

Part I

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(Brookmans Park and Little Heath)

WELWYN HATFIELD BOROUGH COUNCIL  
DEVELOPMENT MANAGEMENT COMMITTEE – 15 FEBRUARY 2023  
REPORT OF THE ASSISTANT DIRECTOR (PLANNING)

6/2022/2387/HOUSE

LAND AT GREEN CLOSE BROOKMANS PARK AL9 7ST

ERECTION OF DETACHED 3 X TWO-BEDROOM FLATS AND 1 X DETACHED TWO  
BEDROOM TOWN HOUSE FOLLOWING THE DEMOLITION OF EXISTING  
GARAGES

APPLICANT: Mr McGahon

**1 Site Description**

- 1.1 The application site is situated to the north of Green Close on an irregular shaped plot of approximately 560m<sup>2</sup>. Green Close is a cul-de-sac road featuring a variety of housing types constructed in the past 10 years. The application site comprises a partly demolished garage block and a narrow parcel of land situated between a block of carports and No.10 Green Close.
- 1.2 The northern boundary of the site backs onto the rear gardens of a number of properties along Peplins Way. To the west of the application is a three-storey block of flats and beyond this, the East Coast Mainline railway. The application site is located approximately 300m from the Brookmans Park railway station and approximately 150m from the nearest bus stop. Shops and services are also in close proximity.

**2 The Proposal**

- 2.1 The proposal is for the erection of two detached buildings, comprising three two-bedroom flats and a two-bedroom town house, following the demolition of existing garages.
- 2.2 The building containing three flats would be two storeys in height and positioned across the northern part of the site, with part of the building located on the footprint of the derelict garages to be demolished. Each flat would have one allocated car parking space and its own private garden.
- 2.3 The proposed townhouse would be three storeys in height and positioned southeast of the flats, in alignment with No.10 Green Close. The townhouse would benefit from three car parking spaces and a private garden.

**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: 6/2016/0683/FULL  
Decision: Granted  
Decision Date: 21 July 2017  
Proposal: Formation of two storey dwellinghouse with garage and associated landscaping following demolition of existing greenhouse
- 4.2 Application Number: 6/2017/0048/FULL  
Decision: Granted  
Decision Date: 22 June 2017  
Proposal: Erection of detached dwelling and associated landscaping following the demolition of existing garages/workshop
- 4.3 Application Number: 6/2020/0998/FULL  
Decision: Refused  
Decision Date: 15 July 2020  
Proposal: Erection of a 3 flats comprising of 2 x 3 bedroom flats and 1 x 2 bedroom flat following demolition of existing garages
- 4.4 Application Number: 6/2020/1801/FULL  
Decision: Granted  
Decision Date: 27 January 2021  
Proposal: Erection of three 2-bedroom flats following the demolition of the existing garages

## **5 Relevant Planning Policy**

- 5.1 National Planning Policy Framework (NPPF)
- 5.2 Welwyn Hatfield District Plan 2005 (District Plan)
- 5.3 The Welwyn Hatfield Draft Local Plan Proposed Submission (August 2016) Incorporating the Proposed Main Modifications (January 2023) (Draft Local Plan)
- 5.4 Supplementary Design Guidance 2005 (SDG)
- 5.5 Supplementary Planning Guidance, Parking Standards 2004 (SPG)
- 5.6 Interim Policy for Car Parking Standards and Garage Sizes 2014 (Interim Car Parking Policy)

## **6 Site Designation**

- 6.1 The site lies within the settlement of Brookmans Park as designated in the Welwyn Hatfield District Plan 2005.

## **7 Representations Received**

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

## *Objections*

- The development would result in a lack of privacy to neighbouring properties
- The height of the development would appear overbearing and result in a loss of light
- The development will damage nearby trees
- Noise and sound pollution will increase as a result of the development
- The sewage system already has issues and further development would put further pressure on the sewerage system
- The development would exacerbate existing car parking and traffic issues and there has been cases of aggressive behaviour when people have been confronted when parking in unauthorised spaces

## **8 Consultations Received**

- 8.1 WHBC Parking Services – Object:
- Satisfied with the car parking arrangements for the townhouse but object to the shortfall of car parking for the flats
- 8.2 Client Services – Comment:
- The properties could be incorporated into the existing ARRC scheme
  - Additional information requested in relation to refuse vehicle tracking
- 8.3 Local Lead Flooding Authority – Comment:
- The LLFA do not have significant concerns regarding the existing flood risk on site.
- 8.4 WHBC Public Health and Protection – Comment:
- The proposed development raises concerns regarding noise from construction works, noise from the train line, potential for asbestos and potential contamination at the site. Recommend planning application is approved subject to conditions.
- 8.5 Hertfordshire Highways Authority – Comment:
- Green Close is a privately maintained road and therefore beyond the authority of the Highway Authority who are responsible for roads maintainable at public expense.
- 8.6 No response was received from the following consultee:
- Hertfordshire Ecology

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

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

*“There is insufficient parking for the proposed development. Vehicles parked in the road will make access for commercial vehicles difficult. This is overdevelopment in the area.”*

## 10 **Analysis**

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

1. **Principle of development**
2. **Quality of design and impact on the character of the area**
3. **Residential amenity**
4. **Highways and parking considerations**
5. **Other considerations**
  - i) **Landscaping**
  - ii) **Renewable energy**
  - iii) **Refuse and recycling**
  - iv) **Sewerage**
  - v) **Contaminated land**
  - vi) **Asbestos**
  - vii) **Noise**
6. **Planning Balance**

### 1. **Principle of the development**

10.2 Plan Policy SD1 states that development proposals will be permitted where it can be demonstrated that the principles of sustainable development are satisfied and that they will accord with the objectives and policies of the District Plan. Policy R1 requires development to take place on previously developed land and Policy GBSP2 directs new development into the existing towns and specified settlements within the district. These objectives are consistent with the National Planning Policy Framework (NPPF) which supports the development of under-utilised land and buildings and the efficient use of land taking into account, amongst other criteria, the desirability of maintaining an area's prevailing character and the importance of securing well designed and attractive places.

10.3 The site has not been allocated for additional housing supply and as such comes forward as a windfall residential site where Policy H2 applies. Policy H2 of the District Plan relates specifically to applications for windfall housing development and states that all proposals of this type will be assessed for potential suitability against the following criteria:

- (i) The availability of previously-developed sites and/or buildings;*
- (ii) The location and accessibility of the site to services and facilities by transport modes other than the car;*
- (iii) The capacity of existing and potential infrastructure to absorb further development;*
- (iv) The ability to build new communities to support infrastructure and provide demand for services and facilities;*
- (v) The physical and environmental constraints on development of land.*

10.4 The provisions of Policy SADM1 of the Council's emerging Local Plan are also relevant. This Policy states that planning permission for residential development on unallocated sites will be granted provided that:

- (i) The site is previously developed, or is a small infill site within a town or excluded village.*

- (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) *Proposal would not result in disproportionate growth taking into account the position of a settlement within the settlement hierarchy.*

- 10.5 The application site is previously developed land located within an excluded village. The surrounding areas is residential and as such the infrastructure has been developed to provide good transport links for existing residents. The site is near to shops and services within Brookmans Park, as well as the Brookmans Park railway station and bus stops. The site therefore has access to services and alternative means of transport, with the result that future occupants would not have to be reliant on journeys by car.
- 10.6 The application site also benefits from extant planning permission. Application 6/20201801/FULL was approved in January 2021 for the erection of three two-bedroom flats following the demolition of existing garages.
- 10.7 The development would not conflict with criteria i-iv of Policy H2 or the criteria contained within draft Local Plan Policy SADM1. In principle the site could be suitable for new residential development, subject to the proposals impact upon the existing environment. The physical and environmental constraints on the development and land have been assessed below.

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

- 10.8 District Plan Policy GBSP2 notes that development within the specified settlements will be limited to that which is compatible with the maintenance and enhancement of their character. Policies D1 and D2 require the standard of design in all new development to be of a high quality and that all new development respects and relates to the character and context of the area in which it is proposed, maintaining and where possible enhancing the character of the existing area. These policies are expanded upon in the Council's Supplementary Design Guidance (SDG) which requires the impact of a development to be assessed giving regard to the bulk, scale and design of the proposal and how it harmonises with the existing building and area. These objectives are broadly consistent with the Council's draft Local Plan (SP1 and SP9) and the aims of the NPPF which considers that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.
- 10.9 Infill development should be sensitive to its immediate surroundings and respond well to the built context. It is important that in residential areas where there is a clear existing pattern and form of development, that new buildings, landscaping and boundary treatment complement the character of the surroundings. New development should respect the urban grain and consider locally distinct patterns of streets and spaces. It is important to strike a balance between maintaining the established positive character of a residential street and introducing additional housing.
- 10.10 The proposed flats would be similar in scale and appearance to approved development under application references 6/2017/0048/FULL and

6/2020/1801/FULL. The main differences are relation to the siting of the building further towards the western site boundary and the omission of a single storey element to the east which, together with changes to the parking layout and gardens, allow for the addition of a townhouse to the scheme.

- 10.11 The proposed townhouse would be three-storeys, similar to Nos.1 – 16 Green Close with a gabled roof. In contrast to the adjacent terrace, the ridge would run front to back, however, the roof has been designed to reflect the surrounding properties by incorporating stone coping and corbel detailing. Although frontage of the house would be narrow for a detached dwelling, its footprint would not be dissimilar in size when compared to the terrace properties in Green Close. The front and rear elevations of the dwelling would not extend significantly beyond the building line of No.10, although the new dwelling would be orientated to align with the adjacent car port and the splayed flank wall of No.10 Green Close. A single dormer is proposed to either side of the roof. Although the proportions of the dormers do not match others within Green Close, this on its own is not considered to be significantly detrimental to the character and appearance of the area.
- 10.12 The proposed townhouse would be situated within the elongated and narrower part of the application site. It would occupy almost the entire width of the plot at ground floor level, but at the first and second floor level, the townhouse would be narrower in width, ensuring a 1m separation distance between the flank wall and the boundary with the No.10 to the east of the site. The townhouse would be built up against the west side of the boundary, which would be acceptable in this location as the townhouse would be positioned next to a car port. The townhouse would therefore work well within the constraints of the site, with sufficient space remaining for private rear amenity land to the rear and a balance of car parking and soft landscaping to the front, which are discussed later in this report.
- 10.13 The size, scale and style of the proposed development is therefore considered to suitably respect and relate to the character and appearance of the wider area.
- 10.14 The drawings submitted with this application do not demonstrate the materials to be used for the development. Should Members resolve to grant planning permission, details of materials can be secured by condition to ensure that the development would not detract from the character and appearance of the area.
- 10.15 The new dwellinghouse would benefit from permitted development rights. It is therefore appropriate to assess what impact further extensions could have on the residential amenity of neighbouring occupiers. 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”*. In this case, given the relatively small plot size and the close proximity of neighbouring properties, further extensions built within permitted development would likely impact upon the residential amenity of neighbouring occupiers, with particular regard to overbearing impact, loss of light and loss of privacy. The new dwellinghouse is also visually prominent within Green Close and alterations to the roof under permitted development rights would likely be harmful to the character and appearance of the area. Therefore, to protect the amenity of neighbouring occupiers it would be reasonable to impose a planning condition withdrawing permitted development rights enabling the Local

Planning Authority to retain control over the enlargement or alteration of the proposed new dwellings (class A) and their enlargement of consisting of an addition or alteration to its roof (class B).

### **3. Residential amenity**

- 10.16 The NPPF 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.
- 10.17 Policies D1 and R19 of the District Plan seek to ensure that no new development would adversely affect the existing area either in terms of any built form or in terms of the operation of any uses from noise and vibration pollution.
- 10.18 District Plan Policy D1 in conjunction with the SDG, outlines that development will be required to provide a good standard of amenity for buildings and external open spaces. Paragraph 130 of the NPPF outlines that decisions should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Emerging Policy SADM11 requires, as a minimum for proposed 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.
- 10.19 The proposed flats would be in accordance with the NDSS.
- 10.20 The floor plans for the townhouse show a study room with an area of approximately 7m<sup>2</sup>, which is just 0.5m<sup>2</sup> under the floor area required for a bedroom as advised by the NDSS. Given its size and shape, it would be possible for the study room to also be easily used as a bedroom by any future occupant, therefore it is reasonable to assess the townhouse as a three-bedroom dwelling rather than a two-bedroom dwelling. Notwithstanding the minor shortfall in the size of the third bedroom, the townhouse would provide a good standard of accommodation overall.
- 10.21 In terms of private amenity space, Policies H4 and D1 of the District Plan, SADM11 of the Emerging Local 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 but space should be functional and usable in terms of its orientation, width, depth and shape. The Council will look at the size of the unit proposed in relation to the size of the garden.
- 10.22 The proposed townhouse has a private rear garden that is approximately 60m<sup>2</sup> in area. The size and shape of the garden is functional and would provide adequate outdoor space for future occupants of the townhouse.
- 10.23 Each flat would be afforded private amenity space to the rear of the building. Although the rear gardens are not large, they are not so small that they would not provide the minimum to be expected of a garden (i.e. clothes drying and sitting out etc). The gardens are therefore considered to be adequate to serve the needs of future occupants.

- 10.24 With regard to the impact on the amenity of adjoining neighbours, District Plan Policy D1 and the Supplementary Design Guidance state that the development should not cause loss of light or appear unduly dominant from an adjoining property. Emerging Local Plan Policy SADM11 aims to preserve neighbouring amenity.
- 10.25 Objections to the development have been received from residents in Green Close and Peplins Way regarding sewerage issues, noise and air quality issues, parking and highway safety, damage to trees, overbearing impact, privacy and loss of light as a result of the development.
- 10.26 Concerns regarding sewerage, noise and air quality, damage to trees, parking and highway issues have been address elsewhere in the report.
- 10.27 Comments from No.15 Peplins Way raise concerns that the development would result in a loss of privacy and light as well as have an overbearing impact. No.15 Peplins Way is situated to the north of the application site, with the rear amenity spaces serving the proposed development and of No.15 facing towards one another. The proposed flats would be positioned approximately 6m and 7m to the rear boundaries of Nos.15 and No.15a on Peplins Way respectively. It is notable that the rear gardens serving dwellings on Peplins Way are elongated and measure between 30m-40m in length. Such distancing is sufficient to ensure that there will be no significant loss of privacy between the rear elevation of the existing and proposed dwellings. While the building would be two storeys, the accommodation of the first floor would be contained within the roofspace of the building. The amount of roof lights and their positioning within the rear roofslope would not result in adjoining neighbours to the rear of the site to experience an undue loss of privacy.
- 10.28 It is also important to note that the height and scale of the building and its relationship between the dwellings on Peplins Way would be similar to that which has already been approved within application 6/2020/1801/FULL. Overall, the building's size, scale, positioning and relationship to dwellings on Peplins Way would not result in these occupants to experience an undue loss of light or privacy, nor would the building appear overbearing or unduly dominant to adjoining neighbours.
- 10.29 Turning to the impact of the development on the neighbouring properties with Green Close. The height and scale of the proposed townhouse would be similar to neighbouring houses. The townhouse would be approximately 8.5m in height with No. 10 Green Close approximately 10.5m in height. The height differences would be in keeping with the topography of the area, as No. 10 is positioned on a lower land level and appears lower in height compared to the terraced dwellings No. 10 adjoins. No.10 Green Close currently presents a west facing gable wall which is not dissimilar in height and depth compared to the proposed development. Two windows are inserted into the first floor flank elevation of No. 10. Floor plans from approved application S6/2013/2231/MA show the windows each serve a bedroom within No. 10. It is acknowledged that the positioning of the townhouse would reduce the amount of direct sunlight these windows receive. However, the separation distance between the townhouse and No. 10 would still allow sufficient daylight to reach these windows, and each bedroom benefits from a further window inserted into either the rear or front elevation. Whilst the new dwelling would be nearer to the existing block flats to the west, approximately 16m separation distance would be maintained which is sufficient when viewed in



the context of the surrounding pattern of development which has a relatively high-density. Visually, the new dwelling would also be separated from the flats by the existing car port which has a tall, pitched roof and this would further moderate its impact. Overall, the townhouse would not appear overbearing or unduly dominant in views from public or private vantage points.

- 10.30 Regarding privacy, the flats would be oriented in a manner resulting in the development angled slightly towards the existing flatted development to the west of the site. Whilst not ideal, given the separation distance, angles of the fenestration and constrained nature of the application site, it is considered that the proposed development would not result in undue and harmful overlooking towards the occupiers of the existing flatted development that would warrant a refusal.
- 10.31 The proposed townhouse would have limited fenestration within the flank elevations, which would serve non-habitable spaces and so could be secured by condition to be obscured glazed and non-opening to protect the privacy of adjoining neighbours. The fenestration within the front and rear elevation of the townhouse would not be obscured glazed, however during the course of the application, the fenestration within the first and second floor of the rear elevation has been reduced in size. The scale and positioning of the front and rear fenestration would therefore not result in an undue loss of privacy to adjoining neighbours to the front and rear of the townhouse.
- 10.32 In regards to loss of sunlight it is considered that the positioning, orientation, size and scale of the buildings would not result in adjoining neighbours to experience an undue loss of sunlight.

#### **4. Highways and parking considerations**

- 10.33 North Mymms Parish Council have called in this development on the basis of insufficient car parking and concerns that the resultant parked vehicles on the road will create access issues for larger vehicles within the area.
- 10.34 In terms of parking, paragraph 107 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, availability of public transport, local car ownership levels and the overall need to reduce the use of high emission vehicles. Policy M14 of the District Plan 2005 and the Parking Standards Supplementary Planning Guidance (SPG) use maximum standards and are not consistent with the NPPF and are therefore afforded less weight. In light of the above, 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.
- 10.35 The application site is located in Zone 4, where the guidance suggests that a two-bedroom dwelling should provide 1.5 car parking spaces and three-bedroom dwellings should provide 2.25 spaces per dwelling. A total of seven car parking spaces would therefore meet the guideline parking standards contained within the SPG for the proposed development.
- 10.36 Submitted drawing 2022-1561/2 shows a total of six parking spaces would be provided. The townhouse would benefit from three car parking spaces whilst a further three spaces would serve the flats – one allocated space per flat.

- 10.37 Although the development would result in a minor shortfall of one parking space overall, National and Local Planning Policy is clear that parking standards must be balanced against the promotion of sustainable travel and a move away from car dependency. In this case, the site is within a reasonably accessible location within walking or cycling distance of various services and facilities, including bus and rail services. Cycle storage is also shown to be provided for each flat and the townhouse.
- 10.38 Green Close is area of a fairly high-density development. There is little opportunity for additional on-street parking as much of the area sees driveways, garages, parking courts and a tight highway geometry. These features limit the ability to park on the street conveniently or safely. Furthermore, signage explains that a private company is operating in the area and enforcing parking conditions that vehicles must be parked in correct marked bay and clearly display a permit in the windscreen of the vehicle. On-street parking is unlikely to be displaced to the surrounding streets as parking is generally controlled by double yellow lines, waiting restrictions or resident parking permits, with the nearest free parking space approximately 415m from the site on Bluebridge Road. Future occupiers would not be eligible to apply or have parking permits for the neighbouring streets, giving no opportunity for on-street parking within a convenient distance. It is considered that this would act as a disincentive for future occupants of the flats to own more than one car.
- 10.39 For the reasons discussed above, the proposed parking provision is considered to be acceptable and in accordance with the aims of local and national planning policy. A condition is suggested to ensure that the proposed parking spaces are laid out and allocated to each unit prior to occupation.
- 10.40 Whilst no details have been provided in relation to EV charging, this can be secured by condition to reduce reliance upon fossil fuel-powered cars.
- 10.41 The Highway Authority have raised no objection to the proposal, noting that Green Close is a privately maintained road.

## **5. Other considerations**

### *i) Refuse and recycling*

- 10.42 The Council's Client's Services Team have advised that the property could be incorporated on the existing ARRC scheme and would receive a set of 2 bins for refuse & recycling FOC 1 x 180l black bin for refuse and 1 x 240l Blue lidded bin for recycling plus a food waste caddy. Whilst Client Services acknowledged that the refuse vehicle can access Green Close, additional information has been requested to demonstrate that precise detail in relation to the proximity of the development site to the refuse collection point. This information has been requested from the applicant and a verbal update will be provided to Members.

### *ii) Renewable Energy*

- 10.43 The NPPF is clear that sustainable development is integral in determining planning applications. Policy SD1 of the District Plan states that development proposals will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. In addition, Policy R3 of the District Plan requires that all development includes measures to maximise energy

conservation through the design of buildings, site layout and provision of landscaping and incorporate the best practical environmental option for energy supply. Policy SP10 and SADM13 of the Draft Local Plan have the similar objectives.

- 10.44 No details have been provided regarding measures to maximise energy conservation for the proposed development. It is therefore considered necessary and reasonable to attach a planning condition requiring details of a renewable energy scheme in the event of an approval.

*iii) Landscaping*

- 10.45 District Plan Policy R17 seeks to protect existing trees whilst Policy D8 of the District Plan requires landscaping to form an integral part of the overall design, and in this respect the high- quality design required by Policy D1 and D2 would again be relevant. 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.
- 10.46 Concerns have been raised from No 15. Peplins Way that the development could damage trees within the curtilage of No. 15.
- 10.47 WHBC Landscapes team have commented stating that the submitted plans do not clearly establish what trees could be affected by the development. However, in the event of an approval, the Landscapes team have suggested the required information can be secured by condition.
- 10.48 Some details have been submitted with this application about the location and areas that would be used for hard and soft landscaping. The information provided is sufficient to assess that the location and size of the proposed soft and hard landscaping would not be unacceptable but further information is required to ensure that the materials and planting used within these landscaping features are acceptable. Should Members resolve to grant planning permission, a condition can be used to secure a detailed landscaping plan is submitted to and approved by the Council, together with its implementation.

*iv) Sewerage*

- 10.49 Concerns have been raised that the proposed development would create further pressure on the local sewerage system.
- 10.50 Given the scale of the development however, the impact of the development on the sewerage system would likely be minimal.
- 10.51 Informatives can be included in the event of an approval to inform the applicant of the need to seek appropriate approvals and consents from relevant authorities.

*v) Contaminated land*

- 10.52 Policy R2 states that the council will encourage development on land that may be contaminated. However on such sites, applications must be accompanied by a full survey of the level of contamination and proposed for remediation of the site.

10.53 The Council's Public Health and Protection Officer has commented that the former use of part of the site as a garage could have resulted in contamination. As the proposed use of the site is for residential accommodation, it is considered reasonable in the event of an approval to include a condition ensuring an investigation and assessment on the contamination on the site is carried out and submitted to the Local Planning Authority prior to the commencement of the development on site

*vi) Asbestos*

10.54 The Council's Public Health and Protection Officer has commented that it is likely that the existing garages that are to be demolished as part of the application will have asbestos in the roofs.

10.55 Should this be the case, then the asbestos will need to be removed and disposed of in accordance with relevant health and safety legislation. In the event of an approval, an informative can be added to advise the applicant.

*vii) Surface water drainage*

10.56 A watercourse runs to the north of the site

10.57 The Local Lead Flooding Authority have commented that they do not have significant concerns regarding the existing flood risk on site.

10.58 To prevent the increase of flooding both on and off the site, a detailed surface water drainage scheme can be secured by condition in the event of an approval.

*viii) Noise*

10.59 Policy R19 of the District Plan states that proposals will be refused if the development is likely to be affected by unacceptable noise or vibration from other land uses. This approach is also reflected in Policy SADM18 of the draft Local Plan.

10.60 Concerns have been raised regarding noise pollution as a result of the development. The concerns raised regarding noise are in relation to the increase occupancy within the area, and it is considered that the development would not result in any undue noise that would not be expected within a domestic setting.

10.61 The application site is positioned to the east of a train line and the Public Health and Protection Officer has commented due to the proximity of the development to the railway line, a noise impact assessment will need to be undertaken, with noise mitigation and good acoustic design taken into consideration. These details can be secured by condition in the event of an approval.

## **6. Planning Balance**

10.62 In decision-taking, if an authority cannot demonstrate a five-year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in Paragraph 11(d) of the NPPF.

10.63 The Council's current position in respect of housing land supply is acknowledged: *"The Government published the housing delivery test results on 14 January 2022, which confirmed that Welwyn Hatfield had built 1,486 homes in the period*

2018/19-2020/21 against a target of 2,245.” This equates to 66%, and, because supply has fallen below 75%, the Council is required to apply the presumption in favour of sustainable development when determining planning applications.

10.64 In accordance with paragraph 11(d) of the NPPF, this means that the policies which are most important for determining the application are to be considered to be out-of-date as Footnote 8 clarifies that:

*“This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.”*

10.65 For decision taking this means:

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. 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*

10.66 In this case, the tilted balance is engaged.

10.67 Policy SD1 of the District Plan and Policy SP1 of the Draft Local Plan require that proposals will be permitted where it can be demonstrated that the principles of sustainable development are satisfied and that they accord with the objectives and policies of the Development Plan. At the heart of the NPPF is a presumption in favour of sustainable development. The NPPF outlines, in its introduction, three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles. Of particular relevance to this application is an economic role, among others, to ensure land is available in the right places to support growth; a social role to support strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations; as well as an environmental role which includes protecting and enhancing the environment.

10.68 The NPPF does not require development to jointly and simultaneously achieve planning gain in each of the three considerations. It is sufficient for all three to be considered and for a balance between benefit and adverse effects to be achieved across those three areas.

10.69 The proposed development would deliver four additional dwellings in a Borough where a shortfall in housing has been identified. Short term economic benefits

would arise from the construction of the development, with a further but limited benefit of future occupiers utilising the services and facilities within the area. Social and environmental benefits arising from the development would include the provision of a comfortable new home within walking distance to shops, services and wider transport hubs.

- 10.70 The proposed development is therefore considered to accord with the relevant local and national policies and there are no other material considerations sufficient to justify a refusal of planning permission.

## **11 Recommendation**

- 11.1 It is recommended that planning permission be approved subject to the following conditions:

### **Conditions:**

1. **Construction 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. The Construction Management Plan shall include details of:

- a) Access arrangements to the site;
- b) Traffic management requirements if required;
- c) Construction and storage compounds including areas designated for car parking, loading/unloading and turning areas;
- d) Timing of construction activities (including delivery times and removal of waste) and to avoid peak times;
- e) Provision of sufficient on-site parking or alternative arrangements prior to commencement of construction activities; and
- f) Siting and details of wheel washing facilities;

REASON: To protect the safety and amenity of neighbouring occupants in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005; Policy SADM18 of the draft Local Plan; and the National Planning Policy Framework.

2. **Deliveries**

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 Policy R19 of the Welwyn Hatfield District Plan 2005; Policy SADM18 of the draft Local Plan; and the National Planning Policy Framework

3. **Scheme of Remediation**

Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (a) to (d) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

#### (a) Site Characterisation

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

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

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

#### (b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

#### (c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

(e) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

REASON: to protect against contamination of the land in accordance with Policy R18 of the District Plan 2005 and the National Planning Policy Framework.

4. Sample and Schedule of Materials

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

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005; Policies SP1 & SP9 of the draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

5. Surface Water Drainage Scheme

No development above ground shall take place until a detailed surface water drainage scheme for the site based on the approved drainage strategy and sustainable drainage principles, has been submitted to and approved by the Local Planning Authority. Thereafter, the development must not be carried out other than in accordance with the approved scheme. The scheme must include:



- a) Final detailed surface water drainage layout including all proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
- b) Final detailed engineering drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the headwall connection into the watercourse.
- c) Final Detailed Management and Maintenance plan to secure the operation of the scheme throughout its lifetime.

REASON: To reduce the risk and impact of flooding by ensuring the satisfactory storage and disposal of surface water from the site; and to ensure surface water can be managed in a sustainable manner in accordance with Policy R7 & R10 of the Welwyn Hatfield District Plan 2005; Policy SADM14 of the draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework

## 6. Landscaping

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

- a) The landscaping details to be submitted shall include:
- b) original levels and proposed finished levels
- c) means of enclosure and boundary treatments including gates
- d) all hard surfacing, including details of the proposed materials
- e) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing
- f) management and maintenance details of the communal areas

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policies D1, D2, D8 of the Welwyn Hatfield District Plan 2005; Policies SP9, SADM11 & SADM16 of the draft Local Plan; and the National Planning Policy Framework.

## 7. Tree Protection Measures

No development shall take place until a method statement detailing tree protection measures, in accordance with BS5837:2012 Trees, has been submitted to and approved in writing by the Local Planning Authority. The method statement must include details of root protection measures for the large Oak tree located at the front of the application. The development must not be carried out other than in accordance with the approved details which must be fully adhered to during the course of construction works.

REASON: To protect the existing oak tree from damage during construction in the interest of visual amenity and ecology in accordance with Policies R17, D2 and D8 of the Welwyn Hatfield District Plan 2005; Policies SP9, SADM11 & SADM16 of the draft Local Plan; and the National Planning Policy Framework.

8. Noise

No development above ground level shall take place until details relating to a scheme to protect the proposed development from noise due to transport sources is submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details, and not occupied until the approved measures are in place.

The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Internal L<sub>Amax</sub> levels should not exceed 45dB more than ten times a night in bedrooms. Relaxed noise levels will be considered if it can be shown that good acoustic design has been implemented and all steps have been taken to achieve the non-relaxed noise levels in BS8233:2014.

Where opening windows raises the internal noise levels above those within BS8233, other methods of ventilation/attenuation will have to be implemented.

Passive systems and rates will be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment (other overheating assessments can be provided but will need to be agreed in writing by the local planning authority such as a TM59 assessment) conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that overheating will not occur. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the assessment.

Mechanical ventilation can be installed, with ventilation rates required to provide 4 air changes per hour to habitable rooms. However, mechanical ventilation should only be used as a last resort, once all other noise mitigation measures have been implemented (good acoustic design, orientation of sensitive rooms, bunds, noise barriers, passive systems or acoustic louvres).

Outdoor amenity areas should meet the 55dB WHO Community Noise Guideline Level. A slight relaxation of this level (up to 3dB) will be considered, if it can be demonstrated that all reasonable steps have been taken to reduce the level as much as possible, (such as noise barriers, shielding, good acoustic design etc).

REASON: To protect the residential amenity and living conditions of future occupants in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the draft Local Plan and the National Planning Policy Framework.

9. Bins

No development above ground level shall take place until the applicant shall submit to, for approval in writing by the Local Planning Authority, details of the location, design and specification of the refuse bin and recycling materials storage bins and areas to serve the residential units shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the refuse and recycling materials storage bins and areas shall be constructed, equipped and made available for use prior to first occupation and retained in that form thereafter.

REASON: To ensure a satisfactory standard of refuse and recycling provision and to protect the residential amenity of adjoining and future occupiers in accordance

with Policies IM2, R5 and D1 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

10. Obscured Glazing

The proposed first floor window located in the south-eastern side elevation of the townhouse building 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.

REASON: To protect the residential amenity and living conditions of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

11. EV Charging

No development above ground level shall take place until details of EV charging facilities are submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved details. The approved EV charging facilities must be fully implemented and made available for use before the development is occupied and thereafter retained for this purpose.

REASON: To ensure the provision of adequate EV charging facilities in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 5, 19 and 20 of Hertfordshire's Local Transport Plan (adopted 2018); Policies SP10, SADM3 & SADM12 of the draft Local Plan; and the National Planning Policy Framework.

12. Car Parking

Prior to the first occupation of the development, all approved on-site car parking space shall be laid out, surfaced, demarcated, drained and retained in that form thereafter.

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

13. Cycle parking

Prior to the first occupation of the flats hereby permitted, a scheme for the provision of secure cycle parking on site has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved cycle parking must be fully implemented and made available for use before the development is occupied and thereafter retained for this purpose.

REASON: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018); Policies M6 & M14 of the Welwyn Hatfield District Plan 2005; Policy SADM3 & SADM12 of the draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework.

14. Landscaping season

All agreed landscaping comprised in the above details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the

first building, the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policies D1, D2, D8 & RA10, of the Welwyn Hatfield District Plan 2005; Policies SP9, SP10 & SADM11 of the draft Local Plan Proposed Submission August 2016; and the National Planning Policy Framework. and the National Planning Policy Framework.

15. 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 A and 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 Policies D1 and D2 of the Welwyn Hatfield District Plan 2005; Policies SP9 and SADM11 of the draft Local Plan; and the National Planning Policy Framework.

DRAWING NUMBERS

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

Plan Number	Revision Number	Details	Received Date
		Tree Survey	13 October 2022
2022-1561/1		Existing Plans and Elevations	19 October 2022
2022-1561/2		Proposed Plans and Elevations	9 January 2023
2022-1561/3		Proposed Townhouse Plans and Elevations	9 January 2023

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

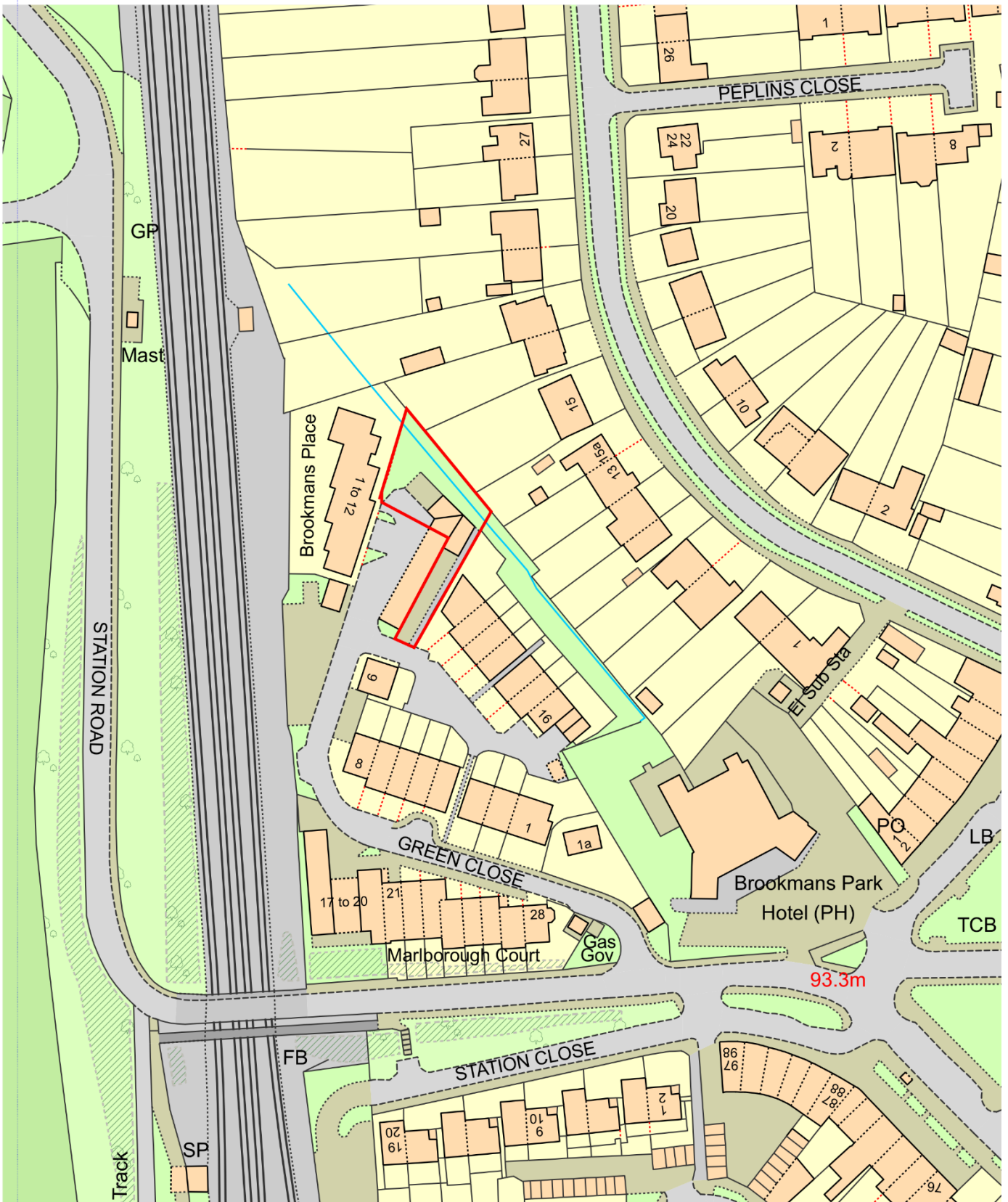
1. POSITIVE AND PROACTIVE STATEMENT


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

**Informatives:**

1. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction and specification of the Highway Authority, by an approved contractor, and in accordance with Hertfordshire County Council's publication "Roads in Hertfordshire – Highway Design Guide (2011)". Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx/> or by telephoning 0300 1234047.
2. The applicant is advised that the storage of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> by telephoning 0300 1234047.
3. It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/highways-roads-and-pavements.aspx> or by telephoning 0300 1234047.
4. The removal or severe pruning of trees and shrubs should be avoided during the bird breeding season (March to August inclusive [Natural England]) to protect breeding birds, their nests, eggs and young. If this is not practicable, a search of the area should be made no more than 3 days in advance of vegetation clearance and if active nests are found, the location should be cordoned off (minimum 5m buffer) until the end of the nesting season and/or works should stop until the birds have fledged."
5. If the roof material on the existing garages is made up of asbestos, then this will need to be removed and disposed of in the appropriate manner, ensuring that all relevant health and safety legislation is followed. All necessary paperwork for this removal and disposal should be retained for inspection if necessary.
6. 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.

Kirsty Shirley (Development Management)  
Date: 30 January 2023



 <b>WELWYN HATFIELD</b>  Council Offices, The Campus Welwyn Garden City, Herts, AL8 6AE	Land at Green Close Brookmans Park AL9 7ST		Scale: DNS
			Date: 21-12-2022
Development Management Committee	6/2022/2387/FULL	Drawn: N McIver	
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