

**WELWYN HATFIELD COUNCIL – DEVELOPMENT CONTROL**  
**DELEGATED REPORT**

<b>APPLICATION No:</b>	<b>S6/2012/0957/FP</b>
<b>APPLICATION Site:</b>	<b>128-130 Aviation Avenue, Hatfield</b>

**NOTATION:**

The site lies within the town of Hatfield as designated in the Welwyn Hatfield District Plan 2005.

**DESCRIPTION OF SITE:**

The application site is situated on the south eastern edge of the redeveloped former Hatfield Aerodrome site known as Salisbury Village. The application site accommodates two recently constructed dwellings which form part of a larger development (phase 4 of Hatfield Aerodrome). Phase 4 consists of 164 units and was granted planning permission under reference S6/2009/0891/MA. At the time of the site visit construction works were being carried out within the wider area and road and public areas were unfinished. This phase of the development contains a relatively high density of housing of approximately 58.6 dwellings per hectare.

The application site comprises of a pair of semi-detached dwellings with rear gardens and off street parking to the front. The semi-detached units are three storeys high and feature a mono-pitched roof. The surrounding properties are all newly constructed and have a consistent architectural style and palette of materials which has resulted in a uniform appearance to the street scene.

**DESCRIPTION OF PROPOSAL:**

This application seeks full planning permission for change of use of No.128 and No.130 from Houses in Multiple Occupation (Use Class C4) to large 8 bedroom Houses in Multiple Occupation (Sui Generis).

Existing accommodation comprises of two separate dwellings each benefitting from eight bedrooms, one en-suite bathroom, three shared bathrooms, kitchen/diner and a store room which was originally an integral garage. The proposed drawings show the former garage as a communal room, however, planning permission for the conversion of the garage to habitable accommodation was recently refused under planning reference S6/2012/0956/FP. In addition to the proposed change of use, it is noted that the Proposed Plans and Elevations (AA128130-1002A) show the replacement of the French doors on front elevation of both properties with windows and the insertion of an additional window to the side of each property.

**PLANNING HISTORY:**

S6/2012/0956/FP - retention of conversion of garages to habitable rooms, proposed installation of windows on side elevations and replacement of French doors on front elevation with windows (Refused 02/08/2012)

S6/2009/0891/MA – Residential development of 164 dwellings with access roads and landscaping (Granted 07/06/2010)

Planning Permission S6/2009/0891/MA was subject to the following planning condition:

*“3. No garage shall be converted to living accommodation without the prior written approval of the local planning authority.*

*REASON: To ensure the retention of adequate car parking provision to serve the development, and to prevent environmental problems caused by over-intensive occupation of the dwellings.”*

**SUMMARY OF POLICIES:**

National Planning Policy Framework, March, 2012

East of England Plan 2008 Policies:

SS1: Achieving Sustainable Development

ENV7: Quality in the Built Environment

T14: Parking

The Welwyn Hatfield District Plan 2005:

SD1: Sustainable Development

GBSP2: Towns and Specified Settlements

R3: Energy Efficiency

R5: Waste Management

D1: Quality of Design

D2: Character and Context

D7: Safety by Design

D8: Landscaping

D9: Access and Design for People with Disabilities

M14: Parking Standards for New Developments

Houses in Multiple Occupancy Supplementary Planning Document, February 2012

Welwyn Hatfield District Plan, Supplementary Design Guidance, February 2005

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

Hatfield Aerodrome Supplementary Planning Guidance, November 1999

**CONSULTATIONS:**

Welwyn Hatfield Council Housing Strategy – The kitchen facilities are not currently sufficient for 8 occupants, but there would be sufficient space to provided the required additional facilities. The properties are currently suitable for 6 occupants in terms of licensing.

Welwyn Hatfield Council Planning Policy – Recommend refusal of planning permission.

Welwyn Hatfield Council Client Services – Recommend that the application properties provide individual storage areas to accommodate the bin that will be required to service more tenants.

Welwyn Hatfield Council Environmental Health – No response (consultation expired 11/07/212)

Hertsmere Borough Council – No comment

London Borough of Enfield – No response (consultation expired 11/07/212)

#### **HATFIELD TOWN COUNCIL COMMENTS:**

“Hatfield Town Council objects to the application considering the loss of a family home the major factor in its objection. This property was built less than 12 months ago with the specific intention of housing a family and not multiple occupation.”

#### **REPRESENTATIONS:**

The application was advertised by site notice and neighbour notification letters. One representation was received from an occupier of Dragon Road objecting to the proposal on the grounds that the properties were not designed to accommodate the number of occupants proposed, as a result, there is a lack of parking, waste storage, cycle storage and communal living space.

#### **DISCUSSION:**

**Background** - The application site is within a recently built housing development which was approved for residential development prior to the creation of a C4 use class. Due to the approval not specifying any restrictions with the type of residential use, the approval allows the first occupation of the dwellings to fall within any of the types of residential use that would have been considered a C3 dwellinghouse at the time of the approval. Subsequent changes of use from C3 to C4 would be restricted by the recent Houses in Multiple Occupation (HMO) Supplementary Planning Document.

The legal advice regarding the Hatfield HMO Article 4 Direction notes:

*“... .. it is at the least very strongly arguable that the permission does permit first use of the permitted dwellings as HMOs. On the assumption that approved buildings could accommodate a maximum of six persons, then the outline permission would permit of the use of the dwellings for the purposes of Class C4. In those circumstances, an Article 4 direction would be wholly ineffective to prevent, as a first use of the 164 Phase 4 dwellings for use within Class C4. Where a dwelling is put to a Class C3 use as its first use prior to the making of a direction then, a direction which withdrew GPDO Schedule 2 Part 3 Class 1 right to change to a C4 use without an express grant would be effective provided that change required planning permission.”*

Welwyn Hatfield Council Housing Strategy Department have confirmed that both properties are licensable HMO's. The applicant has submitted an application for a licence which includes a declaration that the property became licensable on the 10

January 2012. Considering the property has been recently constructed this would indicate that the first occupation of the property was for a C4 use.

The main issues are:

1. Impact on the character of the property and the surrounding area
2. The proposed development's impact upon the residential amenity of the locality
3. Amenity standards for the future occupants
4. Parking and cycle parking provision
5. Other material planning considerations

## **1. Impact on the character of the property and the surrounding area**

The National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Planning decisions should aim to ensure that developments add to the overall quality of the area; respond to local character and history; reflect the identity of local surroundings and materials; are visually attractive as a result of good architecture and appropriate landscaping. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 respectively require high quality design in all new development and for proposals to respect and relate to the character and context of their location. These policies are expanded upon in the Council's Supplementary Design Guidance.

This application seeks full planning permission for change of use of No.128 and No.130 from Houses of Multiple Occupation (Use Class C4) to a large House in Multiple Occupation (Sui Generis). Existing accommodation comprises of two separate dwellings each benefitting from eight bedrooms, one en-suite bathroom, three shared bathrooms, kitchen/diner and a store room which was originally an integral garage. The proposed drawings show the former garage as a communal room, however, planning permission for the conversion of the garage to habitable accommodation was recently refused under planning reference S6/2012/0956/FP. In addition to the proposed change of use, it is noted that the Proposed Plans and Elevations (AA128130-1002A) show the replacement of the French doors on front elevation of both properties with windows and the insertion of an additional window to the side of each property.

No.128 and No.130 Aviation Avenue form a semi detached pair within a row of six identical properties that have been constructed within the last 12 months as part of a wider residential development of 164 units. There are a number of house types within the surrounding area, however, a consistent architectural style and palette of materials has resulted in a uniform appearance to the street scene. The application properties each feature integral garage doors, which are situated centrally within the front elevation and form a prominent characteristic of the building. Either side of the garages the front elevation is set back approximately 2m and features French doors. The main entrance to each property is situated within the side elevation.

The proposed replacement of the existing French doors with windows would, to a degree, disrupt the uniformity of the fenestration within the streetscene, however, the visual impact would be reduced in this case as both No.128 and No.130 would match and therefore retain their symmetry. It is proposed to retain the original garage doors and erect a wall internally to convert the garages habitable rooms. As a result, the general appearance of the dwellings would be retained. When viewed in context, although different, the proposed windows would not appear overly prominent or out of place.

It also proposed to insert a window to the side of each garage to serve the proposed habitable rooms. The new windows have been designed to match the style and scale of existing windows within the application building and would not be overly prominent due to their location. Overall, in terms of design, the proposal would adequately maintain the character and appearance of the application building and the wider area in accordance with the NPPF and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance 2005 (Statement of Council Policy).

When assessing the proposal's impact upon the character of the area it is also necessary to consider the impact of the proposed change of use of the site from Houses in Multiple Occupation (Use Class C4) to large Houses in Multiple Occupation (Sui Generis).

The potential impact upon the character of the area can be seen in other earlier phases within the Hatfield Aerodrome site which have a high percentage of Houses in Multiple Occupation (HMOs). The report to the Planning Control Committee in respect of the development of phase 4 noted:

*“Following experiences on the completed earlier phases of the residential development, much concern has been expressed in the representations received about the likelihood of the private element of the Phase 4 scheme being purchased by private landlords and subsequently let to multiple tenants, particularly students. In some cases on the earlier phases, town houses in particular have been converted from three or four bedroom units to six bedroom units, thereby increasing the amount of refuse generated per house, and the potential car parking demand. The situation has been compounded by poor refuse management by tenants and landlords, poor maintenance of external areas, and the behaviour of a minority of occupiers resulting in noise and disturbance at unsocial hours.”*

At the time of the approval of phase 4 there was not a C4 use class and consent was not required to accommodate up to 6 individuals within a C3 use dwelling. The report went on to address the possible issues that could be generated by the larger units being used as HMOs giving the site an appropriate layout to allow easy maintenance. The following provisions were made:

*“A realistic approach has to acknowledge, that of the 115 private ownership units proposed in the current application (particularly the 57 town houses), a substantial proportion could end up in the hands of private landlords. Given the significant environmental problems that have arisen on the earlier phases,*

*the proposed scheme has been checked for the proper provision of refuse storage and recycling facilities, and the applicants have proposed that all front garden areas to houses and communal amenity areas to flats would pass for maintenance purposes to a single management company. This approach could have benefits in terms of a smarter and more consistent appearance to the street scene.”*

The Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) sets out objectives and explains the reasons why the Council aims to retain a balance of different housing types. To retain an appropriate balance of housing the permitted development rights for changes of use from use class C3 to C4 have been withdrawn by an Article 4 Direction over a large area in Hatfield.

The original approval of the application dwelling does not restrict the first occupation of the unit being within use class C4 regardless of the Article 4 Direction that has been applied across Hatfield. The SPD states that Criterion HMO1 does not apply in the case of a property that has an existing C4 use. Welwyn Hatfield Council Housing Strategy Department have confirmed that both No.128 and 130 Aviation Avenue are licensable HMO's. The applicant has submitted an application for a licence which includes a declaration that the properties became licensable on the 10 January 2012. Considering the properties have been recently constructed this would indicate that the first occupation was for a C4 use. The proposal would require a planning application regardless of the Council's HMO SPD as it would result in a sui generis use. As the site has an existing C4 use, only part of the SPD is used to assess the proposal, however the impacts that need to be assessed relate directly to the requirements of Criterion HMO1.

It is accepted that the first occupation of the phase 4 development is likely to result in a high concentration of properties in C4 use due to the proximity to the University of Hertfordshire campuses and employment opportunities within the business park. However, the policy background aims to create and encourage a diverse and mixed community. Therefore, it is necessary that any intensification of this use is considered carefully.

Within Welwyn Hatfield, houses in multiple occupation form an important part of the housing stock, providing a valuable supply of privately rented accommodation. Houses in multiple occupation provide accommodation for a variety of occupiers including; students, professionals in employment and those in receipt of housing benefit. Houses in multiple occupation are one of the most affordable forms of accommodation in the private rented sector.

Welwyn Hatfield has a variety of stock of houses in multiple occupation, some of which is occupied by students. Information from council tax records shows that 92% of student exempt properties within the borough are located in Hatfield and those properties that have student exemption from council tax account for 9.7% of all properties within Hatfield.

The number of student exempt properties has more than doubled over an eleven year period, with an increase of 793 properties, or 110%. In 2001 there were 722 student exempt properties and in 2011 there were 1515 student exempt properties in

Welwyn Hatfield. This increase coincides with the University of Hertfordshire opening a new campus in Hatfield and closing campuses at other locations within Hertfordshire and moving the facilities to campuses in Hatfield. The University of Hertfordshire now has two main campuses and both of these are in Hatfield; one at College Lane and one at de Havilland.

There are particularly high concentrations of houses in multiple occupation in Hatfield within the redeveloped former Hatfield Aerodrome site (known as Salisbury Village), throughout the South Hatfield area and surrounding the University of Hertfordshire's College Lane Campus. Concentrations of houses in multiple occupation in some areas of Hatfield are as high as 50%.

This high concentration is changing the character of parts of Hatfield which can have a detrimental effect on surrounding residents and the wider local area. A key national housing objective is the creation of mixed, sustainable and inclusive communities, which contain a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The presence of a high concentration of houses in multiple occupation in areas of Hatfield results in a lack of mix and imbalance within local communities, is not inclusive and does not create sustainable communities.

The usage of a house in multiple occupation is considered to be very different than that of a family dwellinghouse. Due to the proximity of The University of Hertfordshire, if planning permission is granted for change of use to C4, there is considered to be a reasonable likelihood that the application properties would be occupied by students. Individual occupants would therefore be transient in nature and unlikely to form a long term commitment to the area. Students often have different lifestyles to permanent residents and this can on occasion result in unneighbourliness and anti-social behaviour, particularly with regard to boisterousness and noise.

To ensure that an appropriate ratio of C4 and C3 properties is maintained it is necessary that applications comply with Criterion HMO1 of the SPD. This requires changes of use to C4 to not exceed 20% of the total number of dwellings within a 50m radius. To assess the proportion of houses in multiple occupation within a 50m radius of the application property the Council has drawn on the following information sources; licensed houses in multiple occupation, council tax records for student exemption and its database of HMOs. The information sources show that approximately 58% of the dwellings within 50m radius are HMOs. It is accepted that many of these properties do not require consent to be HMOs and only the additional impact of the sui generis uses could be controlled by the Council.

When considering the high density of dwellings in this area the size and capacity of the individual dwellings must also be taken into account. Due to the high proportion of existing HMOs within the surrounding area, their intensification to large HMOs that have more occupants than the allowed under Use Class C4 would result in a less balanced community, so the proposal would not sit well with the National Planning Policy Framework (NPPF) which encourages the creation of sustainable communities and community cohesion. Section 6 of the NPPF 'Delivering a wide choice of high quality homes' sets out a number of objectives which include creating

sustainable, inclusive and mixed communities. Section 8 of the NPPF 'Promoting healthy communities' states that planning policies and decisions, in turn, should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.

The proposed increase in the number of occupants would intensify the HMO usage within this area, which is already contrary to Criterion HMO1. The intensification of HMO use works to result in a lack of variety of different homes. Due to the number of HMO properties within close proximity to the application site the increase in the capacity of individual HMOs would increase an already high number of HMO tenants. Any further increase in the number of HMO tenants would prevent the creation of a mixed community within this new development.

In summary, the imbalance in the community identified above would have a material and harmful effect on the character and amenity of the area. This would conflict with criterion HMO1 of the Houses in Multiple Occupation SPD; Policies SD1, D1, D2, R19 of the Welwyn Hatfield District Plan the Council's Supplementary Design Guidance 2005; the proposal would also conflict with the National Planning Policy Framework.

## **1. The proposed development's impact upon the residential amenity of the locality**

The only proposed physical alterations to the building would involve retention of conversion of garages to habitable rooms, proposed installation of windows on side elevations and replacement of French doors on front elevation with windows. These alterations would not have an adverse impact upon the residential amenity of the adjoining occupiers. In this case, however, the harm is likely to come from the change in use of the two properties from class C4 HMOs, which can be occupied by up to six people, to Large Houses in Multiple Occupation each with eight bedrooms. The proposed change of use would result in an intensification of the use of the site and a change in the character of use as discussed in detail under section 1 of this report. The change of use to an eight bedroom HMO by reason of the intensity and concentration of the proposed occupation, and the likely resultant levels of activity, noise and disturbance would materially harmfully affect the living conditions of neighbouring residential occupiers.

It is also relevant to consider the cumulative impact that would result if similar properties within the surrounding area were also to change to large HMOs. The character and context of the area would change significantly due to the additional activity resulting from a high concentration of large HMOs within one area. The grant of permission for this proposal would set an undesirable precedent for similar future developments. This would be likely to result in further harm to the residential amenity of neighbouring occupiers. As such the proposal is considered contrary Policies D1, D2, R19 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005.

## **2. Amenity standards for the future occupants**

The proposed layout would be acceptable in terms of the entrance would open on to a hall. The garden area would exceed the minimum requirement of 22m<sup>2</sup> set out in the HMO SPD and would be private and readily accessible to all occupants. The rear garden is also sufficient in size to accommodate an area for drying clothes and a pull out washing line is shown on the proposed drawings.

Six of the eight bedrooms proposed in each property would meet the minimum space standards of 8m<sup>2</sup> as required by criterion HMO5 of the HMO SPD. The space standards are considered to be a minimum which is necessary to ensure that the occupants are not living within excessively cramped conditions and that HMO properties are not overcrowded. The smallest bedroom in each property measures just 6.9m<sup>2</sup> (approximate) and the second smallest measures just 7.5 m<sup>2</sup>. These bedrooms fail to provide sufficient space for future occupants.

Each property contains a kitchen/diner of approximately 14.4m<sup>2</sup> which meets the minimum space standard of 12.5m<sup>2</sup>. The converted garages are shown as a communal rooms measuring approximately 12.8m<sup>2</sup> which also meets the minimum space standard of 12.5 m<sup>2</sup>. However, the conversion of the garages to habitable accommodation is unauthorised and planning permission for retention of the garage conversions was recently refused under planning reference S6/2012/0956/FP. If the garages were to be reinstated, then there would be no space for the provision of a communal room within either of the two properties which would fail to comply with criterion HMO5 of the HMO SPD.

One bedroom sited at ground floor level, would be served by a window in close proximity to the parking area to the front of the property. This would cause unacceptable noise and disturbance to the occupier of this bedroom. In addition to the opening and closing of car doors and engine noise, headlights of cars would shine into the bedroom causing further disturbance to the occupier contrary to Criterion HMO2.

Overall, the proposal would not provide satisfactory living conditions for its intended occupants contrary to criterion HMO2 and HMO5 of the House in Multiple Occupation SPD, the broad objectives designed to protect residential amenity in Policy D1 of the District Plan, and the Supplementary Design Guidance.

### **3. Parking and cycle parking provision**

The car parking requirement for an eight bedroom HMO is four parking spaces to be provided within the curtilage of the dwelling. The conversion of the garages to habitable accommodation has resulted in the loss of one parking space for each property. As a result, each eight bedroom property has just two off street parking spaces.

When considering the original application for the development of phase 4 of the Hatfield Aerodrome, which included the application site, an assessment was made against the parking standards of the Hatfield Aerodrome Supplementary Planning Document (SPG) and Policy M14 of the Welwyn Hatfield District Plan 2005. The car parking requirement for the development of phase 4 was 309.5 spaces and permission was granted with 297 spaces, a shortfall of 12.5 spaces. Of the 297 car

parking spaces, 54 are in the form of garages, forming some 18% of the total car parking provision. The permission was therefore conditioned to retain the garages for parking:

*“3. No garage shall be converted to living accommodation without the prior written approval of the local planning authority.*

*REASON: To ensure the retention of adequate car parking provision to serve the development, and to prevent environmental problems caused by over-intensive occupation of the dwellings.”*

The National requirements for parking provision have since been changed to allow Councils to set their own parking standard appropriate for their local areas, this requirement is detailed within the National Planning Policy Framework. Paragraph 39 of the NPPF states:

*“If setting local parking standards for residential and non-residential development, local planning authorities should take into account:*

- *the accessibility of the development;*
- *the type, mix and use of development;*
- *the availability of and opportunities for public transport;*
- *local car ownership levels; and*
- *an overall need to reduce the use of high-emission vehicles.”*

In producing the HMO SPD the above criteria were taken into account and the minimum of 0.5 spaces per bedroom sets a reasonable proportion of cars to be accommodated relative to the amount of likely occupants. In addition, there are also likely to be visitors and deliveries that would frequently travel to and from the site by car and require temporary parking space. Without sufficient off road parking space the proposal is likely to result in parking in inappropriate places, which would subsequently reduce the ease of movement throughout the area. Parking outside of the designated areas would restrict the manoeuvring space for emergency and refuse vehicles and also restrict visibility which can affect highway and pedestrian safety. Furthermore, inappropriate parking has an impact upon the character and appearance of the surrounding streetscene.

Although it is accepted that the site is accessible to some facilities, it does not form one of the most accessible parts of the Borough and is not comparable to the town centres. The application site is located outside of a convenient walking distance from the nearest train station and the proposed use of the site would be intensive with far more occupants than parking spaces. When considering the number of cars within the locality at the time of the site visit (during the University of Hertfordshire term time) and the car domination within other areas of the Hatfield Aerodrome site, the level of car ownership is likely to be very high. Furthermore, when considering the Council's database of HMO properties indicates that 58% of the properties within a 50m radius of the site are within HMO use, the number of individual occupiers is likely to be relatively high. This high concentration of individual occupiers results in a relatively high amount of car ownership per property and exacerbates the parking space usage.

It should also be noted that within the assessment of the application for phase 4, No.128 and No.130 Aviation Avenue were illustrated to accommodate five bedrooms. Due to the arrangement of the rooms it is possible to easily adapt the property to accommodate eight bedrooms. Although the parking standards for a C3 use do not differentiate between properties with four or more bedrooms, this illustrates how the wider area may ultimately contain many more bedrooms and a much higher density of occupation than originally considered. As the parking standards are based on the amount of bedrooms each property has the overall increase in bedrooms across the development is a relevant consideration. It is difficult to determine how many properties accommodate more bedrooms than originally illustrated in the application for the phase 4 development. However, the 34 three bedroom dwellings, 17 four bedroom dwellings and 6 five bedroom dwellings within phase 4 all appear to be capable of accommodating at least one additional bedroom simply with an internal change in the use of rooms (i.e. a change in the use of a study or dining room to a bedroom).

In conclusion, the proposal would provide insufficient off road parking space which would be contrary to Criterion HMO2 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document February 2012 and Policy M14 of the Welwyn Hatfield District Plan 2005.

In terms of bicycle parking, the submitted drawings include a covered bicycle storage area to be provided within the rear garden which can be accessed without going through the property. The rear garden is screened from the public areas within the streetscene to the front of the property and is considered to be an appropriate space for a storage area.

#### **4. Other material planning considerations**

##### **Refuse and Recycling Storage:**

The requirement for an eight person HMO is for 800 litres of waste to landfill bin capacity, 400 litres of recycling bin capacity and 400 litres of compost bin capacity. A covered bin storage area is proposed within the rear garden which can be accessed via a side gate without going through the property. The proposed drawings show that a 1100 litre waste to landfill bin would be provided, however, there is concern regarding the practicality of manoeuvring a 1100 bin through the side gate, down the side of the property, past the car parking area to the bin collection point. The bin collection points for No.130 would also block access to a car parking space. The front door to each property is situated within the side elevation, which means that the side alleyway will be used to access the property and will not be available for bin storage. It is therefore particularly important that the bins are able to be manoeuvred easily from the storage area within the rear garden to the bin collection point at the front boundary and returned. If the application is to be approved, it would be reasonable to attach a planning condition requiring details illustrating provision of appropriately sized bins and bin storage.

**Protected Species:** The presence of protected species is a material consideration, in accordance with, Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05. 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, however the existing site and development is such that there is not a reasonable likelihood of EPS being present on site nor would a EPS offence be likely to occur. It is therefore not necessary to consider the Conservation Regulations 2010 further.

**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 Bill. 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.

**Sustainable Development:** The applicant has completed a sustainability checklist which highlights that the scheme generally responds positively to the topic areas that are required to be considered in accordance with policies SD1 and R3 of the Welwyn Hatfield District Plan 2005 and Supplementary Design Guidance, 2005.

#### **CONCLUSION:**

The proposal seeks the change of use of No.128 and No.130 from Houses in Multiple Occupation (Use Class C4) to large 8 bedroom Houses in Multiple Occupation (Sui Generis). The application site is within an area where there is already a high concentration of HMOs. The proposal would conflict with the purposes and spirit of criterion HMO1, in that it would increase the concentration of HMO use within this area which would fail to provide a mixed community. The change of use to two eight bedroom HMO by reason of the intensity and concentration of the proposed occupation, and the likely resultant levels of activity,

noise and disturbance would materially harmfully affect the living conditions of neighbouring residential occupiers.

The proposal would result in an unacceptable intensification in the use of the No.128 and No.130 Aviation Avenue comprising a cramped layout, inappropriately sited bedrooms and lack of communal living accommodation contrary to criterion HMO2 and HMO5 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document.

The car parking requirement for the proposal is a minimum of four spaces per dwelling to be provided within the application site, as stipulated within the HMO SPG. The proposal would provide just two car parking spaces per dwelling, a shortfall of four car parking spaces. In addition, the original planning permission (S6/2009/0891/MA) has a condition requiring the retention of the garage and the applicant has not put forward a robust case for its removal. The surrounding development does not have the capacity to accommodate on street parking and this shortfall of parking space is likely to result in a parking in inappropriate places, which would subsequently impact upon highway and pedestrian safety. The proposal is therefore contrary to criterion HMO2 and Policy M14 of the Welwyn Hatfield District Plan 2005.

### **RECOMMENDATION: REFUSAL AND REASONS**

1. The proposal would further intensify the existing use of the No.128 and No.130 Aviation Avenue as Houses in Multiple Occupation within an area that already has a high concentration of Houses of Multiple Occupation. As existing the concentration of Houses in Multiple Occupation within a 50 meter radius of the application site exceeds the maximum 20 percent of the total number of dwellings contrary to Policy HMO1 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document. Therefore, the creation of a two large Sui Generis Houses in Multiple Occupation would fail to maintain an appropriate balance and variety of residential properties within the locality and the resulting imbalance in the community would have a material and harmful effect on the character of the area contrary to Policies SD1, D1, D2, R19 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005. The proposal would also conflict with section 6 and 8 of the National Planning Policy Framework.
2. The proposed change of use to an eight bedroom House in Multiple Occupation, by reason of the intensity and concentration of the proposed occupation, and the likely resultant levels of activity, noise and disturbance would materially harmfully affect the living conditions of neighbouring residential occupiers. As such the proposal is considered contrary Policies D1 and R19 of the Welwyn Hatfield District Plan 2005 and the Supplementary Design Guidance 2005.
3. The proposal would result in an unacceptable intensification in the use of the No.128 and No.130 Aviation Avenue comprising a cramped layout and inappropriately sited bedrooms. In particular, two of the bedrooms within

each property would fall below the minimum room size standards within Criterion HMO5 and a bedroom located on the ground floor of each property would be sited too close to the parking area, which would cause noise and disturbance to the occupants, contrary to Criterion HMO2 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document. These rooms would provide inadequate living conditions for the occupants and fail to meet the requirements of Policies GBSP2, SD1, D1 and the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document February 2012.

4. Drawing No.AA128130-1002A Proposed Plans and Elevations shows the converted garage as a communal room, however, the conversion of the garage to habitable accommodation is unauthorised and planning permission for retention of the garage conversion was recently refused under planning reference S6/2012/0956/FP. If the garages were to be reinstated, then there would be space available for the no provision for a communal room within either of the two properties which would fail to comply with criterion HMO5 of the HMO2 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document. The properties would therefore provide inadequate living conditions for the occupants and fail to meet the requirements of Policies GBSP2, SD1, D1 and the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document February 2012.
5. The proposal would provide insufficient off street parking space for the number of bedrooms and occupants of No.128 and No.130 Aviation Avenue. When considering the application site is within a wider development which has a shortfall of off road parking space, the proposal would be contrary to the conditions of the previous consent under planning reference S6/2009/0891/MA which requires garages to be retained for parking of private vehicles. As a result the proposal would exacerbate an existing shortfall of off street parking space both on the application site and within the wider development, which has an existing high concentration of properties in use as Houses in Multiple Occupation. Insufficient off street parking space is likely to result in cars being parked in inappropriate places and a subsequent impact upon highway and pedestrian safety and harm the character and appearance of the surrounding streetscene. The application is therefore contrary to Criterion HMO2 of the Welwyn Hatfield Council Houses in Multiple Occupancy Supplementary Planning Document February 2012 and Policy M14 of the Welwyn Hatfield District Plan 2005.

**INFORMATIVES:**

None

**REFUSED DRAWING NUMBERS:**

AA128130-1002A received and dated 31 July 2012

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