



## **Welwyn Hatfield Borough Council**

Town and Country Planning Act 1990

Appeal by

Fusion Hatfield Hotels Ltd

Site at

Comet Hotel, St Albans Road West, Hatfield, AL10 9RH

Against the refusal of planning permission for the extension and refurbishment of the grade II listed hotel (Use Class C1) following demolition of poor quality additions; erection of 9,586 sq m of student accommodation (sui generis), landscaping and associated works

Local Authority Reference: 6/2015/1997MAJ

Planning Inspectorate Reference: APP/C1950/W/16/3152025

**Written Statement of Local Planning Authority**

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## **1.0 Introduction**

- 1.1 This written statement sets out the case for Welwyn Hatfield Borough Council (the Council) in response to the appeal by Fusion Hatfield Hotels Ltd against the decision of the Council to refuse planning permission for the extension and refurbishment of the Comet Hotel and the erection of 9,586 sq m of student accommodation (sui generis), landscaping and associated works at the Comet Hotel, St Albans Road West, Hatfield, AL10 9RH.
- 1.2 In the light of the Statement of Common Ground (SCG) agreed between the appellant and the Council, this written statement focuses on the specific areas of disagreement and does not consider in detail matters which are not considered to be contentious.

## **2.0 Site location and description**

- 2.1 The appeal site is located on the west side of Hatfield at the junction of the A1001 (Comet Way) and the A1057 (St Albans Road West). A full description of site and its locality are given in paragraphs 1.1 to 2.4 inclusive of the SCG.

## **3.0 Relevant planning history**

- 3.1 A list of applications for planning permission and listed building consent made in respect of the appeal site since 1987 is provided at section 3 of the SCG. This includes the application for listed building consent (6/2015/1998/LB) which accompanied the planning application that is now at appeal. That application for listed building consent, for the extension to and the refurbishment of the Grade II listed hotel, was granted on 4 February 2016. The extension to the hotel does not have planning permission and is, along with the student accommodation, the subject of this appeal.

## **4.0 Appeal proposal**

- 4.1 The application which is the subject of this appeal sought planning permission for two main elements: firstly, the extension and refurbishment of the existing Grade II listed hotel, including the demolition of a number of additions that have been made to the building since its original construction; and, secondly, the erection of four blocks of student accommodation (with a total floorspace of 9,586 sq m). These two main elements were to be supplemented by landscaping and associated works within the curtilage of the hotel.
- 4.2 The hotel extension is proposed to the south west of the original listed building, replacing the existing structures in this location.
- 4.3 The four blocks of student accommodation are located west and south west of the hotel extension, filling the gap between the hotel and the site boundaries with the residential development to the west. The blocks on the boundary with the houses in Ashbury Close and Selwyn Crescent are three stories high; the block on the St Albans Road West frontage is four stories high, and the block on the frontage to Comet Way is five stories high.

4.4 So far as the hotel element is concerned, the proposals involve alterations and reinstatements to the existing Grade II listed building, including demolition and removal of later additions, refurbishment, the restoration of some original features, and alterations to the internal layout.

4.5 In more detail, these alterations comprise:

- the removal of the grey clad 1990s rear extension;
- the removal of earlier brick extensions to the rear and the east elevation;
- the removal of internal partitions to enlarge the kitchen and remove a bar;
- the removal of a small number of internal walls at first floor to enlarge bedrooms;
- the enlargement of a first floor function room and the removal of an external spiral stair;
- the repositioning of the laundry store.

4.6 Reinstatement works include:

- a new reception area where the original entrance was located;
- a new link through the original coach-house block at the rear;
- a folding partition in ground floor function rooms;
- the reinstatement of a bar at ground floor;
- the replacement of a non-original internal wall to the first floor function rooms;
- the reinstatement of a roof lantern to replicate the original.

The proposals also include a landscaping scheme for the front part of the site, and car parking for 98 cars, 30 of which would be located between the hotel extension and the student accommodation.

4.7 The proposed hotel extension provides a floorspace of 2,636 sq m and accommodates 90 bedrooms. In detail, it comprises:

- a flat roofed two-storey glazed link building from the rear of the listed building to the new three storey element (containing 16 bedrooms);
- a flat roofed three-storey element, perpendicular to the link, containing 74 rooms.

The front elevation of the three storey element is proposed to be glazed in order to provide a reflective backdrop for the listed building. The rear and side elevations of this block are proposed to be finished in pale cladding.

4.8 As to the student accommodation, this comprises 9,586 sq m of floorspace in studios and double units (providing in total for 361 bed spaces) in four linear flat-roofed linked blocks to the west of the listed building, ranging in height from three to five storeys. In more detail, this element of the scheme comprises the following features:

- the end elevations of the blocks fronting St Albans Road West and Comet Way are set in the same plane as the glazed elevation of the hotel extension;
- the proposed materials are brick at ground floor, glazed stairs and top floors, timber cladding with vertical brown/terracotta coloured fins on the elevations to Comet Way and St Albans Road West and within the site, with plain cladding on the west elevation;

- the block facing St Albans Road West is four floors high (12m), with the top floor stepped in and glazed, and contains the main reception;
- the two buildings on the western side of the site are three storeys high (9.5m) and have directional windows which face south rather than directly towards the residential properties in Ashbury Close and Selwyn Crescent;
- the building fronting Comet Way is five storeys high (16m), with the top floor stepped in and glazed, and contains student communal facilities on the ground floor, including gym, dining room, lounge, TV/cinema room, laundry and study rooms;
- two courtyards are to be provided (with hard and soft landscaping) between the hotel extension and the student blocks, one of which is almost wholly occupied by the 30 space hotel car park, whilst the second one to the south is intended to provide a student amenity space.

The existing hedges and fences on the boundaries are to be retained with additional planting between the student blocks and the site boundaries. The existing sub-station on the rear boundary which serves the residential properties to the west is also being retained. There is provision for the parking of 60 bicycles, divided evenly between two locations on the site.

4.9 The Council refused planning permission for the appeal proposal for the following reasons:

1. The proposed development by virtue of its scale, massing, siting and design would have a detrimental impact upon the character and setting of the listed building resulting in substantial harm that is not outweighed by the conservation of the heritage asset or any other material considerations. The proposal is therefore contrary to Section 12 of the National Planning Policy Framework.
2. The proposal by virtue of its siting, layout, design, scale and massing would result in an over dominant development, failing to respect the character of this part of Hatfield and due to its scale, design and siting would lead to overlooking of existing adjacent residential properties and an overbearing impact on those properties to the detriment of their residential amenity contrary to Policies D1 and D2 of the Welwyn Hatfield District Plan, the adopted Supplementary Design Guidance (Statement of Council Policy) and Section 7 of the National Planning Policy Framework.
3. The layout of the student accommodation would result in a poor quality standard of amenity space for users of these areas contrary to policy D1 of the Welwyn Hatfield District Plan, the adopted Supplementary Design Guidance (Statement of Council Policy) and Section 7 of the National Planning Policy Framework.

4.10 This written statement amplifies these reasons for refusal and demonstrates that there are sound planning reasons why a refusal of planning permission is justified in this case.

4.11 As set out in paragraph 3.2 above, an application for listed building consent (6/2015/1998/LB) accompanied the planning application that is now at appeal. This application sought listed building consent for the works referred to in paragraphs 4.4 to 4.7 above. In the report to the Council's Development Management Committee held on 4 February 2016, it was noted (paragraph 11.16) that:

“Aspects of significance in the building have been identified in the submitted Heritage Statement. The original ‘Comet’ plane shape of the 1930’s building, with its distinctive rounded ends, is still apparent at the front. Many of the original windows

and doors, with their horizontal emphasis, are still intact. Additions to the side and rear have obscured the original reception area. Much of the 1930's internal fitting was removed and altered in previous refurbishment projects (the building was listed in 1981). Remaining internal features of significance include the stair case and hand rail and the layout of some of the upper rooms."

Against this background, the Council considered that although some parts of the hotel element of the proposals would cause some harm to the fabric of the listed building, as referred to in paragraph 11.19 of the committee report, nevertheless, in terms of the balancing exercise that is required (see paragraphs 7.2 to 7.8 below), any such harm would be outweighed by the benefits of the proposed enhancement works, such as the reinstatement of the original form of the listed building, the removal of previous unsympathetic extensions and the reinstatement of some original features. Consequently, the Council decided that it was appropriate to grant listed building consent for application 6/2015/1998/LB. This consent was duly granted on 4 February 2016.

- 4.12 It is important to note, however, that, so far as the hotel extension is concerned, that decision was based on the particular design of the proposed extension, notably the plain glass of the front elevation of the three-storey element beyond the two-storey link. It does not follow, simply because the extension for which listed building consent has been granted is three storeys in height, that the principle of a three-storey extension of any design has been accepted.

## **5.0 The development plan**

- 5.1 In accordance with s.38 of the Planning and Compulsory Purchase Act 2004, the development plan for the appeal site consists of the following documents:
- (a) the saved policies of the Welwyn Hatfield District Plan (adopted 2005).
  - (b) the Hertfordshire Waste Core Strategy and Development Management Policies Document 2011-2016; and
  - (c) the Hertfordshire Minerals Local Plan Review 2002-2016.
- 5.2 The relevant saved policies of the Welwyn Hatfield District Plan are referred to at paragraph 4.3 of the SCG.
- 5.3 There are no policies in either of the plans referred to at sub-paragraphs (b) and (c) of paragraph 5.1 above that are considered relevant to this appeal.
- 5.4 The Council is currently preparing a new Local Plan to set out the planning framework for the borough to 2031. The Local Plan will set out the council's vision, objectives, policies and delivery strategy for new development in the borough to at least 2031 and will eventually replace the saved policies in the Welwyn Hatfield District Plan 2005. Public consultation on the Local Plan consultation document, the Sustainability Appraisal and the Draft Infrastructure Delivery Plan took place between 23 January and 20 March, 2015. Some 5,900 comments were made on the three consultation documents, and the Council is now reviewing the responses received and updating some of the technical work which informs the plan. Consequently, having regard to paragraph 216 of the National Planning Policy

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Framework (NPPF), no weight can be given at the present time to the emerging Local Plan in development management decisions.

## **6.0 Other relevant policy documents**

6.1 In addition to the NPPF, a number of other policy documents are of relevance to this appeal. These are set out in section 5 of the SCG.

## **7.0 The Council's case on the principal issues**

7.1 In the light of the reasons for refusal of planning permission (see paragraph 4.9 above), the Council considers that there are three principal issues in this case:

- (a) the level of harm that would be caused to the setting of the listed building and whether that harm is outweighed by any heritage benefits;
- (b) whether the appeal proposal would cause harm either to the character of the area of this part of Hatfield or to the living conditions of residents in Ashbury Close and Selwyn Crescent;
- (c) the adequacy of the amenity space provision for the student accommodation.

Each of these issues will be considered in turn, having regard to the 'matters of specific disagreement' set out in section 7 of the SCG.

### **The heritage issue**

7.2 Decisions on planning applications relating to heritage assets must be consistent with the decision-maker's statutory duties relating to listed buildings and conservation areas, having regard also to the correct application of relevant national policy and guidance (see the judgment of Lindblom L.J. in *Whitby v Secretary for Transport & Others* [2016] EWCA Civ 444 (6 May 2016) [7]).

7.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Listed Buildings Act) contains the "[general] duty as respects listed buildings in exercise of planning functions". Section 66(1) provides:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

7.4 This general duty as respects listed buildings is very similar to the "[general] duty as respects conservation areas in exercise of planning functions" set out in section 72(1) of the Listed Buildings Act, as the Court of Appeal found in *Whitby*, where, at [9], Lindblom L.J. said:

“It is settled law that the duty under section 66(1) is of the same nature as the parallel duty under section 72(1) (see the judgment of Sullivan L.J. in *Barnwell Manor Wind Energy Ltd. v East Northamptonshire District Council* [2014] EWCA Civ 137, at paragraph 16); that the concept of “preserving” in both of those provisions means “doing no harm” (see the speech of Lord Bridge of Harwich in *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 A.C. 141, at pp.149 and 150); and that “Parliament’s intention in enacting section 66(1) was that decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise” (see Sullivan L.J.’s judgment in *Barnwell Manor*, at paragraph 29).”

7.5 In *Jones v Mordue* [2016] 1 P. & C.R. 12, Sales L.J., with whom Richards and Floyd L.JJ. agreed, referred [28] to paragraphs 132, 133 and 134 of the National Planning Policy Framework (NPPF) as “a fasciculus of paragraphs ... which lay down an approach which corresponds with the duty in s.66(1)”. The relevant paragraphs of the NPPF are:

“132. 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

133. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- the nature of the heritage asset prevents all reasonable uses of the site; and
- no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- conservation by grant-funding or some form of charitable or public ownership is demonstrably not possible; and
- the harm or loss is outweighed by the benefit of bringing the site back into use.

134. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

7.6 In addition, in the “Glossary” in Annex 2 to the NPPF, “Significance (for heritage policy)” is defined in this way:



“The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting.”

7.7 Both *Mordue* and *Barnwell Manor* illustrate the need demonstrably to give “considerable importance and weight” to the desirability of preserving heritage. This was further emphasised by Lindblom J (as he then was) in *The Forge Field Society & Others, R (on the application of) v Sevenoaks District Council* [2014] EWHC 1895 (Admin) (12 June 2014), where [at 48-51] he said:

“48. As the Court of Appeal has made absolutely clear in its recent decision in *Barnwell* the duties in sections 66 and 72 of the Listed Buildings Act do not allow a local planning authority to treat the desirability of preserving the settings of listed buildings and the character and appearance of conservation areas as mere material considerations to which it can simply attach such weight as it sees fit. If there was any doubt about this before the decision in *Barnwell* it has now been firmly dispelled. When an authority finds that a proposed development would harm the setting of a listed building or the character or appearance of a conservation area, it must give that harm considerable importance and weight.

49. This does not mean that an authority's assessment of likely harm to the setting of a listed building or to a conservation area is other than a matter for its own planning judgment. It does not mean that the weight the authority should give to harm which it considers would be limited or less than substantial must be the same as the weight it might give to harm which would be substantial. But it is to recognize, as the Court of Appeal emphasized in *Barnwell*, that a finding of harm to the setting of a listed building or to a conservation area gives rise to a strong presumption against planning permission being granted. The presumption is a statutory one. It is not irrebuttable. It can be outweighed by material considerations powerful enough to do so. But an authority can only properly strike the balance between harm to a heritage asset on the one hand and planning benefits on the other if it is conscious of the statutory presumption in favour of preservation and if it demonstrably applies that presumption to the proposal it is considering.

50. In paragraph 22 of his judgment in *Barnwell* Sullivan L.J. said this:

“... I accept that ... the Inspector's assessment of the degree of harm to the setting of the listed building was a matter for his planning judgment, but I do not accept that he was then free to give that harm such weight as he chose when carrying out the balancing exercise. In my view, Glidewell L.J.'s judgment [in *The Bath Society v Secretary of State* [1991] 1 W.L.R. 1303] is authority for the proposition that a finding of harm to the setting of a listed building is a consideration to which the decision-maker must give “considerable importance and weight””.

51. [ ... ] In enacting section 66(1) Parliament intended that the desirability of preserving the settings of listed buildings “should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given “considerable importance and weight” when the decision-maker carries out the balancing exercise” (paragraph 24). Even if the harm would be “less



than substantial”, the balancing exercise must not ignore “the overarching statutory duty imposed by section 66(1), which properly understood ... requires considerable weight to be given ... to the desirability of preserving the setting of all listed buildings, including Grade II listed buildings” (paragraph 28). The error made by the inspector in *Barnwell* was that he had not given “considerable importance and weight” to the desirability of preserving the setting of a listed building when carrying out the balancing exercise in his decision. He had treated the less than substantial harm to the setting of the listed building as a less than substantial objection to the grant of planning permission (paragraph 29).”

- 7.8 In the recent decision of *Forest of Dean District Council v Secretary of State for Communities and Local Government and Gladman Developments Limited* [2016] EWHC 421 (Admin), Coulson J. followed the approach taken *The Forge Field Society*, emphasising in particular the requirement that the decision-maker must give the harm to a designated heritage asset considerable importance and weight.
- 7.9 The significance of the listed building on the appeal site has already been referred to (see paragraph 4.11 above). Moreover, the grant by the Council on 4 February 2016 of listed building consent for the ‘extension and refurbishment of the Grade II listed hotel (Use Class C1) following demolition of poor quality additions’ makes clear that the Council considered that the harm to the setting of the original structure by the proposed hotel extensions was balanced by enhancements the front of the site and replication of original features and by the particular design of the proposed three-storey element. The Council’s concern, therefore, relates principally to the element of the appeal proposal that comprises the erection of the four blocks of student accommodation.
- 7.10 Equally, it follows that the principal heritage issue that must be addressed is therefore “the desirability of preserving the ... setting” of the listed building, having regard to the provisions of the legislation, national policy guidance and the views of the Courts as to the correct interpretation to be given to the legislation and the policy guidance. In particular, it is important to note that in this context the concept of “preservation” means “doing no harm”.
- 7.11 Paragraphs 18-21 of the *Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning: 3* (published by Historic England July 2015), and the check-list on page 9, give advice on assessing the extent to which the setting of a listed building contributes towards its significance. Among the characteristics relevant to the appeal site are:
- the formal design of the listed building;
  - the shape of the appeal site and its relationship to the surrounding streetscape;
  - views of the listed building;
  - the visual dominance of the listed building and its prominence and role as a focal point;
  - the rarity of comparable survivals.
- 7.12 The Twentieth Century Society considers that ‘The Comet’ is “one of the most important and significant of the ‘Moderne’ style pubs from the interwar era”. Such “revolutionary pubs are now extremely rare and all endeavours should be focussed on their preservation and survival for the enjoyment of future generations”. The building was designed to make a striking landmark impression on the Great North Road out of and into London and also served to emphasise the importance of the De Havilland Aircraft factory, whose importance

was much associated with the original "Comet" racer but also later perhaps more famously with the Mosquito fighter bomber of World War II and the world's first jet passenger plane which was also named 'The Comet'. The building was once part of a group of modernist buildings from the mid 20<sup>th</sup> century but it is now rather isolated and thus a rare and significant example of its type.

7.13 To some extent, the setting of the building has been eroded by the surrounding roads and the present hotel extension. However, as the Twentieth Century Society points out, "The Comet is a landmark building and, despite changes in the road layout since construction, remains a prominent local feature. Any proposals that detract from the dramatic appearance of this building, which was designed particularly with prominence from the road in mind, should be resisted. This prominence would be affected by any development within the setting of the listed building whether to the front or the rear." The Society also comments that "the setting of the listed building must be of the utmost importance in considering any new buildings within its scope."

7.14 Paragraphs 22-25 of the *Setting of Heritage Assets* and the check-list on page 11 give advice on assessing the effect of a proposed development on the setting of a listed building. Among the characteristics relevant to the appeal site are:

- the proximity of the development to the listed building;
- the prominence and dominance of the proposed development;
- the dimensions, scale, massing and proportions of the development.

7.15 Notwithstanding that the works proposed to the listed building itself are considered to be acceptable, the setting of the building would be harmed by the proposed new student accommodation blocks, as well as, potentially, by a hotel extension of inappropriate design. All of the student blocks are higher than the listed building, some markedly so, being variously three, four and five storeys high. The blocks would be located very close to the listed building such that, when combined with their size, scale, proportions and massing, they would assume a prominence and dominance over the listed building. The five storey block to the south, at a height of 16 m, would be only 32 m from the original part of The Comet and the four storey block to the west, at a height of 12 m, would be 30 m away. The four storey block would be 4.9 m higher than the original part of The Comet and the five storey block would be 7.9 m higher. The relationship between these blocks and The Comet is illustrated in the extract from Drawing No 0310(A) (see Figure 1 below). Although they would be set behind the hotel, the student accommodation blocks to each side would appear inappropriately high and bulky when compared to the form and proportions of the listed building.

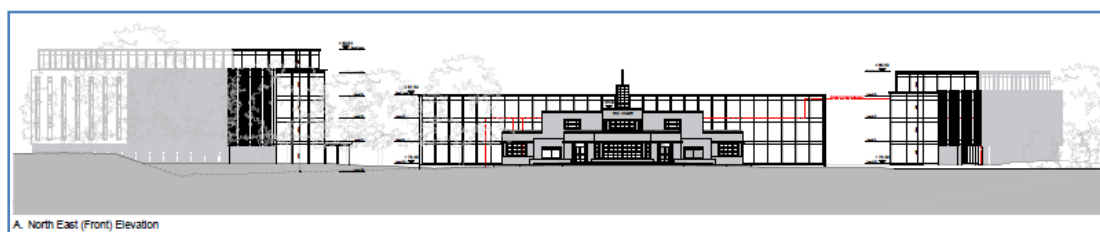


Figure 1: Relationship between the four and five storey student blocks and The Comet

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- 7.16 Figure 1 also illustrates the importance of the design of the three storey element of the hotel extension. Without the proposed glazing on this elevation, this block would also be too prominent and dominant, thus unacceptably harming key views of the listed building.
- 7.17 In the pre-eminent views of the building from the north west round to the south east, the student accommodation blocks would form a backdrop to the listed building because of their height, drawing the eye and attention away from the heritage asset. Thus, they would appear in competition with the listed building and would create a distraction from its current setting. The prominence of the road house in its setting when viewed from the highway which it served is an important element of its value as a listed building. The effect of the proposed student blocks would be to reduce significantly the pre-eminence of this landmark listed building, particularly in views from the east and north east to a degree that would detrimentally impact on its significance as an exemplar of a mid 20<sup>th</sup> century road house.
- 7.18 Any development on the western part of the site should be subservient to the listed building to avoid causing harm to the setting of the listed building because of excessive height. Whilst there are existing deciduous trees around the perimeter of the western part of the site, these trees will only provide seasonal screening of the student blocks and will not, therefore, provide an answer to the harmful impacts on the setting of the listed building that would result from the proposed student accommodation blocks.
- 7.19 As paragraph 132 of the NPPF makes clear, the significance of a heritage asset can be harmed by development within its setting. This paragraph also provides that “any harm ... should require clear and convincing justification” and that, in the case of a grade II listed building, substantial harm should be exceptional. Having regard to the importance, significance and extreme rarity of the listed building, the Council considers that the harm that would be caused by the proposed student accommodation blocks together with, potentially, a hotel extension of inappropriate design would be substantial. Paragraph 133 of the NPPF suggests that, in such cases, “local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm ... is necessary to achieve substantial public benefits that outweigh that harm” or that all of the matters contained in the four bullet points referred to in this paragraph apply to the proposed development. In the Council’s view, none of the matters referred to in the four bullet points applies in this case. Consequently, planning permission should not be granted for the appeal proposal unless there are substantial public benefits that outweigh the harm to the setting of the listed building.
- 7.20 The appellant has provided (Appeal Statement (AS) Appendix 7) a list of the heritage benefits claimed for the appeal proposals. However, all the matters listed derive from alterations to and refurbishment of the existing hotel building. None arises as a direct consequence of the construction of the student accommodation blocks. At AS Appendix 8 is a list of ‘other public benefits’ which are said to constitute “the wider public benefits of the scheme”. However, amongst the eleven listed benefits five relate to matters which simply constitute good planning (i.e. making effective use of brownfield land, provision of landscaping, having regard to residential amenity, promoting sustainable transport, and designing energy efficient buildings) whilst four others all relate, in one way or another, to the provision of student accommodation.
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- 7.21 The two remaining matters are, firstly, the improvement of a key gateway site to Hatfield (claimed to be highly beneficial) and, secondly, securing an appropriate quantum of development to create a viable future for the hotel (also claimed to be highly beneficial). As

to the first of these, it is not clear how the provision of the student accommodation contributes to the improvement of the appeal site as a key gateway to Hatfield. As pointed out above, this benefit derives from the alterations to and refurbishment of the existing hotel building and not as a direct consequence of the construction of the student accommodation blocks. With regard to the second of these matters, nowhere is it argued that the provision of the student accommodation blocks is to be regarded as ‘enabling development’ without which the ‘hotel’ element of the proposed development would not happen.

- 7.22 The appellant acknowledges (AS paragraph 5.16) “that the proposed development would cause some harm to the significance of the listed building”, albeit that this is argued to be less than substantial. Crucially, the heritage benefits could be achieved by the proposed works of improvement to the existing listed building and not by the provision of the student accommodation blocks, whereas it is the provision of those blocks that will cause the harm to the setting of the listed building. In the Council’s view, for the reasons set out above, the appeal proposals would not deliver a level of public benefit that would demonstrably outweigh the harm to the setting of the listed building that would occur as a result of the appeal proposals, whether measured against the test in paragraph 133 of the NPPF or that in paragraph 134.

#### **Impact on character and living conditions**

- 7.23 This issue has two parts. The first part is concerned with the impact of the appeal proposal on the character of this part of Hatfield. The second part is concerned with the impact of the appeal proposal on the living conditions of the occupiers of adjacent residential properties in Ashbury Close and Selwyn Crescent.

#### *Impact on character*

- 7.24 This part is concerned specifically with the impact on the character of this part of Hatfield of the four blocks of student accommodation. As the SCG makes clear (paragraph 2.1), the appeal site is bounded by areas of different character, but the key relationship so far as the student accommodation is concerned is with the two storey residential development to the south west of the appeal site.
- 7.25 It is argued (AS paragraph 5.20) that “the transition to the adjacent properties has been a key consideration in the design process and the proposed blocks have been designed with this in mind”. It is also said (AS paragraph 5.21) that the proposed blocks are “domestic in scale”. However, the western elevation of the 12 m high four storey block fronting St Albans Road West is located a minimum of 10 m from the rear boundaries of the adjoining two storey houses in Ashbury Close and the western elevation of the 9.5 m high three storey blocks on the western boundary of the appeal site are located a minimum of 10 m from the rear boundaries of the adjoining two storey houses in Ashbury Close and Selwyn Crescent.

Moreover, the 16 m high five storey block on the frontage to Comet Way would be located a minimum of 18 m from the rear boundaries of the adjoining two storey houses in Selwyn Crescent. A typical relationship between the three storey blocks and the adjoining housing is

illustrated in the extract (see Figure 2 below) from Drawing No 0310(A), and the relationship between the four storey block and the adjoining housing is illustrated in the extract (see Figure 3 below) from Drawing No 0311(C).

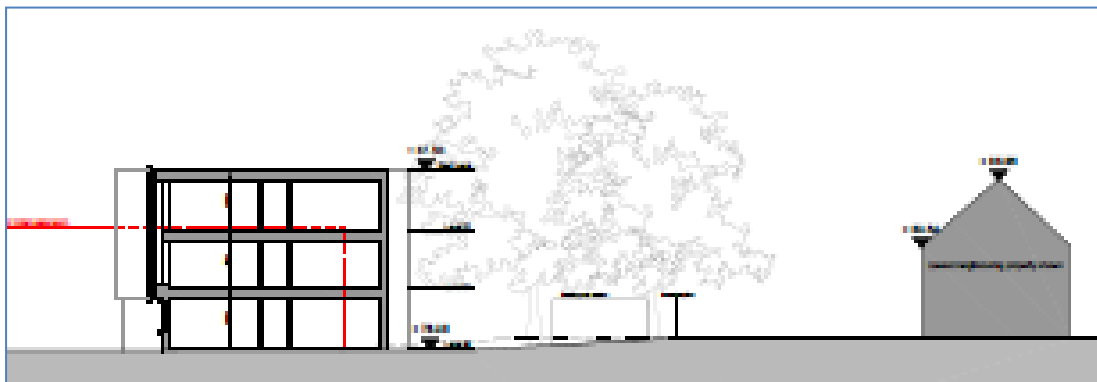


Figure 2: Relationship of three storey block with the houses in Ashbury Close

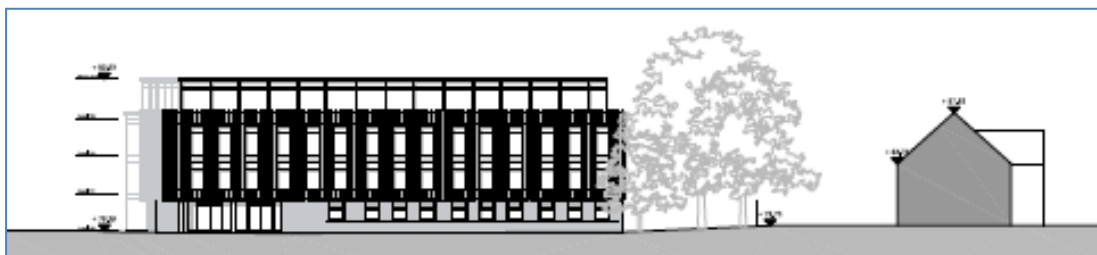


Figure 3: Relationship of four storey block with the houses in Ashbury Close

7.26 Far from making a transition between surrounding commercial development and the neighbouring residential development, the appeal proposals would result in an abrupt change of scale, mass and height. As Drawing 0310(A) 1 shows, the three storey block would be 0.54 m higher than the ridge of the two storey housing. Drawing 0311(C) indicates that the four storey block would be 2.7 m higher than the ridge of the two storey housing. Moreover, the new blocks would present a vertical face, between 9.5 m and 16 m high, and with a total block length of 128 m facing the houses in Ashbury Close and Selwyn Crescent (see Figure 4 below extracted from Drawing No 0311(C)).



Figure 4: Elevation of student blocks facing the houses in Ashbury Close and Selwyn Crescent

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7.27 Policy D2 of the District Plan requires “all new development to respect and relate to the character and context of the area in which it is proposed. Development proposals should as

a minimum maintain, and, where possible, should enhance or improve the character of the existing area”. In the Council’s view, the appeal proposal neither respects nor relates properly to the character of the adjacent residential development. By virtue of its siting, scale, height and massing, it would not result in a satisfactory relationship with the adjacent residential development, nor would it maintain the character of the existing area. The appeal proposal would amount to an over dominant development which would fail to respect the transitional character of this part of Hatfield, and thus it would be contrary to Policy D2 of the District Plan.

*Impact on living conditions*

7.28 This part is concerned with the impact of the appeal proposals on the living conditions of the occupiers of residential properties in Ashbury Close and Selwyn Crescent. As the SCG makes clear (paragraph 7.2), the key concern relates to the harm likely to arise, firstly, in relation to the overbearing nature of the proposed student accommodation and, secondly, because of overlooking and perceived loss of privacy.

7.29 The arguments presented above regarding the likely impact of the appeal proposals on the character of the locality also serve to demonstrate the overbearing nature of the proposed student accommodation in relation to the neighbouring residential development. Moreover, the proposed student accommodation would be positioned closer to the western boundary of the appeal site, and thus also to the dwellings in Ashbury Close and Selwyn Crescent, than the existing hotel extension. It would also be a full storey higher than the existing hotel extension. Although there is some deciduous tree planting along the western boundary, this only provides seasonal screening of the appeal site.

7.30 Thus, the combined effects of the siting, scale, height and massing of the four blocks would result in a general dominating effect on the adjacent dwellings in Ashbury Close and Selwyn Crescent, to the detriment of the level of residential amenity currently enjoyed by the occupiers of those properties. The appeal proposal would therefore harm the living conditions of those occupiers.

7.31 Paragraphs 5.7 to 5.9 of the Supplementary Design Guidance (SDG 2005) supplement Policy D1 of the District Plan in relation to matters of overlooking and privacy. Paragraph 5.7 makes it clear that the Council expects “all new residential development ... to be designed, oriented and positioned in such a way to minimise overlooking between dwellings, which would affect their internal living areas and their private rear gardens or amenity areas”. The Council does not have quantitative standards for separation distances between buildings but requires instead the design and orientation of buildings to maintain privacy and prevent overlooking. Paragraph 5.7 expects “a reasonable degree of privacy” to be provided for both the back and sides of properties.

7.32 As noted in the report to the Council’s Development Management Committee held on 4 February 2016 (paragraph 11.44), the main aspect of concern regarding privacy and



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overlooking is the relationship between the windows and rooms in the west elevations of the proposed student blocks and windows in the existing rear (east) elevations of the dwellings in Ashbury Close and Selwyn Avenue. There are corridor windows in the western elevation of the four storey block facing Ashbury Close, and there is a fully glazed link

between this four storey block and the adjacent three storey block. There is also a fully glazed staircase link on the western elevation between the two three storey blocks. There is a similar glazed link section between the five storey block and the adjacent three storey block, and corridor windows in the end elevation of the five storey block. However, these areas of glazing are angled towards the south, rather than south westwards, and the rear elevation of the five storey block is 18 metres from the site boundary at its closest point.

- 7.33 The windows in the western elevation of both three storey blocks are angled towards the south, so that they do not result in direct overlooking of the immediately adjacent gardens and rear elevations of the dwellings in Ashbury Close and Selwyn Crescent. However, some views out across rear gardens towards the rear elevations of these properties would still be possible, even allowing for the seasonal screening provided by the existing boundary trees.
- 7.34 The Council acknowledges that the end corridor windows in the four and five storey blocks could be provided with obscured glazing and fixed shut below 1.8 metres above floor level, and that this could be secured by a condition on any planning permission that may be granted. Whilst this could address the issue of overlooking from these windows, it is not clear whether the three fully glazed links could be similarly treated.
- 7.35 However, notwithstanding that the provision of fixed and obscured glazing could be secured by means of a planning condition, there would still exist a perception of overlooking from the mere presence of the windows in the end elevations, the glazed links and the angled windows of the three storey blocks, that would adversely impact on the amenity of the neighbouring residents.
- 7.36 As the judgment of the Court of Appeal in *Geha v Secretary of State for the Environment and Another* (1993) 68 P&CR139 makes clear, a concern about overlooking and loss of privacy, whether real or perceived, is a material planning consideration. In *Geha*, the inspector, in a written representations case, considered that a dormer window would be unacceptable even if it were to be fixed shut and obscure glazed. Its intrusive effect would be such as to give an impression of overlooking an adjoining property. The High Court held that the Inspector was entitled to come to this conclusion as a matter of common sense and judgment. The Court of Appeal upheld the decision of the lower court that the concept of an impression of overlooking was a rational and meaningful one and that it was within the notions of privacy.
- 7.37 This view was also taken by an inspector who observed that a circular window located in a proposed living room extension would face onto a neighbour's garden. Although the window was to be fitted with stained glass, the inspector considered that its proximity would have an unacceptably damaging psychological, if not real, effect on the privacy of people living in the neighbouring property (Cardiff City Council [25 August 1993] <http://www.dcp-online.co.uk/DCP/faces/dcslinktemp.jsp>).
- 7.38 So far as the present appeal is concerned, in the Council's view the presence of the windows in the end elevations, the glazed links and the angled windows of the three storey blocks,
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even though some of them could, by means of a planning condition, be fixed closed to a height of 1.8 metres above floor level and obscurely glazed, would afford an outlook towards the neighbouring residential gardens and dwellings and create an unnecessary continuous impression of overlooking of those properties which would have the potential to affect adversely and unacceptably the level of privacy which the occupiers of the

neighbouring properties should reasonably expect to enjoy. Consequently, the appeal proposals would lead to overlooking of, and perceived loss of privacy for, existing adjacent residential properties to the detriment of their residential amenity contrary to Policy D2.

### **The amenity issue**

- 7.39 As referred to at paragraph 6.10 of the SCG, this issue is concerned with the adequacy of the level of outdoor amenity provision for the student accommodation, specifically in terms of its quantity and quality.
- 7.40 Although the appellant comments (AS paragraph 5.33) that District Plan Policy D1 does not explicitly refer to amenity, SDG 2005 paragraphs 5.3 to 5.6, which supplement the provisions of Policy D1, do refer to amenity in the context of open space provision for residential development. Paragraph 5.3 requires all residential development, which must include student accommodation as proposed in this appeal, to incorporate private open space for the use of residents. Although the Council does not have any specific standards for open space, paragraph 5.4 states that “it is important for residential developments to provide adequate amenity space for residents” and that this open space must be “functional and usable”.
- 7.41 The appeal proposal provides two courtyard areas enclosed by the student blocks and the hotel extension. Both courtyards are therefore not only overshadowed by the surrounding buildings but would also be overlooked by numerous windows, including those in the hotel extension.
- 7.42 The northern courtyard is almost wholly given over to 30 car parking spaces and vehicular access. It is clearly intended for, and would be dominated by, vehicles and any space left over would be entirely unsuitable as outdoor amenity space. Consequently, this area cannot be regarded as an adequate open space to serve the student accommodation, either quantitatively or qualitatively. Indeed, it is interesting to note that the appellant’s appeal statement, in dealing with the amenity issue (AS paragraphs 5.33 to 5.39), makes no mention at all of the northern courtyard, thus implicitly acknowledging that this area plays no part at all in providing an adequate level of outdoor amenity space.
- 7.43 So far as the southern courtyard area is concerned, it is argued by the appellant that this would provide 900 sq m of outdoor amenity space. However, this would be of direct benefit only to the students in the two southernmost blocks. Moreover, it would be bounded in part by the car parking to the rear of the hotel and by a bin store. It is also bisected by a footpath access to the two student blocks. Consequently, these factors would serve to undermine the quality of the open space. Moreover, the southern courtyard would not be sufficiently well located to provide adequate open amenity space for residents of the northern blocks.

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- 7.44 The appellant has sought to show (AS paragraph 5.37) that the appeal scheme would compare favourably in terms of open space provision with other university towns. However, in the Council's view, it is wrong to compare a site in Hatfield with city locations in Bristol and Newcastle in order to demonstrate the suitability of provision. Moreover, this comparison is only a quantitative one, and it takes no account at all of the quality of the space (or lack of it) that would be provided.
- 7.45 Reference is also made (AS paragraphs 5.35 and 5.36) to the open space provision at 46 The Common. The Inspector commented (at paragraph 10 of his decision letter, which is reproduced at AS Appendix 4) that "the space around the building would be limited and would essentially be a visual amenity rather than space which is likely to be used for recreation". It was in this context that he referred to the "roof terrace which would provide an opportunity for residents to sit out in the open". However, in contrast to the present appeal proposal, such a roof terrace would not be enclosed or overshadowed by, or overlooked from, adjacent buildings. Consequently, the quality of the open space at The Common is much higher than that of the present appeal proposals.
- 7.46 At AS paragraph 5.39, it is said that "additional external outdoor amenity space would also be available to the north of the hotel". However, it is not clear what this is referring to nor is any indication given of the quantity or quality of the suggested additional amenity space. Certainly, the appeal plans do not give any indication of additional amenity space to the north of the hotel, as this area is wholly taken up by vehicle access and car parking. In the Council's view, therefore, any reference to additional amenity space should be discounted and should not be given any weight.
- 7.47 Having regard to the matters referred to in SDG 2005 paragraphs 5.3 and 5.4, in the Council's view the amount of functional or usable external amenity space to be provided is insufficient to serve the intended student population, particularly those living in the northernmost blocks. In addition, the proposed external amenity space would suffer from a number of drawbacks, all of which would detract from the quality of the space. Thus, on this issue, the Council has concluded that the proposed open space provision for the student accommodation is both quantitatively and qualitatively inadequate, and that it fails the tests in SDG 2005 paragraphs 5.3 and 5.4.

## **8.0 Other issues**

- 8.1 As is made clear in the SCG (at paragraphs 6.4 and 6.5) and in the report to the Council's Development Management Committee held on 4 February 2016 (paragraphs 11.2 to 11.13), the Council has no objection to the principle of development, subject to the imposition of appropriate conditions (as to which see further paragraph 9.1 and Appendix 1 below) and to the completion of a planning obligation (as to which see further Section 10 below).
- 8.2 In addition, in the Council's view, the appeal proposal is acceptable having regard to the following material planning considerations, subject also to the imposition of appropriate conditions and to the completion of a planning obligation:
- (i) transport accessibility car and cycle parking provisions;
  - (ii) flood risk assessment;

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- (iii) biodiversity;
  - (iv) trees and landscaping;
  - (v) energy efficiency;
  - (vi) refuse and recycling;
  - (vii) contaminated land.

## **9.0 Planning conditions**

- 9.1 The Council considers that the grounds for refusing planning permission and dismissing this appeal are clear and unequivocal and, accordingly, the Council respectfully asks the Inspector to dismiss this appeal. If, however, the Inspector should decide to allow the appeal and grant planning permission, it is requested that the conditions set out in Appendix 1 be imposed, all of which are considered to be relevant and necessary and in accordance with the other requirements of paragraph 206 of the NPPF.

## **10.0 Planning obligation**

- 10.1 In the event that the Inspector decides to allow the appeal and grant planning permission, there are a number of aspects of the proposed development that are essential to make the development acceptable but which cannot be controlled through the use of conditions. It is necessary, therefore, for these matters to be dealt with by means of a planning obligation, as paragraph 203 of the NPPF makes clear.
- 10.2 Regulation 122 of the Community Infrastructure Levy Regulations 2010 provides that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
- 10.3 Regulation 123 contains restrictions on the use of planning obligations for the purpose of infrastructure. Where a local authority has a published list of infrastructure projects, the authority may not seek contributions through a legal agreement under s.106 of the Town and Country Planning Act 1990. In this case, the Council does not have a published list and therefore it is appropriate to seek contributions through a planning obligation under s.106. This is in accordance with policies M4 and IM2 of the Welwyn Hatfield District Plan 2005 and the Planning Obligations Supplementary Planning Document 2012.
- 10.4 The proposed development gives rise to the necessity for the following obligations:
- (i) restriction of occupation of student accommodation to registered full time students at the University of Hertfordshire;
  - (ii) sustainable transport - green travel plan incorporating a parking management plan and ongoing assessment of demand for cycle parking and bicycle pooling on the site (Hertfordshire County Council);
  - (iii) Monitoring of the travel plan £6,000 (Hertfordshire County Council);

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- (iv) sustainable transport - £27,000 to promote pedestrian way-finding in the locality (Hertfordshire County Council);
  - (v) Contribution towards pre-development and post-occupation car parking surveys and potential alterations to parking controls to manage the impact of the development on the local area with respect to car parking (Welwyn Hatfield Borough Council):
    - (i) £10,000 towards undertaking a survey of car parking in the area prior to occupation of the development;
    - (ii) £10,000 towards undertaking a survey of car parking in the area following occupation of the development;
    - (iii) £30,000 towards the implementation of car parking mitigation measures in the event that they are necessary;
  - (vi) £22,021 contribution to enhancing and improving informal leisure opportunities in the vicinity of the student accommodation (at £61 per head) (Welwyn Hatfield Borough Council);
  - (vii) £10,800 +VAT contribution to provision of refuse bins for the student accommodation (Welwyn Hatfield Borough Council);
  - (viii) off-site surface water discharge connection to Ellenbrook;
  - (ix) access to student accommodation to monitor occupation to ensure compliance with the phasing condition (see Appendix 1, suggested condition 6) and occupancy by University of Hertfordshire full time students.
- 10.5 As reported to the Council's Development Management Committee on 4 February 2016, the applicant had indicated a willingness to enter into such a planning obligation. It is intended, therefore, that the planning obligation will be completed in advance of the hearing date.
- 10.6 It should be noted that, in the case of the proposal to provide student accommodation at 46 The Common, Hatfield, referred to by the appellant at AS paragraph 5.35, the inspector at appeal acknowledged that a similar range of obligations were "reasonable, necessary, directly related to the development and generally in accordance with *Circular 05/2005 Planning Obligations*", which was the policy advice in force at the time of this appeal decision (see appeal decision, paragraph 3, at AS Appendix 4).

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# APPENDIX 1

## List of conditions

1. The development shall not be started or completed other than in accordance with the approved plans and details:

0200/A & 0201 & 0202 & 0203 & 0204 & 0205 & 19321/1 & 19321/2 & 0301/A & 0302/A & 0303/B & 0304/B & 0305/B & 0306/A & 0307/A & 0310/A & 2821\_L\_GA\_1 -0 1 & 2821\_L\_GA\_1 -02 & 2821\_L\_HW\_1 -01 & 2821\_L\_HW\_1-02 & 2821\_L\_SW\_1 -01 & 2821\_L\_SW\_1 -02 & 2821\_L\_TP\_1-01 & 2821\_L\_TP\_1-02 & 2821\_L\_TZ\_1-01 & 2821\_L\_TZ\_1-02 & Flood Risk Assessment v2, Curtins, (13.11.2A15) ICBR0037RP-001 & Transport Assessment, Stirling Maynard, October 2015 & Tree Survey Report, P Stileman Ltd, (16.6.2014), DS14011401 received and dated 28.9.2015 and 0300/C received and dated 3.12.2015 and Materials Palette received and dated 9.12.2015 and 0308/B and 031 1/C received and dated 6.1.2016 and Schedule of Works to Listed Building received and dated 2.2.2016.

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

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

REASON: To ensure a satisfactory standard of development in the interests of visual amenity in accordance with the National Planning Policy Framework and Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

3. Notwithstanding the provisions of Article 3 of the Town and Country Planning Use Classes Order 1987 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking or re-enacting these Orders) this permission shall only permit the use of the 9,586sqm of student accommodation blocks as student residences for up to 361 students with ancillary support uses and the 99 bedroom hotel and ancillary support uses as Use Class C1 and for no other use or purpose.

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REASON: To enable the Local Planning Authority to fully consider the effects of development normally permitted by these Orders in the interest of protecting the residential amenity of adjoining occupiers in accordance with Policy D1 of the Welwyn Hatfield District Plan.

4. The communal rooms on ground floor of the student accommodation blocks (floor area) as shown on ground floor layout plans (DRWG NO 0301/A) shall be retained for ancillary facilities to support the student residential use and for no other purpose.

REASON: To enable the Local Planning Authority to fully consider the effects of change of use of the communal facilities in the interests of residential and visual amenity for future and adjoining residents in accordance with Policies D1 and D2 of the Welwyn Hatfield District Plan 2005.

5. No functions shall be held in the indoor and outdoor social spaces that involve the use of sound reproduction or amplification equipment (including public address systems, loudspeakers, etc.) which is audible at the site boundary.

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

6. No development shall take place on the site until a timetable for construction of the development hereby permitted and of the proposed Demolition, Reinstatement and Other Works outlined in the Schedule of Works to Listed Building {dated 2.2.2016} has been submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the agreed timetable. The student accommodation within the St Albans Road West frontage building (total 59 bedspaces) of the site and the hotel extension hereby permitted shall not be occupied until the works listed in the Schedule of Demolition and Reinstatement Works to the listed building are complete.

REASON: To ensure the satisfactory completion of the works to the listed building in accordance with Polices of the Welwyn Hatfield District Plan 2005 and the NPPF 2012.

7. Notwithstanding the approved landscaping plans, no landscaping development shall take place until full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved details.

The landscaping details to be submitted shall include:

- (a) original levels and proposed finished levels;
- (b) details of means of enclosure and boundary treatments;
- (c) car parking layout and markings;
- (d) vehicle and pedestrian access and circulation areas;
- (e) hard surfacing, other hard landscape features and materials;
- (f) existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction;
- (g) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;

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- (h) details of planting or features to be provided to enhance the value of the development for biodiversity and wildlife;
  - (i) details of siting and timing of all construction activities to avoid harm to all nature conservation features;
  - (k) management and maintenance details.

REASON: The landscaping of this site is required in order to protect and enhance the existing visual character of the area and to reduce the visual and environmental impacts of the development hereby permitted in accordance with Policies GBSP2, D2 and DB of the Welwyn Hatfield District Plan 2005.

8. No retained tree or shrub or hedge shall be cut down, uprooted or destroyed, nor shall any retained tree or shrub be pruned other than in accordance with the approved plans and particulars. Any topping or lopping approved shall be carried out in accordance with British Standard 3998:2010 (Tree Work). If any retained tree, shrub or hedge is removed, uprooted or destroyed or dies, another tree, shrub or hedge shall be planted at the same place and that tree or shrub shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

The erection of fencing for the protection of any retained tree, shrub or hedge shall be undertaken in accordance with details approved in writing by the Local Planning Authority to comply with the recommendation of British Standard 5837:2012 before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority. No fires shall be lit within 20 metres of the retained trees and shrubs.

In this condition, retained tree or shrub, means an existing tree or shrub or hedge, as the case may be, which is to be retained in accordance with the approved plans and particulars; and the above paragraphs shall have effect until the expiration of five years from the date of the first occupation of the buildings for their permitted use.

REASON: To protect the existing trees, shrubs and hedgerows in the interest of visual amenity in accordance with Policy D8 of the Welwyn Hatfield District Plan 2005.

9. All agreed landscaping comprised in the approved details of landscaping shall be carried out in accordance with a scheme of implementation which shall be submitted to and agreed in writing by the Local Planning Authority prior to commencement of any development on the site. Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All landscape works shall be carried out in accordance with the guidance contained in British Standards 8545: 2014.

REASON: To ensure proper implementation of the agreed landscape details in the interest of the amenity value of the development in accordance with Policies GBSP2, D2 and D8 of the Welwyn Hatfield District Plan 2005.



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10. Notwithstanding the approved landscaping plans (Numbers 2821\_L\_GA\_1-01 and 02 and 2821\_L\_HW\_1-01 and 02) the areas set aside for car parking relating to each building and shown on Plan Number 0300/C shall be laid out, surfaced and marked out in accordance with a scheme which has been submitted to and agreed in writing by the Local Planning Authority before each building hereby permitted is first occupied and shall be retained permanently thereafter for the free parking of vehicles for residents/occupiers of the development and shall not be used for any other purpose.

REASON: To ensure that the spaces are provided prior to the occupation of the units in the interests of highway safety in accordance with the National Planning Policy Framework.

11. No above ground development shall commence until details of a scheme for the provision of secure cycle parking for 72 bicycles on site (60 for the student accommodation and 12 for the hotel) have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved scheme and shall be retained thereafter. Details of any additional cycle parking provisions required as a result of review under the Green Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained in good condition thereafter.

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

12. Construction of the development hereby approved shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- (a) construction vehicle numbers, type, routing;
- (b) traffic management requirements;
- (c) construction and storage compounds;
- (d) siting and detail of wheel washing facilities;
- (e) cleaning of site entrances, site tracks and the adjacent public highway;
- (f) provision of sufficient on-site parking prior to commencement of construction activities;
- (g) post construction restoration/reinstatement of the working areas and temporary access to the public highway.

REASON: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

13. Details of the location, design and specification of the refuse bin and recycling materials storage areas to serve the hotel and the student accommodation units shall be submitted to and approved in writing by the Local Planning Authority. Subsequently the refuse and recycling materials storage bins and areas shall be constructed, equipped and made

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available for use prior to first occupation of each building and retained in that form thereafter.

REASON: To ensure a satisfactory standard of refuse and recycling provision and to protect the residential amenity of adjoining and future occupiers in accordance with Policies IM2, R5 and D1 of the Welwyn Hatfield District Plan 2005.

14. The development hereby permitted shall be implemented in accordance with a scheme of enhancement of the biodiversity of the site in accordance with the recommendations of the Extended Phase 1 Habitat Survey, SES, September 2015 & Aerial Bat Inspection and Advice Addendum, prepared by SES (and dated 23.9.2015) to be submitted to and approved by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved scheme, which shall be implemented upon practical completion of the development hereby permitted.

REASON: In the interest of the protection of protected species and the biodiversity of the site in accordance with Policies R11 and R16 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework.

15. Details of any external lighting proposed (including vertical lux diagrams) and CCTV cameras in connection with the development hereby approved, shall be submitted to and approved in writing by the Local Planning Authority prior to the above ground commencement of development. This scheme must meet the requirements of the Institution of Lighting Engineers' guidance notes for the reduction of obtrusive lighting. The development shall not be carried out other than in accordance with the approved details.

REASON: To protect the residential amenity and living conditions of the future residents of the site and existing properties in the near vicinity of the development in accordance with Policies D1 and R20 of the Welwyn Hatfield District Plan 2005.

16. No building hereby permitted shall be occupied until the sustainable urban drainage scheme for the site has been completed in accordance with the submitted details in the Flood Risk Assessment v2 (13.11 .2015), prepared by Curtins (ICBR0037RP-001). The sustainable urban drainage scheme shall be managed and maintained thereafter in accordance with a management and maintenance plan to be submitted and agreed by the Local Planning Authority. For the avoidance of doubt this shall include:

- (a) limiting the surface water run-off by storm events to not exceed 5.5 l/s during the 1 in 100 year event and climate change event;
- (b) providing attenuation - a minimum of 735 cubic metres of total storage volume in permeable pavements, filter trenches and underground attenuation tanks as shown in Appendix G of the drainage strategy;
- (c) discharge of surface water from the site into Ellen Brook via a new off-site connection.

REASON: To protect the surrounding environment from pollution and flood risk by ensuring the satisfactory disposal, storage and drainage of surface water from the site in accordance with Policies R7 and R8 of the Welwyn Hatfield District Plan 2005.

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17. No construction above ground shall commence until a scheme to protect each building (hotel and student accommodation) from traffic noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved details before each building hereby approved is occupied and maintained thereafter. The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards in BS 8233:2014. Any associated mechanical ventilation shall meet the requirements of the Noise Regulations 1975 (amended 1988).

REASON: To protect the occupants of the development from noise disturbance in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

18. No above ground development construction of each building shall commence on site until an acoustic report has been submitted to and approved in writing by the Local Planning Authority detailing the noise from plant and equipment to be installed at the premises showing that noise emissions will be 10dB (LAeq) below the background noise level (LA90) at the nearest residential properties (using the methodology outlined in BS142:2014). The scheme shall be completed in accordance with the approved details before any part of each building hereby approved is occupied and maintained thereafter in accordance with the approved details.

REASON: To protect the living conditions and amenity of the residents and other nearby residential properties from noise disturbance in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005.

19. Prior to first occupation of the development a manned measured noise survey shall be undertaken of all the plant and equipment on the site, following implementation, under usual operating conditions. The noise measurements must be taken at the nearest sensitive receptors to demonstrate that the combined operation of all plant and equipment is 10dBA (LAeq) below the background noise level (LA90). Measurement parameters must include the LA90, LAeq, LA MAX and frequency analysis. Approved noise mitigation measures such as acoustic screening or silencers must be implemented to ensure that Condition 18 of this planning permission is met. Monitoring locations must be agreed by the Local Planning Authority at 1m from the facade at 1.2m above ground level and at first floor level of the nearest noise sensitive properties and at the boundaries of those properties at the same heights and at identified times and hours of use of the development.

REASON: To ensure compliance with a scheme to protect the living conditions and amenity of the residents and other nearby residential properties from noise disturbance in accordance with Policy R19 of the Welwyn Hatfield District Plan 2005.

20. Prior to commencement of construction of the hotel a scheme for sound insulation for the hotel shall be submitted to and approved in writing by the Local Planning Authority. The hotel buildings shall not be occupied until the approved scheme has been fully implemented and the scheme shall be retained thereafter in accordance with the approved details.

REASON: To protect the living conditions and amenity of the residents and other nearby residential properties from noise disturbance in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005.

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21. The refurbished hotel and hotel extension shall not be occupied until a scheme for odour control with kitchen extract systems has been submitted to and approved in writing by the Local Planning Authority. The hotel buildings shall not be occupied until the approved scheme has been fully implemented in accordance with the approved details. The scheme shall be maintained thereafter.

REASON: To protect the living conditions and amenity of the residents and other nearby residential properties from noise disturbance in accordance with Policies D1 and R18 of the Welwyn Hatfield District Plan 2005.

22. No development other than that required to be carried out as part of an approved scheme of remediation shall commence until paragraphs (a) to (d) below have been complied with, in so far as they are relevant. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until paragraph (d) has been complied with in relation to that contamination.

(a) Site Characterisation

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

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

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

(b) Submission of Remediation Scheme

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

(c) Implementation of Approved Remediation Scheme

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

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

(d) Reporting of Unexpected Contamination

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

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

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

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.

23. The windows to the corridors and stairs in the west elevation of the student accommodation blocks shall be glazed with obscured glass and shall be fixed so as to be incapable of being opened below a height of 1.8 metres above floor level, and shall be retained in that form thereafter.

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