

WELWYN HATFIELD BOROUGH COUNCIL – DEVELOPMENT MANAGEMENT
DELEGATED REPORT

APPLICATION No:	S6/2012/0719/MA
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NOTATION:

The site lies within the Old Hatfield Conservation Area and Area of Archaeological Significance as designated in the Welwyn Hatfield District Plan 2005.

DESCRIPTION OF SITE:

The site comprises two areas of land which are shown linked by the virtue of the red line by a highway (Church Lane). One parcel of land comprises a car parking area – gravel surfaced with levels rising from a westerly to easterly direction. To the north-east of this parcel of land is the other area, which rises from approximately the south-east to the north-west.

This parcel of land comprises four concrete garages, garden area and numbers 17-23 Church Street.

DESCRIPTION OF PROPOSAL:

The application seeks full planning permission for the demolition of the garages and numbers 17-23 Church Street and replacement with 10 units (dwellings and flats) on this parcel of land and dwelling, flat above a garaged area as well as parking on the other (existing car park) site.

PLANNING HISTORY:

S6/2012/0720/CA - Demolition of dwellings at 17-23 Church Street and adjoining garages and lean-to porch attached to 25 Church Street – Under consideration

S6/2005/0431/FP - Erection of 12 garages and reconfiguration of car parking layout - A(G) 03/06/2005

S6/1979/0645/DC - 51 houses and flats in 2 and 3 storeys with landscaping and 59 car parking spaces - A(G) 29/11/1979

SUMMARY OF POLICIES:

National Planning Policy Framework
PPS10: Planning for Sustainable Waste Management

East of England Plan 2008 Policies:

SS1: Achieving Sustainable Development

SS2: Overall Spatial Strategy

ENV3: Biodiversity and Earth Heritage

ENV6: The Historic Environment

ENV7: Quality in the Built Environment

ENG1: Carbon Dioxide Emissions and Energy Performance

T9: Walking, Cycling and other Non-Motorised Transport

T14: Parking

Hertfordshire Structure Plan Review 1991 – 2011:
None

SD1: Sustainable Development
GBSP2: Towns and Specified Settlements
R1 Maximising the Use of Previously Developed Land
R2 Contaminated Land
R3: Energy Efficiency
R5: Waste Management
R11 Biodiversity and Development
R19 Noise and Vibration Pollution
M5 Pedestrian Facilities
M14: Parking Standards for New Developments
D1: Quality of Design
D2: Character and Context
D3 Continuity and Enclosure
D4 Quality of the Public Realm
D5 Design for Movement
D6 Legibility
D7 Safety by Design
D8 Landscaping
D9 Access and Design for People with Disabilities
H1 New Housing Development
H2 Location of Windfall Residential Development
H6 Densities

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

Welwyn Hatfield District Plan, Supplementary Planning Guidance, Parking Standards, January 2004

Houses in Multiple Occupation, Supplementary Planning Document, February 2012

CONSULTATIONS:

HCC Minerals and Waste Team – no objection, but recommend that minimisation of waste is achieved

Herts and Middlesex Wildlife Trust – do not object to the proposal. Advise that the bat survey report identifies that the roof of 23 Church Street is used as a bat roost. Advise that a licence will be required and recommend a number of conditions if the authority is satisfied that the development is necessary and that there is no satisfactory alternative to the proposal.

HBRC – note that a bat roost will be destroyed and that mitigation measures are proposed. Note that the report does not specifically address the 3 derogation tests, however conditions are recommended.

English Heritage – recommend that the application is determined in accordance with national and local policy guidance.

Environmental Health – recommend a number of conditions – noise survey, hours of working, contamination. In addition a number of recommendations are given regarding minimising the amount of noise resulting from construction.

County Archaeology – no objection. Recommend conditions

Hertfordshire Transport Programmes and Strategy – no objection subject to conditions

TOWN/PARISH COUNCIL COMMENTS:

Hatfield Town Council generally support the application, but consider the provision of 12 dwellings an overdevelopment along with a lack of car parking spaces and insufficient space to deal with all the waste and recycling requirements.

REPRESENTATIONS:

This application was advertised by press and site notice as well as neighbour notification letters. Four letters of representations have been received from adjoining occupiers as well as a comment from Welwyn Hatfield Access Group.

Three of the letters detail that they do not object to the development, but wish to make comment:

- Supportive of the consultation by the estate prior to the submission of the application
- Disappointing to see a lack of soft landscaping
- Lack of parking. Residents permits have improved parking situation, would not wish to see parking becoming a problem again
- Concerned regarding site traffic using Church Street (would appear to relate to construction vehicles)
- Too many houses/buildings for the plot size
- Will parking be prevented at junction with Church Street/Lane?
- Existing buildings are of poor architectural merit
- Not clear who the parking spaces at Georges Gate will be for

Welwyn Hatfield Access Group – note that level access will be provided to at least one entrance of zone 1 and the buildings will meet part M of the Building Regs. Zone 2, level access, disabled parking and lifetime homes standard will be provided/achieved. Comment that the northbound platform at Hatfield Station currently is not wheelchair accessible.

DISCUSSION:

The main issues are:

1. Principle of the development
2. Impact on the character of the area, its design and impact upon neighbouring amenity
3. Highway implications including parking
4. Archaeology: County Archaeology have not responded to the application

5. Landscaping:
6. Conservation Area and Demolition
7. Other material planning considerations

1. Policy R1 requires development to take place on previously used or developed land. Development will only be permitted where it can be demonstrated that no suitable opportunities exist on previously used or developed land. This policy applies to all development proposals in the Borough and does not simply relate to housing.

The National Planning Policy Framework (NPPF) provides a focus on requiring good design and paragraph 56 states:

“Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.”

The NPPF also makes a reference which stipulates that development on garden land should needs to be assessed to ensure that it is appropriate for the area. Therefore, there is not a high priority for development within existing gardens unless the proposal is compatible with the surrounding area. Paragraph 53 states:

“Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.”

Old Hatfield is defined as a settlement within the District Plan. Part of the development would be sited on the existing footprint of the dwellings, however a number of dwellings would be located within the garden of the dwellings to be demolished and also within part of the car park adjacent to Georges Gate. Although gardens are not a priority for development, the need to make efficient use of urban land remains a policy objective. In principle the use of the car park for dwellings is acceptable. Therefore, a development that meets relevant policy requirements and does not have an adverse impact upon the surrounding area would be acceptable in this area.

Policy H2 relates specifically to applications for windfall housing development and states that all proposals of this type will be assessed for potential suitability against the following criteria:

1. The availability of previously-developed sites and/or buildings;
2. The location and accessibility of the site to services and facilities by transport modes other than the car;
3. The capacity of existing and potential infrastructure to absorb further development;
4. The ability to build new communities to support infrastructure and provide demand for services and facilities;
5. The physical and environmental constraints on development of land.

2. The application site is located within an established settlement and is accessible to public transport. The railway station and associated bus interchange is sited just a short distance away. In addition, there is a small retail centre located within Old Hatfield at Salisbury Square. The site therefore is considered, in principle acceptable for some form of windfall development.

The proposal would comprise the addition of 8 dwellings and would not result in a significant impact or demand to the existing infrastructure. The locally adopted Planning Obligation details that infrastructure requirements associated with housing developments are impacted upon generally when 10 or more new planning units are created. Zone 1 of the application site is within an existing residential development and the addition of a six dwellings is considered would not have an adverse impact upon the existing community. The two additional dwellings would be sited on land that is currently used as a car park. Built form has not been located in this area, however, it adjoins the built form of Old Hatfield and therefore subject to meeting other policies, such as respecting the character of the area, is acceptable in principle.

The proposed application site would therefore meet the requirements of the first four criteria within Policy H2. In principle the area could be suitable for new residential development, subject to the proposal's impact upon the surrounding environment. The physical and environmental constraints on the development and land have been assessed below.

3. The areas for development comprise two areas, it is therefore proposed to discuss each element in turn. Zone 1 being the site where the existing dwellings are sited and Zone 2 being the development on the car park.
density

Zone 1 – this is a previously developed area and therefore the presence of built form in this location would not be new. There would however be continuous built form from the junction with Church Street to the siting of the existing garages, which would be new. The development in this location would provide two 1 bed flats, one 2 bed flat and seven 2 bed houses. The Design and Access statement details that the proposed development has been designed to be in keeping with the vernacular of buildings within Old Hatfield. The existing dwellings, some of which are listed within Old Hatfield are a mixture of small cottage style dwellings together with slightly larger more grand houses. The proposed development, is similar to that which is currently being built at Dunham's yard and provides small individual dwellings with a regular fenestration pattern, interesting articulation with small gable features, well designed porches and sash windows.

The rear of the dwellings are more simple in their design, but have still been designed with attention to detail. Small dormer windows are sited in the rear of the majority of the units, with the only difference being to units, H, J and I. H and J are located on the Church Street and thus have a different finish being larger and turning the corner. Unit I is above the access route to the rear of the site (to the parking area) and is finished with a gable. The design is reflective of the area and subject to the inclusion of conditions for the buildings to be built as shown on plan and for materials to be agreed they are considered that they enhance the character of the area as well as the design being high quality complying with policies D1 and D2.

With regards to neighbouring amenity, the nearest dwelling that would be most impacted upon in relation to new two storey development would be approximately 18 metres away and its flank elevation faces the new development. It is therefore considered that there would be no impact upon the amenity that they currently enjoy. The relationship between dwellings located at the junction with Church Street/Church Lane is a little awkward in relationship to amenity for the rear elevation. The windows would all be clear glazed, however their relationship is at such an acute angle that there would not be the possibility of overlooking/loss of privacy between the units.

Overall it is considered that the proposal complies with policies D1 and D2 for zone 1 subject to appropriate conditions as detailed above..

Zone 2 – comprises the car park which adjoins the visitor's car park to the Estate. The site is known as St Audrey's car park and is used by businesses and employees on the Estate. The access to the site is slightly to the north-west of the Georges Gate entrance and it is proposed to utilise this existing access as part of the new development.

Two residential properties would be created – a one bed flat located above four garages (described within the Design and Access (D&A) statement as a four bay cart lodge) which would overlook the car park to improve security (refer statement) and a 3 bedroom 'lodge' house. The D&A statement details that the lodge house will complete the entrance to Hatfield Estate in a manner complementary to its location.

The cart lodge would be sited towards the southern boundary of the car park and accessed via Georges Gate. It would therefore be somewhat set back from the main road frontage of Church Lane, although would still be visible above the existing fencing that bounds the site. The plans also indicate the provision of a hedgerow boundary between the two units, thus providing the lodge house with its own curtilage. However, due to the changes in land levels which rise from the highway towards the siting of the lodge, this would have a certain prominence within the locality.

Its design is very simple, with access provided by steps (oak staircase) to the outside of the building. This elevation faces towards Church lane. The door is also a very simple design without any features of domesticity. This is considered to be the correct approach to this unit in this location, on the boundary with the Estate, and reduces its impact in appearing as a residential unit. The design and fenestration pattern of this unit is considered acceptable.

The lodge house has been designed to be reflective of other lodge houses that are sited towards the edges of the Estate's landholdings and entrances in to the Estate. It is a simple design, with a steeply pitched roof, gable projections providing a crucifix footprint. Subject to the use of appropriate materials the design would complement and enhance the Old Hatfield Conservation Area, to which it adjoins.

A dwelling in this location would add new built form to this side of the lower part of Church Lane. It would have some screening from the A1000 by virtue of the trees

that are on highway land by The Broadway. It would also be sited opposite the flatted block that faces on to The Broadway and turns the corner into Church Lane. It is considered that the design of this scheme is more reflective of the wider Conservation Area than other developments within Old Hatfield and that a dwelling in this location would enhance the gateway into this part of Old Hatfield. The plans indicate secure boundary treatment in the form of a gate and picket style fence along the boundary, however it would be reasonable and appropriate for the boundary treatment to be secured by a condition and for this to be retained without alteration approved by the Local Planning Authority.

Their relationship to the adjoining dwellings is a sufficient distance to ensure that there would not be any issues regarding loss of amenity or privacy etc. This part of the proposal therefore complies with policies D1 and D2.

The supplementary design guidance gives over arching guidance regarding the provision of private amenity space for dwellings. The guidance does not provide space standards that must be provide, but rather states that the space must be private and usable for the type of occupation being provided. The garden space provided with all of the units is very limited and on its own would not comply with the guidance. However, the applicant has detailed that occupiers of the units have access to the gardens and wider landscape associated with Hatfield House and therefore, taking this into consideration, the amount provided is considered to be acceptable.

With regards to permitted development (pd) rights for extensions and alterations, all of the units with the exception of the flats would have pd rights for extensions and alterations. With regard to the units on zone 1, the majority have quite small gardens and the provision of a single storey extension, for example, would result in the loss of all in cases or the majority of the soft landscaping to the rear of the dwelling. It is therefore considered reasonable to remove permitted development rights under class A. Permitted development rights do not exist under class B for dwellings within conservation areas. It would however be possible to install rooflights under class C which could have the potential of increasing the number of bedrooms and thus increasing the requirement for parking provision. As the number of parking spaces (off-street) are limited, it is considered reasonable to remove class C. None of the units could have a porch provided under class D, due to the distance of the front elevation from the highway. Outbuildings under class E could be provided and due to the limited amount of garden space, it would be reasonable to remove pd rights. Class G refers to provision, alteration etc of chimneys (inter alia), the scheme has been designed to have chimneys that balance and complement the design and character of the scheme as well as its setting within the conservation area. It is therefore reasonable to remove class G.

In summary, for zone 1, pd rights should be removed under class A, C, E and G.

The dwelling within zone 2 is outside of the Conservation Area, however the car park that is to remain as part of the development immediately to the east of the curtilage of the dwelling is within conservation area as well as the built form directly opposite. It is therefore considered that a high quality design should be retained, as well as provided in this site, in addition to being within the wider curtilage of a grade 1 listed

building (Hatfield House) and adjacent to the visitor's entrance to the House. The design, as discussed earlier is well proportioned, balanced and of high quality. Alterations with the provision of extensions or alterations would have the potential of resulting in a poor standard of design. It would therefore be reasonable to remove pd rights under class A, B, C, D and G to ensure that authority has control over future extensions/alterations in terms of their design. With regard to class E, outbuildings, there is limited space where an outbuilding could be sited in compliance with the current General Permitted Development Order. It would be possible to site an outbuilding to the rear of the dwelling or immediately to the side. This if not appropriately designed and constructed could be harmful to the overall setting in which this dwelling is proposed i.e. the setting of Hatfield House. It is therefore considered reasonable to remove permitted development rights under class E as well.

In summary, it is proposed to remove pd rights under class A, B, C, D, E and G for the dwelling within zone 2.

4. Zone 1 shows parking for the residential units to be sited behind the units. For the number of units proposed - The development in this location would provide two 1 bed flats, one 2 bed flat and seven 2 bed houses, which requires a maximum provision of 9.5 parking spaces. The site is designated as zone 2 within the Parking Supplementary Guidance. The plans show the provision of 7 off-street parking spaces. Within zone 2, 6 spaces would be provided against a requirement of 2.25 spaces. Additionally, one of the spaces for the lodge dwelling would be for disabled persons.

In accordance with the parking policies, new developments require parking provision to be provided on-site and this should therefore be the starting position for this development. Across the two sites, there is sufficient parking for the development, however it would be likely that with the shortfall of parking provision within the area shown as zone 1 that vehicles would park on the highway, which would be contrary to the aim of policy M14, notwithstanding the provision meets standards. The applicant has therefore been asked to justify the proposed parking and how this is to be arranged. The following information has been provided:

"In respect of parking, and as you observe, the additional spaces required for Zone 1 are to be located within the existing St Audreys Car Park.

In this respect, a little more background might be helpful; The Estate is likely to retain three of the properties within Zone 1 (those fronting Church Street / corner of Church Lane). It is these retained properties that will have parking beneath the cart lodge and this would be noted within the relevant tenancy agreements. I would add, however, that the width of the highway is not to be reduced and that Church Lane is currently already within the Old Hatfield CPZ. Whilst not strictly necessary as a result of our scheme, therefore, does a limited number of cars parked on the street actually cause a problem? is a common practice within Old Hatfield [for cars to park on the road] and assuming worst case, a handful of cars parked in Church Lane would merely be a continuation of existing arrangements.

The existing four flats (which are to be demolished as part of this scheme) currently have no off street parking provision and rely on street parking. The proposed development, whilst perhaps not ideal, does therefore offer an improvement over the current situation.

Given the above, the houses not retained in Zone 1 (ie those to be sold) would all have off street parking close to each property. The estate would not sell properties which rely upon parking provision notionally on the Park (ie St Audreys) since this raises awkward licensing / rights of way / land ownership issues.

There are no proposals or intentions to sell properties in Zone 2 and these will remain in long term Estate ownership.”

The Council's Parking Department have confirmed that there is a controlled parking zone within Church Street and Church Lane and that restrictions apply within this area between 9am to 6pm. This would therefore be likely to reduce the likelihood of vehicles parking on the highway.

On the basis of the information provided above, and if this is accepted as sufficient justification, the dwellings which are to be retained by the Estate would require 3 off-street spaces, the cart lodge would require one space and therefore the four to be provided on the ground floor of the cart lodge would comply with planning policy. It would be necessary to ensure that these are retained and not used for any other purpose.

Of those proposed to be sold, there would be a requirement for 6.75 (or 7) spaces. The number of units that this relates to is also seven. Following negotiation, 7 parking spaces are proposed in this area and therefore the proposal complies with adopted parking standards.

With regards to highway works, the proposals include the provision of a footway on Church Lane fronting the new properties and rear parking for 6 vehicles which will be served by a new access from Church Lane. A single car parking space marked as space 7 will be accessed directly from Church Lane. St Audrey car park will be marked out to provide 40 car parking spaces, 3 for the new residences in Church Lane, 3 for the 2 properties in the zone 2 and 36 as a formalisation of the existing parking on the site. A new pedestrian access from the car park will open onto Church lane to provide access to the car park for the Church Lane residents.

Church Lane and Church Street are both designated as local access roads and Church Lane consists of a carriageway with no footways. The highway boundary lies beyond the edge of the carriageway along the line of the existing hedge. On Church Street there is a narrow footway however the hedge also appears to be on and dedicated as highway. On street parking occurs along Church Lane along the site frontage.

The latest version of the drawing for zone 1, plan number 837-055 F shows the existing carriageway width being maintained on Church Lane which will allow traffic to flow as it currently does. There will be a need to amend the existing Traffic Regulation Order that controls the on street parking (part of a Controlled Parking Zone) to ensure that the entrance to the new parking forecourt is kept clear and that

there is sufficient space for vehicles to turn in and out of this access. The proposed footway on Church Street will vary in width with a minimum of 1.2m. As there is currently no footway on Church Street, the provision of a footway is seen as a benefit as it will separate pedestrians from the parked vehicles. The current highway boundary falls along the middle of this footway with some of the proposed footway being on the public highway and some of land belonging to the applicant. As part of the scheme this footway should either all be dedicated as public highway or the section that is highway stopped up and the footway maintained by Gascoyne Cecil Estates.

A 1.8m footway is to be provided on Church Street which is an improvement on the existing narrow footway. The section of highway behind the proposed edge of footway will need to be stopped up to enable the steps and frontage to the new dwellings to be built. This could be carried out under The Town and Country Planning Act.

Visibility splays of 2.4m x 25m should be provided for the both the access to the parking forecourt on Church Street and parking space 7 at the western end of the site. Car parking space 7 is shown as being constructed adjacent to the close boarded timber fence, which if above 600mm will restrict visibility to the west. Visibility from this parking space could be achieved if the front section of the fence (first metre/two metres) were less than 600mm in height.

Access to zone 2 is via an existing access to the highway. The proposals are acceptable to Hertfordshire Highways subject to conditions and a s278 agreement under the Highway Act. It is agreed that the suggested conditions are required and these are included.

5. **Archaeology:** County Archaeology has responded to the application detailing that the site is within an Area of Archaeological Significance. Due to the 'historical nature' of development within the immediate vicinity of the site, as detailed within County's response, it is likely that the proposal would have an impact on archaeological assets. They have recommended a condition be attached to any grant of permission requiring an Archaeological Written Scheme of Investigation, with specific requirements of works to be included contained within the condition.

6. **Landscaping:** Landscaping has not responded to the consultation. The applicant has submitted an arboricultural report and implications assessment for the two sites. The report details that within zone 1, only trees with a low grade would be removed. Within zone 2 all mature trees would be retained. Where development is located close to trees, pile and ground beam foundations will be used.

The report recommends that once plans are finalised, a detailed Arboricultural Method Statement will need to be prepared which would detail methods to protect trees during construction.

The proposals would appear to be acceptable and subject to appropriate conditions including the works to be carried out in accordance with the report, for a method statement to be submitted, proposed landscaping to be submitted etc., it is considered that the development would comply with local plan policies.

7. Conservation Area and Demolition: Chapter 12 of the National Planning Policy Framework (NPPF) addresses the historic environment. Paragraph 128 requires applications to describe the significance of any heritage asset affected by a proposal and their contribution to the setting of the area. Within paragraph 132, the NPPF states that *'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.'* This is expanded further within paragraph 133 where it states that if a development will lead to the total loss of significance of a designated heritage asset, local planning authorities (Local Planning Authority) should refuse consent.

In addition, paragraph 136 requires LPAs to not permit the loss of whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

It is therefore necessary for a determination to be made firstly, as to whether the development proposed for demolition is considered to be significant in relation to its heritage and secondly whether there is a proposed development that will enhance and make a positive contribution to the asset.

The garages, as described within the Heritage Statement are concrete panelled dating from, probably, the 1960s. The design and materials are such that they are not considered to be a heritage asset.

The lean-to porch is of materials that match the dwelling and roof pitch. It would appear that this is a later addition to the dwelling. The dwelling itself would appear to date from the Victorian era and in itself, is not listed. The addition is not considered to be a significant heritage asset and its removal would not have a detrimental impact on the heritage asset i.e. the conservation area.

Lastly, the dwellings are proposed for demolition. These are finished in a pebbledash render with metal crisscross casement windows. The roof is finished in asbestos/fibre cement tiles. The dwellings are not individually listed. It would appear from historical maps that the dwellings were originally constructed around 1925-1930, according to the Statement. Their position within the streetscene at the corner of Church Street and Church Lane, together with the rising ground levels from both directions, results in the dwellings being quite prominent. However, in themselves, the buildings have little architectural merit and do not reflect the character of the area or positively contribute to the conservation area. Therefore their demolition would not result in the loss of a significant asset.

In relation to development that will enhance and make a positive contribution to the asset, this application is submitted alongside a proposal for replacement residential dwellings. It is only relevant to consider those that would be sited within zone 1 (i.e. 17-23 Church Street area). The proposal comprises the provision of a terrace of new town houses and flats which are shown to be in traditional red brick design. The supporting statement details that the main terrace will front onto Church Lane, creating a longer built frontage than at present but the objective is to create the appearance of a terrace of traditional workers cottages. Vehicular access would be

provided within the block to the rear of the dwellings to a rear courtyard parking area. The design of the dwellings is considered to be appropriate for the area and would positively contribute to the streetscene and conservation area. It is therefore considered, that subject to the development for the houses under application S6/2012/0719/MA being approved that this development is considered appropriate to demolish.

It will be necessary to ensure that the brickwork on 25 Church Lane following the removal of the attached porch is in keeping with the host dwelling. A condition requiring materials to be submitted is therefore appropriate.

It is also considered necessary to ensure that all the buildings proposed for demolition within zone 1 are demolished prior to the commencement of building works within this zone to ensure the development is finished to a high standard and not partly implemented.

8. Other Material Planning Considerations

Houses in Multiple Occupation: Since 11th January 2012, there has been an article 4 direction covering the whole of Hatfield removing permitted development rights for change of use from C3 (Dwellinghouse) to C4 (Houses in Multiple Occupation). The rationale for the Direction is detailed within the Houses in Multiple Occupation, Supplementary Planning Document, February 2012.

As a result of the Direction, it is considered appropriate and reasonable to include on new housing developments within Hatfield details to inform developers that there is an Article 4 direction, by virtue of an informative, but also include a condition to ensure that the development, which has been assessed and determined on the basis of being in C3 use is not first occupied within C4 use, over which the Council would have no control. It is therefore recommended that conditions are attached.

Noise: Environmental Health has responded to the consultation detailing that noise may be an issue without appropriate mitigation to the 3-bed dwelling within zone 2. The requirement is due to the proximity of the property to noise sources (such as the A1000), in addition it is necessary to ensure that the private amenity space is appropriately protected. The applicant has queried the need for such a condition, which they consider would be controlled under the Building Regulations and Environmental Health has responded

“The suggested noise condition is intended to insure that internal noise levels, do not exceed the standards indicated in BS8233 and that there is external amenity space where the noise levels do not exceed 55dBALeq. This can only be carried out with some information about the existing noise climate. Compliance with the Building Regulations has no relevance to this issue, apart from the need to ensure that any acoustic attenuation measures needed, do not compromise the ventilation requirements of these regulations. “

It is also recommended that due to the location of the development adjacent to existing residential dwellings and noise during construction that a condition is

attached limiting the hours of work. The addition of both of these conditions would mean the development would comply with policy R19 as well as the NPPF.

Due to the historical use of the land, for example the car park and the location of the garaging, it is also possible that contamination might be present on the site that requires remediation. Environmental Health have advised that the model condition for contamination is attached, as well as an informative detailing that if no contamination is found after stage one, that the condition would be complied with.

Chalk Mining: As with all developments across Hatfield, the suitability of the development in accordance with the National Planning Policy Framework, paragraph 121, needs to be considered. This states a requirement to ensure that:

“the site is suitable for its new use taking account of ground conditions and land instability, including ...former activities such as mining..., and any proposals for mitigation including land remediation or impacts on the environment from using that remediation”

In accordance with guidance, the council requires detailed chalk mining surveys to be undertaken for developments that would affect high risk sites, prior to the determination of an application. This is in order to assess whether development could reasonably be undertaken without risk.

The appraisal for chalk mining indicates that the risk for both areas of the site would be low. In accordance with the guidance and National Planning Policy Framework it is considered reasonable and appropriate to include a condition and informative on the decision notice, if approved, requiring a Chartered Engineer to confirm that the development would be safe.

Renewable Energy: Policy ENG1 of the East of England Plan 2008 requires developments providing 10 or more residential units to provide 10% of the energy requirements from renewable means. The sustainability checklist details that the Estate pursue micro-generation techniques including ground source heat pumps where appropriate. Details have not been included within the application detailing the type of renewable energy that would be provided on the site, however it would be reasonable to conclude that some form of renewable could be utilised and accordingly a condition is suggested.

Sustainable Development: The sustainability checklist has been completed as part of the proposal. This details that previously developed land is being used, surface water and foul drainage will be improved where necessary, passive solar gain will be maximised where possible, the buildings will be thermally efficient and so forth. Overall, it is considered that the development provided would be sustainable and therefore complies with the NPPF and policy SD1.

Protected Species The presence of protected species is a material consideration, in accordance with the National Planning Policy Framework, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

In the UK the requirements of the EU Habitats Directive is implemented by the Conservation of Habitats and Species Regulations 2010 (the Conservation Regulations 2010). Where a European Protected Species ('EPS') might be affected by a development, it is necessary to have regard to Regulation 9(5) of the Conservation Regulations 2010, which states:

“a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.”

The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

In some circumstances a person is permitted to 'derogate' from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict "derogation" tests can be met:

- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
- there must be no satisfactory alternative; and
- favourable conservation status of the species must be maintained.

Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
- b) If the answer is yes, consider whether the three “derogation” tests will be met.

A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

From the information provided within the report it is considered that the proposal would be likely to result in one of the EPS offences described above. As such, it is necessary to consider the three “derogation” tests as defined within the Conservation Regulations 2010. In order for planning permission to be granted, each of the tests must be met.

Is the development being carried out for

- imperative reasons of overriding public interest including those of a social or economic nature? Or;
- reasons relating to human health, public safety or beneficial consequences of primary importance to the environment?
- Is there an alternative solution? and,
- Can the effects of the development be avoided (i.e. mitigated) by the inclusion of conditions?

In accordance with Regulation 61 (2) of the Conservation Regulations 2010, the applicant has submitted an ecological report for consideration. The report identifies that from the surveys undertaken, it is likely that the roof space of flat 23 is used by Brown Long-Eared bats as a summer roost. The demolition of the building would therefore result in an offence under the Regulations being committed.

Herts and Middlesex Wildlife Trust have assessed the application in relation to the second and third derogation test within the regulations. They advise that a licence will be required from Natural England and recommend conditions in relation to mitigation as detailed within the ecological report.

With regards to the first derogation test the application has provided the following information and justification for their proposal:

“The development is being undertaken further to wide and on-going public consultation which followed on from the initial Old Hatfield Charrette. The aim of the charrette was to consider ways to address peoples' concerns and more specifically re-generate Old Hatfield into a vibrant and viable community. These aims are to be achieved through new, higher quality residential development, new commercial and retail premises on a number of sites and with particular attention to design quality. Given the enthusiasm of the local community and widespread support combined with

the success to date, in letting similar properties, both residential and commercial, it could be argued that the development has both social and economic benefits.

- The existing dwellings which are to be demolished, provide very poor quality accommodation and fall well short of current 'decent' standards.

- The derelict garages are both unsightly and in increasingly poor condition. The garages provide an opportunity for antisocial behaviour and general dumping of rubbish etc. In a similar vein, the existing garden is poorly maintained and is under-utilised by residents.

- Taking location of the site into account, demolition of the existing buildings and reconstruction with higher quality units, will substantially enhance the setting of several key listed buildings. This includes St Etheldredas Church and the Bakers Arms. Other listed properties are highlighted within the heritage report.

- We have looked at a number of alternative configurations and options for the site and believe the current application represents the most sustainable and viable use for the site.

- The Park provides an excellent variety of habitat for a wide number of species and any bats or other wildlife, will be able to find countless alternative sites. If all else fails, mitigation measures could be taken whereby alternative roosts are included within the new development. These might either be within the building cavity or within a roof space.”

It is agreed, as discussed above, that the existing development is of poor quality and does not enhance the conservation area. The development, as proposed, would achieve in enhancing the area. There are no reasonable alternatives – converting the buildings and giving them a ‘face lift’ would be unlikely to succeed in providing a high quality development that would also be sustainable. The protected species that are within the building comprise, what would appear, to be quite a small colony and therefore the overall need and social reasons for allowing the development are considered to outweigh the harm of losing the roofspace as a roost for bats. It would be appropriate to condition the application for the mitigation detailed within the ecological report to be provided as part of any future development.

East of England Plan 2008: On 10th November 2010, The High Court quashed the decision of the Secretary of State for Communities and Local Government to unilaterally revoke Regional Spatial Strategies in England on two grounds:

That he acted outside his statutory powers in circumventing the need for parliamentary scrutiny of such a fundamental change to the national planning system; and

He failed to consider the likely environmental effects of revoking Regional Strategies

However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Act. In the meantime, the policies in the East of England Plan are re-established and form part of the development plan again and

are therefore a material consideration which can be taken into account in reaching a decision. However, the Government's intention to abolish Regional Spatial Strategies is also a material consideration that could be considered to reduce the weight to be attached to policies in Regional Spatial Strategies.

The application has been considered against policies in the East of England Plan, which at the time of this decision forms part of the development plan for the Borough but that the weight accorded to these policies, in light of the above circumstances, has been carefully considered in reaching a decision.

CONCLUSION:

The proposal entails the demolition of four existing dwellings and replacement with 12 dwellings across two areas of land. The proposal is acceptable in principle. The loss of the existing buildings would not harm the character of the conservation area and the proposed development would positively contribute.

The proposal has been amended during the course of the application to increase the number of parking spaces and the provision now complies with adopted policies. The scheme would be subject to a Traffic Regulation Order, to be agreed with Herts County Council, to ensure that vehicles are able to park and travel along Church Lane safely.

Overall the proposal is considered complies with national, regional and local plan policies subject to conditions.

RECOMMENDATION: APPROVAL WITH CONDITIONS

CONDITIONS:

1. C.2.1 Time limit for commencement of development
2. C.13.1 Development in accordance with approved plans/details received and dated
837-030 C & 837-110 G & 837-111 G & 837-112 G & 837-113 D & 837-150 M & 837-TYPEJ rev D & 837-TYPEI rev E & 837-TYPEG rev F & 837-TYPEJ rev G & 837-TYPEH1 rev C & 837-070 H & 837-120 J & 837-121 F & 837-122 F & 837-160 H & 837-TYPEK rev F & 837-TYPEL rev A & 837-TYPEL rev B & Arboricultural Report & Implications Assessment (Pyramid Consulting), February 2012 received and dated 2 April 2012

837-001 E received and dated 11 June 2012
837-055 F received and dated 13 July 2012

Pre-Development

3. C.5.1 – Samples of materials
4. C.7.15 – Energy Efficient construction
5. *No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and*

approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:

- a) The programme and methodology of site investigation and recording;*
- b) The programme and methodology of site investigation and recording as suggested by the archaeological evaluation;*
- c) The programme for post investigation assessment;*
- d) Provision to be made for analysis of the site investigation and recording;*
- e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;*
- f) Provision to be made for archive deposition of the analysis and records of the site investigation; and*
- g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.*

REASON: To ensure qualified persons for the investigation and recording of archaeological remains is appointed and in accordance with the National Planning Policy Framework and Policy R29 of the Welwyn Hatfield District Plan 2005.

- 6. C.7.14 – Contaminated Land Survey (10 years)
- 7. The development hereby permitted shall only be undertaken in accordance with the following details:
 - a) Demolition shall only take place during the period November-March inclusive, in the presence of a licensed bat ecologist.
 - b) A European Protected Species license shall be obtained before demolition starts.
 - c) A licensed bat ecologist shall be present when the roof tiles and covered cavity walls are removed.
 - d) In the event of bats being found, they shall be removed by the bat ecologist to a safe location.
 - e) Suitable access points and alternative roost sites shall be incorporated into the new dwellings. The type, design and location shall be determined by a bat ecologist and submitted to the local planning authority for approval in writing prior to the commencement of development. Subsequently, the approved details shall be implemented and permanently retained.

REASON: To comply with the requirements of the Wildlife and Countryside Act and Habitats Regulations and to protect species of conservation concern in accordance with the National Planning Policy Framework, Policy ENV3 of the East of England Plan 2008 and Policy R11 and R16 of the Welwyn Hatfield District Plan 2005.

- 8. C.4.1 – Scheme of landscaping to be submitted and agreed (a, b, e, f, g)

9. C.7.16 – Construction Site Compound
10. Prior to the commencement of development within zone 2 as identified on drawing 837-001 rev E, a noise report shall be submitted to the Local Planning Authority for approval in writing. The noise report shall include details of noise exposure on the site, an assessment of the internal noise levels for habitable rooms and external amenity space. Where these levels will exceed the good standard in BS8233: 1999 for internal noise levels and the WHO 33dB(A) Leq for amenity space, a scheme for attenuation shall be submitted for approval. Where this scheme involves reliance on closed windows to achieve the required attenuation levels, details of alternative ventilation, capable of providing background and rapid ventilation levels shall also be submitted.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy R19 & D1 of the Welwyn Hatfield District Plan 2005

Post Development

11. The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition 5.

REASON: To ensure works to any archaeological remains are undertaken in accordance with the National Planning Policy Framework and Policy R29 of the Welwyn Hatfield District Plan 2005.

12. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 5 and the provision made for analysis and publication where appropriate.

REASON: To ensure works to any archaeological remains are undertaken in accordance with the National Planning Policy Framework and Policy R29 of the Welwyn Hatfield District Plan 2005.

13. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, shall be carried out only between the hours of 8.00am and 6.00pm on Mondays to Fridays, 8.00am and 1.00pm Saturdays and at no time on Sundays and Bank Holidays or any other time.

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy R19 & D1 of the Welwyn Hatfield District Plan 2005.

14. Before first occupation of the approved development, the proposed road layout for Church Street and Church Lane as shown on drawing number 837 -

055 rev F shall be completed in accordance with the approved plans and constructed to the specification of the Local Planning Authority's satisfaction.

REASON: To ensure that the access is constructed to a satisfactory standard of development in the interests of highway safety

15. Concurrent with the construction of the access to the rear parking area, visibility splays of 2.4m x 25m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level.

REASON: To provide adequate visibility for drivers entering or leaving the site in the interests of highway safety.

16. Prior to first occupation of the development hereby permitted the associated car parking shown on approved plan 837 – 055 rev F shall be laid out for parking and used for no other purposes.

REASON: To ensure the development makes adequate provision for the off-street parking and manoeuvring of vehicles likely to be associated with its use in accordance with policy M14 of the Welwyn Hatfield District Plan 2005.

17. Concurrent with the construction of parking space 7, visibility splays of 2.4m x 25m shall be provided and permanently maintained in each direction within which there shall be no obstruction to visibility between 600mm and 2m above the carriageway level.

REASON: To provide adequate visibility for drivers entering or leaving the site in the interests of highway safety.

18. At the commencement of development within zone 1 which includes demolition, all buildings shown to be demolished on drawing number 837-030C shall be demolished in their entirety and all materials removed from the site with the exception of any materials that are to be re-used on the site as part of the construction works.

REASON: In the interests of the character of the area in accordance with policy D2 of the Welwyn Hatfield District Plan 2005.

Post Occupation

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, C, E and G of Part 1 of Schedule 2 for those dwellinghouses within zone 1 and Classes A, B, C, D, E and G of Part 1 of Schedule 2 for those dwellinghouses within zone 2 shall take place unless permission is granted on an application made to the Local planning authority

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

20. The development hereby permitted shall be used for Class C3 dwellinghouse[s] only and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification), no development within Class I of Part 1 of Schedule 2 shall take place unless permission is granted on an application made to the Local Planning Authority.

REASON: The Article 4 Direction covering Hatfield removes the Class I permitted development rights to move from a use falling within Class C3 (dwellinghouses) to a use falling within Class C4 (Houses in Multiple Occupation) and to enable the Local Planning Authority to fully consider the effects of development normally permitted by the Town and Country Planning (General Permitted Development) Order 1995 to maintain mixed, balanced, sustainable and inclusive communities and in the interests of residential and visual amenity in accordance with the Houses in Multiple Occupation Supplementary Planning Document 2012 and Policies GBSP2, D1 and D2 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

21. C.4.2 – Implementation of landscaping

SUMMARY OF REASONS FOR THE GRANT OF PERMISSION:

The proposal has been considered against the National Planning Policy Framework and National Planning Policy PPS10: Planning for Sustainable Waste Management, East of England Plan 2008 policies SS1: Achieving Sustainable Development, SS2: Overall Spatial Strategy, ENV3: Biodiversity and Earth Heritage, ENV6: The Historic Environment, ENV7: Quality in the Built Environment, ENG1: Carbon Dioxide Emissions and Energy Performance, T9: Walking, Cycling and other Non-Motorised Transport and T14: Parking and development plan policies SD1: Sustainable Development, GBSP2: Towns and Specified Settlements, R1 Maximising the Use of Previously Developed Land, R2 Contaminated Land, R3: Energy Efficiency, R5: Waste Management, R11 Biodiversity and Development, R19 Noise and Vibration Pollution, M5 Pedestrian Facilities, M14: Parking Standards for New Developments, D1: Quality of Design, D2: Character and Context, D3 Continuity and Enclosure, D4 Quality of the Public Realm, D5 Design for Movement, D6 Legibility, D7 Safety by Design, D8 Landscaping, D9 Access and Design for People with Disabilities, H1 New Housing Development, H2 Location of Windfall Residential Development and H6 Densities of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which, at the time of this decision indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

INFORMATIVES:

1. The decision notice contains conditions which require you to submit information to the local planning authority and have it approved in writing before any development relating to the approval takes place. There is a formal procedure for applying to discharge conditions and further information can be found at <http://www.welhat.gov.uk/index.aspx?articleid=834> . Failure to comply with this type of condition may result in the development being considered unlawful and enforcement action could be taken. If you require any clarification or information please contact the section on 01707 35700.
2. Hertfordshire County Council Archaeology is able to provide a design brief detailing the requirements for the investigations and provide information on professionally accredited archaeological contractors who may be able to carry out the investigations if required. Please allow 5-10 working days for this document to be issued and a further 5-10 working days for consideration of any submitted archaeological Written Scheme of Investigation.
3. INF8 – Chalk Mining
4. INF6 – Street Naming and Numbering
5. a) All efforts shall be made to reduce dust generation to a minimum
 - b) 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.
 - c) Water sprays shall be used, as and when necessary, to reduce dust from particularly "dusty" activities or stock piles.
6. a) 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
 - b) All plant and machinery in use shall be properly silenced and maintained in accordance with the manufacturers' instructions
 - c) 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.
 - d) 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.

- e) 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.
 - f) All pile driving shall be carried out by a recognised noise reducing system.
 - g) Where practical, rotary drills and bursters, actuated by hydraulic or electric power shall be used for excavating hard material
 - h) In general, equipment for breaking concrete and the like, shall be hydraulically actuated.
 - i) '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.
 - j) Any emergency deviation from these conditions shall be notified to the Council without delay
 - k) 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.
 - l) Permissible noise levels are not specified at this stage.
6. To ensure that work undertaken on the highway is constructed to the Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the public highway. All works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication "Roads in Hertfordshire - Highway Design Guide". Before proceeding with the proposed development, the applicant should contact the Mid West Hertfordshire Highways Area Office at Highways House, 41-45 Broadwater Road, Welwyn Garden City, Herts, AL7 3AX to arrange this.
7. Notwithstanding the consent issued under the Town and Country Planning Act, the applicant is advised that it is an offence under the provisions of The Highways Act 1980 to erect or place any structure within the public highway. The development appears to encroach into the public highway in Church Street. The applicant is advised not to commence development until the public highway rights have been stopped up either by application to the Secretary of State under the Town and Country Planning Act or by application to Magistrates Court under Highways Act procedures. Further details on the extent of public highway can be obtained from the Land Charges Section, Postal point CNH 207, Hertfordshire County Council, County Hall, Pegs Lane, Hertford, Hertfordshire SG13 8DN.
8. INF10 – Wheel washing

Signature of author..... Date.....