a restaurant, public house and petrol station with a shop cannot be a village. Moreover, Figure 6 of the Local Plan identifies Bell Bar as being a village. It is for these reasons that the Inspector concluded that Bell Bar is a village.
- 10.25 In this case, the site would be located within the village of Bell Bar. Policy SP3 of the Local Plan identifies Bell Bar as being a small Green Belt village. Accordingly, the application site lies within a village for planning policy purposes.
- 10.26 With respect to criteria ii and iii, as discussed above, the site is contained within the village envelope and it is not considered to extend the built form into open countryside, nor would it result in the loss of a view or vista which makes a significant contribution to the character of the settlement (criteria ii and iii). The site therefore represents an infill plot in this regard.
- 10.27 In terms of limited and criteria iv listed above. Policy SADM34 places a numerical figure of no more than 4 dwellings. The proposed development is for three new dwellings and is therefore limited in scale.
- 10.28 For the above reasons, it is considered that the proposed dwellings would constitute limited infilling within an existing village and the proposal therefore accords with the exception under paragraph 154 e) of the NPPF and Policy SADM34. The proposal is therefore not inappropriate development in the Green Belt.

*Openness and Purposes of Including Land in the Green Belt:*

- 10.29 The Courts have held that appropriate development is not harmful to Green Belt openness or the purposes of including land within it. Consequently, no discussion of this has been made in respect of the new dwellings.

*Conclusion on the Green Belt*

- 10.30 Taking account of the above, the proposal would fall within the limitations of paragraph 154(e) of the NPPF and SADM34 of the Local Plan and is not



inappropriate development within the Green Belt. It is therefore not necessary to demonstrate very special circumstances to justify the development.

### **3. Quality of design and impact on the character of the area**

- 10.31 The Government attaches great importance to the design of the built environment. The NPPF notes at paragraph 131 that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 135 further advises that decisions should ensure developments will function well, be visually attractive, sympathetic to local character and establish a strong sense of place. Paragraph 139 is clear that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 10.32 The National Design Guide (NDG) provides further details as to what is considered as constituting good design and states that good design involves careful attention to the context for places and buildings and hard and soft landscape (amongst others), and a well-designed place is made up of the following components: layout, form, scale, appearance, landscape, materials, and the details of the building.
- 10.33 The above objectives are broadly consistent with Policies SP1 and SP9 of the Council's Local Plan. Policy SP9 states that proposals will be required to have been informed by an analysis of the site's character and context so that they relate well to their surroundings and local distinctiveness, including the wider townscape and landscape, and enhance the sense of place. SP9 goes on to states that development proposals will need to respect neighbouring buildings and the surrounding context in terms of height, mass and scale and also be of a high quality architectural design that creates coherent and attractive forms and elevations and uses high quality materials.
- 10.34 Paragraph 26.11 of the Local Plan states that the Council also has in place Supplementary Planning Guidance on parking standards (2004) and Supplementary Design Guidance (2005), both introduced in conjunction with the Welwyn Hatfield District Plan (2005). Both of these documents require review in due course in order to bring them up to date with current best practice on design and sustainable development but will continue to be used to inform decisions on planning applications until such review takes place.
- 10.35 In terms of the character of the area, paragraph 2.4 of the SDG outlines, amongst other things, that new development should:
- Respond to building forms and patterns of existing buildings in the detailed layout and design to reinforce a sense of place;
  - Use local materials and building methods/details to enhance local distinctiveness; and
  - Ensure that the scale, height, massing, and space around the new development in relation to the adjoining buildings is considered
- 10.36 The application is accompanied by a suite of technical documents and other supporting evidence, including a Design and Access Statement and Planning

Statement, which illustrate the evolution of the design. The supporting documents have been scrutinised by the officers and statutory consultees.

- 10.37 An overview of the proposal is detailed earlier within the report at section 2. The submitted Design and Access Statement explores the proposed development further in terms of elements such as the size, scale, siting, design and materials of the proposed dwellings.
- 10.38 The proposed scheme, creating a linear form to follow the existing building line of Nos.64 and 66 Bell Lane, demonstrates a well-considered layout that responds positively to the context of the site and surrounding area.
- 10.39 Within the immediate vicinity of the site there is a variance in the character of properties. Nos. 64 and 66 are a pair of semi-detached dwellings, No.58 is a single storey farmhouse and No.60 is a two storey dwelling. The properties along Bell Lane to the east of the site comprise mainly of detached dwellings at scales of both 1.5 and 2 storey. Given the variance of the size and scale of buildings within the surrounding area, the proposed dwellings are not out of keeping in terms of size and scale and are therefore considered appropriate.
- 10.40 Turning to design and materials. The surrounding area has a varying appearance in design terms, with dwellings incorporating a mix of hipped and gables roof forms, crown roofs, front and rear dormers, integral garages and a few detached garages, along with a mixture of front porch designs and some dwellings incorporating chimneys. Moreover, the palette of materials within the surrounding area is mixed, incorporating red, buff and grey brickwork, varying colours of render and light and dark coloured windows. The proposed dwellings in terms of the design and materials are therefore considered to reflect the character and appearance of the surrounding area.
- 10.41 In view of the above, the proposal is considered to comprise high quality design which positively contributes to the character and appearance of the surrounding street scene and as such, is therefore acceptable in this regard.

#### **4. Residential amenity**

- 10.42 The NPPF at Paragraph 130 is clear that planning should be a means of finding ways to enhance and improve the places in which people live their lives. This means that authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 10.43 Local Plan Policy SADM11 provides the local policy framework for assessing the impact of development on the residential amenity and living conditions of neighbouring properties and aims to ensure adequate amenity for future occupiers of the proposed development. It states that proposals are required to create and protect a good standard of amenity for buildings and external open space in line with the Council's SDG. This is expanded upon in the Council's SDG which outlines that development should be designed and built to ensure that there is a satisfactory level of sunlight and daylight, that adequate amenity space is provided and that overlooking is minimised. The design guidance contained in the Neighbourhood Plan and the SDG is consistent with this.

*Impact on neighbours*

- 10.44 The properties which would be most affected by the proposal are those that surround the site at Nos. 58, 60, 64 and 68 Bell Lane.
- 10.45 The siting of the proposed dwellings is to be of a linear form, and aligned with the existing residential dwellings at Nos.64 and 66 Bell Lane respecting the established building line.
- 10.46 In terms of separation distance, the proposed dwelling at plot No.1 adjacent to the existing residential plot at 64 Bell Lane would see a flank-to-flank separation of approximately 8 metres, whilst approximately 20 metres would separate the flank wall of 68 Bell Lane and the rear of the nearest proposed dwelling at plot 1. Soft landscaping and boundary fences would provide screening between the existing dwellings and the proposed plots.
- 10.47 To the west of the site, the front elevation of the closest proposed dwelling at plot 2 would have an approximate separation of 26 metres to the front of the neighbouring dwelling opposite at No.58 Bell Lane, with a lane sited in between. Moreover, Plot 3 would be sited approximately 14 metres from the front of the dwelling at No.60 Bell Lane. The separation between the proposed dwellings and existing neighbouring dwellings is therefore considered acceptable.
- 10.48 The proposed development would not result in significant overshadowing of existing gardens or cause an undue loss of sunlight or daylight. This is due to the separation distance between buildings, alignment of the new dwellings, and the orientation of the plots.
- 10.49 Privacy to the gardens of the existing neighbouring properties at Nos. 64 and 68 Bell Lane and possible impacts of overlooking as a result of the proposed development are considered to be limited. This is because of the separation distances and vegetated boundaries mentioned above.
- 10.50 Moreover, whilst the flank elevation of plot 1 would benefit from one first floor window facing the existing dwelling at No.64, the window would serve a bathroom and as such can be conditioned to be obscure glazed and fixed below 1.7 metres. Plot 3 proposes to incorporate two first-floor flank elevation windows. One would serve an en-suite and the other a secondary window to bedroom 2. This is considered acceptable as there are no immediate dwellings to the south of plot 3. A further condition is suggested to restrict the insertion of flank elevation windows above ground floor level to plot 1. On this basis, there would be no undue harm to the privacy of existing properties closest to the application site.
- 10.51 In terms of outlook, whilst it is acknowledged that the outlook would change fairly significantly as a result of the proposed development, this is not in itself a reason to withhold planning permission.
- 10.52 The residential dwellinghouses proposed within this scheme would benefit from permitted development rights. It is therefore appropriate to assess what impact further extensions could have on the residential amenity of neighbouring occupants. NPPF paragraph 54 states *“planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.”* The Planning Practice Guidance (PPG) advises that *“Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity”*.

- 10.53 The proposed dwellinghouses have been carefully designed, in terms of their siting, layout, scale, form and appearance, to respect and relate to the character of the immediate suburban form. The built form to plot ratio is also considered to be adequately proportionate.
- 10.54 It is considered that development under Schedule 2, Part 1, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended could result in undue overlooking to the gardens of Nos. 64 and 68 Bell Lane to the north and east of the application site. This is due to the development that is allowed under Class B which permits additions to the roof of a dwellinghouse, thus potentially allowing development at roof level. It is therefore considered reasonable and necessary to remove permitted development rights for development under Class B of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.
- 10.55 In addition to the impact of the built development, the proposals have the potential to impact on residential amenities through operational impacts during the construction phase. The extent of the development is such that there is potential for noise and atmospheric pollution nuisance during the construction phases. Such impacts are normal, and to be expected, of these developments, but are also short-term impacts that only last for the duration of the construction phase.
- 10.56 These impacts can be managed and mitigated in line with best practice and can be secured through the implementation of a site-specific Construction Management Plan (CMP) via a condition. In addition, there is separate environmental health legislation which further safeguards the amenity of residents.
- 10.57 It is noted that objections have been received regarding a loss of view. Planning exists within the public interest and not the private interest and therefore this is not a material planning consideration.
- 10.58 Moreover, some of the comments received are not matters that can be considered within a planning application, e.g. matters relating to drainage. This would not restrict the grant of planning permission in the event of a recommendation for approval and thus no further comment is made.
- 10.59 Given the above, it is considered that the proposed development would not have any significant adverse impacts on the residential amenity of neighbouring occupiers. The proposal is therefore in accordance with Policy SADM11 of the Welwyn Hatfield Borough Local Plan, the Welwyn Hatfield Supplementary Design Guidance and the National Planning Policy Framework.

*Living conditions for future occupiers*

- 10.60 Policy SADM11 of the Local Plan requires, as a minimum, for all proposals for C3 dwellings to meet the Nationally Described Space Standard (NDSS), unless it can be robustly demonstrated that this would not be feasible or viable. The Standards outline the minimum requirements for floor space and storage for new dwellings.

- 10.61 All proposed dwellings would meet or exceed the Nationally Described Space Standards and would also meet accessible and adaptable standards (Building Regulations Part M4(2)), policy requirements.
- 10.62 The proposed dwellings provide a good standard of amenity for future occupiers in terms of outlook, light and natural ventilation.
- 10.63 In terms of privacy, the position of windows has been considered so as to avoid undue overlooking between properties. First floor windows are proposed to the flank elevations of the proposed dwellings. These windows, albeit the exception of one window to the southern elevation of plot 3, would serve bathrooms/ en-suites and as such can be conditioned to be obscure glazed and fixed below 1.7 metres. A further condition is suggested to restrict the insertion of flank elevation windows above ground floor level to ensure future privacy is maintained.
- 10.64 Nevertheless, there would inevitably be views from windows towards neighbouring properties and over rear gardens. However, a degree of overlooking is acceptable and would be consistent with a neighbouring relationship generally expected between residential properties. As such, a reasonable degree of privacy to living spaces is maintained, with overlooking limited to an acceptable degree.
- 10.65 Turning to private amenity space, Policy SADM11 of the District Plan and the Supplementary Design Guidance requires all residential development to incorporate private amenity space for the use of residents. The Council does not apply rigid standard sizes for gardens, but the layout and design of the garden in relation to the built environment should ensure that the garden is functional and useable in terms of its orientation, width, depth and shape, with the garden large enough to be useable and meet the needs of the occupiers of the home.
- 10.66 The proposal would incorporate private gardens for each of the new dwellings which would be appropriately sized for the plot. All gardens would be provided with patio areas large enough for outdoor family dining around a table. Each property would also have appropriately designed bin stores to the side.
- 10.67 Regard is had to the possibility of odour as a result of the proximity of the site to the farm to the south. The Council's Public Health and Protection officer has provided comment in this regard. They have advised that the future occupants will have to expect some farm odour at certain times of the year, but notwithstanding, they conclude that there would not be a significant odour issue in this location. It is also worth noting that there have not been any previous complaints regarding odour from this farm.
- 10.68 In terms of noise and vibration, regard should be had to Policy SADM18 which sets out that development proposals should ensure that pollution would not have an unacceptable impact on human health, general amenity, critical environmental assets or the wider natural environment. A Noise and Vibration Impact Assessment is required for proposals with the potential to cause disturbance to people or the natural environment due to noise and/or vibration, and for proposals that are considered to be sensitive to noise and/or vibration.
- 10.69 The proposed residential use is not likely to create a significant increase in noise and the location of the site is such that the proposal would unlikely be sensitive to noise and/or vibration.

## 5. Highways and parking considerations

- 10.70 The NPPF is clear that transport policies have an important role to play in facilitating sustainable development with encouragement provided to sustainable modes of transport to reduce reliance on the private car and to achieve safe and suitable access to the site.
- 10.71 Paragraph 114 of the NPPF states that developments should ensure “safe and suitable access to the site can be achieved for all users”, and that “appropriate opportunities to promote sustainable transport modes can be – or have been – taken up”. It references the new National Model Design Code, of which key quotes include: “New development should contribute to the creation of well-lit, direct and overlooked pedestrian and cycle routes” and “all streets should be accessible to all members of the community” (paragraph 59 part 1); plus “walking and cycling should be the first choice for short local journeys, particularly those of 5 miles or less” (paragraph 33 part 2).
- 10.72 Paragraph 115 of the NPPF states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”.
- 10.73 Paragraph 116 goes on to states that “Within this context, applications for development should, amongst other things:
1. give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
  2. address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
  3. create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
  4. allow for the efficient delivery of goods, and access by service and emergency vehicles”
- 10.74 Policy SADM2 of the Local Plan concerns the highway network and safety and is broadly consistent with the NPPF. It states that development proposals will be permitted provided there would be no negative impacts on highway safety, they are designed to allow safe and suitable means of access and site operation and they provide satisfactory and suitable levels of parking.
- 10.75 During the initial consultation period, the Highway Authority objected to the proposal on the grounds that the application fails to demonstrate a satisfactory policy and design-led approach to the accessibility of the proposed development for non-car mode of travel. This is due to no footways existing along an unlit Bell Lane from the development to bus stops on Great North Road. As a result, the Highway Authority considered that walking to and from the site would therefore be neither particularly appealing nor safe.

- 10.76 The applicant worked with the Highway Authority to seek to overcome the initial concerns raised through the submission of a Highways Technical Note (HTN) and a Pedestrian Route Assessment (PRA). The Highway Authority were consulted on the additional information, making the following noteworthy comments:
- 10.77 “Both the TN and the PRA acknowledge the lack of/part provision of footways along the desired routes for pedestrians. It is also acknowledged that this is an existing situation with respect to the pedestrian routes, and given the small quantum of development proposed, it is unlikely to add a significant number of vehicle or pedestrian movements onto what is at present an extremely low trafficked lane with low vehicle speeds.” Moreover, the existing site-specific highway conditions allow pedestrians to step out of the carriageway and onto a verge while traffic passes. The Highway Authority acknowledges that this meets with the guidelines of an ‘available route’.
- 10.78 Therefore, in view of the above comments and the information provided in the TA and PRA, the Highway Authority considers that given the site-specific conditions, the small scale of development, the low volume and speed of vehicle traffic and the extent of verges along the routes, the proposal would not have an unreasonable impact on the safety and operation of the highways. The initial concerns raised by the Highway Authority have therefore been overcome.
- 10.79 The Highway Authority further commented requesting a condition to for a Construction Traffic Management Plan (CTMP) to protect highway safety and residential amenity.

*Parking Provision:*

- 10.80 Paragraph 111 of the NPPF states that if setting local parking standards authorities should take into account the accessibility of the development; the type, mix and use of the development; the availability of and opportunities for public transport; local car ownership levels; and the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.
- 10.81 The Parking Standards SPG use maximum standards that are not consistent with the Framework and are therefore afforded less weight. In light of this, the Council have produced an Interim Policy for Car Parking Standards that states that parking provision will be assessed on a case-by-case basis and the existing maximum parking standards within the SPG should be taken as guidance only. The Council’s Interim Policy for Car Parking Standards outlines that the Council’s parking standards are now treated as guidelines rather than maximums. This means that higher or lower car parking standards than those set out in the SPG can be proposed and determined on a case-by-case basis taking into account the relevant circumstances of the proposal, its size, context, and its wider surroundings.
- 10.82 Policy SADM12 of the Local Plan sets out that the type and quantum of cycle parking will be informed by the standards set out in the Council’s parking standards. The policy also requires detailed consideration of the siting, layout and design of cycle parking to ensure an attractive and coherent street scene is maintained.

- 10.83 In terms of car parking provision, the SPG guidance suggests three spaces should be provided for four-bedroom dwellings.
- 10.84 The submitted plans detail that each plot would incorporate a double driveway, along with a single integral garage, thus totalling three off-street parking spaces each. The garages are also proposed to incorporate cycle storage. The size standards for driveways and garages would be met.
- 10.85 In summary, the proposed development would provide sufficient off-street parking and safe access to the site, as well as provision for cycle storage, in accordance with Policies SP9, SADM2 and SADM12 of the Welwyn Hatfield Local Plan; the guidance in the Council's Supplementary Planning Guidance Parking Standards 2004, the Interim Policy for Car Parking Standards and Garage Sizes and the National Planning Policy Framework.

## **6. Other considerations**

### *i) Landscaping and trees*

- 10.86 Landscaping is important in order to protect and maintain, or ideally enhance, the existing character of the area and to reduce the visual and environmental impacts of the development. It is important that an appropriate balance between hard and soft landscaping is maintained, and the Council will aim to ensure that a proportion of the site frontage is retained as landscaped 'greenery' to reduce the visual prominence of hard surfacing and parked vehicles.
- 10.87 The NPPF sets out at paragraph 135 that planning decisions should be sympathetic to local character, including the landscape setting. Paragraph 136 acknowledges that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments, that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.
- 10.88 Policy SP9 of the Local Plan requires that the appropriate definition of spaces should be created or maintained through the siting, layout and design of routes, buildings, landscaping and boundary. These principles are broadly consistent with Policy SADM11 which states that the outlook and visual amenity afforded from within buildings and private/communal garden areas should be satisfactory, taking account of for instance, boundary treatments and landscaping.
- 10.89 Policy SADM16 states that "proposals will be expected to help conserve and enhance the Borough's natural and historic landscape and sit comfortably within the wider landscape setting. Proposals will be assessed for their impact on landscape features to ensure that they conserve or improve the prevailing landscape quality, character and condition. Proposals should take full account of the relevant Landscape Character Assessment and adopt the strategy and guidelines for managing change set out therein. Regard should also be had to relevant advice contained within the Hertfordshire Historic Environment Record."
- 10.90 The application documents have been considered by the Council's Landscape Officer.



- 10.91 The Design and Access statement supplied with the application states that ‘the proposals aim to retain and enhance the existing hedgerow vegetation and trees along the site boundaries and encourage ecological growth on site.’ A topographical survey plan has also been provided which indicates that most of the vegetation is located around the periphery of site.
- 10.92 However, it is not clear from the information submitted what, or if, any vegetation/trees are to be cleared to facilitate the development. No Arboricultural information has been submitted in this regard. In principle, the Council’s Landscape Officer has no objection to the proposal, however, a tree survey, an Arboricultural Impact Assessment, an Arboricultural Method Statement and a Tree Protection Plan are to be secured through condition, prior to any on site activity.
- 10.93 Turning to landscaping. A landscape strategy plan by ‘landscape connection’ has been submitted to support the application. This plan however only provides very basic details of the proposed landscaping. The Council’s Landscape Officer therefore requests a condition to secure a landscaping scheme.
- 10.94 In summary, the development could retain and protect the mature trees and hedges where appropriate, whilst also introducing new planting which would help assimilate the site into the wider landscape. Detailed landscaping proposals and tree protection measures can be adequately secured through condition. In this respect, no objections are raised with regard to the objectives of the Local Plan or the NPPF.

*ii) Ecology and biodiversity*

- 10.95 Paragraph 180 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and delivering net gains in biodiversity where possible. Paragraph 186 of the NPPF goes on to list principles that Local Authorities should apply when determining a planning application. It is stated within Paragraph 186(d) of the NPPF that “*opportunities to incorporate biodiversity improvements in and around developments should be encouraged*”.
- 10.96 Local Plan Policy SADM16 seeks to conserve the biodiversity of the Borough and seek opportunities for enhancement to ensure no net loss of biodiversity. The Policy sets out that proposals will be expected to maintain, protect, conserve and enhance biodiversity, the structure and function of ecological networks and the ecological status of water bodies.
- 10.97 Biodiversity net gain (BNG) is a way of creating and improving natural habitats. BNG makes sure development has a measurably positive impact (‘net gain’) on biodiversity, compared to what was there before development. All developments that are not otherwise exempt will be required to deliver a measurable biodiversity net gain (BNG) of at least 10%. The site is considered to be ‘small development’ which is defined by Government as ‘not major developments’. A small development is taken to mean, in the instance of this site, a ‘residential development where the number of dwellings is between 1 and 9, or if this is unknown, the site area is less than 0.5 hectares’. Moreover, small developments that were submitted prior to 2<sup>nd</sup> April are exempt from providing a measurable biodiversity net gain of at least 10%. This is the case for this application.

- 10.98 Hertfordshire Ecology have been consulted on this application. The proposed development site is situated amongst some residential properties. Moreover, there are two woodlands present which surround the site to the southeast (broadleaved woodland) and to the northwest (The Legg north LWS). Herts Ecology have advised that due to the two woodlands described above, the site itself is likely being used as a corridor for wildlife to reach either of the woodlands.
- 10.99 A Preliminary Ecological Appraisal (PEA) has been submitted by Arbtech whereby the site was assessed for its potential to host protected/notable species, and habitats on site. Arbtech concluded that the grassland which covers the site is "Other Lowland Acid Grassland". Whilst this was assessed to be species poor, the survey was conducted on the 06/03/2024, which is outside of the optimal survey season for plants. This has been recognised in the limitations section of the report, and it was stated that the "accuracy of botanical assessment may be limited in terms of visible species and ground conditions at the time of the survey".
- 10.100 Within their initial consultation response, Hertfordshire Ecology considered that due to the survey limitations described above, insufficient information had been submitted to determine the application. Subsequently, a botanical survey using quadrats was requested by Herts Ecology to be carried out in mid-summer (between June and mid-August) to maximise accuracy, and to be submitted prior to determination. Moreover, Herts Ecology advised that the results from this survey should subsequently inform a Biodiversity Net Gain Assessment, and a metric should be completed which outlines the on-site baseline biodiversity units and proposed net gain.
- 10.101 Consequently, the applicant has supplied an updated botanical survey. The grassland has now been classified as *Lolium-cynosurus*, in contrast to the previous classification of acid grassland. Recommendations have been outlined in s7.0 of the Botanical Survey report (April 2024) to protect the population of ragged robin. Herts Ecology request that the recommendations should be followed in full. A condition would therefore be imposed upon any grant of planning permission to secure the recommendations set out within the botanical survey.
- 10.102 Turning to protected species. Herts Ecology set out within their response that a mature oak and mature grey poplar were observed during the survey. No roosting features were apparent on the oak, however, a cavity of ~30m was observed on the poplar (T1), which could be exploited by roosting bats. Arbtech have stated that this cavity has the potential to host maternity roosts. Therefore, Herts Ecology set out that the aforementioned trees, under no circumstance, should be directly impacted by the proposed development. If tree removal is required, Hertfordshire Ecology should be reconsulted on further surveys undertaken. This would be secured through the tree protection measures discussed within the above section of the report.
- 10.103 Moreover, in regard to bats, Herts Ecology advise that the nearby woodlands are of high value for foraging and commuting bats. It should therefore be assumed that bats are commonly passing through, and using, the habitat on site. As T1 is in close proximity to the proposed development, a sensitive lighting scheme is required to be secured through a condition.

10.104 Herts Ecology also advise that the development will result in the loss of nesting bird habitat and that the site has potential for hedgehogs. A precautionary approach to the development is therefore advised and will form informatives.

10.105 In terms of BNG, this application was submitted prior to Mandatory Biodiversity Net Gain for small sites. The application is therefore exempt from providing a BNG of at least 10% and the requirements for ecology and biodiversity as set out within Policy SADM16 do not fall to be considered.

10.106 Notwithstanding, ecological enhancements should be a condition of approval.

10.107 Subject to conditions, no objections are raised with regard to the ecological objectives of the Local Plan or the NPPF.

*iii) Refuse and recycling*

10.108 The proliferation of bins can create a considerable amount of clutter which in turn has a harmful impact upon the visual amenity of the streetscene and the character of the area, contrary to Policy SP9 of the Local Plan. Inappropriate storage of bins on the highway can also disrupt pedestrian and traffic movements contrary to the NPPF.

10.109 Details of the location of the refuse and recycling bins to serve the residential units have been provided. These are shown on plan number PL1002 to the side of each dwelling, and set significantly back from the street.

10.110 Further details of the bin stores, including floor plans and elevations, are to be secured by condition to ensure that the visual amenity of the street scene and the character of the area are maintained, in line with Policy SP9 of the Local Plan.

10.111 The Council's Client Services Team commented on the application and have no objection to the proposal.

*iv) Sustainable design and low carbon homes*

10.112 In June 2019 Welwyn Hatfield declared a Climate Change Emergency, with the aspiration of achieving net-zero carbon emissions by 2030.

10.113 The NPPF, at paragraph 157, sets out the broad objectives that the planning system should support the transition to a low carbon future in a changing climate.

10.114 Policy SP10 of the Local Plan requires proposals to adopt sustainable design and construction principles through the design of buildings, materials and waste, water sensitive design, energy and climate change and landscape and biodiversity.

10.115 Further to this, Policy SADM13 of the Local Plan requires all newly constructed dwellings will be required to achieve an estimated water consumption of no more than 110 litres/person/day, with water reuse and

recycling and rainwater harvesting incorporated wherever feasible to reduce demand on mains water supply. It is also recommended that new dwellings deliver some of their energy requirements from decentralised and renewable or low-carbon sources.

10.116 A statement illustrating how the above would be achieved can be secured by condition.

## **7. The planning balance**

10.117 Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, and, for decision-taking, this means (paragraph c) approving development proposals that accord with an up-to-date development plan without delay.

10.118 Taken together, paragraph 11(d) and footnote 8 of the NPPF set out the circumstances in which housing delivery should be considered as a material consideration when dealing with applications.

10.119 The Welwyn Hatfield Local Plan was adopted in October 2023 and is less than five years old. The adopted plan identified at least a five-year supply of specific, deliverable sites at the time that its examination concluded. Therefore, in accordance with paragraph 79 of the NPPF, the Council is not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes.

10.120 However, the latest Government published Housing Delivery Test data (December 2023) which related to the period running from 1<sup>st</sup> April 2019 to 31<sup>st</sup> March 2022 showed that Welwyn Hatfield delivered 57% of homes against its target, falling below the 75% threshold. Therefore, in accordance with footnote 8, the 'tilted balance' set out in paragraph 11(d) of the NPPF is in effect in this instance. With this in mind, planning permission should be granted unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole"*.

### ***Summary of adverse impacts***

10.121 In terms of adverse impacts, the proposal would not strictly comply with Policies SP1 and SADM1 in terms of the principle of development and sustainable modes of transport. It is however considered that, on balance, the location and accessibility of the site for residential development of this scale is considered to be acceptable for the reasons discussed above. On this basis, only limited weight is attributed to the adverse impact on the sustainability of the site.

10.122 The proposal would also not strictly comply with Policy SADM34 with respect to limited infilling in villages within the Green Belt and criteria i as discussed above. Whilst it is acknowledged that there would be a minor conflict with Policy SADM34, minor being one criteria out of four, it is argued that the proposal would be visually and physically related to the existing surrounding development.

10.123 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions on planning applications should be made in accordance with the development plan, unless material considerations indicate otherwise.

The development of the site would result in conflict with one of the four criteria for limited infilling under Local Plan Policy SADM34. However, case law has established that a breach of a particular development plan policy does not necessarily equate to a failure to accord with the development plan *as a whole*. The Court of Appeal judgment *Corbett v Cornwall Council [2020]* provides relevant guidance. Referring to previous case law, it held that the section 38(6) duty can be met where the decision-maker establishes whether or not the proposal accords with the development plan as a whole, given that it is not at all unusual for development plan policies to “*pull in different directions*” and a judgement therefore has to be made.

10.124 It is simply not the case, the court observed, that if there is a breach of one policy in a development plan, a proposed development cannot be said to be “*in accordance with the plan*” overall. Otherwise, it remarked, numerous applications would have to be referred to the secretary of state as departures from the development plan.

10.125 It is necessary to consider the overall objectives and policies of the development plan, rather than focusing solely on individual policies. A breach of a specific policy may be justified if there are material considerations that indicate a departure from that policy is acceptable in light of the overall development plan objectives. In this case, despite non-compliance with Policy SADM34, overall factoring other policy criteria such as making efficient use of the land, quality of design and layout, residential amenity etc, the proposal is considered to comply with the development plan.

### ***Summary of benefits***

10.126 There are a number of benefits arising from the proposed development, and these include the provision of market dwellings and economic benefits. These are considered in turn below:

#### *Provision of market dwellings:*

10.127 Paragraph 60 of the NPPF seeks to support the Governments objective of significantly boosting the supply of homes. To achieve this, the NPPF notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

The Council cannot demonstrate a five-year supply of deliverable housing sites and the current shortfall is significant. That said, the Council now have an adopted Local Plan which provides a plan-led and positive vision for the future and framework for addressing housing needs. The adopted Local Plan has identified opportunities on specific sites in and around the Borough’s towns and excluded villages to facilitate the delivery of 9,343 dwellings between 2023/24 and 2032/33, and 13,400 dwellings over the plan period 2016-2036. Moreover, opportunities to meet the remaining need will be the subject of an early review of the Local Plan, and this review will determine additional sites to be allocated to meet the requirement for future years. This position outlines a clear and positive route to improving housing supply for the Borough in the short to medium term and that the Council are actively working towards achieving a five-year supply.

10.128 As discussed earlier in this report, Welwyn Hatfield Borough Council have, in recent years, fallen short of their targets for housing provision. The proposal would provide 3 dwellings towards the Council's targets.

10.129 The provision of housing is a clear benefit, and considering the above, significant weight is afforded to this.

*Economic benefits:*

10.130 A number of economic benefits will arise from this proposal. These include the provision of jobs during the construction phase of the development by creating employment opportunities on site and indirectly supporting businesses through the supply chain. However, the economic benefits in terms of construction would be short-term and therefore limited. Local business would derive some long-term economic benefit from the future occupiers spending on goods and services, but this would also be limited in scale. These considerations therefore have limited weight in favour of the proposal.

*Other factors:*

10.131 Subject to conditions, the strategy for landscaping, BNG, refuse and cycle storage and parking has been found acceptable and the proposals adequately address the ecological impacts. All these factors are to be taken as a neutral balance.

## **11 Conclusion**

11.1 The proposed development has been assessed against the Development Plan. Subject to conditions, Officers have found the proposal acceptable in terms of the principle of development, Green Belt, quality of design; amenity and living conditions of neighbouring occupiers and future occupiers; highways and parking; landscaping and trees; ecology and biodiversity; refuse and recycling and sustainable design. Other material considerations have also been assessed.

11.2 Having regard to all the above, it is considered that the adverse impacts identified would not significantly and demonstrably outweigh the benefits, when assessed against the policies the NPPF is taken as a whole. Planning permission should therefore be granted.

## **12 Recommendation**

12.1 It is recommended that planning permission be approved, subject to the following conditions:

### **PRE-COMMENCEMENT CONDITIONS**

1. Approved Drawings

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>
LC-2954-01	A	Landscaping Plan	5 July 2024
604/24/FUL/ PL1000		Site Location Plan	20 March 2024

604/24/FUL/ PL1001		Existing Site Plan (topographical Survey)	20 March 2024
604/24/FUL/ PL1002		Proposed Block Plan	20 March 2024
604/24/FUL/ PL1003		Proposed Site Layout Plan	20 March 2024
604/24/FUL/ PL1004		Proposed Boundary Treatment Plan	20 March 2024
604/24/FUL/ PL1005		Proposed Streetscene	20 March 2024
604/24/FUL/ PL1006		The John White Custodian Trust Land Ownership Plan	20 March 2024
604/24/FUL/ PL10.01		Proposed Floor Plans Plot 1	20 March 2024
604/24/FUL/ PL10.02		Proposed Elevations Plot 1	20 March 2024
604/24/FUL/ PL20.01		Proposed Floor Plans Plot 2	20 March 2024
604/24/FUL/ PL20.02		Proposed Elevations Plot 2	20 March 2024
604/24/FUL/ PL30.01		Proposed Floor Plans Plot 3	20 March 2024
604/24/FUL/ PL30.02		Proposed Elevations Plot 3	20 March 2024

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

## 2. Tree Protection

No development shall commence until a tree survey, an Arboricultural Impact Assessment, an Arboricultural Method Statement and a Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development must not be carried out other than in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority. The Arboricultural Method Statement must include:

- a) A specification for the pruning of trees to be retained in order to prevent accidental damage by construction activities;
  - b) The specification of the location, materials and means of construction of temporary protective fencing and/or ground protection in the vicinity of trees to be retained, in accordance with the recommendations of the current edition of BS 5837 "Trees in relation to construction", and details of the timing and duration of its erection;
  - c) The specification of the routing and mean of installation of drainage or any underground services within the Root Protection Area (RPA) and/or canopy spread of retained trees;
  - d) The details and method of construction of any other structures such as boundary walls within the Root Protection Area (RPA) and/or canopy spread of retained trees;
  - e) The details of any proposed alterations to existing ground levels within the Root Protection Area (RPA) and/or canopy spread of retained trees;
- and

- f) Provision for the supervision, by an appropriately qualified arboricultural consultant, of any works within the root protection areas of trees to be retained.

REASON: To protect the existing trees, shrubs and hedgerows in the interest of maintaining the character and amenity of the area and minimising the impact of development in terms of ecology, biodiversity and climate change in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

### 3. Construction Traffic Management Plan

No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development must not be carried out other than in accordance with the approved plan, unless otherwise agreed in writing by the Local Planning Authority. The Construction Traffic Management Plan shall identify details of:

- a) construction vehicle numbers, type, routing;
- b) access arrangements to the site;
- c) traffic management requirements;
- d) construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e) siting and details of wheel washing facilities;
- f) cleaning of site entrances, site tracks and the adjacent public highway;
- g) timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h) provision of sufficient on-site parking prior to commencement of construction activities;
- i) post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
- j) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

REASON: To protect highway safety and the amenity of other users of the public highway and rights of way; to protect the living conditions of neighbouring properties, in accordance with Hertfordshire's Local Transport Plan; the Welwyn Hatfield Borough Council Local Plan; and the National Planning Policy Framework.

## **PRIOR TO ABOVE GROUND DEVELOPMENT**

### 4. Materials

No development above ground level shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby granted have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented using the approved materials and subsequently, the approved materials shall not be changed, unless otherwise agreed in writing by the Local Planning Authority.



REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

5. Landscaping

No development above ground level 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, unless otherwise agreed in writing by the Local Planning Authority.

The landscaping details to be submitted shall include:

- a) original levels and proposed finished levels;
- b) means of enclosure and boundary treatments;
- c) hard surfacing, other hard landscape features and materials;
- d) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, details of seeding or turfing and planting methods and aftercares.

REASON: The landscaping of this site is required in the interest of maintaining the character and amenity of the area, to provide ecological, environmental and biodiversity benefits, and to mitigate the impacts of climate change in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

6. Ecological Enhancements

No development above ground level shall take place until full details of appropriate ecological enhancements have been submitted to and approved in writing by the Local Planning Authority. The site shall be constructed in accordance with the agreed details, and shall thereafter be maintained in the approved form, unless otherwise agreed in writing by the Local Planning Authority.

REASON: The biodiversity enhancements of this site are required in the interest of providing ecological, environmental and biodiversity benefits, and to mitigate the impacts of climate change in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

7. Refuse and Recycling

No development above ground level shall take place until full details of refuse and recycling storage have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved refuse and recycling storage must be fully implemented and made available for use before the development is occupied and thereafter retained for this purpose, unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order that the Local Planning Authority may be satisfied with the provisions for recycling facilities and refuse storage in the interest of safeguarding the amenities of neighbouring occupiers and the area in general in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

8. Energy Efficiency

No development above ground level shall take place until full details of energy-efficient construction materials and processes, including measures for long term energy and water efficient use of the building, have been submitted to and approved in writing by the Local Planning Authority. These measures should promote the use of renewable resources and involve sustainable drainage, heating and power systems. The building shall be constructed in accordance with the agreed materials, processes and systems, and shall thereafter be maintained in the approved form, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the development contributes towards Sustainable Development and Energy efficiency in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

**PRIOR TO OCCUPATION**

9. External Lighting

Prior to the first occupation of the development hereby permitted, details of external lighting must be submitted to an approved in writing by the Local Planning Authority.

The external lighting scheme must meet the requirements within the Institution of Lighting Professionals guidance notes for the reduction of obtrusive lighting, and should be designed to minimise light spill, in particular directing light away from any boundary vegetation / trees to enable dark corridors to be used by wildlife as well as directing lighting away from potential roost / nesting sites.

The approved external lighting scheme must be installed prior to occupation of the development and maintained in good working order in perpetuity with the development, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To help create a safe place and assist with the reduction of the fear of crime; to protect the living conditions of future occupiers and neighbouring properties in terms of light spill, and to protect wildlife, in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

**OTHERS**

10. Noise from Construction

All noisy 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

If noisy works must be carried out beyond these times, then an application must be made for consideration by environmental health under the Control of Pollution Act 1974 (Section 61 application).

Construction deliveries, demolition and construction works, which shall include use of any plant or machinery, cleaning and maintenance of plant or machinery, deliveries to the site and movement of vehicles within the curtilage of the site, must not take place other than between 0800 hours and 1800 hours Mondays to Fridays and 08:00 hours and 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.

REASON: To ensure that the development is undertaken in a manner which reduces any potential impact upon the residential amenities currently enjoyed by existing residents and businesses in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 11. Removal of Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Class B of Part 1 of Schedule 2 shall take place.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by that order in the interests of residential and visual amenity in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 12. Conversion of Garages

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), the garage(s) hereby approved shall be kept available for the parking of vehicles ancillary to the enjoyment of the household(s) and shall not be used for any use that would preclude the ability for their use for the parking of vehicles.

REASON: To ensure that adequate parking provision is retained on site in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 13. Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no windows shall be inserted into the flank elevations above ground level of the dwellings hereby approved.

REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by that order in the interests of residential and visual amenity in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 14. Obscured Glazing

Any upper floor window located in a wall or roof slope forming a side elevation of the dwellings hereby approved must be obscure-glazed to a level

equivalent to Pilkington Level 3 or above and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed, and shall be retained in that form thereafter. Obscure glazing does not include applied film or one-way glass.

REASON: To protect the residential amenity and living conditions of adjoining occupiers in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 15. Ecology

The development hereby approved shall be carried out in accordance with the Preliminary Ecological Appraisal by Arbtech dates March 2024 and the Botanical Survey by Arbtech dated June 2024, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the survival and protection of important species and those protected by legislation that could be adversely affected by the development in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

#### 16. Cycle Storage

The development hereby approved shall be carried out in accordance with the secure cycle parking detailed on the submitted plans, made available for use before the development is occupied and thereafter retained for this purpose, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the provision of secure long term cycle storage for each dwelling on the site in accordance with the Welwyn Hatfield Borough Council Local Plan and the National Planning Policy Framework.

### **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.

### **INFORMATIVES**

#### 1. Other Legislation

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 or legal interest (easements or wayleaves) which may affect the land.

#### 2. Ownership

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. Storage of materials:

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 County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

4. Obstruction of highway:

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 County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/business-licences/business-licences.aspx> or by telephoning 0300 1234047.

5. New or amended vehicle crossover access (section 184):

Where works are required within the public highway to facilitate a new or amended vehicular access, the Highway Authority require the construction of such works to be undertaken to their satisfaction and specification, and by a contractor who is authorised to work in the public highway. If any of the works associated with the construction of the access affects or requires the removal and/or the relocation of any equipment, apparatus or structures (e.g. street name plates, bus stop signs or shelters, statutory authority equipment etc.) the applicant will be required to bear the cost of such removal or alteration. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission, requirements and for the work to be carried out on the applicant's behalf. Further information is available via the County Council website at:

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/changes-to-your-road/dropped-kerbs/dropped-kerbs.aspx> or by telephoning 0300 1234047.

6. Debris and deposits on the highway:

It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

7. Avoidance of surface water discharge onto the highway:

The applicant is advised that the Highway Authority has powers under section 163 of the Highways Act 1980, to take appropriate steps where deemed

necessary (serving notice to the occupier of premises adjoining a highway) to prevent water from the roof or other part of the premises falling upon persons using the highway, or to prevent so far as is reasonably practicable, surface water from the premises flowing on to, or over the footway of the highway.

8. Gravel / shingle driveways

Where loose gravel or shingle is used, a suitable measure to prevent material spilling onto the road/footpath/verge must be installed. It is an offence under section 148 of the Highways Act 1980 to deposit debris onto the public highway, and section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Further information is available by telephoning 0300 1234047.

9. Street Numbering

The development will involve the numbering of properties and/or the naming of new streets. The applicant MUST contact Welwyn Hatfield Borough Council, Environmental Services (01707 357 000) before any name or number is proposed. This is a requirement of the Public Health Act 1875 and Public Health (Amendment) Act 1907.

10. Damage to Grass Verges

Any damage to the grass verges caused by the development/works hereby approved is the responsibility of the applicant and must be re-instated to their original condition, within one month of the completion of the development/works. If damage to the verges are not repaired then the Council and/or Highway Authority will take appropriate enforcement action to remedy any harm caused.

11. Nesting Birds

The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, enabling and construction work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to September inclusive.

Note: If it is necessary for work to commence in the nesting season then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence.

12. Mammals

Any excavations left open overnight should be covered or have mammal ramps (reinforced plywood board >60cm wide set at an angle of no greater than 30 degrees to the base of the pit) to ensure that any animals that enter can safely escape. Any open pipework with an outside diameter of greater than 120mm must be covered at the end of each working day to prevent animals entering / becoming trapped.

13. European Protected Species

If European Protected Species (EPS), including bats and great crested newts, or evidence for them, are discovered during the course of works, work must stop immediately, and advice sought on how to proceed lawfully from an

appropriately qualified and experienced Ecologist or Natural England to avoid an offence being committed.

To avoid the killing or injuring of wildlife during development, best practice should keep any areas of grass as short as possible and any longer, ruderal vegetation should be cleared by hand. To avoid creating refugia that may be utilised by wildlife, materials should be carefully stored on-site on raised pallets and away from the boundary habitats. Any trenches on site should be covered at night or have ramps to ensure that any animals that enter can safely escape, and this is particularly important if excavations fill with water. Any open pipework with an outside diameter greater than 120mm must be covered at the end of each working day to prevent animals entering / becoming trapped.

In order to protect breeding birds, their nests, eggs and young, demolition or vegetation clearance should only be carried out during the period October to February inclusive. If this is not possible then a pre-development (i.e. no greater than 48 hours before clearance begins) search of the area should be made by a suitably experienced ecologist. If active nests are found, then works must be delayed until the birds have left the nest or professional ecological advice taken on how best to proceed.

#### 14. Demolition/construction works

- The best practicable means, as defined in section 72 of the Control of Pollution Act 1974, to reduce noise to a minimum shall be employed at all times.
- All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions.
- All compressors shall be sound reduced models, fitted with properly lined and sealed acoustic covers, which shall be kept closed whenever the machines are in use. All ancillary pneumatic percussive tools shall be fitted with mufflers or silencers of the type recommended by the manufactures.
- All machines in intermittent use shall be shut down during intervening periods between work, or throttled down to a minimum. Noise emitting equipment, which is required to operate continuously, shall be housed in suitable acoustic enclosures.
- Items of plant and equipment shall be maintained in good condition so that extraneous noise from mechanical vibration, squeaking or creaking is reduced to a minimum.
- All pile driving shall be carried out by a recognised noise reducing system.
- Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material.
- In general, equipment for breaking concrete and the like, shall be hydraulically actuated.
- 'BS 5228 Noise Control on Construction Sites' should be referred to for guidance in respect of all work carried out by the developer, their main contractor and any sub contractors.
- Any emergency deviation from these conditions shall be notified to the Council without delay.
- Any planned deviations from these conditions for special technical reasons, shall be negotiated with Council at least 14 days prior to the commencement of the specific work.
- Permissible noise levels are not specified at this stage.

#### 15. Dust control

- All efforts shall be made to reduce dust generation to a minimum.
- 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.
- Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.

#### 16. Building Control

In addition, and separate to your planning permission, for the majority of schemes, you are required by law to appoint a building regulator who will inspect your property at various stages during the course of your building project. This is to ensure it is compliant with the Building Regulations and the Building Act 1984.

The checks the building regulator will carry out include, but are not limited to, the structure, foundations, fire precautions and escape routes, electrical and plumbing compliance and other issues such as drainage and insulation. The objective of these checks is to ensure that your building is safe to live in, accessible and environmentally sustainable.

Once all build stages are checked and the works are finished, a Completion Certificate is issued confirming that these objectives have been met. You will also need the Completion Certificate, should you sell the property, as it will confirm to future owners that the work has been carried out in compliance with the Regulations.

As the owner of the property, you are responsible for Building Regulations compliance so we would urge you to decide which regulator to use, as opposed to leaving your builder or architect to make the choice. This is so that you can be sure the building regulator is truly independent and working to protect you from any breach or omission during the works.

Hertfordshire Building Control Limited are a Company wholly owned by eight local authorities in Hertfordshire including Welwyn Hatfield Borough Council. Please contact them on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) to discuss the process and all that is involved. Or alternatively refer to the Homeowner Information section on their website at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk)

Ashley Ransome (Development Management)  
Date: 12/08/2024





 <p><b>WELWYN HATFIELD</b></p> <p>Council Offices, The Campus Welwyn Garden City, Herts, AL8 6AE</p>	Title:		Scale:
	Land adjacent to Bell Lane Bell Bar AL9 7AY		1:5000
	Development Management Committee		Date:
	6/2024/0551/FULL		29-08-2024
		Drawn:	R.Islam
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