

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2010/2055/MA

FORMER SHREDDED WHEAT FACTORY COMPLEX AND LAND ADJOINING
BROADWATER ROAD WEST, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7 3AY

PART DEMOLITION, REPAIR, RESTORATION, EXTENSION AND CONVERSION OF
THE FORMER SHREDDED WHEAT FACTORY COMPLEX TO PROVIDE RETAIL (A1
AND A3), BUSINESS (B1), HERITAGE CENTRE (D1), ENERGY CENTRE, NEW
LEISURE CENTRE BUILDING AND CIVIC SQUARE BUILDING INCLUDING
RESIDENTIAL AND RETAIL (A1 TO A5). ASSOCIATED ALTERATIONS TO EXISTING
VEHICULAR AND PEDESTRIAN ACCESS AND HIGHWAY LAYOUT WITHIN AND
AROUND THE SITE, INCLUDING THE CREATION OF TWO VEHICULAR ACCESS
RAMPS TO BASEMENT PARKING, HARD AND SOFT LANDSCAPING, THE
PROVISION OF A CIVIC SQUARE, PARK, PUBLIC AND PRIVATE OPEN SPACE.
DEVELOPMENT OF LAND TO THE WEST AND SOUTH OF THE SHREDDED WHEAT
FACTORY TO COMPRISE THE FOLLOWING USES: RETAIL (A1 AND A5), BUSINESS
(B1), HOTEL (C1), RESIDENTIAL, TO INCLUDE: HOUSES, FLATS, CARE HOME AND
YMCA (C2 AND C3); DOCTORS SURGERY AND PHARMACY (D1); WITH ALL
MATTERS RESERVED APART FROM MEANS OF ACCESS

APPLICANT: Spenhill Regeneration Ltd

(Peartree)

Contents

- 1 Site Description
- 2 The Proposal
 - 2.3 The Former Production Hall / Office Building (Plot C)
 - 2.5 New Retail Food Store (Plot D)
 - 2.9 Mixed Retail and Offices (Plot F)
 - 2.10 Mixed Residential and Retail (Plot K)
 - 2.13 Café - Ground floor of Silos (Plot E)
 - 2.16 Heritage Centre (Plot E)
 - 2.17 Energy Centre (Plot G)
 - 2.23 Railway Bridge
 - 2.24 New Civic Square
 - 2.25 Public Space
 - 2.27 Community Centre (Plot B) and Hotel (Plot H)
 - 2.28 Residential (outline application)
 - 2.29 Highways, Access and parking
 - 2.36 Building Heights
 - 2.38 Phasing
- 3 Planning History
- 4 Planning Policy
- 5 Constraints

6 Representations Received

- 6.9 Waitrose / John Lewis
- 6.10 Sainsbury's
- 6.11 Morrison's
- 6.12 Welwyn Hatfield Chamber of Commerce
- 6.13 Hertfordshire Chamber of Commerce
- 6.14 Welwyn Garden City Town Centre Partnership
- 6.15 Palmer Land and Industry Ltd
- 6.16 La Salle Investment Management
- 6.17 Hertfordshire Property
- 6.18 Hertfordshire Gardens Trust
- 6.19 Sport England
- 6.20 Gosling Sports Park
- 6.21 Welwyn Garden City Society
- 6.22 Welwyn Garden City Heritage Trust
- 6.23 Welwyn Hatfield Access Group
- 6.24 Welwyn Parish Council

7 Consultations Received

- 7.2 Hertfordshire County Council Transport Programmes and Strategy
- 7.3 Highways Agency
- 7.4 Natural England
- 7.5 Built Environment Advisory Management Services (BEAMS)
- 7.6 Network Rail
- 7.7 Environment Agency
- 7.8 Hertfordshire Biological Records Centre (HBRC)
- 7.9 Thames Water
- 7.10 Hertfordshire County Council Archaeology
- 7.11 CABE
- 7.12 English Heritage
- 7.13 The Twentieth Century Society
- 7.14 Hertfordshire County Council Property and Technology
- 7.15 Non-respondents

8 Discussion

Main Issues:

- 8.3 – 8.9 1. Whether the proposal is in accordance with Policy EMP3, the Broadwater Road West Supplementary Planning Document (BRW SPD) and Policy TCR3 of the Welwyn Hatfield District Plan 2005. The considerations of impact are based on the following (TCR3) subsections:
 - 8.10 – 8.12 (i) There is a need for the additional retail floor space which cannot be met within any of the District's town, village or neighbourhood centres;
 - 8.13 – 8.48 (ii) The sequential approach has been applied in selecting the site;
 - 8.49 – 8.108 (iii) It would not harm the vitality and viability of the District's town, village or neighbourhood centres, either on its own or cumulatively taken with other recent similar developments;
 - 8.109 – 8.160 (iv) It would be accessible by a choice of means of transport;
 - (v) It would not generate unacceptable levels of car traffic

- 8.109 - 8.160 nor prejudice road safety;
- 8.161 – 8.171 (vi) It would not have an adverse environmental impact on the surroundings;
- 8.172 – 8.193 (vii) It would not take land which is designated for other uses in the Plan; and
- 8.49 – 8.108 (viii) It would not harm the strategy of the District Plan, in particular the strategies for the town centres.
- 8.194 - 8.210 2. Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions.
- 8.211 3. Material Considerations covering the following matters:
- 8.212- 8.230 • PPS4 – Planning For Sustainable Economic Development
- 8.231 – 8.235 • Chief Planning Officer Letters
- 8.236 – 8.237 • The draft National Planning Policy Framework (NPPF)
- 8.238 – 8.276 • Planning Obligations and Planning Gain
- 8.277 – 8.287 • Other material planning considerations

9 Conclusion

10 Recommendation

Appendices

Appendix 1 - Planning Application Site

Appendix 2 - Plan showing area around application site

Appendix 3 - Original Representations Period –up to 05/11/2010

Appendix 4 - Representations After 05/11/2010

Appendix 5 - HCC Highways response

Appendix 6 - Welwyn Garden City Society Petition Summary

Appendix 7 - Gosling Petition Covering Letter

Appendix 8 - Summary Of Environmental Statement

1 Site Description

- 1.1 The site is located to the east of Welwyn Garden City town centre in the Peartree ward. The planning application boundary extends to a total area of 10.4 hectares. The site forms the major part of the Broadwater Road West development site, an area allocated for mixed use development in the Welwyn Hatfield District Plan and is the subject of the Broadwater Road West Supplementary Planning Document (BRW SPD). The site is bounded on all sides with Broadwater Road (A1000 distributor road) to the east; the Taylor Wimpey housing development to the south (a mixed residential scheme which includes the re-use of the former Roche Products reception building, a Grade II listed building); the East Coast Mainline to

the west; and Bridge Road and Hunters Bridge (which provides the main access to Welwyn Garden City from the east of the town) to the north.

- 1.2 The Pall Mall warehouse and distribution centre is also located to the south west of the site and the access to this site is currently provided via the application site. The surrounding area is mixed in character. The area was predominantly occupied by industrial buildings but has since been largely cleared. There is residential development to the south and the large Hertfordshire BioPark office and laboratory building lies to the south west, with office buildings to the east.
- 1.3 Welwyn Garden City town centre is immediately west of the East Coast Mainline and an existing pedestrian route extends across the site via Hyde Way. The footbridge over the railway links the wider industrial area and Peartree ward to the railway station and the town centre.
- 1.4 The site and its buildings are currently vacant. There are only two building groups left on the site today; the remaining buildings of the Polycell factory to the south of Hyde Way, and the Shredded Wheat Factory buildings to the north of the site designed by Louis de Soissons and his partner Arthur W. Kenyon. It should be noted that the former Shredded Wheat factory buildings date back to 1925 and are Grade II listed. This listing includes the redundant silos.
- 1.5 A plan of the development site including roads and showing the building blocks of the proposal is attached at Appendix 1.
- 1.6 A plan of the wider area including some junction names is attached at Appendix 2.

2 The Proposal

- 2.1 The application seeks to demolish the Polycell factory building as well as the former production hall element of the Shredded Wheat complex and to retain, restore and find new uses for the remaining significant elements of the Shredded Wheat factory structures, including the silos. The planning application is a hybrid or composite application comprising a full application for part of the site (phase 1) and an outline planning application for the remainder of the scheme. However, members should be aware that this is technically an outline application and in effect the applicant is seeking full approval for part of the scheme and outline approval for other parts. If approved the Council would only require reserved matters submissions in relation to those elements of the scheme where full details have not been provided. Whilst this is a technical point, it is important to explain. In total the application seeks to provide the following:

- 13,957 sqm of office floor space (B1)
- 37,000sqm of residential floor space – approximately 344 units (C3)
- A retail supermarket with net sales area of 4,646sqm (A1)
- An additional 800sqm of retail floor space (A1-A5)
- 1,000sqm of café restaurants (A3)
- A 3,225sqm leisure centre (D2)
- A 950sqm doctor's surgery (D1)
- A 4,200sqm extra care home (C2)
- A YMCA facility of 5,800sqm (C1, C2, D1 and D2)
- A 3,200sqm hotel (C1)
- The provision of 909 cycle spaces
- The provision of 1,108 car parking spaces (291 for residential use)

2.2 This application also accompanied by an application for listed building consent (N6/2010/2060/LB) for works proposed to the Grade II listed buildings. As noted above this is a hybrid planning application and so for clarity full details have been provided for:

- Demolition of the 1930's/1950's Shredded Wheat Production Hall (LB consent only), the 1950's administration block warehouse and the construction of a new retail foodstore (Plot D) with basement car parking (extending underneath the proposed civic square).
- Restoration of the original 1920's Shredded Wheat Production Hall building and its conversion into office accommodation (Plot C).
- Maintenance and stabilisation of the silos, and adjacent 1920's Shredded Wheat Grain House to form new heritage centre and café (Plot E).
- The creation of a new civic square and erection of a mixed use building with retail floor space and café on the ground floor and offices above (Plot F).
- The restoration of the former 1920's Shredded Wheat Boiler House and Stack to hold the District Energy Centre for the development (Plot G).
- Erection of a leisure centre (Plot A).
- Erection of a mixed use building comprising small retail units with 36 residential units above and access to basement parking for the office/leisure centre (Plot K).
- All highways proposals within the site boundary and improvements to Broadwater Road.
- New public realm/civic square/recreation ground with teenage play area.

Outline details provided for (all matters reserved apart from means of access)

- Residential buildings on the site (Plots L, M, N, O, P, Q).
- A mixed use block comprising of retail, a care home with doctors surgery and residential units above (Plot J).
- A YMCA building, nursery and community centre (Plot B).
- An 80 bed Hotel (Plot H).
- Open space provision.

The Former Production Hall / Office Building (Plot C)

2.3 The former production hall building is to be converted to office accommodation. The planning and listed building applications propose works to the refurbished external shell of the building leaving the interiors as empty spaces which will then be the subject of a future application to establish the nature of the fit out; the cores and the layouts of the partitions. The application proposes that all of the production hall windows be replaced by new windows and where old windows have been bricked in new openings will be made.

2.4 The larger windows of the proposed redevelopment will establish sill levels at consistent heights for each of the three upper floors and the proposed ground floor windows will have a taller proportion than the existing. The vertical piers of the existing building are all retained as they form part of the main structural frame to the building. The proposals include improvement of the thermal efficiency of the building's fabric by adding a layer of insulation to the interior of the masonry and replacing the present single glazed windows with double glazed. The external rendered surface of the masonry will be repaired and repainted white to match the other factory buildings and the coping at the top is to be replaced by a new simple metal coping.

New Retail Food Store (Plot D)

- 2.5 The new supermarket comprises a lower block containing the service elements and a higher block containing the store itself and its back of house storage areas. The higher block is organised with its public entrance at ground level on the south facade as well as the escalator and lift access from the basement parking below. Towards the northern edge are the back of house elements; the storage areas and the plant. Twelve roof lights and twelve wind catchers punctuate the roof allowing natural light and ventilation into the store interior.
- 2.6 The supermarket occupies the site of the single storey addition to the original production hall and the later 1950's offices. The layout of the building is similar in some respects to that of the existing: the administration entrance is located in the prominent north-east corner, deliveries and loading are accessed from the Bridge Road entrance to the site, and the building itself is also, like the production hall, a largely single storey steel framed shed. There are however important differences: the new building has its ground level at the level of the external pavements, and it sits above a new basement which houses the customers car park.
- 2.7 The east and west store facades show the structural grid and the shape of the folded roof as it meets the walls. These facades, facing Broadwater Road to the east and the proposed garden area to the west, are framed by steel columns forming bays some eight metres wide; within each bay a brick wall is placed with glazing to the sides and at high level above. The folded roof cantilevers over the wall shading it from the sun.
- 2.8 The main entrance to the store is located off the public square to the south. A metal framed glass canopy cantilevers some five metres long covers the whole width of the facade. The new store occupies a small part of what is currently the Shredded Wheat factory complex. The predominant material of the existing factory buildings and especially the earliest ones is white painted render. The proposal is to use a white brick for the masonry elements of the store. Metal is chosen for the window frames and also for the framing elements of the facades and roof.

Mixed Retail and Offices (Plot F)

- 2.9 Occupying the site of the 1950's warehouse southeast of the silos the proposed office building has Broadwater Road to the east and the new public square to the west. The office footprint is similar to the building it replaces; the new building however, is located further south by four metres providing more space to the silos. The office occupies part of the site of the former Shredded Wheat factory. White bricks are specified for their colour reference to the original buildings and the differentiation of the new building from the remaining factory buildings. A pale reconstituted stone is specified for the horizontal components which unify the facade and create the impression of a thick outer masonry shell enclosing the more delicate glass and metal surfaces within. The windows have metal frames and the spandrel panelling below is a patterned metal as is the plant screen at roof level.

Mixed Residential and Retail (Plot K)

- 2.10 The new mixed use building (Plot K) is situated to the south of the civic square and adjacent to the main pedestrian approach from the town. This is the northernmost of the residential buildings (comprising of 12 x 1 bed and 24 x 2 bed units) within the master plan and it is a simple rectangular building, orientated with its principal façade facing north across the square and its flank walls adjacent to the internal spine road and the pedestrian entrance to the residential park.
- 2.11 The north elevation is a series of twelve repetitive bays 4.5m wide divided by columns 900mm wide with a colonnade at ground level and balconies or pergolas

on the upper levels. Every fourth bay a window rather than a balcony is used. The south facade is composed of two parts; the ground floor providing access to the ramp and residential courtyards and the upper part which steps back by three metres. Divided into four parts by balconies the elevation is a structured facade with repetitive windows just over two metres wide. Like the north facade each window is part fixed glazing and part Juliet balcony.

- 2.12 In contrast to the white buildings of the Shredded Wheat Factory, a more traditional red brick is proposed for the masonry elements. Perforated screens are articulated in vertical timber louvers and metal is used for the balustrades and window frames.

Café - Ground floor of Silos (Plot E)

- 2.13 The ground floor space below the silos has a ceiling height of almost three metres and is being proposed as a café. Along the northern and southern facades new windows are proposed to the ground floor undercroft space which project forward of the masonry surface forming window seats for the cafes.
- 2.14 The window spacing matches the silo structure above with each silo corresponding with two windows. The masonry parts of the ground floor will be upgraded by the addition of an insulation layer to the internal surface. A plasterboard lining is to be applied and painted and externally all the masonry will be repaired and painted white to match the other factory buildings. A metal rail is proposed to the upper cornice allowing a suspended cradle to be attached for the future maintenance of the silos.
- 2.15 With regard to maintenance the applicant has confirmed that the refurbishment of the silo structures and the ground floor café to an agreed specification will take place prior to the opening of the food store.

Heritage Centre (Plot E)

- 2.16 The application also proposes the creation of a heritage centre in the former grain house which lies between the former production house and boiler house. This building comprises four floors of various heights and the redevelopment proposal focuses on renovating the external shell whilst leaving the interior open. From the entrance it would be possible to view one of the silo hoppers which have been left intact. The application proposes the provision of the centre to a 'shell and core' specification that would be provided to an agreed specification and offered at a peppercorn rent to an appropriate organisation/body for use as a museum or other community facility as agreed by the Council.

Energy Centre (Plot G)

- 2.17 On the immediate west of the civic square the original 1920's boiler house will be retained and adapted for use as the energy centre for the redevelopment. The energy centre will contain mains, gas fired, combined heat and power (CHP) units serving both the store and the remainder of the redevelopment.
- 2.18 The elevations of the boiler house will be restored to match the appearance of the grain house and the multi-storey production hall. The post 1950s 'link building' presently joining the boiler house and attached structures at ground level will be removed to restore its simple form with two large window openings on the west elevation. It will be clearly defined from the other elements of the former factory complex, as originally intended.
- 2.19 As noted above the energy centre will contain mains gas fired CHP units serving both the retail store and the remainder of the development. As this is a phased

scheme, the energy centre will be progressively developed matching capacity to the loads of the various planned phases of the development. For Phase 1 (essentially the detailed planning application) a single 500kWe CHP unit and 800kW boiler will be deployed. For the operation of the full scheme the energy centre will house up to 3 no 500kWe CHP units and 3 no 800kW gas boilers.

- 2.20 The CHP plant and boilers will all be housed on the ground level of this building. The location of the energy centre within the original boiler house in Plot G will be adjacent to the proposed civic square and the original stack for the original coal power plant is to be retained and reused as the CHP Units will exhaust through this existing metal chimney stack. This is a 37m stack of a diameter of 2.2m originally used to facilitate a coal fired boiler, but will be adapted to take the multiple gas flues of the new CHP units.
- 2.21 In conjunction with the energy centre, solar thermal and photo voltaic renewable energy sources may be installed in the southern residential plots (part of the outline application). These plots will also be linked into the energy centre (Plot G) through the district heating system.
- 2.22 The applicant has confirmed that the energy centre will be provided prior to the operation opening of the store and is to be operated and maintained either by the developer or an appropriate agent.

Railway Bridge

- 2.23 The railway bridge is the subject of a separate but linked planning application (reference N6/2011/611/FP) which proposes the part replacement of the pedestrian footbridge, cycle storage and access. This application is a separate item on the agenda and the applicant proposes that this new pedestrian footbridge will be made available prior to the opening of the store. At the time of writing this report the delivery and maintenance of these facilities has still to be agreed with Network Rail. However, any grant of consent would be subject to a clause within any S106 legal agreement to ensure this is provided and made available for use prior to the opening of the store.

New Civic Square

- 2.24 The new civic square is the focus of the redevelopment with the listed silos to the north (Plot E), the energy centre to the west (Plot G) and mixed use blocks (Plots F and K) to the east and south. The applicant advises that the civic square will be a flexible space for evening and daytime events as well as providing an 'ad hoc' meeting space. In terms of layout, the applicant states that the scheme is designed such that the blocks around the civic square will have the greatest mix of town centre uses i.e. retail, cafe, heritage/community centre, care home, doctor's surgery, offices as well as residential use on the upper floors overlooking the public space.

Public Space

- 2.25 The layouts of the other key public spaces are linked together forming a sequence around the civic square. A series of formal 'garden' elements to the periphery of the square will link the hard central space to the network of green parks and gardens which radiate out from the square. Several trees will also be planted to complement the space. A new park provides links from the listed silos to the former Roche factory building to the south of the site. North west of the silos an open space accommodating a teenage play area and open green space for office workers and visitors recreation is proposed. In addition, access through to the industrial site owned by Pall Mall is proposed.

- 2.26 The provision of the new civic square, recreational facilities and play areas will be made available to the public but managed and maintained by the developer.

Community Centre (Plot B) and Hotel (Plot H)

- 2.27 The north western corner of the site accommodates Plots B and H (both part of Phase 4). Plot B is proposed to be a YMCA, nursery, youth and community centre. Plot H is a proposed to be an 80 bed hotel. These two areas enclose a recreation ground which seeks to recreate an original open space area that was located to the east of the former production hall.

Residential (outline application)

- 2.28 The southern residential area provides for a mixture of apartment blocks and town houses with back gardens overlooking and formalising the edges of a central park area. Five-storey apartment blocks front Broadwater Road and four storey maisonettes face the internal access road. In the centre, facing the park, 2-4 storeys, three bed houses form north/south orientated mews whereas two storey, two bed houses orientate east/west. All houses have integral garages and space for cycles.

Highways, Access and parking

- 2.29 A number of highway works and infrastructure associated with the proposed development are also required and are summarised as follows:
- a) Re-modelling of Broadwater Road/Bessemer Road/Bridge road junction
 - b) Separation of north and southbound carriageways along Broadwater Road.
 - c) Signalisation of three approaches to The Campus (Digswell, Bridge Road (east) and Bridge Road (west)) to help regulate the flow of traffic and distribute available capacity more evenly;
 - d) Extended flare length on the Digswell Road southbound approach to increase the junction capacity on this arm;
 - e) Widening to provide flares on the southbound A1000 Broadwater Road and northbound A1000 Chequers approaches to increase the junction capacity on these arms of the Chequers Roundabout;
 - f) Widening to provide two lanes on the southbound Osborn Way and eastbound Stanborough Road entry arms to increase the junction capacity on these arms of the Osborn Way Roundabout;
 - g) Widening on the southbound Parkway entry arm to increase the junction capacity on this arm of the Gosling Roundabout;
 - h) Removal of lengths of on-street parking along Parkway totalling approximately 288m to provide additional highway capacity and prevent blocking back at the turning loops
- 2.30 Three site access points for vehicular traffic are proposed comprising:
- A main access point in the southeast corner of the site on Broadwater Road;
 - A dedicated access point for the food store, to the north of this via Hyde Way; and,
 - A secondary left-in, left-out access point on Bridge Road.

- 2.31 The applicant's agent, DP9 have confirmed that cycle parking within the development has been based on the Council's minimum standards for all uses. Additional cycle parking for use by rail passengers has been provided adjacent to the proposed footbridge linking to the railway station and town centre beyond. A total provision of 950 cycle parking spaces is proposed, of which 200 would be for use by rail passengers. This exceeds the current provision on Hyde Way and will be covered.
- 2.32 DP9 also state that car parking within the development has been based on WHBC parking standards and takes into consideration the aspirations set out in the Broadwater Road West Supplementary Planning Document. A total of 1,120 spaces will be provided on the site, including 56 accessible spaces for use by mobility impaired persons. Below ground there are two car parks with separate ramps, pedestrian access and egress. These underground car parks will be mechanically ventilated with at least 10 air changes per hour. The depth is 4.25m below finished ground level.
- 2.33 One of the underground car parks will service the supermarket and has a two way access ramp from Hyde Way underneath Plot F. This car park will provide 459 spaces and will supply free 3 hour car parking for those using the store, visiting the area or the town centre. The second underground car park is accessed off the spine road, south west of the civic square by a two way ramp under Plot K and provides 193 spaces (73 for the leisure centre and 120 for office use). This car park has pedestrian access (lift and stairs) directly into the west side of the civic square, close by the station access, the office entrance and the leisure centre.
- 2.34 The overall car parking spaces as set out in the application is as follows:

Use	Spaces at Grade	Spaces at Basement	Total
Retail	0	459	459
Additional retail	0	0	0
Residential	291	0	291
Residential visitors	12	0	12
Care Home	6	0	6
Doctors Surgery	14	0	14
Office	0	120	0
Hotel	30	0	30
YMCA Accommodation	25	0	25
YMCA Nursery	5	0	5
Heritage Centre	0	0	0
Leisure Centre	85	73	158
Restaurant/Café	0	0	0
Total	468	652	1120

- 2.35 A parking management strategy for the site and surrounding areas has been submitted with the application. This includes a proposal for a Controlled Parking Zone (CPZ) covering the entire site alongside a Resident Permit Parking Scheme (RPPS). A private car park operator will manage and enforce parking regulations throughout the development, with Civil Enforcement Officers patrolling the site to monitor operations and issue penalty charge notices where required. A financial

contribution of £40,000 towards the cost of monitoring parking levels and illegal parking in the Peartree Ward (in those areas that are within 10 minutes walking time of the site boundary) and if surveys show a CPZ is required, a further £50,000 contribution towards the cost of implementing a Controlled Parking Zone in this area is also proposed.

Building Heights

- 2.36 The proposed heights of the development follow the BRW SPD guidance which suggests lower rise buildings (2 to 3 storeys) at the southern end of the Broadwater Road West development site and medium rise buildings (3 to 5 storeys) for the majority of the site. The BRW SPD states *'new build development should not be more than 5 storeys in height and that opportunities for this height would be limited to the north west corner of the site'*.
- 2.37 The Taylor Wimpey development to the south of the application site comprises of 2 to 4 storey buildings. The application proposals gradually change from 2 to 4 storeys for the residential area in the southern part of the application site to 5 storeys around the new civic square and the heart of the development.

Phasing

- 2.38 With regards to the phasing the redevelopment proposals are proposed to be phased as follows:

Phase 1

- The leisure centre (Plots A)
- Production hall office space (Plot C)
- The supermarket (Plot D)
- Café/Restaurant (Plot E)
- Heritage Centre (Plot E)
- B1 office accommodation, retail floorspace and cafe (Plot F)
- Energy Centre (Plot G)
- Stair and Bridge works
- 36 residential units and retail floor space(Plot K)
- Recreation ground and teenage play area.

Phase 2

- Residential(Plots J, L, M)
- Doctor's surgery, pharmacy, retail floorspace and extra care home(Plot J)

Phase 3 (Outline)

- Residential (Plots O, N, P, Q)
- Local Equipped Area of Play (LEAP)

Phase 4

- YMCA facility (with crèche) (Plot B)
- Hotel (Plot A)

- 2.39 The outline elements of the hybrid application seek approval for:

Access – access within the outline application areas of the site for vehicles, cycles and pedestrians in terms of its positioning and treatment of access and circulation routes.

The outline elements of the application that are intended to be reserved (the reserved matters) for determination at a later stage and these are:

Layout – the way in which the buildings, routes and open spaces are provided, situated and orientated in relation to each other and those spaces outside the development.

Landscaping – the treatment of private and public space to enhance or protect the amenity of the site. This includes planting, screening and the layout of open space.

Scale – the height, width and length of each building proposed in relation to its surroundings.

Appearance – these are the aspects which determine the visual impression made, including the external built form of the development, its architecture, materials, decoration, lighting, colour and texture. The access to and from the site for vehicles, cycles and pedestrians in terms of positioning and treatment of access, and how these fit into the existing surrounding access network, form part of the detailed elements of the planning application.

3 Planning History

- 3.1 This application represents the first major development proposal since the site became vacant and ceased to provide an employment generating use. The planning history comprises a variety of applications for minor alterations to the existing buildings or for the development of buildings which have since been demolished.
- 3.2 At the time of the inquiry into the current District Plan in 2004 the site was put forward for a mixed use development including employment and a range of town centre uses including convenience and comparison floorspace, leisure and housing. However, the Planning Inspector did not consider the inclusion of convenience and comparison floorspace to be acceptable as it would harm the Plan's strategy for Welwyn Garden City town centre.
- 3.3 The site has an adopted Supplementary Planning Document (BWR SPD) which was prepared to support Policy EMP3 of the District Plan which identifies the site as an area of opportunity for mixed use development. The BWR SPD was adopted by the Council on 2 December 2008. The aim of the document is to set out a clear framework to bring about the sustainable regeneration and redevelopment of the site. The BRW SPD establishes the broad amounts, type and mix of development that should be delivered on the site, as well as identifying design and layout constraints, and other requirements that need to be addressed as part of the redevelopment process: details on design and sustainability initiatives are also provided.
- 3.4 Pre-application discussions (N6/2009/0714/PA) were entered into with the applicant in relation to the general principles of redevelopment including the design and listed building issues, access and transport matters, environmental impacts and the retail impact of the scheme. Officers formally requested clarification with regard to outstanding discussions in September 2010 following the Development Consultation Forum held on 19 August 2010. In particular reference was made to the outstanding matters that still needed to be formally discussed and resolved including outstanding issues of design/landscaping, planning obligations, listed building issues, viability and environmental considerations, however these

discussions were never formally completed by the applicant and the current application was received on 30 September 2010.

- 3.5 The following linked applications should be also be noted
- 3.6 N6/2010/2060/LB – The applicant has submitted a separate application for Listed Building Consent for the proposed demolition and works to the listed building.
- 3.7 N6/2011/0611/FP - The applicant has submitted a separate application for the footbridge which details the erection of a replacement pedestrian bridge up to the existing bridge over the operational lines and the construction of a bridge link building, including a lift, ticket machine and bicycle parking.
- 3.8 N6/2009/705/EI – EIA screening request. Screening Opinion issued 06/05/09.
- 3.9 N6/2009/1114/EI – EIA scoping request. Scoping Opinion issued 10/07/09.
- 3.10 There are a number of historic planning applications on this and the adjoining land relating to the commercial uses and advertisements.

4 Planning Policy

4.1 National Planning Policy

PPS 1 - Delivering sustainable development
PPS 3 – Housing
PPS4 – Planning for Sustainable Economic Growth
PPS 5 – Planning for the Historic Environment
PPG 13 - Transport
PPS 22 - Renewable Energy
PPS 23 - Planning and Pollution Control
PPG 24 – Planning and Noise

4.2 East of England Plan 2008

SS3 – Key Centres for Development and Change
E2 – Provision of Land for Employment
H1 – Regional Housing Provision 2001 to 2021
H2 – Affordable Housing
T1 – Regional Transport Strategy Objectives and Outcomes
T3 – Managing Traffic Demand
T8 – Local Roads
T9 – Walking, Cycling and other Non Motorised Transport
Policy T13 – Public Transport Accessibility
T14 – Parking
ENV3 – Biodiversity and Earth Heritage
ENV6 – The Historic Environment
ENV7 – Quality in the Built Environment
ENG1 – Carbon Dioxide Emissions and Energy Performance
ENG2 – Renewable Energy Targets
WM1 – Waste Management
WM6 – Waste Management in Development
LA1 – London Arc
LA3 – Welwyn Garden City and Hatfield Key Centre for Development and Change

4.3 Hertfordshire County Council Waste Local Plan 1999

Waste Policy 3 – Waste Minimisation and new developments
Waste Policy 7 – Re-use of waste arising from new developments
Waste Policy 8 – Use of recycled materials in new developments

4.4 Welwyn Hatfield District Plan 2005

GBSP2 – Towns and Specified Settlements

SD1 - Sustainable Development

R1 – Maximising the use of Previously Developed Land

R2 - Contaminated Land

R3 - Energy Efficiency

R4 - Renewable Energy Sources

R5 - Waste management

R10 - Water Conservation Measures

R11 - Biodiversity and Development

R19 - Noise and Vibration Pollution

R18 – Air Quality

R27 – Demolition of Listed Buildings

R29 - Archaeology

M1 - Integrating Transport and Land Use

M2 - Transport Assessments

M3 - Green Travel Plans

M4 - Developer Contributions

M5 - Pedestrian Facilities

M6 - Cycle Routes and Facilities

M8 – Powered Two Wheelers

M9 – Bus and Taxi Facilities

M14 - Parking Standards for New Development

IM2 - Planning Obligations

D1 - Quality of design

D2 - Character and context

D3 - Continuity and Enclosure

D4 - Quality of the Public Realm

D5 - Design for Movement

D6 - Legibility

D7 - Safety by Design

D8 - Landscaping

D9 - Access and Design for people with disabilities

D10 - Public Art

D11 - Design Statements

TCR1 – Retail in Town Centres and Edge of Town Centres

TCR3 – Out of Centre Retail Development

H1 – New Housing Development

H6 - Densities

H7 - Affordable Housing

H8 - Dwelling Type and Tenure

H10 - Accessible Housing

OS3 - Play Space and Informal Open Space

EMP2 – Acceptable Uses in Employment Areas

EMP3- Mixed use Development at Broadwater Road West

4.5 Broadwater Road West Supplementary Planning Document, December 2008

4.6 Supplementary Design Guidance, February 2005

4.7 Supplementary Planning Guidance, Parking Standards, January 2004

4.8 Welwyn Garden City Urban Transport Plan, Hertfordshire County Council

5 Constraints

5.1 The site lies within Employment Area EA1 (as designated in the Welwyn Hatfield District Plan 2005) and contains the former Shredded Wheat Factory buildings which are Grade II listed. The site is also identified as a 'Mixed Use Development Site' under saved Policy EMP3 of the District Plan. To the immediate south of the site lies Wildlife Site 199 (Twentieth Mile Bridge Allotments).

6 Representations Received

6.1 This application has been advertised by site notice, newspaper notice and neighbour notifications.

6.2 Because of the large number of representations received during the course of this application, the representations are set out in the appendices to this report in the following way:

Appendix 3 - Original Representations Period –up to 05/11/2010

Full tables of the representations objecting to and in support of the application by address, received during the original notification period that expired on 5 November 2010.

Appendix 4 - Representations After 05/11/2010

Summary tables of the representations objecting to and in support of the application, by address, received after the 5 November 2011.

Appendix 5 – HCC highways response

Appendix 6 – Welwyn Garden City Society Petition Summary

Appendix 7 – Gosling Petition Covering Letter

The letters of the various commercial and non commercial organisations and businesses which are summarised in the report have been circulated separately to planning control committee members. All copies are available for inspection on the web site.

6.3 In summary, the total number of objections to and in support of the proposal is as follows:

Period	Total number of objections	Total number of supporters
Up to 5 November 2011 (Original Notification Period)	234	7
5 November 2011 to 16 December 2011	134	213

NB – Of these totals received after 5 November 2011 of the 134 additional letters of objection, two were postcards. Of the 213 representations in support of the scheme received after the original notification period, 141 were on standard postcards. For the original notification period, no representations were submitted on postcards.

6.4 The summary of points that were raised during the original notification period (up to 5 November 2010) is as follows:

Objection Summary

- The existing footbridge is inadequate for the increase footfall that the new Tesco's would inevitably bring.
- Contrary to the District Plan.
- The proposal requires a section 106 planning agreement.
- Spennithorne has failed to provide evidence and demonstrate the community need for another supermarket.
- Detrimental impact on neighbouring shopping facilities and potential fracturing of the current Town Centre.
- Potential job loss.
- Increase in traffic and congestion.
- The current infrastructure of Broadwater Road may not cope with the extra traffic.
- Increase in noise pollution.
- Negative impact on air quality.
- The residential development is not conducive with the WGC ethos.
- It will be too high in density.
- Landscaping is inadequate with little usable green space.
- The design and layout of the residential area is poor and does not provide provisions for new access roads.
- No need for an extra surgery.
- Question over the maintenance and running of the proposed leisure facilities.
- Potential future costs to the borough.
- The proposed pool is too small and now inadequate (they should honour their original 50ft proposal).
- No justification for the current location.
- Inadequate consultation with the community.
- Statement of community involvement flawed.
- No school provisions for potential families moving in.
- The housing does not seem affordable.
- Potentially a premature decision in relation to making such significant changes to the boundaries of the existing Town Centre.

- No justification for their proposed care home (considering the Police Station proposal) as it goes against the government policy to try and ensure people remain in their homes.

Support Summary

- The site is ideal for a mixed retail development that will enrich the economical development, especially as it will be adjacent to the current Town Centre.
- Job prospects.
- The land and site need to be regenerated and redeveloped, which will bring much improvement to the area.
- More leisure facilities.
- The preservation of the grain silos, in turn, maintaining the landmark and town centre heritage.
- The regeneration will improve security for those who frequently use the railway and Town Centre.
- Cheaper alternative shopping for residents that cannot afford public transport.

6.5 The summary of representations received after 5 November 2011 is as follows:

Object Summary

- Inadequate investment for the new footbridge.
- The site is not well connected to the Town Centre.
- Contrary to the District Plan.
- Spenhill has failed to provide evidence and demonstrate the community need for another supermarket.
- Detrimental impact on neighbouring shopping facilities and potential fracturing of the current Town Centre.
- Potential job loss.
- Job creation is grossly overstated.
- Increase in traffic and congestion.
- The current infrastructure of Broadwater Road may not cope with the extra traffic.
- Increase in noise pollution.
- Negative impact on air quality.
- Environmental impact.
- The residential development is not conducive with the WGC ethos.
- The residential development will be too high in density.
- Design is unsympathetic and out of character for WGC.
- Too many high rise residential buildings.
- Overwhelming scale.
- Landscaping is inadequate with little usable green space.
- Hours of business trade is out of normal hours and will disrupt surrounding residents.
- Potential future costs to the borough especially with regards to the proposed leisure facilities.
- The proposed pool is too small and now inadequate (they should honour their original 50ft proposal).
- Location of pool.
- No justification for the current location of store.
- No school provisions for potential families moving in.
- Non-Technical summary is unrealistic.
- Purely commercial gain.
-

Support Summary

- Swimming pool will provide much needed leisure facilities.
- Job prospects - including youths and young families.
- More affordable housing.
- High quality scheme that will benefit the regeneration of this area of WGC improving the economy and the Town Centre overall.
- A new and safer bridge.
- Better access to the Town Centre.
- An affordable and accessible supermarket for the older generation and those who cannot afford public transport.
- Unlikely to be used as an industrial space again as it is unable to compete.

- 6.6 The Welwyn Garden City Society has submitted a number of letters of representation including 6300 signatory petition on 18 August 2011 and has followed this up with a second tranche of petition giving a total of 14,121 (including 1,452 online signatures). The comments of the society are summarised below and the petition states:

'I do not support the building of yet another supermarket here in the town when there is already a large Tesco store less than half a mile away at Hatfield. I believe that this is against the best interests of Welwyn Garden City as it will tear the heart out of the existing town centre. We already have seen the Hatfield Town Centre in the borough hugely damaged by an edge of town supermarket and we don't want the same thing repeated here. I don't think that Spenhill – the development arm of Tesco PLC – has produced a plan for Broadwater Road development which in anyway reflects the ethos of the town, and I think its designs are boring, mediocre and sadly lacking in flair and imagination. I urge the Council to ensure that the proposals put before the Council are rejected.'

A summary of the results of the petition including the breakdown by postcode is set out in the appendices.

- 6.7 On the 8th December 2011 Gosling Sports Park also submitted a petition containing the following objection:

'These people have all raised concerns that the development of a gym less than a mile away could significantly affect the viability of the whole park. Such a development would affect not only those using the gym but more importantly those wishing to undertake less profitable sports such as cycling or athletics'

Three clubs, three schools and 652 people have signed the petition. The covering letter is attached within the appendices.

- 6.8 The representations made by commercial organisations and businesses are summarised below. It is important to bring to members' attention that the comments below are an extract and summary, of the main points made and conclusions drawn in the representation letters. This is in order to help with the legibility of the report. However, members should also ensure that consideration is given to the full comments that have been circulated separately.

- 6.9 **Barton Willmore on behalf of Waitrose/John Lewis Partnership** – We can find no reason for the Council to support the application on retail policy grounds. We continue to conclude that the proposed scheme is contrary to Local Plan Policy TCR1 and PPS4 policies EC16 and EC17.1.b. The terms of Nathaniel Lichfield

Partnership's advice do in our view provide sufficient grounds for your Council to conclude that the scheme is capable of refusal against PPS4 and the development plan.

- 6.10 **Indigo on behalf of Sainsbury's Supermarkets (SSL)** - The proposal will not bring any significant improvements in range and choice and could instead, cause Morrison's to close. The only benefit is small scale local employment in the region of 50-60 jobs. The scheme will result in the widespread erosion of town centre vitality and viability and dilution of retail expenditure to additional out of centre locations. The benefits of the proposals simply cannot outweigh the negative impacts under EC17.2. In terms of the Sequential Test, the store is out of centre and overall, DP9 have not thoroughly tested the suitability, availability and viability of all sequentially preferable sites and have failed to comply with PPS4, EC17.1
- 6.11 **Morrison's Supermarkets Plc** - The main thrust of this objection is that:
- The proposed out-of-centre Tesco store would primarily operate as an isolated car-borne main food shopping destination with neutral linked trips;
 - It is not sequentially preferable to the existing Morrisons store and gains no policy preference;
 - It is contrary to national policy set out in PPS4 and the statutory development plan, most notably saved Policies EMP2, EMP3 and TCR3, as well as the Broadwater Road West SPD;
 - There is negative convenience floorspace capacity in WGC up to 2026;
 - There is the real risk that it could lead to the closure of the Morrisons store and, in this way, it is illogical for the proposed Tesco store to replace an important existing facility, especially when taking into account that Tesco operate a large 'Extra' store that already serves the residents in WGC;
 - It would have significant implications in terms of offer and consumer choice;
 - It would decrease the overall distribution of convenience goods in the borough and the level of competition;
 - It would have a negative impact on levels of accessibility to foodstores on foot, which would have implications for sustainability objectives;
 - The sequential assessment is inadequate;
 - The issues of flexibility and disaggregation have not been adequately addressed; and
 - It could result in the loss of 300 permanent jobs at the Morrisons store.
- 6.12 **Welwyn Hatfield Chamber of Commerce** - In summary the Chambers view is that:
- No retail, other than small neighbourhood shops, should be permitted on the Broadwater Road West site, as anything on a larger scale would be bound to move the town centre towards the railway and impact on the businesses furthest from the new retail core. If more food retail space is to be considered it is up to Tesco to produce evidence to challenge the Council's last survey which say it isn't needed.
 - Any substantial development on this site requires major improvements to the railway bridge link, including widening and improvement to lift and escalator capacity in the adjoining Howard Centre. Otherwise there is a danger that the new site will just be an 'island development' with little connectivity to the existing town centre.
 - The amount of parking on the site should be strictly limited, as there is already over capacity in the town centre and shoppers should not be encouraged by the free parking offer to park there for the entire duration of their visit to the town.
 - The Tesco split between outline and detailed planning applications should lead the Planning Committee to question whether their intention is to complete the full

development, or sell on part of the site with planning consent, having only completed the first phase which is principally retail and clearly their primary interest.

- 6.13 **Hertfordshire Chamber of Commerce** – supports the application on the grounds that it is an important opportunity for the development of amenities and new jobs. Many of the 1800 new jobs that would be created both directly and indirectly will not simply be created in the store but also in the construction industry and through the ongoing support required to run the housing and leisure facilities on the site and in the future. It also appears axiomatic that the building of family housing and flats, supported by the upgraded railway bridge and access to the rest of the town centre will also add vibrancy to the existing retail area. This when added to the development centrally based health and leisure facilities, a hotel to attract business people and other visitors together with a heritage centre in the renovated silos.

In lending our support we recognise that a development of this size and complexity will present a number of challenges but these are not insurmountable, in any case far outweighed by the benefits that will be brought to a part of the garden city which is in need of significant regeneration. In due course this project will be seen to have been a beneficial progression in the history of the garden city. At a time of change in which new employment and leisure opportunities are desperately required we urge the authority to support the application.

- 6.14 **Welwyn Garden City Town Centre Partnership** - Our comments on the planning applications mentioned above relate to the Partnership's Town Centre Strategy, which we agreed earlier this year.

The overall aim of our strategy is:

“To maintain and enhance the commercial, social and environmental success of Welwyn Garden City town centre, building upon its unique heritage and strengths to achieve a prosperous and vibrant town centre offering a diverse range of activities in an attractive clean and safe environment for the enjoyment of the community and visitors alike.”

In our view, the proposed development is inconsistent with that aim, and we recommend that the applications be rejected. In summary, for the Partnership board the fundamental question is; does Spenhill intend its proposed development to be an integral part of the town centre, and to enhance and strengthen it? If the proposal doesn't meet that criterion, then it can only be in competition with, and damaging to, the existing town centre. If the proposal is intended to meet that criterion, then Spenhill and Tesco need to go back to the drawing board and come up with something far, far better.

- 6.15 **Harris Lamb (on behalf of Palmer Land and Industry Ltd)** - Our client has a number of concerns with respect to the application proposals. Therefore, whilst at this stage we do not have any comments on the quantum of development proposed, the proposed mix of land uses or the scheme's potential impact upon the city centre, we now write to submit a holding objection to the proposal.

Our client's site is an integral part of the comprehensive development scheme envisaged by the masterplan framework (see figure 5.1 on page 34 of the SPD, copy attached). The masterplan proposes Pall Mall's site for employment and residential uses. The arrangement of the residential and community uses is to support the establishment of a mixed and sustainable community. A centrally located area of open space is envisaged (see paragraph 5.39).

From the submitted application plans it would appear that access to Pall Mall's land would be via a right of way passing through the centre of a formal open space area. This would result in commercial vehicles including HGV's moving through an open area which would seem to be contrary to the urban design aspirations of the Broadwater Road West SPD, in particular the requirement for high quality open space and a high level of connectivity to the city centre. The access arrangements to our client's land would also seem to be detrimental to highway and pedestrian safety. These access arrangements are likely to discourage any potential new occupiers of our client's site.

It is our view that in order to secure the comprehensive high quality form of regeneration of the area described by the Council's supplementary planning document, our client's land should be incorporated within any planning application scheme. The SPD shows Pall Mall's land as providing an important component of the SPD's overall vision for the area (part of the employment and residential development). Clearly it would be highly desirable for this land to be included within the development scheme.

An additional letter has been received from Harris Lamb on 16 December 2011 and summarises as follows:

- The submitted Transport Assessment is flawed in that it is based on a larger store resulting in the assumed trip rate being used being too low.
- The robustness of the TA is also questionable on the grounds that no highways capacity assessment was carried out on Saturday when the new store would be at its busiest.
- The TA appears to be inconsistent with the rest of the planning application documentation since a different schedule of accommodation has been used.
- As stated by the county council, the Travel Plan submitted is not robust enough in promoting the use of sustainable alternatives to the private car in this town centre location.

The above concerns arise to a large extent from the fact that the proposed Tesco foodstore is of too large a footprint to meet the access and transport constraints presented by the application site and the surrounding area. Clearly this prejudices the comprehensive development of the whole Broadwater West SPD area, including our client's site which is allocated for a mix of residential and office development by the SPD. Our client's site is an integral part of the comprehensive development scheme envisaged by the masterplan framework. We see no policy reason or planning requirement for the retail floorspace within the proposed scheme to be maximised at the expense of other planning objectives.

- 6.16 **La Salle Investment Management** - LaSalle Investment Management (LaSalle) is very concerned about this application and strongly objects to the significant amount of retail floorspace being promoted in Welwyn Garden City (WGC) outside the designated town centre boundary. The development will act as a stand-alone retail destination which will harm the vitality and viability of the town centre. As you are aware, LaSalle manages the Howard Centre on behalf of Coal Pension Properties Limited. The Centre is a major generator of jobs for the local population and provides a wide range of goods and services to the catchment area. The Howard Centre is located in the primary shopping area and together with the John Lewis department store, the existing centrally located food offer and the wider offer in and around Howardsgate, makes a significant contribution to the vitality and viability of the town centre.

The retail proposals fail the sequential test and will cause considerable harm to the town centre. The proposed Tesco will operate as an out of centre, stand alone retail destination and directly compete with the town centre for convenience and comparison spend. The proposals will divert spending capacity that should be directed to strengthening the town centre (to support existing businesses and the development of new opportunities) as set out in the Statutory Development Plan. The retail proposals are contrary to the Statutory Development Plan (including Policy EMP3, TCR1 and TCR3) and national policy in PPS4. The proposed development does not deliver the Council's aspirations and vision for the site as set out in the Adopted 2008 Broadwater Road West SPD.

We urge the Council to refuse this application and support its own retail strategy to strengthen existing centres by promoting new retail development in the town centre.

6.17 **Hertfordshire Property** - The County Council has recently purchased land on the eastern side of Broadwater Road for the relocation of Hertfordshire County Council library services. The site benefits from two existing unrestricted accesses onto the local highway network, one via the private road Broad Court in the north and the other directly from a t-junction onto Broadwater Road in the south. The application proposes to replace a previous access that is almost exactly opposite our client's site with a major new all-purpose access. This new all purpose access would serve significantly more traffic than the previous access and the inclusion of a solid island directly opposite the southern access to the site would have a detrimental impact on HCC's proposal because:

- i. It would prevent right turn in and right out movements to the proposed visitor car park. All visitors from the south wishing to access the car park or exit the car park to the north would thus be forced to make a u turn at some point further along Broadwater Road. This would be unattainable and dangerous.
- ii. It would appear to restrict the ability of large vehicles to turn left in and left out of the southern access.

The proposals should be reconsidered in order to not compromise the future development of our client's site.

6.18 **Hertfordshire Gardens Trust** – No comments to make.

6.19 **Sport England** - In view of the benefits identified above, I consider that the proposed development would clearly accord with Sport England's planning policy objective. Sport England therefore supports the principle of the indoor sports facility element of this full planning application. I can also advise that the Amateur Swimming Association (ASA) and Herts Sports Partnership (the County Sports Partnership) are supportive of the principle of the proposed development. Sport England therefore objects to the lack of outdoor sports facility provision made for meeting the needs of the proposed development. However, I would be prepared to withdraw the objection, if it was confirmed that off-site outdoor sports facility provision would be made in the form of an appropriate financial contribution (made to Welwyn Hatfield Borough Council and secured through a planning obligation) which would be used towards the provision or improvement of off-site outdoor sport facilities.

6.20 **Gosling Sports Park** –

- Adopts a neutral position in respect of the principle of a Tesco superstore.

- Objects to the leisure element with the Tesco proposal. Specifically that a gym operator will be required to subsidise the proposed swimming pool, and if this were allowed it would have a very damaging impact on Gosling Sports Park and undermines its ongoing viability and ultimate survival.
- Comment that Spenhill has confirmed to the Trust that if a swimming pool were built then a gym would be needed to subsidise its running cost. They reiterate that there is no objection to the principle of a pool but only to the gym element.

6.21 **Welwyn Garden City Society –**

- Strongly objects to this and the related planning application relating to the bridge across the railway. It is their view they are without merit and should be rejected. The original design concept has worked well over the 90 years of the town's existence but the proposals from Spenhill would be the first departure from this. They fully support the approach taken by the Council in its Supplementary Planning Document (SPD).
- The impact assessment provided by Spenhill does not address this wider and fundamental view of the town, what it stands for, its overall design and the impact its proposals would have on the place. It is the Society's view that the effect of the proposals will do substantial harm to the town and the Borough: in effect, set up a rival town centre on an island site directly opposite another.
- The proposals put forward by Spenhill do not accord with the SPD prepared for that site despite assertions to the contrary.
- The proposals would have a severely adverse impact on the existing town centre which itself is a Conservation Area and where there is likely to be a substantial reduction in footfall. The proposals would draw business away from the town centre which is exactly what the planning laws are seeking to avoid.
- There is no architectural interest in any of the new buildings. They are seemingly dotted about the plans with little or no linkage and without any feeling for what the town represents.
- The proposed residential development is very poorly designed. It fails to reflect or move the town "ethos" forward.
- Spenhill argues that its proposals are "edge of centre" when clearly they are not and it has failed to properly undertake the "sequential test".
- It is argued that the traffic assessment is flawed. In any event, based on agreed traffic volumes, the development proposals are clearly unviable as the entire town centre road network will not be able to cope; the town will be reduced to gridlock regularly twice per day and on Saturdays.
- The proposal does not meet the policy objectives of EC10.2, EC16 and EC17. We do not believe that the financial justification put forward by Spenhill is justified.
- Whilst being wholly against the proposals from Spenhill as they stand, the Society remains committed to discussing with the company and its principal, Tesco plc, any proposals which will move the town forward in a way that will be of benefit to it, its residents, as well as the Borough.

As well as the petition referred to above, the society have also submitted an additional letter dated 8 December 2011 objecting to the additional information that the applicant submitted in September 2011.

6.22 **Welwyn Garden City Heritage Trust –** object concluding that the negative impacts of the proposals are so far reaching that they would, if approved, severely damage the very town and the heritage to which the Trust is dedicated. The Trust raise concerns that the proposals will destroy the original vision for the town, have a negative impact on the town centre and surrounding shops and change traffic.

6.23 **Welwyn Hatfield Access Group** – Given the technical nature of these comments, only a short summary is provided underneath.

We have been unable to find any reference to Lifetime Homes Standards in the application. Policy H10 states that in all residential developments involving 5 or more dwellings the Council will seek to secure a proportion of dwellings to be built to lifetime homes standard. Welwyn Hatfield Access Group recommends that all dwellings in this development are built to Lifetime Homes Standards and would remind you the latest revision was released on 5 July 2010. This then brings consistency with the Taylor-Wimpey planning application, currently under consideration, for their sector of the overall Broadwater Road development.

Our concerns are; we note the provision of a lift but believe the overall travel distance from the basement bays to the main entrance will exceed the recommended 50 metres. The distance from the surface car park bays to the main entrance also looks to be greater than 50 metres. We note the basement access lift also serves the station footbridge link and, as such, we are concerned that those following activities not related directly to the leisure facility will take the opportunity to use the basement disabled bays.

We would like to see an extra disabled bay to bring the total number provided up to 10. Having said that, we believe a number of bays should be at surface level to cater for the larger disabled vehicles, which may have difficulties accessing the basement car park.

While not a planning issue, we trust adequate and appropriate signage and wayfinding will be provided together with suitable contrast and surfaces. We believe the number of disabled bays should be increased to 26 for customers with, at least, 1 provided in the staff parking area. The bays should be sized and marked in accordance with latest guidelines. From the drawings we are unable to determine the relationship between the disabled parking bays and the passenger lifts to the supermarket.

We would appreciate confirmation of the sizes of the passenger lifts including passenger capacity data. We are taking it that all lifts will meet latest best practice guidelines and be appropriately equipped. Will lifts be continuously available and are they suitable for fire evacuation purposes?

We believe there are no car parking spaces allocated to the flats? If it is correct, where are occupants expected to park their vehicles and, if they should have even the slightest mobility impairment, how do they access the basement car park without using the stairs. We have been unable to accurately scale from the drawings but note the main bathroom doors are outward opening. Does this infer they are fully wheelchair accessible? We have also been unable to locate any references to emergency escape refuges and would appreciate details of these.

We obviously feel very strongly about this development, and, believe that by dividing the application into two distinct packages – a full application for the Store and Leisure facilities plus an outline application for the residential and others, the applicant has indicated their real intention of this application is the retail outlet. All other items are dressing to ease the passage of the application. We would suggest data confirms there is a much greater need for affordable and social housing rather than another larger supermarket. If the houses are built first with the supporting infrastructure then maybe, just maybe, the increased population will create a

genuine economic need for another large retail outlet in Welwyn Garden City that can be met by the proposed Tesco retail development.

- 6.24 **Welwyn Parish Council** object as the proposals will have a detrimental impact on existing shopping facilities and destroy the cohesion of the shopping centre.

7 Consultations Received

7.1 Set out below is a short summary of the key points of each of the consultation responses. Copies of all of the responses are logged on the web site but bearing in mind the particular significance of the comments received from the Highway Authority these are appended to this report.

7.2 **Hertfordshire County Council Transport Programmes and Strategy** – The comments are based on the following documentation:

- Transport Assessment revision B dated 10 June 2011 and drawings submitted following the issue of a Regulation 19 notice by WHBC.
- Addendum report to the Transport Assessment dated 12 September 2011.

They also relate to pre-application discussions between HCC and the applicants transport consultants Arup and Safety Audits of the proposed highway works. The assessment is based on the information available at the time of writing and although the Highway Authority considers that some issues may be able to be resolved through discussion there are fundamental issues that account for the Highway Authority recommending the current scheme is refused.

Policy

The proposals would be contrary to the guidance in PPG13 which aims to give priority to people over ease of traffic movement and plans to provide more road space to pedestrians, cyclists and public transport in town centres, local neighbourhoods and other areas with a mixture of land uses.

New development should help to create places that connect with each other sustainably, providing the right conditions to encourage walking, cycling and the use of public transport. People should come before traffic.

PPG 13 comments that the planning system can have a substantial influence on the safety of pedestrians, cyclists and occupants of vehicles through the design and layout of footpaths, cycleways and roads. Planning can also influence road safety through its control of new development

The proposals would be detrimental to HCC's Local Transport Plan (LTP3) 2011-2031 challenges to:

- Keep the county moving
- Improve accessibility for all
- Improve road safety

To meet these challenges the County Council will ensure the transport and safety implications of development proposals are considered.

Section 3.8 of the LTP states that development will be resisted where

- i) the proposals would increase the risk of accidents or endanger the safety of road or rights of way users
- ii) the proposals would cause or add significantly to road congestion, especially at peak travel times."

Conclusion

The proposed development requires major changes to the highway network adjacent to the site and wider mitigation to accommodate the predicted levels of traffic. However even with the road widening of Broadwater Road and changes to the Bridge Road/Broadwater Road junction the highway network cannot accommodate the predicted levels of traffic by 2016 and makes no allowance for future development of the adjacent Pall Mall site. The Highway Authority considers that the proposed highway works will not improve accessibility for local residents and may increase the potential for conflict between vulnerable road users and vehicles. The scheme appears to have given highway capacity a higher priority than the needs of cyclists and pedestrians and this relates to the internal layout in addition to the proposed changes to Broadwater Road. The proposals are therefore contrary to PPG13 and the Hertfordshire County Council Local Transport Plan.

- 7.3 **Highways Agency** – Whilst the agency supports the measures within the travel plan framework for delivering the vision for sustainable travel in and around the development site, of concern is the statement made in the Executive Summary of the Transport Assessment. This refers to the aim for mitigating traffic (residual) or redistributing through traffic onto more strategic routes away from the town centre by giving consideration to future highway upgrades. There is no certainty of such proposals taking place, particularly with regard to the A1 (M) trunk road.

I appreciate the difficulties through modelling techniques in analysing the volume of new traffic emanating from the development onto the strategic highway network but it is not unreasonable to assume that there will be a proportion however small in quantum.

- 7.4 **Natural England** - Natural England advises that if the planning authority feels that the proposals as presented have the potential to affect species protected under European or UK legislation, you are initially referred to our Standing Advice on protected species. We further advise that environmental impacts have been fully assessed in the Environmental Statement (including the Ecological Impact Assessment) submitted with this application. We would encourage your authority to take a positive view of the various biodiversity enhancements proposed within the Environmental Statement, in line with your PPS9 duties.

7.5 **Built Environment Advisory Management Service (BEAMS) –**

- The proposed redevelopment must satisfy the requirement for the LPA to have special regard to preserving a listed building or its setting and with reference to design, the policies of PPS1 and PPS5; and the other national urban design guidance and advice.
- With regard to the proposed general layout, form/ scale/ massing/ proportions of the buildings, links and spaces- the submitted proposals have, for the most part, sought to relate the new development to the alignments of Broadwater Road/ Bridge Road/ Hyde Way.
- The dominant landmark building of the former grain silos will provide most emphatic focal point for orientation/legibility within- and beyond- the proposed new development. The pedestrian routes through the site are clear and easily navigable - satisfying the permeability and connectivity criteria for a *successful*

place (in *By Design* terms). Public and private space is clearly distinguished. There is clarity of layout and built form.

- The scale, bulk, massing and location of the new buildings proposed generally takes reference to the scale of the listed buildings.
- The space north of the office building (F) adjacent to the silos - together with the area immediately north of the tall silos themselves - will be heavily overshadowed and could be a rather grim, windswept canyon area.
- There is concern with regard to the far south-east corner residential block. The buildings comprising this corner block are sited tightly to the back edge of the footway to Broadwater Road. This approach from the north, towards the key frontage part of the former Roche office building, will need particular sensitivity. The crowding out of this important frontage element is to be avoided. It is considered that the scale, bulk, massing and siting of the buildings in this corner would be harmful to the setting of the Grade II listed Roche office building - to the extent of dominating the northern approach to this important building.
- The appearance of the various building types is mostly acceptable, though with the further detailed consideration of actual materials, finishes, surfacing/ paving/ edgings/ kerbs/ street furniture/ signage etc, hopefully the actual textures/ colours/ inter-relationships may be refined.
- Subject to these points - and some reservations about the indicative materials and detailing selections the proposals are, for the most part, thoughtfully related to the site constraints and context in general and to the settings of the listed buildings (and wider setting of the conservation area) and represent a positive place-shaping opportunity and welcomed regeneration of this reasonably prominent site.
- As discussed previously the package of proposals with this application comprise an approach to provide an economically viable (in PPS5 terms) future for the site- and, critically, the range of now redundant and neglected listed buildings, worryingly starting to fall into serious disrepair. In particular the monumental silos are difficult to find a new use for. The part use of the ground floor is especially welcomed- it is a shame that the idea of use of the upper floor seems to be not viable.
- On balance, from an urban design and conservation of historic assets viewpoint, it is considered that the package of proposals represent a sound way of positively conserving and enhancing a derelict and cleared site- to enable the former factory buildings to make a full contribution to the cultural, social and economic life of WGC.

7.6 **Network Rail** – These comments relate only to asset management aspects, comments in relation to the bridge are contained within N6/2011/0611/FP. Advisory comments are made in relation to a number of matters which may affect operational railway land. Pending the final comments with respect to the footbridge I would advise that in particular the boundary fencing, method statements, soundproofing, lighting and landscaping should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters we would be pleased if an informative could be attached to the decision notice.

7.7 **Environment Agency** –
In relation to the full planning application:

From the above information, Flood Risk Assessment (FRA), dated February 2011, Issue 02, reference 00201, and the Water and Drainage Strategy, dated July 2011,

Issue 04, reference 00201, we are in a position to remove our objection. Providing that that the conditions are imposed on any planning permission granted relating to:

- Development in accordance with Flood Risk Assessment
- Contamination
- No infiltration of surface water drainage

In relation to the outline planning application:

From the above information, Flood Risk Assessment (FRA), dated February 2011, Issue 02, reference 00201, and the Water and Drainage Strategy, dated July 2011, Issue 04, reference 00201, we are in a position to remove our objection. Providing that that the conditions are imposed on any planning permission granted relating to:

- Development in accordance with Flood Risk Assessment
- Contamination
- No infiltration of surface water drainage

7.8 Hertfordshire Biological Records Centre (HBRC) - Based on the evidence presented, we tend to agree with the conclusions reached regarding both habitats and species. We agree that it is unlikely that bats and reptiles are present on the site.

We take the view that from an ecological perspective, this application is more about how the site can be enhanced for biodiversity post-development, than the loss of habitats and the species they might support. However, we consider the Biodiversity Management Plan, as submitted, to be wholly inadequate. It lacks detail and vision. Both the developer and the LPA have an opportunity to create beneficial features for urban biodiversity.

The design and delivery needs to be Imaginative and Innovative. Features that should be included on the site are:

- Landscaping; native planting to benefit biodiversity – birds, bats, insects.
- Reptile habitat; including hibernacula.
- Bat boxes.
- Bird nesting boxes, including Swifts.
- Water features; Sustainable Drainage Systems and ponds.
- Rainwater harvesting from roofs.
- Green Roofs.

These features will enhance the local environment and deliver aspects of the Hertfordshire Urban Biodiversity Action Plan (BAP). HBRC recommends that the LPA should consider the enhancement of Urban BAP habitats and the species they support. If development of the site is delayed for more than 12 months (March 2012), then all the species surveys will need to be repeated and new, up to date survey reports submitted to the LPA. The LPA will need to apply ecological conditions and possibly a S106 Agreement to the planning decision. We recommend that conditions in relation to the following are attached:

1. Biodiversity Management Plan
2. Bats
3. Reptiles
4. Breeding Birds
5. Landscaping

7.9 **Thames Water** - Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. If it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required.

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Swimming Pools - Where the proposal includes a swimming pool Thames Water requests that the following conditions are adhered to with regard to the emptying of swimming pools into a public sewer to prevent the risk of flooding or surcharging: (1). The pool to be emptied overnight and in dry periods. (2). The discharge rate is controlled such that it does not exceed a flow rate of 5 litres/second into the public sewer network.

7.10 **Hertfordshire County Council Archaeology** - Welwyn Garden City has revealed an extensive landscape of Iron Age and Roman occupation. This includes cemeteries and burials. These have been noted both by the Historic Environment Record (HER) and identified in the Local Plan: the site lies between Areas of Archaeological Significance at Salisbury Gardens and Shotlands Green. These note that evidence of Iron Age and Roman occupation has been found and that there is potential for further discoveries. The site of a possible medieval moat at Peartree Farm (HER2615) lies just to the south of the site and Roman pottery has been found at the junction of Hyde Way and Broadwater Road to the north (HER2615). In addition the Shredded Wheat Buildings are Listed as being of architectural and historic importance and were part of the industrial development of the Garden City before and after the Second World War (LB158251).

The applicant has submitted an archaeological desk based assessment and reports that discuss the historic buildings with this application. Although I requested similar information in my letter of 8/7/09, I am disappointed that I was not consulted regarding the production of these documents and therefore not given an opportunity to issue a Design Brief. The proposed development is likely to have an impact on heritage assets; I recommend therefore that conditions relating to archaeological recording and a full field evaluation be imposed, should planning permission be granted.

7.11 **CABE** - Following a site visit, a meeting with the design team and two previous reviews, the planning application information was considered at an internal review meeting on the 13 December 2010 chaired by Piers Gough, with panel member, Neil Deely, and design review staff. CABE's views, which supersede all views that may have been expressed previously. We are pleased to comment on this proposal which will be a significant development within Welwyn and an opportunity to enhance its status as a garden city. The development presents a strong commitment to making the best use of the industrial heritage buildings. The scheme has a structured layout, introduces a number of green spaces and proposes a good mix of uses close to the railway station.

However, we are concerned about the arrangement of the principle public spaces within the scheme, the pedestrian routes that connect these spaces and how these spaces are defined by the adjacent buildings. The principal concerns are:

- The least successful areas of the layout, however, are the civic square, the leisure centre car park, the station drop off and the connection between the station and the supermarket. While it appears obvious for the civic square to be in the centre of the site, we remain unconvinced that it will have the feel of a piazza as envisaged. The space is poorly defined by the adjoining buildings, has multiple routes leading off it, some particularly wide, and is not demarcated as a purposeful place for public activities.
- We are concerned that the square will be difficult to animate and will lack bustle and life. We think greater clues should be taken from the squares within Welwyn Garden City that have a much greater presence.
- We feel that the pedestrian route between the station and the supermarket is rather convoluted, not helped by the proximity of building E and F to each other which obscures the entrance to the store. The design of this sequence of spaces and the arrangement of the buildings surrounding them should be reconsidered to create a route with greater legibility; that increases the visibility of the supermarket entrance and the prominence of the route between the footbridge and the civic square.
- We think the idea to locate the supermarket in place of the original production hall is good. We are concerned, however, that if the connections between the station (and therefore the town) and the store are not strong, customers will be encouraged to drive to and away from the supermarket without participating any further in the site and its activities.
- We also feel that there is an overprovision of car parking for the store which reinforces our concern that most people will drive to the site.
- While we support the introduction of a large recreation ground within the north-west corner of the site, we think that separating it from the leisure centre by a car park is unsuccessful. We recommend that the recreation ground and leisure centre are better connected, perhaps helped by a redistribution of the car parking. We also think that the location of the station drop off and the route of the vehicular access to it should be reconsidered. The vehicle access and egress to the drop of point is rather convoluted, having to circle the residential area, turn around through the leisure centre car park and back track through the residential area again. This part of the site is likely to become very congested at peak travel times and it is possible that commuters will use the access road to the supermarket car park as a drop off point instead.

7.12 **English Heritage** – English Heritage’s remit in this case principally concerns the Shredded Wheat Factory.

- The proposed demolition of substantial parts of the Shredded Wheat Factory would not entail substantial harm to its significance and should be assessed against Policy HE9.4 of PPS5.
- The harm ensuing from the work would appear modest, unless a full assessment of the works to the buildings to be retained indicates otherwise.
- In assessing the public benefit arising from the proposals, the retention and reuse of the original buildings may be considered such a benefit, subject again

to a full assessment of the works to these buildings and also a full assessment of the proposed maintenance fund for the silo range.

- On the basis of the revised information provided, English Heritage believe that the proposed works to the principal buildings of the Shredded Wheat factory may be considered acceptable, and therefore agrees that the repair and adaptation of the buildings proposed in the scheme put forward may be considered as public benefit, in the sense of the phrase as it is used in PPS5.

7.13 **The Twentieth Century Society** – Overall, we have no major objection to the plans for the redevelopment of the site. We are concerned that no future use, other than a ground floor café has been found for the silos. The scheme proposes that substantial amounts of the listed building are demolished and this demolition will result in the loss of context and significance for the factory. In assessing the proposal against (PPS5) Policy HE9.4, the society feels that in the case of the silos, the balance has yet to be found. The proposals for the silos are minimal and there is little evidence that serious exploration and consideration has been given to the re-use.

There are currently important views of the factory and its silos from the station and passing trains. The society is concerned that the proposed height of the leisure centre will obscure this view from the south west and that the redevelopment does not preserve any of these key long distance views of the factory and its silos.

7.14 **Hertfordshire County Council Property and Technology** – On a long term average, 34 primary school aged children and 26 secondary aged children will reside in this development at any point in time. It is also estimated that there will be a peak of 60 primary school aged children and 28 secondary aged children. This is based on a development mix comprising; 107 one bedroom flats, 96 two bedroom flats, 63 two bedroom houses, 30 three bedroom houses and 48 four bedroom houses. It should be noted that in the absence of an illustrative breakdown of affordable housing requirements for this proposal, this calculation is based on all dwellings being treated as open market/other with no social rent. Once this information is known it can be also incorporated to further tailor the calculation to the proposed development.

Although the secondary school forecast shows a deficit of places for 3 years starting in 2017/18, capacity issues begin in 2016/17 (when there is only anticipated to be 2% capacity at Year 7) and continue for the extent of the forecast. As a result, the children from this proposal will have an impact on secondary school services within this area. Based on the latest secondary school data, the full secondary education contribution is now being sought from residential developments in Welwyn Garden City.

In respect of primary school places, the primary school forecast shows unsatisfied demand for places from 2012/13 and as a result HCC has already started the process to expand the number of primary school places within this area to accommodate existing anticipated growth with approval being given in July to publish statutory notices to enlarge the premises of Creswick Primary and Nursery School by 1 f.e. from 1st September 2011 on a permanent basis and to expand Swallow Dell School by 1 f.e. from 2012 on a temporary basis. Accordingly, any additional children arising from this proposal will have an impact on local primary schools (It is important to note it is not always possible to expand the nearest school to a particular development, this can be for a number of reasons such the physical constraints of a site, land ownership or highways matters etc.)

- 7.15 **Non-respondents** – The following organisations were consulted on the planning application but did not respond – British Telecom, Herts Constabulary, EDF Energy, British Gas, Herts Middlesex & Wildlife Trust, Hazardous Installation Directorate, Primary Care Trust, Veolia Water and NHS (Hertfordshire).

8 Discussion

- 8.1 This application is presented to the Planning Control Committee because of the significance of the application proposals.

8.2 The main issues to be considered are:

- 1. Whether the proposal is in accordance with Policy EMP3, the Broadwater Road West Supplementary Planning Document (BRW SPD) and Policy TCR3 of the Welwyn Hatfield District Plan 2005. The considerations of impact are based on the following (TCR3) subsections:**

- (i) There is a need for the additional retail floor space which cannot be met within any of the District's town, village or neighbourhood centres;**
- (ii) The sequential approach has been applied in selecting the site;**
- (iii) It would not harm the vitality and viability of the District's town, village or neighbourhood centres, either on its own or cumulatively taken with other recent similar developments;**
- (iv) It would be accessible by a choice of means of transport;**
- (v) It would not generate unacceptable levels of car traffic nor prejudice road safety;**
- (vi) It would not have an adverse environmental impact on the surroundings;**
- (vii) It would not take land which is designated for other uses in the Plan; and**
- (viii) It would not harm the strategy of the District Plan, in particular the strategies for the town centres.**

N.B - For the purpose of this report, because of the similarity of the issues involved, sections (iv) and (v) and sections (iii) and (viii) are considered together.

- 2. Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions.**

3. Material Considerations covering the following matters:

- PPS4 – Planning For Sustainable Economic Development**
- Chief Planning Officer Letters**
- The draft National Planning Policy Framework (NPPF)**
- Planning Obligations and Planning Gain**
- Other material planning considerations**

Development Plan

- 8.3 The statutory development plan, for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, and, therefore, the development plan against

which the proposals must be assessed is the East of England Plan 2008, the County Waste Local Plan 1999 and the Welwyn Hatfield District Plan adopted in 2005. Also relevant is national planning guidance as contained in Planning Policy Statement 4 (PPS4), although this is a material consideration and is dealt with as such in section 3 of the report.

- 8.4 Welwyn Garden City town centre is the main shopping and service centre for the borough with over 62,000 sq. metres of retail floor space. It acts as a minor sub-regional centre for Hertfordshire, drawing customers from a wide catchment area, and provides a number of important civic, cultural, leisure and community facilities for the borough. It is well served by bus and rail, making it a very accessible and sustainable location. Its strength is in its primary shopping function, particularly for comparison goods, and in the quality of its environment.
- 8.5 The overall aim of the development plan strategy is to maintain and enhance the commercial, social and environmental success of the town centre. Specifically, the objectives for the town centre are to:
- (a) Provide opportunities for new retail development in the town centre and other associated uses, to increase its offer and commercial viability and maintain its role as a minor sub-regional shopping centre;
 - (b) Increase the diversity of uses in the centre, in particular cafés, restaurants and pubs, but also residential, offices and leisure, so enhancing its attractiveness as a centre, extending its life into the early evening and providing a broader range of services to local people;
 - (c) Revitalise the southern side of the town centre through opportunities for new development and a greater mix of uses;
 - (d) Maintain the centre's important civic, cultural and community functions, which should remain focused in The Campus area;
 - (e) Improve movement and access within the centre, giving priority to pedestrians and cyclists;
 - (f) Enhance the quality of its environment, its open spaces and public realm as part of the strategy to improve its attractiveness as a centre.
- 8.6 The shopping policies of the WHBC District Plan, seek to enhance the vitality and competitiveness of Welwyn Garden City town centre, as the Borough's main shopping centre, through opportunities for new retail development, by increasing the diversity of uses, particularly for the early evening economy, and by improving the pedestrian environment.
- 8.7 The applicant considers that Policy TCR1 is relevant to the determination of this application because it considers 'Retail Development in Town Centres and Edge of Town Centres'. Officers have considered the status of this site elsewhere in the report but for clarification, officers consider that it is 'out of centre' and therefore TCR1 is only relevant in that it sets out the preferred locations for retail development within the boroughs two town centres; therefore it is relevant to the consideration of the sequential test requirements only.
- 8.8 Accordingly, Policy TCR3 is the relevant District Plan policy in relation to the impact of the proposal in retail terms. This policy sets out the considerations for new retail development in out of centre locations, including the extension of existing retail stores. The policy also states that proposals for new retail development in out of centre locations, including the extension of existing retail stores, will not be granted unless all of the criteria of that policy can be satisfied. For the purposes of this report, these criteria are considered in turn.

8.9 The application is accompanied by a 'Retail Assessment' dated September 2010 by DP9 who are the applicants' agent. Nathaniel Lichfield and Partners (NLP) were commissioned by the Council to undertake a review of this retail assessment. NLP previously prepared a Retail Needs Assessment in 2007 for the Council and this study was recently updated in November 2010. In addition, given the significance of the proposals Colliers International were also instructed by the Council to provide a more qualitative opinion in relation to the sequential test and retail impacts. Colliers International did not provide any further data sources above and beyond the DP9 and NLP assessments. The views of the Council's consultants have been critically appraised by officers and both sets of views have been taken into account.

i. There is a need for the additional retail floor space which cannot be met within any of the District's town, village or neighbourhood centres

8.10 It is clear from the Welwyn Hatfield Retail Needs Assessment Update, November 2010, that, with the opening of the new Sainsbury's store in the town centre, there will be surplus capacity for convenience shopping even in 2021 (Para 3.36), so there is no quantitative and qualitative need for the superstore which is the subject of this planning application. Along with the extended Waitrose supermarket in Bridge Road (which equates to 1627sqm gross floor area), the completion of Sainsbury's superstore in Church Road (5514sqm gross floor area) will address the qualitative need for an improved town centre convenience shopping provision identified in the Welwyn Hatfield District Plan, April 2005 along with an increase in comparison floor space which is in accordance with the aims and objectives of the town centre strategy.

8.11 Previous government guidance contained in Planning Policy Statement 6: Planning for Town Centres, 2005 (PPS6), required that for planning applications for retail development in out-of-centre locations and not in accordance with the development plan, the need for the proposed development had to be demonstrated by the applicant. However, with the publication of Planning Policy Statement 4: Planning for Sustainable Economic Growth, December 2009 (PPS4, which superseded PPS6), the needs test was abolished. Because PPS4 is more recent than saved District Plan Policy TCR3, it also supersedes the needs test of that policy. Accordingly, the lack of quantitative or qualitative need for the proposed superstore which is the subject of this planning application cannot, in itself, be a reason for refusing planning permission.

8.12 However, the issue of whether or not the proposed development is needed has wider implications that have been incorporated into the consideration of this planning application. These wider implications include the store's impact on vitality and viability of comparison shopping, a potential reduction in consumer choice in terms of the number of supermarket chains operating in the borough, a potential reduction in the number of people within easy walking distance of supermarkets within the town, impacts on traffic levels jeopardising future investment in retail floorspace in the town centre on sites allocated in the District Plan and the loss of land for housing in a sustainable location with the potential knock on effect of having to release more land in the Green Belt to meet local housing requirements.

ii. The sequential approach has been applied in selecting the site

- 8.13 Government guidance requires applicants to supply a sequential assessment for planning applications of this type that are not in an existing centre and not in accordance with the development plan. The applicant has to demonstrate that sequentially preferable sites are not appropriate for the type of development proposed. To do this the applicant has to engage with the various landowners and interested parties to ensure that sites are available, suitable and viable.
- 8.14 In considering sequential assessments, local planning authorities should:
- Ensure that sites are assessed for their availability, suitability and viability.
 - Ensure that all in-centre options have been thoroughly assessed before less central sites are considered.
 - Ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access.
 - Ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i. Scale: reducing the floor space of their development;
 - ii. Format: more innovative site layouts and store configurations such as multi storey developments with smaller footprints;
 - iii. Car parking provision: reduced or reconfigured car parking areas; and,
 - iv. The scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.
- 8.15 For the avoidance of doubt officers consider that the site is classified as an 'out of centre' site. Notwithstanding this, government guidance indicates that even applicants with edge of centre sites should explore the suitability of other edge of centre sites that are better connected to the town centre which is implicit in terms of the advice given in Para 5.6 and 6.52 of the PPS4 practice guidance. Potential alternative development sites have to be assessed against their availability, suitability and viability and the PPS4 Practice Guidance defines these as:
- Availability – whether sites are available now or are likely to become available for development within a reasonable period of time.
- Suitability – whether the sites are suitable to accommodate the need or demand which the proposal is intended to meet.
- Viability – whether there is a reasonable prospect that the development will occur on the site at a particular point in time, taking into account a range of factors; market, cost and delivery.
- 8.16 The applicant's agent, DP9 has submitted a retail impact assessment and this states that despite adopting a flexible approach to the development proposed, all the identified sites that could accommodate the proposed retail element of the superstore have been discounted in terms of their availability, suitability and/or viability and the assessment concludes that the site at Broadwater Road is the most sequentially preferable site for the development proposed and therefore passes the test set out by Policy EC15 of PPS4.

8.17 The assessment submitted with the application identifies seven sites with apparent potential for the development of a full-range foodstore. They are:

Town Centre North Development Site (Saved Policy TCR4)

- 8.18 The applicant's agent suggests this site is about 0.9ha but that John Lewis is unlikely to relinquish the car park therefore the site is unavailable. The allocated site is, in fact, larger than this at about 1.4ha and encompasses Anniversary Gardens, the Bridge Road roundabout and an existing block of four units on Stonehills. DP9 also suggest the site is unviable for a food store, but no evidence is provided to support this.
- 8.19 The Town Centre North site is allocated in the District Plan to deliver the identified retail need in the plan period up to 2011 and the applicant has questioned the deliverability of this site. Policy TCR4 advises that the development of this site should only be carried out in accordance with a planning brief to be subject to public consultation and adopted as supplementary planning guidance. Several factors have had an impact on the development of this planning brief including; the need to fully assess the impacts of development on the local highway network, changes to the wider planning policy framework (the adoption of the RSS, the subsequent successful challenge and more recently the Localism Bill) as well as changes in the ownership of the Howard Centre (and the differing aspirations of these landowners). From the adoption of the District Plan and throughout this period it should be noted that the Council has remained committed to bringing this site forward for retail development but has not specifically excluded either comparison or convenience floorspace on this site.
- 8.20 DP9's assessment also concludes that the ownership of the site and any evidence of whether the owner of the site appears willing to bring it forward are in question within a reasonable timescale and that the operational requirements of the landowners and tenants make it unavailable for the development proposed. However, the PPS4 practice guidance also states that '*When promoting a proposal on a less sequentially preferable site, it will not be appropriate for a developer or retailer to dismiss a more central location on the basis that it is not available to the developer/retailer in question*'. It is also concluded by DP9 that the provision of a new retail store would have an unacceptable impact on the conservation area and that the scale of development could not be accommodated on the site. Furthermore, that the site is unviable given these issues of delivery.
- 8.21 In the District Plan, Policy TCR4 allocates this site for comparison goods floor space; given its location within the primary retail core of the town centre and the potential for linkages to the Howard Centre and John Lewis although convenience retail is not specifically excluded. The District Plan guides that the site could accommodate 9,300sqm of floorspace but that it has the capacity to accommodate a larger amount of floorspace and in officers opinion this could be up to approximately 11,000sqm of additional retail floor space if all of the developable area is utilised.
- 8.22 The allocated site could accommodate a significant amount of comparison shopping in line with the town centre strategy or alternatively, it is not out of the question that an element of convenience as part of a wider redevelopment proposal could be delivered. Officers consider that the applicant has been too constrained in their approach to assessing the suitability of this site for convenience floorspace and should have tested in greater depth the type of convenience floorspace that could be accommodated on this site.

- 8.23 Officers consider that any development on the site would need to be carefully considered but the plan is design led and therefore the impact on the conservation area cannot simply be discounted without testing through the normal procedures. Whilst the appearance is subjective, the recent Sainsbury's development has demonstrated that a substantial amount of floorspace can be accommodated within the town centre whilst still achieving an appropriate design solution and because of this, and the fact that the plan is design led, the credibility of development on the site cannot be discounted simply because the site lies within a conservation area.
- 8.24 The site may, or may not offer the opportunity for the provision of a convenience superstore and if it doesn't, officers consider that the applicant has not explored all of the options that exist for the possibility of providing convenience floor space on this site and the comparison elsewhere, for example the Campus East development site. Nor have they adequately justified why the constraints could not be overcome in terms of the public realm and car parking.
- 8.25 The use of this site for convenience floorspace is a valid consideration because of its location within the town centre primary retail core. In this respect, consideration of this site fails the test under TCR3 and EC15 of PPS4.

Campus East Development Site (Saved Policy TCR5) – Upper and Lower

- 8.26 This site is about 2.2ha in size of which about 1ha is occupied by Waitrose and a site of around 1.2ha is allocated for development. The site is located adjacent to the primary retail core and has good links with the town centre across Bridge Road and from the industrial and commercial developments on Shire Park to the North.
- 8.27 The developable land is owned by the Council but officers recognise that at the very least it is a challenging site to accommodate a retail convenience store given the presence of Waitrose. If the site is to be considered to be available for a food store development within a reasonable period of time then the Council would, need be prepared to release the site to a food store operator. The applicant has not approached the Council to enquire about the availability of the site and ultimately the Council as Local Planning Authority has had no need to investigate or plan for an amount of convenience floorspace that is not needed. It is difficult to envisage a situation where the Council would be willing to release the site for a new food store development, given the proximity of the existing Waitrose store. Setting aside the potential position of the Council as landowner there are other issues relating to the suitability and viability of the site for a food store that need to be considered in the context of the sequential test.
- 8.28 The current linkages to the town centre and absence of main road frontage need to be considered as they may affect the site's viability and suitability for a food store. DP9 argues the "limited and indirect" pedestrian route from the northern part of the site to the town centre makes the site unsuitable but in officers view there is a significant footfall through this area on a daily basis from the industrial and commercial developments on Shire Park. Any future development proposals for the town centre would also incorporate significant public realm improvements which would improve pedestrian access and therefore the footfall to this part of the town centre. Officers consider that the existing pedestrian route to the town centre (i.e. to the rear of the Waitrose store) is not ideal but it still provides less of an obstacle to pedestrians than the railway bridge route to the application site.
- 8.29 The site is also considered to be unviable by DP9 for a food store. The basis for this conclusion appears to be the presence of Waitrose, the lack of frontage and the cost of providing more than one level of car parking and DP9 suggest a food store

would fail in this location. DP9 has provided no evidence to suggest the need to retain public car parking would make the development of the site unviable and it is possible additional decked parking could be provided on site which is now commonplace. There is spare capacity in the main town centre car parks and other examples of decked car parking within the town..

- 8.30 There is an issue with the development area being obscured from Bridge Road by the Waitrose store and the decked car parking adjacent to the Waitrose store and it is obscured from The Campus by the Council offices and the former Police Station. Due to this lack of main road frontage DP9 believe the development of the site in isolation could be unviable for a food store operator and that this may result in a foodstore failing in this location. Ultimately this will be a matter for the operator but there are examples of retail stores without main road frontages such as Tesco in Ware and Sainsbury's in Hitchin and it is considered that the application does not fully explore the options available in terms of disaggregation and providing convenience floor space on this site. It is also important to note that this route is extremely well used and therefore the absence of main road frontage may not be such a significant obstacle affecting the site's suitability and viability as the applicant suggests..

Land at the Southern Side of the Town Centre (Saved Policy TCR6) – Sainsbury's redevelopment site

- 8.31 This site is currently being developed by Sainsbury's and is therefore unavailable to the applicant.

Osborne Way Car Park

- 8.32 The site is considered by DP9 to be unavailable because it is used for commuter car parking (about 400 surface spaces) and the site is not allocated for development in the local plan and in PPS4 terms it is edge of centre. DP9 also consider that the site is too small to accommodate a food store with a sales area of 4,646 sqm net although officers consider that this in itself doesn't demonstrate willingness for flexibility.
- 8.33 Whilst Network Rail own the site it is leased to the Council and this site can only be considered to be available if Network Rail is willing to co-operate and relinquish ownership and the Council to give up its lease.. The site is long and narrow (about 40 metres by 240 metres) and the limited width of the site will constrain the size of store than can be physically accommodated but this does not mean that a store couldn't be located here. The site does have a wide road frontage so convenience floor space could be acceptable and not unattractive, in retail terms.
- 8.34 If the proposed store's net sales area was reduced to a store that was roughly the size of the existing Waitrose store then it could be accommodated on this site. The issue of whether it is too small to adequately compete with larger food stores in Welwyn Hatfield is not necessarily a strict limitation because further food stores in the town do not have to be the same size to compete. In these circumstances a small store could be considered to be above and beyond what might be considered to be appropriate in terms of flexibility, but it would still offer consumers a choice, would have a main road frontage and prominence when approaching the town. Therefore it should not be discounted as an option as readily as the applicant's assessment has concluded. If this site is to be successfully considered to be an alternative to the application site then the applicant must also establish Network Rail's willingness to accept alternative car parking arrangements either decked on site or alternative off-site parking. Officers are not aware of any formal approaches to either the Council or Network Rail to discuss the matter. Ultimately, the onus is

on the applicant to demonstrate the suitability of their site over any more sequentially preferable ones and officers consider that this site has not been adequately assessed by the application's supporting sequential test.

Rosanne House Offices and Apartments

- 8.35 Officers consider that the site is unavailable due to its current uses.

Campus West

- 8.36 DP9 indicates this site is unavailable due to current uses on the site, i.e. leisure facilities and car parking. DP9 suggests the design solution to provide a food store on the site would be challenging. Based on NLP's own site visits this site is unlikely to be suitable for a food store development but the submitted DP9 assessment does not adequately explain why this is the case.
- 8.37 The site lies within the town centre boundary and is within 300m of the Primary Shopping Area making it an edge of centre site and whilst any redevelopment would require a bespoke design solution, the site needs to be more fully considered by the applicant's assessment. The authority has not marketed the site and clearly there is no intention of the Council to cease its current use however in terms of being able to satisfy the sequential test, the applicant has provided no evidence to demonstrate that there are significant constraints on the site and has not approached the authority in relation to the site's availability.

Disaggregation and Flexibility

- 8.38 As set out earlier in this section, the applicant is not required to demonstrate their proposals are needed, but government guidance in PPS4 suggests that an applicant must demonstrate the need cannot be met in sequentially preferable locations, allowing for flexibility and the scope for disaggregation (i.e. the breaking up of something into smaller units). Applicants must also demonstrate that they have been flexible in terms of the scale of store proposed and the amount of car parking and PPS4 advises that *'The decision by an individual retailer to promote a business model which cannot be accommodated in an existing centre will not justify discounting more central sites where they are available, suitable and viable'*.
- 8.39 The applicant also argues that as a result of reducing the size of the store it would not be able to compete effectively with the current retailers nor would it be able to claw back expenditure currently being lost to the out-of-centre stores which are afforded no policy protection and concludes that the scale of the proposed development to be appropriate to this location. However, there is only merit in clawback if it achieves an enhancement to the town centre or a significant reduction in vehicular mileage and because neither of these is proven, it is essentially diversion from both town centre and out of centre stores to an out of centre location. For member's information, the completed Sainsbury's store is split between convenience/food sales goods at first floor of 3321sqm and 2194sqm of comparison at mezzanine level which is roughly a 60/40 between the two. Waitrose has a sales area of 1447sqm (1627gross). The current store that Tesco are proposing would have a total of 4,300sqm, split between 2,907sqm of convenience and 1,393sqm of comparison which would equate to 67% convenience and 32% comparison.
- 8.40 The applicant must clearly demonstrate flexibility and the potential for disaggregation. It is therefore necessary to consider what need/demand the proposal (and the proposed business model) will meet, and the applicant must explain why this need/demand cannot be met within existing centres, after flexibility and the scope for disaggregation of the goods sold have been demonstrated. DP9 argues disaggregation of the proposed store is not appropriate because physically

separating the proposed new floor space would not address the specific need for the proposal. Originally, 37% of the proposed sales floor space (1,739 sqm net) would be devoted to the sale of comparison goods. In NLP's view the provision of 1,739 sqm net of comparison sales is reasonably large for ancillary non-food sales and the provision of over 1,700 sqm net of comparison sales is above the level that is necessary for ancillary non-food sales one would normally expect to find within a food superstore. This has been reduced to 1,393sqm of comparison or 32% in September 2011 and is less than Sainsbury's. However, this has been done to reduce the comparison goods impact but the convenience floorspace remains unchanged and higher than the Sainsbury's store.

- 8.41 While there is no policy requirement to demonstrate need, an operator claiming that it is unable to be flexible about its chosen 'business model' would be expected to demonstrate why a smaller store or stores could not meet a similar need/demand. Tesco has a number of different business models, and in this case officers do not believe they have demonstrated the proposed business model is necessary to provide the benefits suggested. Retailers, particularly the main convenience operators, trade from a range of formats. In all these circumstances officers do not accept that a smaller store of a size similar to the existing stores within the town would not be able to compete effectively with the existing town centre stores, effectively by limiting its comparison goods offer. A smaller store would also be likely to claw back some expenditure being lost to out of centre stores, but not as much as the store that is being proposed. The applicant has requested that a reduction in the comparison floorspace being offered by 346sqm be taken into account. Whilst this reduction does demonstrate some flexibility, it is only a reduction in the comparison element and still, given the size of other stores within the town centre such as Waitrose adequately demonstrate a sufficient degree of flexibility and is more down to the lack of success this element of the Tesco model is currently experiencing than sufficient demonstration of the scope for flexibility in scale and disaggregation.
- 8.42 The applicant has not demonstrated that other forms of development on sequentially preferable sites cannot meet the need for additional comparison retail floor space. Part of the comparison element of the proposal could be disaggregated and the need for this additional floor space can be met by other types of retailing on more central sites. Notwithstanding the reduction in comparison floorspace recently offered, the applicant has not provided a breakdown of how the proposed comparison sales floor space will be used, therefore it is not possible to fully explore the scope for disaggregation and DP9's assessment does not provide any qualitative assessment to demonstrate there is a genuine imperative that the store should be of a scale and character proposed and the applicant has not demonstrated that there is a requirement for the two elements to be provided in the same store in one single location.
- 8.43 Disaggregation would enable two elements of the store to be provided within the existing town centre and it would be possible to accommodate both the convenience and comparison elements on other sites within the centre although the applicant has not sought to discuss the availability of alternative sites with the LPA as advised by government guidance. In conclusion, it is not considered that the applicant has demonstrated to the satisfaction of the Local Planning Authority the potential for disaggregation or carried out sequential assessment based on the potential disaggregation of the store. In addition, it has not been adequately demonstrated that after applying sufficient flexibility in terms of the scale of the store and car parking that there are not suitable, alternative sites within the town centre.

8.44 In relation to car parking, the applicant has to demonstrate that they have been flexible in providing car parking in order that alternative sites within a town centre which may be more restrictive in terms of space for parking can be fully considered. The proposed car parking for the store is 459 spaces, 23 of which are disabled and 60 cycle spaces. The store has a Gross Floor Area of 8027sqm and therefore the maximum number of spaces required by the store element alone is 535 spaces (1 per 15sqm of gfa). Given that the site lies within a Zone 2 location (as defined by the adopted parking standards) a 25-50% reduction could be made and the general presumption in the adopted parking standards is to impose the lower (most restrictive) end of the range. Accordingly, given the relatively sustainable location of the site, subject to a satisfactory travel plan framework officers would normally expect to seek a provision of between 133 – 267 spaces. The fact that the application is providing 459 spaces or 85% is a clear indicator that the applicant has not demonstrated a sufficient degree of flexibility in relation to car parking provision. The proposed car parking for the store is at the maximum end of the adopted standards and there are concerns that the Travel Plan Framework is being used to address the impact as identified as opposed to securing further mitigation. Accordingly, the applicant has failed to demonstrate sufficient flexibility for car parking for the store which for member's information would be even lower for one of the town centres sites as these are zone 1.

Conclusion on Sequential Test

- 8.45 The sequential approach forms a key policy consideration, and can in itself be a clear reason for refusal. As such it is critical that applicants carry out a thorough assessment to explore alternative options, and that if more central opportunities are rejected, it is for sound reasons which are clearly explained and justified as the onus rests on the applicant to demonstrate compliance with sequential approach. However best practice also guides that if the LPA proposes to refuse an application involving town centre uses on the basis of the sequential approach, it should be on the basis that it considers there is, or maybe, a reasonable prospect of a sequentially preferable opportunity coming forward which is likely to be capable of meeting the same requirements as the application is intended to meet.
- 8.46 Officers consider that the applicant has not demonstrated there is a requirement for the two elements of the store to be provided in the same store in this location. It is also not considered that the applicant has demonstrated sufficiently, the potential for disaggregation of the store or carried out a sequential assessment based on the potential disaggregation of the store. In addition, that sufficient flexibility has been demonstrated flexibility in terms of scale and car parking.
- 8.47 Issues of availability have been raised by the applicant in relation to some of the town centre sites. The issue of availability and the sequential approach have to be considered together with the impact of development occurring in edge or out of centre locations, and the long term consequences for town centres. Thus, whether it is appropriate to assess availability over three to five years, or a longer time period will depend upon local circumstances. Given the allocation within the plan, officers consider that Town Centre North and could realistically be delivered on its own or with additional supporting development on Campus East site, although a longer time period may be required because of the site's location and subsequent complexity in terms of overcoming the design and access constraints of developing within a tightly layed out modern conservation area and this justifies taking a longer term perspective.
- 8.48 Whilst some of these issues could potentially be resolved through additional assessments being made, there are fundamental issues with the sequential test

assessment that has been submitted and that more importantly, require a significant amount of additional work to be undertaken by the applicant in order that an accurate and fully reasonable and accurate conclusion can be reached. The onus is on the applicant to demonstrate compliance with the sequential test and based on the evidence and assessment that has been submitted with the application, the current proposal clearly fails to address the requirements of the sequential approach and the proposal is therefore contrary to Policies TCR1 and TCR3 of the Welwyn Hatfield District Plan 2005 and Policy EC17.1.a of PPS4 in particular, a failure to comply with EC15.a, b c and d.

- iii. **It would not harm the vitality and viability of the District's town, village or neighbourhood centres, either on its own or cumulatively taken with other recent similar developments; and**
- viii **It would not harm the strategy of the District Plan, in particular the strategies for the town centres**

- 8.49 The Council has commissioned an assessment of the health of the town centre which concludes that the town functions on a variety of levels supplying an ever increasing demand from local residents for comparison and convenience goods. The accommodation as a whole does not necessarily fit modern retailer requirements because of the original garden city design, although the recent Sainsbury's store is an example of how this could be achieved. Whilst it performs well, its relative small size means that it can't compete with larger regional centres or out of town locations. Accordingly, the improvement of the quality of the town centre rather than just an increase in the quantum of floorspace should be the basis for future growth, as per the town centre strategy. Vacancy rates are currently around 10%. The two main sites in the town centre are developable and will make a major contribution to the town centre's vitality and viability. The work also concludes that the availability of new and used accommodation is important for the town as it creates interest and demand and the lack of any perceived expansion will affect stagnation and uncertainty.
- 8.50 Assessing the impact of the proposal on town centre vitality and viability is not a precise science and there is a need to exercise judgment. This is a difficult issue to address as the effects of the Tesco store would not be seen until at least 2016, complicated further by the uncertainty of changes that will occur now that the redeveloped Sainsbury has commenced trading (as trading patterns often need to settle after a new store opens). However, the fundamentally important consideration is the impact of the proposal on existing, committed and planned public and private investment in a centre, the impact on consumer choice and the quality of the comparison and convenience retail offer. The impact of the proposal on in centre trade and turnover is critical in assessing these impacts. The supporting statement from DP9 states that the proposal will not have any detrimental effect on public or private investment in nearby principal shopping centres within the catchment area of the proposal.
- 8.51 The supporting information with the application states that the proposed food store is intended to enhance the attractiveness of Welwyn Garden City as a retail destination and that the existing shopping provision will benefit from increased footfall and hence therefore there will be a positive impact on vitality and viability. It goes on to claim that links to the town centre are an essential part of the redevelopment and that these will be achieved by landscaping the area, dramatically reducing the current length of the bridge, and installing a lift within a new bridge house that can be bolted onto the existing structure (and any future)

structure - offering full disabled access and a much more attractive and safer route to the Howard Centre from the east side of the railway.

- 8.52 It goes onto state that the redevelopment will not affect the vitality and viability of existing town centre, with the main impacts both in terms of convenience and comparison goods will be experienced by the out of centre stores comprising Morrison's at [Black Fan Road] and Tesco Hatfield. The applicant has also provided a brief health check of the town which concludes that the centre has a good selection of shops and services and a good environment with low vacancy rates.

Impact on Convenience offer

- 8.53 In the supporting PPS4 Retail Assessment the impact on the convenience offer is summarised as follows:

Store and Location	Existing Turnover £m	Diversion to Tesco £m	Resultant Turnover	Impact
Town Centre Stores				
Sainsbury's	30.36	4.38	25.98	14%
Waitrose	26.38	2.40	23.99	9%
Others (inc MandS and Iceland)	11.89	0.29	11.60	2%
Out of Centre Stores				
Morrison's	25.86	6.65	19.21	26%
Tesco, Hatfield	75.88	14.31	61.57	19%
Neighbourhood Centres	38.71	0.66	38.05	2%

- 8.54 The applicant claims that in both monetary and percentage terms, the greatest level of impact will be experienced at Morrison's Black Fan Road and Tesco Hatfield but that it should be noted that both of these stores are in out of centre locations and as such retail impact on them in policy terms is not a key consideration. The applicant claims that this confirms that the town centre is suffering from high levels of leakage to out-of-centre stores, meaning that the potential for linked food and non-food shopping trips is not being maximised. DP9 also claim that Tesco at Hatfield has a large number of trips from Welwyn Garden City residents, which has resulted in significant overtrading from that store. It is important to state that diversion levels, although based on experience are in fact judgements or estimates only.
- 8.55 The assessment goes onto claim that in terms of existing foodstores with Welwyn Garden City town centre, the level of impact is relatively minor with Sainsbury's due to experience trade diversion of 14% and Waitrose 9%. Whilst this is a negative effect, it is not so significant as to undermine the vitality and viability of either store and the assessment forecasts that by 2021, both stores will have clawed back market share and will be trading at company average.
- 8.56 NLP, one of the Council's advisers in relation to the retail impact suggest that the application may have overestimated the amount of convenience goods expenditure available to support new floor space in Welwyn Garden City and that there are concerns regarding DP9's expected distribution of trade diversion to the proposed store, i.e. the relatively low level of trade diversion from Welwyn Garden City town centre.

- 8.57 Most of the Tesco store's turnover is expected to be diverted from large food stores. Trade diversion from stores within Welwyn Garden City and Hatfield town centres (£8.09 million – less than 22% of the Tesco store's turnover) is considered to be unrealistically low, because the proposed store will also compete directly with these stores for both main and top-up food shopping trips, as well as out of centre stores. The application attempts to spread trade diversion thinly and disproportionately towards out of centre stores and other towns, reducing trade diversion from Welwyn Garden City and Hatfield town centres and accordingly the impact could be greater.
- 8.58 In relation to the impact on the range and quality of the convenience offer, building on NLP's retail study update, NLP assessed the convenience goods impact of the proposed Tesco food store. This assessment examined trading patterns in the base year 2010 and design year 2016. The highest proportional impact will fall on large food stores in Welwyn Hatfield. Trade diversion from the two main stores in Welwyn Garden City town centre, Sainsbury's (as expanded) and Waitrose is about 24.5% and 16.7% respectively. As set out above, and by way of comparison DP9 suggest impact of 14% and 9% respectively.
- 8.59 Impact on other convenience facilities in Welwyn Garden City town centre is estimated to be 6.4%, primarily from the Marks & Spencer and Iceland. DP9's comparable impact figure is 2%. NLP's overall impact on the convenience sector in the town centre is - £11.71 million and an impact of 18.4%. DP9's comparable figures are - £7 million and an impact of 10.2%.
- 8.60 NLP's figures suggest the Sainsbury's and Waitrose residual turnovers (£21.42 million and £20.29 million) will be about 23% to 24% below their benchmark turnovers. These relatively low levels of turnover do not necessarily indicate either the Sainsbury's or Waitrose stores will close, because some stores will trade above average and others will trade below (although there has been no confirmation from either company that this is a realistic proposition).
- 8.61 The assumptions could still be relatively low, because the proposed store will also compete directly with the two main town centre stores for both main and top up food shopping trips, as well as the out of centre stores. The impact would mainly fall on M&S, Iceland, Costcutter and other independent retailers and although there are no figures available for the relative breakdown of impact on each store if the impact was to result in the closure of one or more of the stores then this would have the effect of reducing consumer choice in terms of the range of operators in the town. This is because the new Tesco store would carry premium, mid and value range goods and it is likely that a higher than estimated amount of trade would be diverted from these stores.
- 8.62 NLP advise that the impact on convenience facilities in Hatfield town centre is estimated to be 6.1% (-£2.31 million) in 2016, most of which will come from the Asda store. The cumulative reduction in Hatfield town centre's convenience goods turnover is from £37.38 million in 2010 to £35.54 million in 2016, a 4.9% reduction. The Asda store is unlikely to close and impact on small convenience shops in the town centre will be offset by expenditure growth between 2010 and 2016. For the purposes of this application, Hatfield town centre has been built into the assessments made and has to be evaluated, however it is a distraction to debate this issue in the context of the future of Hatfield town centre and this is provided for completeness only.
- 8.63 DP9 has not specifically addressed the impact on nearby convenience stores within designated neighbourhood centres i.e. Somerfield at Cole Green Lane and One

Stop at Peartree Lane. However, NLP advise that the impact on convenience stores in the closest neighbourhood centres will be around 5 % to 6%. Impact on the Somerfield store in Woodhall Neighbourhood Centre is estimated to be 6% and the impact on other convenience shops in the neighbourhood centre is estimated to be 4.4%. Impact on convenience goods facilities in Peartree Lane neighbourhood centre is estimated to be 5.6%.

- 8.64 Convenience shopping facilities in these two neighbourhood centres are small stores/shops that rely predominantly on top-up shopping rather than main food shopping trips from customers who live within walking distance or passing trade. The Tesco store should not compete directly with these facilities, however the Tesco store's top up shopping catchment will overlap to some extent with these neighbourhood centres and some trade diversion is likely. Large stores also have the propensity to act as 'corner shops' or 'neighbourhood' centres for those shoppers for whom they are more convenient.
- 8.65 The cumulative reduction in the Morrison's convenience goods turnover is from £26.92 million in 2010 to £18.96 million in 2016, a 29% reduction. The store's residual turnover (turnover once the Tesco store is in operation) (£18.96 million) is about 40% below the company average. NLP estimate that the Morrison store is currently trading 15% below the company average in 2010, and this will increase to 24% below following the implementation of the new Sainsbury store in Welwyn Garden City town centre. There is risk this level of cumulative impact could force the Morrison's store to close.
- 8.66 Advice given in PPS4 Policy EC16.1 relates to impact on centres. It does not specify impact on other out of centre stores although PPS4 does require applicants to consider impact on the wider area e.g. the rural economy. It also suggests local impacts should be considered, but again this only relates to impacts on centres, and also only locally important impacts identified in development plans (PPS4 Policy EC3.1.e.). The Morrison's store at Black Fan Road is not a designated centre within the adopted development plan. If the Morrison store closes then the benefit of the Tesco store in respect of improved consumer choice and competition would be lost to these customers and the distribution of food stores in Welwyn Garden City urban area will be inferior.
- 8.67 The applicant claims that the scale of the proposed new foodstore will allow Tesco to compete effectively with the existing retail provision in Welwyn Garden City town centre and specifically the out-of-centre Morrison's Black Fan Road and Tesco at Hatfield from which the bulk of trade will be drawn.
- 8.68 Morrison's Supermarkets Plc have made a representation that is summarised Appendix 2 but have warned that *'there is a real risk the store may close'*. The applicant's agent has responded to the representation and have stated that no information has been provided to back up the claim that the store will be forced to close and ultimately the applicant views the reference to closure as an attempt to undermine the Spenhill proposal and that it should be dismissed.
- 8.69 The proposed Tesco store will provide more choice and competition in terms of large food stores within Welwyn Garden City, but only if all existing food stores remain trading. The Morrison store appears to be the most vulnerable to closure and any benefits of additional choice provided by the Tesco store will be lost if the Morrison store were to close.
- 8.70 Figures produced by NLP suggest existing food stores in Welwyn Garden City will be trading below expected levels in 2016 following implementation of the new store

and there is no evidence of over-trading or congestion within these existing stores. The negative impact of the replacement of the Morrison's store with Tesco would be accessibility for residents in the east of Welwyn Garden City and the loss of choice in terms of operators available in the Borough. Existing Morrison's customers who live near to, or to the north or east of, the Morrison's store will have to travel 1.5 kilometres further to visit the Tesco store (a round trip of 3 kilometres). Some of the impact of this additional need to travel could be offset if the Tesco store was more successful in generating linked trips to the town centre. Officers consider that the potential closure of the Morrison store would have a negative impact on levels of accessibility to food store on foot, which will be particularly disadvantageous to those without access to a car, elderly, disabled and parents with children. There is a much larger residential population within a 400 and 800m radius of the Morrison's store and it is preferable in terms of its walk in catchment. The Morrison store has 792 dwellings within 400 metres and 3,795 dwellings within 800 metres, compared with 410 dwellings and 2,474 dwellings for the application site. It should also be noted that many of the dwellings close to the application site are also within walking distance of Waitrose. Ultimately, the store will be less beneficial in terms of improving accessibility for pedestrians and its closure would reduce the overall walk in catchment area. In addition, this would reduce consumer choice in terms of foodstore provision within Welwyn Garden City for those living closest to the Morrison's store.

- 8.71 Whilst the existing convenience stores are located in the defined town centre which would support potential expansions or reconfigurations and whilst it is unlikely any main operator would chose to close a store, the estimated low turnovers will be likely to affect future investment decisions which may in turn further reduce the market share of Welwyn Garden City and its function as the most sustainable location for shopping. The estimated distribution of convenience goods trade diversion is unrealistically low and the applicant has attempted to spread trade diversion thinly and disproportionately towards out of centre stores. Officers consider that the NLP assumptions are still relatively low and that the proposed store will compete directly with the two main town centre stores for both main and top up food shopping trips, as well as out of centre stores. If the Morrison's store were to close then the benefit of the Tesco store in relation to improved consumer choice and competition would be lost and the distribution of food stores in the town would be inferior. The applicant has emphasised the view that impact on an out of centre store is not a material consideration but granting planning permission for an out of centre store on the justification that it would derive significant trade from another out of centre store is not good practice, especially when the closure of that store would lead to negative impacts on the levels of accessibility to a foodstore for some residents of the town. In taking this view officers are not seeking to protect the existing out of centre Morrisons store for its own sake (recognising that such stores attract no policy protection on vitality and viability) but are bringing into account the impacts on accessibility to foodstores by sustainable modes of travel. The net effect if Morrisons closes is that less people will be within walking distance of a large foodstore and so there will be a greater propensity for trips to be made by less sustainable modes of travel.

Impact on Comparison offer

- 8.72 The supporting DP9 retail assessment states that *'There is currently a total of £999.56m of comparison expenditure in the catchment area. This is expected to rise to £1,306.30m by 2016 an increase of 24% as a result of both population and expenditure growth. By 2021, population growth is estimated to have increased again bringing anticipated comparison expenditure to £1,690.44m. The comparison element of the proposed new Tesco foodstore will be 1,739 sqm. In line with advice*

provided by NLP we have utilised a Tesco average turnover of £11,084 per sqm. This means that in 2016, the first year of assessment, the store would have a turnover of £19.27m. In both monetary and percentage terms, the greatest level of impact will be experienced at the existing Morrison's Black Fan Road and Tesco Hatfield stores, as these have a comparable offer to that proposed by the new foodstore. On the other hand, Welwyn Garden City town centre will only experience an impact of 2% as a result of the proposed new foodstore. Bearing in mind the strength of the centre (its vacancy levels are just 4% compared with the national average of 11%) such levels of diversion are entirely within the bounds of acceptability and will have no perceptible detrimental effect on the centre's vitality and viability'.

8.73 The impact on comparison is summarised by DP9 in the table below.

Store and Location	Existing 2016 Turnover £m	Diversion to Tesco £m	Resultant Turnover	Impact
Welwyn Garden City	281.32	6.33	274.99	2%
Hatfield	39.40	0.53	38.88	1%
Hatfield Galleria	49.78	0.40	49.38	1%
Out of Centre Supermarkets	62.96	6.81	56.15	11%

8.74 NLP suggest that in terms of Base year (2010) shopping patterns, the turnover of comparison facilities in Welwyn Hatfield is estimated to be £349.09 million in 2010. The turnover estimated in 2007 was £361.98 million (deflated to 2009 prices). In real terms the comparison turnover of facilities in Welwyn Hatfield appears to have reduced by 3.6% between 2007 and 2010 due to the effects of the recession. The turnover of comparison shopping facilities within nearby neighbourhood centres at Peartree Lane and Woodhall are estimated to be £0.25 million and £0.61 million respectively.

8.75 NLP also advise that in terms of future year trading patterns in 2016, assuming no growth, in total the amount of comparison expenditure attracted to Welwyn Hatfield is expected to increase from £349.09 million in 2010 to £424.82 million in 2016, a 21.7% increase. However not all of this £75.73 million growth will be available for new development. About £35 million of the £75.73 million growth will be absorbed by planned investment i.e. Hatfield town centre development and the enlarged Sainsbury's store. Allowing for existing floor space to increase its turnover efficiency (2% per annum after 2012) turnover is expected to increase by 8.2% between 2012 and 2016. This is consistent with NLP's retail study update, which suggests surplus comparison expenditure over and above committed developments in 2016 will be only £15.28 million. The turnover of comparison shopping facilities within Peartree Lane neighbourhood centre is estimated to increase from £0.25 million in 2010 to £0.31 million in 2016. The turnover of comparison shopping facilities within Woodhall neighbourhood centre is estimated to increase from £0.61 million in 2010 to £0.76 million in 2016.

8.76 In terms of future trading patterns in 2016 with the proposed store, NLP have outlined that the highest level of proportional impact (8%) is expected to come from other out-of-centre stores in Welwyn Hatfield (predominantly Tesco and Morrison). The comparison turnover of Welwyn Garden City town centre will reduce from £255.9 million to £245.47 million, an impact of 4.1%. This will include comparison sales within the Waitrose and enlarged Sainsbury's store. Impact on most comparison shops within the town centre is likely to be less than 4.1%.

- 8.77 However, officers consider that the impact on these stores in terms of comparison shopping may have been overestimated disproportionately because whilst the Tesco Extra (Hatfield) carries a large proportion of comparison goods, the Morrison's store carries a very small amount as per the standard Morrison's offer. Whilst the NLP report suggests a lesser impact of 8% on out of centre stores, officers consider that this could still be disproportionately high and that the trade diversion of comparison goods is likely to be less than £2m or 3%. As a result of less trade diversion from out of centre supermarkets, diversion from stores within the town could be higher than estimated. DP9 state that there will be just a 2% impact on the stores within the town centre as a result of the proposed foodstore and NLP suggest a higher 4% impact based on £10.4m trade diversion from the town centre.
- 8.78 The 'Planning for Town Centres Good Practice Guide' 2009 is also relevant. Paragraph 7.29 explains that to judge impact on turnover/trade: *it will be necessary to balance the desirability of maintaining and enhancing the turnover of existing facilities with the benefits of improved consumer choice, competition and access to new facilities*'. For example, where a development is outside the town centre, care needs to be taken not to promote new or improved facilities simply on the basis of fostering choice or competition where there is insufficient quantitative need and the development may undermine investment or harm the vitality and viability of a nearby town centre. Conversely, there may be circumstances where a lack of quantitative need may be offset by choice and competition considerations. There are no meaningful benchmarks of what constitutes an acceptable level of trade diversion but Paragraph 7.32 of the practice guide continues: *Where a centre is experiencing falling rents, (as is the case in the town) high levels of vacancy and declining footfall, even modest levels of trade diversion can have significant adverse impacts*'. NLP and DP9 estimate that approximately £4m of comparison expenditure will be diverted from centres in the wider catchment area but Colliers International consider that this could be an overestimate and ultimately, taking a precautionary approach officers are not convinced that there will be significant trade draw from outer catchment area locations and instead a greater level of trade will be drawn from Welwyn Garden City.
- 8.79 In terms of the comparison goods offer, NLP consider that the turnover of Welwyn Garden City town centre is expected to increase from £220.01 million in 2010 to £255.90 million in 2016 (£35.89 million growth), allowing for uplift from development in Hatfield. The expanded Sainsbury's store will absorb around £5 million (likely to be higher because of the increase in comparison sales of 661sqm that postdates the NLP work), leaving approximately £30 million growth. The Tesco store's, previously 1746sqm net of comparison sales floor space but now reduced to 1393sqm (a reduction of 353sqm or c.20%) is expected to absorb between £10m and £15m, leaving £15-20 million growth in the town centre.
- 8.80 Advice given by NLP guides that it is reasonable to expect that existing comparison floor space in the town centre will increase its sales density by 8.2% between 2010 and 2016, and this increased turnover efficiency could absorb £18 million growth. DP9 identifies 12 vacant units in Welwyn Garden City town centre (6.4% vacancy rate), which could also absorb further growth. There would either be limited additional expenditure growth in a 'best case' scenario (around £2 million) to support other investment/development in the town centre up to 2016 or there could be stagnation in growth or a even a reduction. This take up of most of the available expenditure by the foodstore and forecast growth is likely to impact on potential investment and development by existing and new retailers within the centre. Whilst

the centre has vacancy rates below the national average, the lack of available expenditure suggests that the potential for these units to be occupied is reduced.

- 8.81 Impact on comparison facilities in Hatfield town centre is estimated to be 2.2% in the NLP report (-£1.50 million). Furthermore, the turnover of Hatfield town centre is expected increase from £40.91 million in 2010 to £67.46 million in 2016 (£26.55 million growth). This level of projected expenditure growth is expected to offset the impact of the proposed Tesco store and accordingly, this would not be an adverse impact.
- 8.82 Impact on comparison shopping facilities within nearby neighbourhood centres (Peartree and Woodhall) is estimated to be 3.8% within the NLP report. However the residual turnovers of these two centres (£0.29 million and £0.73 million) will still be higher than base year turnover levels in 2010 (£0.25 million and £0.61 million) and trade diversion to the Tesco store will be more than offset by expenditure growth between 2010 and 2016 and accordingly, this will not be an adverse impact.

Indirect Impacts and Linked Shopping Trips

- 8.83 The applicant has drawn to the Council's attention a paper entitled "Linked Trips and Town Centre Viability", produced by the University of Southampton. This paper explores the effect on a town centre resulting from the development of an edge of centre Tesco store concludes that:-
- An edge-of-centre rather than an out-of-centre location produces a substantial uplift in linked-trip propensity – of up to 70%.
 - The edge-of-centre linked-trip generation levels reported (between 33% and 64% depending on definition used) are considerably higher than the extremely low levels (in the region 10-15%) cited in two UK academic studies from the 1990s that are widely referred to when looking at the potential for linked trips.
 - Despite the fears of many local traders and residents, the new edge-of-centre store was not accompanied by a decline of the existing centre. Although the edge-of-centre development produced the anticipated realignment of the town's pre-existing retail centre of gravity, new entry by small traders occurred, resulting in no overall change in the number of occupied retail/service units in the pre-existing retail core 12 months after the opening of the new store/development.
 - The increased attractiveness of the town as a main food shopping destination – perceived by both consumers and traders – was accompanied by a potentially important shift in prevailing consumer attitudes towards the town's previously declining viability.
- 8.84 DP9 state that the proposed foodstore will enhance the attractiveness of Welwyn Garden City and that existing traders will benefit from increased footfall which will have a positive impact on vitality and viability. However, this is an assumption based on the statement by DP9 that the application site is edge of centre and will therefore promote linked trips and furthermore, that this will also be improved by the creation of an improved bridge link.
- 8.85 PPS4 guides that account should be taken of local circumstances, for example local topography, barriers such as car parks and the attractiveness and perceived safety of the route and the strength and attraction and size of a town centre is determining whether a site is 'edge of centre'. Furthermore, it goes on to state that a site will not be well connected to a centre where it is physically separated from it by a barrier such as a major road, railway line or river and there is no existing or proposed pedestrian route which provides safe and convenient access to the centre.

- 8.86 For the avoidance of doubt officers consider that the site of the store is classified as an 'out of centre' site with its main shopping entrance located greater than 300m from the town centre's primary shopping frontage. Given the site specific circumstances of the study that DP9 refer to, the inclusion of the above report and the findings above have limited relevance to this application.
- 8.87 DP9 has not provided a detailed analysis of the indirect impacts of the proposed food store in terms of linked shopping trips made to the town centre but suggests these impacts will be positive, although limited evidence has been produced to support this.
- 8.88 NLP have advised that the number of diverted linked shopping trips from Welwyn Garden City town centre to the Tesco store is estimated to be 264,000 trips per annum. However some of these diverted food and grocery shopping trips will continue to be linked with non-food shopping in the town centre. Furthermore, the proposed Tesco will attract new linked shopping trips to Welwyn Garden City town centre i.e. trips currently made to out-of-centre stores and stores outside Welwyn Hatfield. NLP advise that the Tesco store could generate 322,000 linked trips but also stated that if the store acted as a one stop shopping destination then the effect on linked trips could actually be negative. This demonstrates the difficulty in assessing linked trips with any degree of precision.
- 8.89 The applicant's agent responded to the issue of linked trips on 4 August 2011 and the work that NLP had completed stating that the proposal has been looked at in isolation with no regard being given to the residential, office, leisure and most importantly the bridge enhancement proposed by N6/2011/0611/FP. Furthermore, that there is no recognition of the fact that the proposed store will generate 60% of its trade through diversion from existing out of centre supermarkets and consider that the replacement works to the bridge will make the Tesco site genuinely edge of centre, within 300m of the Howard Centre. As discussed earlier in this report, officers disagree with this view and consider that the 60% trade diversion is an over estimate. The works to the replacement bridge would bring the store no closer to the Howard Centre but would improve legibility and accessibility. However the current expanded bridge has an objection from Network Rail, who wish to see the bridge reduced in order that all access onto the bridge is from Network Rail land and this would actually reduce legibility between the store and the town centre. Accordingly, the site would not be edge of centre and is out of centre.
- 8.90 Furthermore, the local plan inquiry Inspector took the view that 'Whilst the existing footbridge from the site directly enters the shopping mall, it does so at first floor level and by means of a narrow uninviting doorway, particularly as seen from the town centre side'. In addition, the Inspector stated *'I have no doubt the existing footbridge could be made much more attractive. However, it seems to me that the linkage to the site from the town centre would remain a relatively narrow "pinch point" at first floor level with a poor relationship to the pattern of pedestrian flows and facilities in the rest of the town centre'*.
- 8.91 Officers consider that the customers diverted from Welwyn Garden City town centre food stores to Tesco would not link their food and grocery shopping trip with other shopping in the town centre, and this would be a negative impact. In addition, there is scope for the proposed store to act as an alternative for at least some of the trips that might otherwise be made to the Town Centre by residents in the immediate catchment zones such as Peartree and Woodhall and this would run contrary to the objectives of supporting town centres.

8.92 It is the officers' view the impact of the Tesco store on linked trips to the town centre is likely to be neutral (at best), although officers do not believe that the pedestrian bridge improvements will significantly improve footfall and therefore linked trips and effectively the new store would act as a 'one stop' destination. This view is also supported by the Council's Urban Design advisers, Tibbalds who have concerns that the location of the store entrance and the legibility of this area of the site is not acceptable enough to promote the level of linked trips that the applicant considers will occur. Accordingly, the emphasis put on the increase in the number of linked trips that the applicant claims will result is not considered to be sufficiently robust enough to be a positive impact of the scheme.

Transport Impacts on town centre strategy

- 8.93 Whilst an assessment of the highway impacts resulting from the scheme are discussed in more detail later on in this report, officers were alerted by concerns raised by Hertfordshire County Council as Highway Authority at the impact of the scheme (and in particular the retail food store) on the capacity of the local highway network. The applicant has prepared a Transport Assessment (TA) which considers the traffic impacts resulting from the scheme and a series of mitigation measures. One of the transport modelling tools used by the applicants (Paramics) looks at the impact of the scheme on a defined area of the strategic network. A base Paramics model of the town centre and Broadwater Road area had previously been developed by HCC and has been used by the Council to assist with the preparation of a planning brief for the Town Centre North development site.
- 8.94 Essentially, several of the wider transport mitigation measures identified in the applicant's TA (following an assessment of the scheme with the Paramics modelling tool) had also previously been identified by the Council as necessary to enable retail development to go ahead on the Town Centre North development site. This lead officers to question whether the local highway network has enough capacity to support both the applicants scheme and the Council's own aspirations for retail growth in the town centre in line with the Council's adopted town centre strategy. Additional modelling work was therefore requested by the Council (and reviewed by HCC to ensure robustness) to assess the traffic impacts on the network that would result if both the proposed application and the Town Centre North development site were to go ahead.
- 8.95 The additional modelling shows that in order to release the Town Centre North site for development (i.e. to make the necessary highway changes required to bring this land forward) two further mitigation measures are required: the removal of on street parking southbound along Parkway and the introduction of a priority junction at Church Road/Fretherne Road/Longcroft Lane. These measures are in addition to the list of mitigation measures that had previously been recommended as a result of transport modelling by both the applicant and the Council. These two additional measures are suggested to improve the capacity of the network in these locations (so as to reduce queuing) but have not been considered in any greater detail in terms of any environmental consequences. Once the trips that would be generated from the retail floorspace to be provided on the Town Centre North site (9,800sqm) are then added into the model, the results indicate that the introduction of a Link Road between Osborne Way and The Campus would be required to mitigate the traffic impacts of bringing this site forward. The proposed link road would run under/through the multi storey car park and bridge approach resulting in significant engineering works. Such works have a significant capital cost and the delivery creates a degree of uncertainty for investors. It should be noted that the introduction of a Link Road is not a new concept and is a highway mitigation measure that the Council has previously contemplated in relation to the development of Town Centre

North. However, when the development of the Town Centre North site is modelled in isolation (i.e. without the Spenhill planning application but with an SPD compliant scheme on Broadwater Road) there is no direct need to provide a Link Road, and indeed the benefits of such a mitigation measure is only evident when levels of new retail floorspace provided in the town centre are reaching much longer term needs projections (i.e. when reaching levels of almost 24,000sqm retail floorspace).

- 8.96 Ultimately the impact of the proposed scheme on the capacity of the local strategic highway network brings uncertainty and additional costs to the Council's town centre strategy that could affect viability of the site and the subsequent ability of the Council to bring forward Town Centre North as the preferred development site for retail floorspace in the town centre. In addition there is further uncertainty that the local highway network would have the capacity to enable longer term retail growth in the town centre if this scheme were to be approved. Furthermore, there are also concerns regarding the environmental impacts on a modern conservation area of such a significant piece of highway infrastructure. If the Council cannot deliver additional retail growth via the development of Town Centre North site, or other sequentially preferable sites in the town centre this would have an adverse impact on the vitality and viability of the town centre and could result in further planning applications for out of town or edge of centre retail schemes. This is considered to be a significant adverse impact of the proposals that is sufficient to warrant refusal of the application on these grounds alone, notwithstanding the other retail impact issues considered.

Conclusions

- 8.97 NLP have advised that the impact on existing investment could be the closure of existing stores or the likely prevention of future investment to maintain/improve existing stores. The Waitrose store is classified as an 'existing investment' in PPS4 terms and as indicated above there is no evidence to suggest this store is likely to close despite trading 24% below the company average. Waitrose has recently extended and invested in their store, and it provides a modern facility. The impact of the Tesco store on Waitrose's future investment decisions for this store is unlikely to have a significant impact from a customer's perspective. However, for many food retailers, extensions are used to accommodate non food ranges which have lower sales densities than food but generate better margins, as demonstrated by the recent additional mezzanine floor space application at Sainsbury's. Given the relationship between Waitrose and the neighbouring John Lewis store, this approach is unlikely to be adopted by the company. This therefore reduces the potential for Waitrose to invest in its store to increase its market share and turnover and officers consider that the impact may actually be more severe than the estimations given by both DP9 and NLP.
- 8.98 Sainsbury's have now opened their store and whilst an objection letter has been received, the letter does not specifically state that the proposal would have a negative impact on future investment in the new Sainsbury's store. However, whilst it would be unlikely that any main operator (Waitrose, Sainsbury's, Marks & Spencer or Iceland) would chose to close their store, any future low turnover due to trade diversion that is greater than predicted is likely to affect current and future investment decisions particularly in current circumstances which will have seen many committed town centre schemes throughout the country stall.
- 8.99 The key factors which will determine whether a proposal is likely to undermine committed or planned investment will also include the effects on current/forecast turnovers, operator demand and investor confidence. Many of the factors relevant to need assessments will also have a bearing on the effects of new proposals on

committed/planned development. The presence of a major destination store out of centre but clearly in a location that would attract shoppers from the town centre would, by virtue of the absorption of any expenditure available for growth be likely to reduce commercial interest in developing this sector further. This could in turn further reduce the market share of Welwyn Garden City and its role as the most sustainable location for shopping within the borough itself and its surrounding rural areas due to its accessibility and greater propensity for linked trips and this would clearly affect the vitality and viability of the town centre. The Inspector at the Local Plan Inquiry also considered that any significant retail floorspace on the objection site would harm the strategy for Welwyn Garden City Town centre.

- 8.100 As discussed previously in this section, three sites are allocated within the town centre for new retail development to improve the viability and competitiveness of the town centre and help meet the future retail floor space needs of the District. The 'needs' based test is no longer applicable under PPS4 even though it forms a major part of the applicants' case but PPS4 also states that judgments about the extent and significance of any impacts should be informed by the development plan. The sites at 'Land at Town Centre North', 'Land at Campus East' and 'Land at the Southern side of the town centre' all satisfy the sequential test and subject to compliance with TCR4, TCR5 and TCR6 are the Councils preferred and tested options for retail development within the town centre.
- 8.101 This absorption of the available expenditure for growth or even an absolute reduction being absorbed by the proposed Tesco store along with the cumulative impacts of the enlarged Sainsbury's, developments in Hatfield town centre and the (reduced) comparison element of the Tesco store will reduce the potential for other development/investment in Welwyn Garden City town centre. Whilst TCR6 'land at the Southern Side of the Town Centre' can be discounted because of the new Sainsbury's retail superstore, the 'Town Centre North Development Site' and 'Campus East Development Site' are relevant. The cumulative impact of allowing such a significant increase in retail floor space, as proposed in the Tesco store could lead to significant reduction in growth and therefore the investment that would be needed to bring forward the allocated retail sites within the development plan.
- 8.102 Whilst the centre has vacancy rates below the national average, the lack of available expenditure suggests that the potential for these units to be occupied is reduced and vacancy rates could increase. In addition, if the proposed foodstore results in the closure of some of the smaller retailers the likelihood of these units being occupied is reduced further.
- 8.103 The retail element of the proposed scheme would jeopardise the Council's overall strategy for attracting investment in to Welwyn Garden City town centre. This would have the affect of delaying investment to improve the amount and range of retail floor space in Welwyn Garden City town centre. The impact of the retail element could also start to jeopardise the role of Welwyn Garden City in the wider retail hierarchy when seen in the context of competing towns and cities in Hertfordshire and beyond. If the town centre cannot attract significant investment to support improvements in its comparison offer, it will start to fall down the rankings relative to nearby centres. The longer that investment is delayed, the more the town centre could start to stagnate relative to neighbouring centres. The longer it stagnates, the less attractive it would be for future investment. Furthermore, if this resulted in the loss of one of the town's anchor stores then the role of the town centre would be further compromised.

- 8.104 A lack of investment would potentially result in a greater leakage of expenditure out of Welwyn Hatfield to Districts where investment in improved shopping facilities is proposed (such as Stevenage town centre and Brookfield Farm). This would have impacts for sustainability, firstly, because the local economy of Welwyn Hatfield would suffer relative to neighbouring Districts and, secondly, because people would have to travel further to obtain the range and choice of shopping opportunities they are likely to aspire to, increasing the likelihood of their needing to travel by car and so increasing CO² emissions.
- 8.105 There are significant changes in retail provision under way in the town centre and given the current economic climate it is not possible to confirm that new out of centre proposals will not undermine the emerging strategy for town centres and accordingly, a precautionary approach should be taken. Officers consider that a more appropriate strategy for the town centre would be to enhance the range of goods through a range of comparison operators to improve consumer choice and quality of the offer, benefitting from linked trips with the main in centre store. In turn this would be more likely to improve the overall choice and range of goods more effectively this would improve vitality and viability. The Inspector at the Local Plan Inquiry agreed with this view and considered that any significant retail floorspace on the objection site would harm the Plan's strategy for Welwyn Garden City Town centre.
- 8.106 Furthermore, to emphasise the need to take a precautionary approach NLP's Retail Needs Assessment Update of November 2010 forecast expenditure capacity for retail floor space based upon an assumed policy of 290 net additional dwellings being provided in the borough from 2011 to 2031. This, accords with the Council's interim position which was agreed last year. Members will be aware that the Council recently consulted the public on a series of possible housing figures for 2011 to 2031, some of which were considerably higher than 290 dwellings per year. It could be argued that, if the Council were to adopt a higher housing figure, particularly if this were to result in significant urban expansion of Welwyn Garden City, then this might result in a need to look to provide for additional shopping floor space beyond the edge of Welwyn Garden City town centre to meet expenditure growth because of limited capacity on existing sites in the town centre. However, the Council will continue its policy to promote the town centre as the most sustainable location for retail in Welwyn Garden City and its surrounding catchment. The Council will take a design-led approach to proposals for increasing retail floor space in the town centre which will be articulated through future supplementary planning guidance and an area action plan. Increased expenditure capacity as a result of increased population would be likely, in practice, to increase the viability of development in the town centre to meet these needs whilst achieving a suitable design standard and meeting the Council's (and the government's) wider sustainability aspirations.
- 8.107 In conclusion, the consideration of retail impact is not a precise science and judgment has to be exercised in relation to the likely impacts. Officers consider that the proposal would have a significant adverse impact on in centre trade/turnover and on public and private investment in the town centre and accordingly, the vitality and viability of the town centre by ultimately prejudicing the development of allocated sites in accordance with the development plan. Although there is a degree of uncertainty surrounding the likely impact, officers consider that this is a significant adverse impact and the proposal fails to comply with Policies TCR1 and TCR3 of the Welwyn Hatfield District Plan 2005 and Policy EC17.1.b (in accordance with the requirements of EC16.1.a, b and d) of PPS4 'Planning for Sustainable Economic Growth'.

8.108 In other cases the impact on non-food shops and services in the town centre have been reduced by the use of conditions restricting the amount of floor space required for certain goods. The applicant has requested that a reduction in the amount of comparison floorspace from 1746sqm to 1393sqm be taken into account. Officers consider that this reduction does not go far enough to sufficiently reduce the retail impact, in terms of the broad PPS4 definition in particular to an acceptable level.

i. It would be accessible by a choice of means of transport; and

ii. It would not generate unacceptable levels of car traffic nor prejudice road safety

8.109 The fundamental transport issues relating to the application can be summarised as follows:

- Development generated trip forecasts and associated impact on the local highway network.
- Access and circulation for pedestrians, cyclists and vehicular traffic.
- Parking provision and future management.
- Servicing of the development.
- Travel planning measures to promote the use of more sustainable transport modes and to reduce dependency on private car usage.

Development generated trip forecasts and associated impact on the local highway network

8.110 Government guidance on transport assessments states that the key issue is the need to ensure that development proposals strive to achieve nil detriment to the strategic network for the opening year and appropriate horizon year. In this case it is necessary to compare the proposals with an SPD compliant development scenario as the highway authority have previously accepted that the redevelopment of this site will have some impact on the highway network and that the Broadwater Road/Bridge Road junction will require a level of upgrading to enable the redevelopment of the site.

8.111 The proposed scheme incorporates a retail food store (as well as smaller scale retail units) which was not envisaged in the preparation of the Broadwater Road West SPD as retail is not an allocated use for the site. Trip generation data for the proposed development has been estimated through the application of trip rates obtained from survey data for comparable developments in the UK. The exception of this is in relation to the food store where trip rates have been based on a survey of a food store in Slough, at a location with similar characteristics to the application site. This approach was discussed and agreed with the County Council as highway authority. In terms of distribution it was agreed that traffic dispersing from the site would be assumed to be split 50/50 north and south. Given that this scheme would be required to provide future access for the Pall Mall site (whether this site were to operate under its current use as a warehouse and distribution centre or redeveloped in line with the SPD) it was also considered necessary to understand the potential future traffic impacts that could result from the Pall Mall site.

8.112 Traffic modelling work has been undertaken by the applicant to assess the impact of the scheme alongside the trip generation estimates of additional committed development that is in the vicinity of the application site – these being the adjacent Taylor Wimpey scheme, the extension to the Sainsbury store and the earlier

expansion to the Waitrose store. In considering any future year modelling the applicant was required to take account of the general growth in background traffic.

8.113 Two types of traffic modelling have been undertaken by the applicant in order to assess the future impact of the development on the surrounding highway network. In the first instance Paramics modelling software was used to assess the impact of the proposed scheme on the wider town centre road network. HCC had previously commissioned the production of a Paramics transport model of Welwyn Garden City town centre and this base model was used by the applicants to assess and compare the impacts of the proposed scheme (alongside other committed developments) in comparison to an SPD compliant development of the site. This was then supplemented by the development of a Transyt model to review the two proposed site access junctions on Broadwater Road as well as the Bridge Road/Broadwater Road junction. These modelling assessments looked at both 2016 and 2021 future year scenarios and considered the am, pm and Saturday peak periods on the network.

Paramics/Transyt Modelling

8.114 Trip rates for the proposed land uses were agreed between the applicant and HCC at the pre-application stage in March 2010. All trip rates are based on sites within town centres with good access to public transport. Following agreement of the trip rates a schedule of land use was provided by Arup to calculate trip generation which was input into the WGC Paramics model. It was also agreed at pre-application stage that all future year modelling would be based on low growth rates and the growth rates are taken from the national Tempo datasets.

8.115 The original proposals for Broadwater Road/Bridge Road signals allowed for a 3 lane approach on each arm and two lane exits on all arms except Bridge Road East. The revised drawings submitted with the Addendum report show 3 lane approaches on Broadwater Road and Bridge Road, 2 lane approaches on Bessemer Road and Bridge Road East. All arms now have a single exit lane. The redesign of this junction has allowed for staggered pedestrian crossing islands to be provided. The alterations to the timings of the traffic signals have improved flow through the junction compared with the earlier layout and design. This is discussed in more detail below.

Paramics Modelling 2016

8.116 The Paramics modelling for 2016 is based on the layout submitted in the TA and demonstrates that the network will perform considerably worse in the PM peak when compared with the base model which allowed for an SPD compliant scheme for the site. The modelling includes for widening on the south bound approach to Chequers roundabout. In the PM peak the main source of congestion is the westbound approach of Bridge Road at the Campus gyratory as the queues consistently block back to the John Lewis roundabout.

8.117 The results of the Paramics modelling were fed into the Transyt analysis for the signalised junctions on Broadwater Road. The volume of non-released traffic gives an indication of the vehicles that could not be released into the network due to congestion. If the value is high (as in the Spenhill scenario) it identifies a congested network that has no available space left for other vehicles to join. No further Paramics modelling has been carried out to take account of the revised road layout at Broadwater Road/Bridge Road submitted with the Transport Addendum report.

Transyt modelling 2016- Broadwater Road

- 8.118 Transyt modelling has been carried out on the three proposed junctions of Bridge Road/Broadwater Road, Broadwater Road/ Hyde Way and the new joint site access with Taylor Wimpey for 2016. Two scenarios were run for the AM and PM peak, the 'likely peak' scenario and the 'release of held back traffic' scenario. The Highway Authority considers the 'release of held back traffic' the most robust analysis as it ensures all traffic to and from the development is included.

The original Transyt modelling shows that in the 'held back traffic' scenario, the PM peak shows the higher level of congestion with queuing on Bridge Road extending beyond the John Lewis roundabout. The Addendum report shows the results of the Transyt modelling for the revised junction layout. This shows that this layout does improve flow through the junction, however in the release of held back traffic the PM peak still shows certain movements through the junction are operating above capacity. The Addendum Report confirms that although some congestion occurs in the PM peak this is primarily confined to Bessemer Road and Bridge Road East and that the two arms (Broadwater Road and Bridge Road) are considered to operate satisfactorily. HCC consider that Bessemer Road is a critical arm as it is a principal road the A1000 and designated as a main distributor road. The queuing on both Bessemer Road and Bridge Road East will queue beyond the next junction in the network. The queuing on Broadwater Road for the straight ahead and left traffic needs to be accommodated evenly within the two lanes to prevent queuing back through the Hyde Way signals, this will be dependent on how the lanes are marked between the Hyde Way signals and the Broadwater Road signals but how this is resolved has still not been shown.

The TA submitted by the applicant suggests that the trip generation used in the traffic modelling should be considered an overestimate as the trip generation used in the modelling is slightly higher than that expected to be generated from the development. However the 2016 modelling does not include for any traffic from the Pall Mall site and the inclusion of these trips would give a greater level of traffic than used in the modelling. The TA also states that the number of car trips for the office element will be lower than predicted due to the restricted parking, public transport links and travel plans. In response the HA would state that the trip rates used were based on town centre sites with restricted parking and good public transport links and the rates were agreed with the applicant.

Transyt modelling 2021- Broadwater Road

- 8.119 The 2021 Transyt modelling was carried out with and without Pall Mall traffic. The cycle time used was 120 seconds and background traffic was increased using low growth factors. Based on the revised junction layout in the Addendum report even without allowing for development on the Pall Mall site, Bessemer Road, Bridge Road East and Broadwater Road are all shown operating with a Degree of Saturation (DoS) of 100% or more in the PM peak with significant queues forming. The results worsen with the inclusion of Pall Mall traffic. Although background rates were agreed at the scoping and set at low growth, the Addendum report states that the traffic growth figures used may be an overestimate. These growth rates have been calculated using Temprow which is based on Government predictions. It should be noted that when comparisons have been made with an SPD compliant scheme the same level of background growth has been applied.

Future Year modelling 2021 - Paramics

- 8.120 The future year modelling for 2021 showed a worsening of the network performance when compared with 2016 despite the introduction of the mitigation measures identified in the 2016 modelling. The results of the Paramics 2021 show that

allowing for low background growth, and a series of mitigation measures being introduced, by 2021 the proposals will increase queuing and reduce traffic speeds within the town centre in the PM peak. The proposed mitigation works do not result in a nil-detriment scenario. Although the scheme submitted in the Addendum report addresses the issue raised previously regarding the length of the pedestrian crossings there are still safety and capacity issues relating to the proposals that the Highway Authority consider have not been addressed.

Broadwater Road/Chequers Roundabout

The Addendum report contains modelling to consider the impact of the development proposals on this junction in both 2016 and 2021. The proposals lead to increased congestion at this junction by 2016 and therefore as suggested in the Paramics modelling report, mitigation measures are proposed which would widen the northbound approach from Chequers as well as widen the southbound approach on Broadwater Road. The modelling shows that with these mitigation measures in the release of held back traffic scenario for 2016, some arms of the junction are still operating above capacity and queuing has increased on the Chequers arm in the am peak and Broadwater Road west arm in the PM and Saturday peak. However the queues can be accommodated on the road network without affecting other junctions.

Osborn Way Roundabout

The Addendum report contains modelling to consider the impact of the development proposals on this junction in both 2016 and 2021. The proposals lead to increased congestion at this junction by 2016 and therefore as suggested in the Paramics modelling report, mitigation measures are proposed which would widen the southbound approach on Osborn Way. The modelling shows that the proposed mitigation would improve the operation of the roundabout and that it would accommodate the development proposals in the 'Release of held back traffic' scenario for 2016.

Access and circulation issues

- 8.121 Both national planning policies and Policy M1 of the District Plan emphasise the need to make development accessible by means other than the car and to encourage the use of walking, cycling and public transport modes. The Broadwater Road West SPD recognises the opportunity to maximise the site's accessible location, thus providing an opportunity to put these policies into practice, and sets out a movement strategy for the site which focuses on prioritising pedestrian movement across the site.
- 8.122 The SPD promotes a grid like form of development so as to achieve maximum permeability across the site. The scheme does propose such a layout and the applicants Transport Assessment (TA) states that the scheme has been designed to maximise pedestrian accessibility to, from and within the site. An assessment of the internal pedestrian network is discussed more fully in the sections relating to urban design matters; however, in relation to pedestrian access to and from the site there are concerns
- 8.123 Following an interim safety audit by Hertfordshire Highways, the applicants have provided a designers response to the points raised in the audit. This response has been reviewed by Hertfordshire Highways. The view of the highway authority is that while the applicant has managed to address some of the issues raised in the original safety audit other matters are still outstanding. The revised junction layouts submitted as part of the Addendum Report have also been submitted for an interim safety report and the following comments relate to this latest report. Overall, the

Safety Audit raises the concern that the need for increased capacity has been considered to the exclusion of the requirements of pedestrians and cyclists.

There are a number of issues raised in the safety audit reports which have not been addressed in either the designer's response or in the revised layout submitted with the Addendum Report that was submitted in September. Resolving some of these issues may have an impact on the design and capacity of the highway network. Some of the main points are as follows:

1. Proposed signal junctions may not be able to accommodate large vehicles. Although tracking diagrams have been provided, they are not for the worse case type of vehicle and therefore some amendments to the layouts may be required to ensure that kerbs do not get over-run.
2. No tracking has been provided for the traffic movements in and out of the eastern arm of Hyde Way to and from Broadwater Road. The introduction of signals and islands at this junction may make it difficult for delivery vehicles to access the industrial units on Hyde Way.
3. New Southern Access - joint with Taylor Wimpey. The access to No 29 Broadwater Road has still not been incorporated in this junction and the stop line would need to be moved to accommodate access. This would have an impact on the length of the proposed right turn stacking and may impact on the flow through the traffic signals.
4. Pedestrian islands in the centre of the new access road and the store arm of Hyde way are substandard as is the island on the northbound approach to the shared access. These alterations may impact on lane and or footway widths and therefore the highway authority cannot be assured that this junction can meet all the necessary safety and capacity requirements.
5. Broadwater Road/Bridge Road junction. The safety audit has raised a number of concerns relating to the layout of this junction that have not been addressed either in the Designers response or in the new layout submitted with the Addendum report.

Although some of the issues raised in the original Interim Safety report and the safety comments are detailed matters that could be addressed during the detailed design process for the section 278 agreement there are fundamental issues that still need to be addressed to ensure that the proposals will not increase the risk of accidents or endanger the safety of road or rights of way users.

- 8.124 In relation to pedestrian access to and from the town centre, a key objective of the SPD is to improve the quality of the existing pedestrian link through the provision of a replacement pedestrian footbridge across the railway lines. This is promoted by the applicant through a linked but separate planning application for the part replacement footbridge with both stair and lift access.
- 8.125 At present the site does not benefit from a dedicated cycle route although there is a well used area of cycle parking at Hyde Way. The scheme proposes a network of on street and off street cycle routes and HCC have advised that measures to ensure access and maintenance of these cycle routes will need to be addressed in any S106 agreement. HCC have previously considered the provision of an off road cycle link along Broadwater Road and have advised that further discussions with the applicant need to take place to ensure that the road widening measures along Broadwater Road will not result in a negative impact on cyclists using the carriageway.

- 8.126 In relation to public transport, there has been discussion between Arup and HCC over the preferred location of the bus stops. The balance is to try and ensure that all residential properties on the site are within walking distance of a bus stop. It has now been agreed between HCC and Arup that new bus stops should be provided on Broadwater Road, between Bridge Road and Hyde Way. This will allow bus route (403) to be diverted via Hyde Way, ensuring frequent services of four buses per hour each way to the northern part of the site. Agreement in principal has been given by Arriva to divert via Hyde Way which would be subject to appropriate junction alterations at Peartree Way. Arup have provided a layout drawing for alterations to the HydeWay /Peartree junction including the provision to relocate bus stops from Peartree Lane to Hyde way. This plan has not yet received HCC approval. Measures may need to be put in place to ensure that other large vehicles do not start using this route. The TA sets out proposed improvements to bus services and funding for bus services that would form part of the S106. Generally the £200,000 towards the 403 service is a starting point for negotiation but no details have so far agreed and this is disappointing given the amount of negotiation and opportunity for the applicant to resolve these matters. The TA also refers to a 5 year contribution which will again need further discussion and should be used towards passenger transport enhancements such as services, accessibility issues at WGC bus station, AVL, etc. The existing bus shelter on the southside of Bridge Road currently blocks the route of any future shared cycleway/footway. The applicant has agreed to carry out the earthworks required to provide a recessed bus shelter at this location
- 8.127 With regard to vehicular routes into and around the site the Broadwater Road West SPD advises that these should be minimised so as to maintain a primarily pedestrian priority environment and recommends that there should be minimal accesses onto Broadwater Road. Furthermore, the SPD suggests a formation for these primary vehicle routes which has not been followed directly by the applicant. The scheme proposes two accesses onto Broadwater Road each of which function as both an entry and exit route for different uses within the scheme (i.e. two 'dead end' routes rather than a complete circulation route). Given the traffic resulting from the scheme HCC have advised that there are a number of issues regarding the internal layout which need to be addressed before they can confirm that the needs of pedestrians, cyclists and drivers have been adequately met. It is proposed that the internal road and footway layout within the site will remain private and not be adopted as public highway. However HCC has concerns that the proposed layout does not fully consider the safety of pedestrians and cyclists and that potential points of conflict have been not been resolved.

Though the residential part of the site is in outline only, the main roads in the site form part of the detailed application. It is important that all roads within the site are designed to keep traffic speeds to low. The Addendum Report states that a 20mph speed limit will be enforced throughout the site through signage and traffic calming measures however no details have been provided. The potential for conflict between pedestrians and cyclists moving east/west across the site and vehicles using the station drop off and surface leisure centre car park still exists. The Addendum report states this will not be an issue as traffic speeds will be low and the only traffic will be vehicles accessing the leisure centre drop off and surface car park. No mention is made of the station drop off. The station drop off is located so that all pedestrians and cyclists coming to or from the footbridge link to the station and town centre will have to cross it.

The SPD road layout followed a grid format, with vehicles being able to move throughout the site. The proposed layout separates the proposed Tesco store

traffic from the traffic from the remainder of the site, each being served by an access onto Broadwater Road. Similarly the traffic for the store service yard, the hotel and the YMCA can only be accessed from the Bridge Road access. Although this layout will prevent the site being used as a rat run to avoid the traffic signals on Broadwater Road, the Highway Authority was concerned that there was no provision for alternative routing should any of these routes become blocked. The revised TA and drawings show an emergency access route between the leisure centre car park and the northern access road which could be brought into use should the main access road to the site become blocked.

Although it is proposed that the roads within the site will remain private, the Highway Authority has raised concerns regarding the layout at the western end of the proposed shared access road and the connection to the Taylor Wimpey site. This junction is shown with traffic on the shared access road giving way to traffic on the north-south boulevard. The southern end of the boulevard is a dead end that may or may not be used for parking therefore this junction will not operate as a give way but rather a tight bend. It is not clear whether adequate forward visibility can be achieved around this bend even allowing for speeds of 20mph. It is important that adequate visibility is provided between those exiting from the Boulevard and those using the western roadway within the Taylor Wimpey. Depending on how these roads are connected, traffic from within the Spennhill site could use the Taylor Wimpey roads to try and avoid the traffic signal controlled junction of the shared access road with Broadwater Road.

- 8.128 In conclusion, it is considered that whilst the pedestrian and cycle networks proposed within the site do aspire to create an internally accessible development there are significant concerns that pedestrian accessibility to the site from the wider Peartree ward is hindered by the level of highway alterations required to improve the capacity of Broadwater Road for vehicular traffic. It should be noted that when comparisons have been made with an SPD compliant scheme the same level of background growth has been applied. Furthermore, there are several urban design concerns relating to the legibility of some of the routes promoted and the need to ensure that linkages to both the outline application area as well as any future redevelopment of the Pall Mall site are achieved. Accordingly, the current proposal is unacceptable in relation to these key areas and contrary to the aims of objectives of the SPD and policy T9 of the East of England Plan, 2008 and Policies D1 and M5 and M6 of the Welwyn Hatfield District Plan, 2005.

Mitigation measures

- 8.129 The submitted TA states a fivefold mitigation strategy:

1. The promotion of sustainable travel initiatives with the proposed development and across the wider WGC area.
2. Implementation highway improvements along Broadwater Road included in the traffic modelling assessment and at the Chequers, Gosling and Osborn Way roundabouts, at the Campus and on Parkway.
3. Linked signal timings of the site access junctions and Broadwater road/Bridge Road.
4. Consideration given to limited future highway upgrades on the road network with the aim of redistributing through traffic onto more strategic routes away from the town centre.
5. Continued monitoring of traffic levels in the town centre to identify where future highway upgrades are most needed.

The Addendum report provides drawings and cost estimates for the mitigation measures identified in the Paramics report.

From the 2016 recommendations:

- signalisation of the Campus,
- removal of 50m of on-street parking on the Parkway northbound on the approach to the Campus
- extension by 50m of the Broadwater Rd southbound flare on the approach to the Chequers roundabout
- extension by 25m of the Chequers northbound flare on the approach to the Chequers Roundabout

From the 2021 recommendations:

- widening of the southbound and eastbound approaches to the Osborn Way roundabout,
- widening on southbound exit from Gosling roundabout (it should be noted the drawings submitted show widening on the southbound entrance to the roundabout)
- extension of the flare length of Disgwell Road on approach to the Campus

The TA proposed that these mitigation measures be reviewed in more detail at a later date and a monitoring programme set up to establish how traffic volumes are changes and where highway works are needed. HCC and WHBC were concerned that with this approach it would be difficult to ensure that sufficient levels of contributions were included for within any S106 agreement to ensure these works could go ahead. The Addendum Report now provides estimated costs of the mitigation works and states that these would be used as a basis for agreeing an appropriate level of developer contribution towards the cost of delivering the works as part of a S106 Agreement. Even at this late stage in the process no discussions regarding this have yet taken place and the highway authority considers that it has still not been demonstrated that the proposed mitigation measures can feasibly and reasonably be delivered.

Access to Pall Mall site.

- 8.130 Although no provision was made within the original Transport Assessment for access to the Pall Mall site, this matter has since been reviewed by Arup and is now included within the TA revision B for the 2021 modelling. Two scenarios have been introduced for the Pall Mall site, one it being used as warehousing with all traffic accessing the site via the Bridge Road left in and left out and one with an SPD mix of offices and residential with 90% of the traffic using the shared Spenhill Taylor Wimpey road and 10% using the network rail access to Bridge Road. The trip rates used were the same as those used for the Spenhill site. The addition of the Pall Mall site traffic increases the amount of queuing observed in the Paramics and Transyt 2021 modelling which was already showing that the junctions were operating over capacity.

Promotion of sustainable travel initiatives

- 8.131 Although the TA mentions that the proposed measures to mitigate against the impact of the development will include the promotion of sustainable travel initiatives across the wider Welwyn Garden City area, there are no details within the TA of what the measures are. There are proposal to improve bus services to the site through the S106 to meet the aspirations of the SPD, however there are no proposals for improvements outside the immediate site area for cycleways or pedestrians that would encourage trips to and from the site by means other than the

private car. HCC consider that there are measures that could be supported to promote sustainable travel initiatives across the wider WGC area which would support the aim of reducing reliance on the private car. For example HCC has aspirations for a bus lane/cycle route on Bridge Road and for the improving the bus station to meet the requirements of the Equality Act. The travel plan arrangements typically deal with soft measures to encourage sustainable travel choices and the monitoring of outcomes against specified targets. The highway authority however, are also looking for more harder measures such as cycle lanes, bus lanes and improved bus infrastructure. HCC consider that these measures are required to mitigate against impact and to ensure that the site is genuinely accessible by a choice of a means of transport and because they have not been secured by the applicant then this should form part of a reason for refusal on highway grounds.

Conclusion

8.132 The proposed development requires major changes to the highway network adjacent to the site and wider mitigation to accommodate the predicted levels of traffic. However even with the road widening of Broadwater Road and changes to the Bridge Road/Broadwater Road junction the highway network cannot accommodate the predicted levels of traffic by 2016 and makes no allowance for future development of the adjacent Pall Mall site. The Highway Authority considers that the proposed highway works will not improve accessibility for local residents and may increase the potential for conflict between vulnerable road users and vehicles. The scheme appears to have given highway capacity a higher priority than the needs of cyclists and pedestrians and this relates to the internal layout in addition to the proposed changes to Broadwater Road. The proposals are therefore contrary to PPG13 and the Hertfordshire County Council Local Transport Plan. Whilst the revised TA and the Addendum Report have sought to identify and mitigate the traffic impacts resulting from the proposed scheme, HCC have significant concerns that the traffic arising from the scheme is of a level that would be detrimental to highway safety, capacity and the free flow of traffic and therefore fails to comply with both national planning policies and the aims of the Hertfordshire Local Transport Plan. Furthermore, in relation to the impact on capacity HCC consider that the applicant has failed to demonstrate that the proposed mitigation can adequately offset the potential increase in traffic or can feasibly or reasonably be delivered and have failed to secure wider sustainable travel initiatives. In respect of capacity analysis the applicant has failed to demonstrate that the proposed mitigation measures can:

- (i) Adequately offset the potential increases in demand.
- (ii) Feasibly and reasonably be delivered.

8.133 Accordingly, traffic arising from the proposed development will be detrimental to highway safety, capacity and free flow of traffic, the applicant has failed to demonstrate a satisfactory layout for pedestrians and cyclists and overall the proposal fails to comply with PPG13, the Hertfordshire Local Transport Plan, policies T1, T9 of the East of England Plan, 2008 and Policies TCR3, M1, M5, M6 and D1 of the Welwyn Hatfield District Plan 2005 as well as the aspirations of the BWR SPD. In addition, the impact is considered to be 'significant adverse' in relation to the requirements of Policy EC10.2.b of PPS4 and is therefore contrary to Policy EC17 of PSS4.

Parking provision and future management

8.134 The Broadwater Road West SPD advises that the parking for the scheme should not exceed the Council's adopted parking standards. The Council's adopted

parking guidance identifies this site as being within a Zone 2 location, therefore, for uses other than residential a 25-50% zonal restraint can be applied to the maximum level of car parking required for each land use subject to appropriate justification being put forward by an applicant. For residential units there is a set parking requirement. The applicants have calculated that when considered in relation to the levels of floorspace proposed on this site, a total of 770 to 1,157 parking spaces would be a reasonable level of parking to provide (taking into account the zonal restraint). The submitted scheme proposes a total provision of 1,120 car parking spaces and whilst this may tally with the earlier figure in terms of total site provision there is significant concern at the proposed distribution and management of the car parking in relation to the land uses proposed.

8.135 The bulk of the residential element of the scheme is subject to the outline planning application and the applicant has provided illustrative proposals for:

- Apartment blocks shown with part integral, part surface level parking - on Broadwater Road and the southern access;
- Maisonettes with integral parking on the north/south spine route, and;
- Town and mews houses with integral parking.

8.136 The adopted standards require that in this Zone 2 location the following parking standards apply for residential units:

Unit Type	Spaces per dwelling	Total Required	Total Proposed
1 bed dwellings	0.75 spaces	81	135 for both 1 and 2 bed
2 bed dwellings	1 space per dwelling	159	
3 bed dwellings	1.5 spaces per dwelling	45	60
4 + bed dwellings	2 spaces per dwelling	96	96
Total		381	291

8.137 It is difficult to be certain of the number of apartments in the illustrative masterplan as there are discrepancies between the illustrative schedules, different application/illustrative drawings as to the proposed building heights and the fact that not all the indicative plan forms are illustrated. However, the total number of units has been taken from the planning statement and for the purposes of calculating the parking provision is as per the above table.

8.138 The main shortfall in parking for the residential area is for the 1 and 2 bed units which require a total provision of 240 spaces, with only 135 being proposed. It would appear that the apartment blocks have parking ratios ranging from 0% in Plot K to around 50% in the other plots. The applicants TA indicates that of the 291 spaces to be provided integral garaging will accommodate 219 cars, on street parking will accommodate 72 cars and there will be an additional 12 on street visitor bays. This represents a high proportion of car free dwellings and, while there are some on-street parking spaces there would need to be a clear understanding of the implications of this and if acceptable, a commitment to the provision of car free housing and management arrangements so as to avoid creating parking problems in the surrounding area. On the one hand, officers consider that the site is in a sustainable location and therefore there should be a lower ratio of car parking but

on the other, the shortfall in parking for the 1 and 2 bed units could result in a significant number of cars (from both residents and visitors) being parked on what are already tightly constrained internal streets. Although the applicant is proposing that parking on street will not be permitted Mon to Sat 8am to 6pm, these concerns relate to evenings and weekends. This would have the knock on effect of diluting the aims and objectives of both the SPD and the applicant from an urban design perspective and could lead to knock on parking impacts in surrounding wards. Whilst a contribution of £40k has been proposed for the monitoring of parking levels within Peartree and a further £50k towards the cost of implementing a CPZ there is no indication that this is an acceptable way forward for either residents or the Council.

8.139 The parameter plan building heights for blocks with apartments all allow for around 1.5m in height above the number of storeys shown in the illustrative material. This height could allow for semi basement undercroft parking, which would potentially resolve any issue over parking provision. However it undoubtedly brings with it urban design implications and would have to be negotiated at the reserved matters stage.

8.140 At the other end of the scale, the proposed retail store will be served by a basement car park providing 459 car parking spaces (of which 32 will be for staff use) which is a significant overprovision in relation to the Council's adopted parking standards. The applicants have advised that this level of provision is required as the majority of customers will be required to travel by car to and from the store and this car park will be open to both store customers and the general public during opening store hours (understood to be conventional opening times). At all other times this car park will be closed. Those using this car park will also be subject to a maximum stay of 3 hours which will be enforced by the applicants' team of car park attendants (referred to as Civil Enforcement Officers). In terms of the other elements of the detailed planning application the following is proposed:

Use	Gross Floor Area (GFA) (m ²)	Units	Total spaces proposed	Of which disabled spaces
Leisure centre (plot A)	3, 390		158	10
Offices (plots C and F)	13, 957	-	120	9
Restaurant/café and heritage centre (plot E)	1, 627	-	0	0
Additional retail (plots K and F)	800	-	0	
36 residential units (plot K)		12 x 1 bed 24 x 2	0	0

8.141 As is noted above a total of 158 spaces are to be provided for the leisure centre. This is within the range that would be acceptable given the Council's adopted parking standards but in terms of distribution it is to be split with 85 spaces predominantly being provided on the adjacent surface level car park (with some additional on street car parking provision) and an additional 75 spaces allocated in the second of the basement car parks to be provided on the site (accessed via Plot K). This basement car park will also provide for the 120 spaces required for the office accommodation on site.

8.142 As can be seen from the table there are no spaces allocated to the additional retail, café or heritage centre as the applicant is of the opinion that the vast majority of trips to these uses will be linked trips and any parking demand can be accommodated in the basement car park at weekends (when it will be opened to the general public). There is no indication of where any weekday parking demand would be accommodated although it is assumed that the food store basement car park would provide this. It could be argued that the overprovision for the store will compensate for the fact that these uses have no allocated parking; however, even if this additional provision were to be accounted for, the level of car parking provided for the store is considered to be high and it is difficult to reconcile with the applicants claims that the scheme has been designed to reduce reliance on the car.

8.143 In terms of the additional outline elements the following is indicated by the applicant:

Use	Gross Floor Area (GFA) (m ²)	Units	Total spaces proposed	Of which disabled spaces
YMCA accommodation/nursery and community use (plot B)	5,800	57 bed 100 nursery places	30	6
Hotel (plot H)	3200	80 beds	30	3
Doctors surgery (plot J)	950	9 consulting rooms	14	3
Care home (plot J)	4,200	72 beds	6	2
308 residential units (plots L, M, N, O, P and Q)		83x1bed 135x2bed 30x3bed 48x4 bed	291 plus 12 visitor spaces	0

8.144 In relation to distribution, the 60 spaces to be used by the proposed YMCA and hotel will be provided adjacent to these plots at surface level although it is not clear how this area of parking will be managed/allocated for use as it appears as a single area of car parking on the parameter plans. Similarly there is a surface level car park to be provided to the south of Plot J which will provide car parking for both the doctors' surgery and the care home (an area also to be shared with residents).

8.145 The applicants have confirmed that onsite parking management and enforcement measures will be applied comprising of features such as street design elements, road markings, a resident permit scheme, automatic number plate recognition CCTV, civil enforcement officers and wheel clamping.

8.146 In respect of the wider Peartree ward, the applicants consider that the impact of the development on parking in the wider area will depend on several factors including the degree to which the applicants sustainable travel initiatives are successful as well as any changes to the management and allocation of parking within Peartree ward. The fact that there is overprovision of car parking for the store alongside under provision for the residential units means that officers are concerned that a) green travel planning initiatives required to reduce the highway impact of the store may be undermined and b) there could be an overspill of residents parking to the wider Peartree area. In this regard the applicants propose that a Controlled Parking Zone may be necessary in the Peartree ward area and have offered a financial contribution to monitor and implement such a scheme, however, whilst there are issues with this in principle, the offer does not resolve officers fundamental

concerns at the level and distribution of parking proposed to serve the scheme and there are other methods of seeking to resolve the issue that have not been fully explored by the applicant.

- 8.147 The changes that have been made to PPG13 'Transport' by the Ministerial announcement on 3 January 2011 and set out in the Communities and Local Government 'Chief Planning Officer' letter dated 14 January 2011 are a material consideration. The government's position on parking standards is that *'local authorities are best placed to take account of local circumstances and are able to make the right decisions for the benefit of their communities'*. Accordingly, the requirement to express 'maximum' car parking standards for new residential development has been deleted.
- 8.148 PPG13 now guides that policies on parking should complement planning policies on the location of the development and that standards should set levels of parking for broad classes of development and be designed to be used as part of a package of measures to promote sustainable transport choices and the efficient use of land, promote linked trips and access to development for those without the use of the car. It should also not be assumed that where a scheme is in accordance with set standards that it is automatically acceptable in terms of achieving the objectives of PPG13.
- 8.149 In terms of the store, the overprovision of car parking for the store exceeds the standards set out in the Council's adopted parking standards and officers consider that sufficient flexibility has not been shown in relation to car parking for this element of the scheme. Any applicant is given a clear indication in the adopted standards of the reduced level of provision that officers consider could be acceptable and then this is used as a basis for negotiation, however the applicant has failed to take the opportunity to negotiate a more appropriate car parking provision for the store and therefore encourage a more sustainable form of development.
- 8.150 The current proposal, if approved would result in scheme that would encourage increased car travel and overall would run counter to the objectives and aims of the local plan, in particular to:
- Reduce the overall need to travel by integrating land uses with transport.
 - Reduce dependency on the car and encourage modes of travel which have less adverse environmental impact.
 - To give priority to walking and cycling.
 - Encourage effective traffic management and the improvement of road safety for all sectors of the community.
 - Facilitate the accessibility needs of all in a safe and sustainable manner.
- 8.151 In conclusion, the proposed parking provision for the store would be contrary to PPG13 (as amended) and Policies M2, M14 of the Welwyn Hatfield District Plan 2005.
- 8.152 In relation to the parking standards for the residential element, whilst this is in outline form the level of parking provision does not even meet the minimum standards as set out in the Council's adopted Supplementary Planning Guidance on car parking (January 2004). The standards allow for a lower parking standard for sites in zones 1 and 2 but otherwise no further zonal restraint needs to be applied and the failure to meet the minimum number of residential car parking spaces has a number of implications both on site and off site.

- 8.153 In terms of onsite impacts, a lack of appropriate parking provision for the residential areas could result in significant conflict in the residential areas between all users of the scheme, pedestrians, cyclists and vehicle users, principally because of the lack of sufficient space to park motor cars that have to park on street. Furthermore, an inadequate parking provision would have an impact on the stringent urban design objectives that are required by the SPD because the already restricted mews streets will be dominated by parked vehicles and this would be at the expense of safety and the character and appearance of the quality of residential areas that the Council (and the applicant) are seeking to create. Whilst the advice in Para 50(2) of PPG13 is a consideration, given the fairly sustainable location of the site, the applicant has not sufficiently demonstrated to the satisfaction of the Local Planning Authority that there is an overriding need to provide a car parking allocation that is so heavily weighted towards accessibility to the store only and fails to mitigate against the problems that officers consider would occur as a result of the number and allocation of car parking spaces for certain uses.
- 8.154 HCC as Highway Authority have commented that '*The aims of the Green Travel Plan will only be achieved if parking from the development is not allowed to spread off site*'. *How this is to be achieved will depend on the measures in the individual Travel Plans, S106 agreement and management strategies of the occupiers of the site*. However there is no indication of resident support for this at this stage and whilst the applicant may claim this is a robust approach officers consider that also this demonstrates a level of concern by the applicant that the parking provision may not be entirely appropriate in the first place.
- 8.155 Overall, the parking provision for the residential streets is considered to be unacceptable, could not be overcome at the reserved matters stage and therefore is a sufficient enough reason to warrant refusal of the scheme on these grounds, contrary to PPG13 (as amended) and Policies M14 of the Welwyn Hatfield District Plan.

Servicing

- 8.156 Access for servicing will be predominantly via one of two routes which have been designed to accommodate the appropriate sized goods vehicles/lorries for the proposed land uses:
- Via the northern access road for the food store, hotel and YMCA (left in left out arrangement from Bridge Road).
 - Via the southern access road and boulevard for all remaining uses.
- 8.157 The office use in Plot F will be serviced via Hyde Way (where service vehicles will be required to turn around in the civic square).
- 8.158 No objection to the servicing arrangements has been received either from the County Council or the Council's Client Environmental Services team (in relation to waste management), however, due to the design of the scheme and the inclusion of the civic square several blocks will be required to be serviced via smaller vehicles sharing the pedestrian spaces. Whilst this can be achieved to be successful this will require management to ensure servicing is restricted to reduce any negative impact e.g. controlled delivery hours

Green travel planning measures

- 8.159 A revised travel plan was submitted as part of the Addendum Report. This revised travel plan is a Framework Travel Plan (FTP) and follows the format requested by HCC Sustainable Travel Advisor. It sets the overall targets and outcomes for the

whole site as well as a requirement for individual landowners/occupiers to develop their own travel plans.

- 8.160 Each of the individual travel plans would have their own targets specific to their land use but each would feed into the FTP. The FTP co-ordinator would then be responsible for the site achieving the stated targets. The revised travel plan is based on outcomes that are best expressed in terms of the maximum levels of car use to be allowed. HCC considers that format of the FTP is a good starting point for further discussion on issues such as the maximum number of vehicle trips to be permitted from the development and the measures that would need to be put in place to ensure that the demand for parking particularly for the residential and offices can be met on site. HCC considers that subject to these details being agreed and targets and penalties included in the S106, the completion of the Travel Plan could be covered by planning condition.

iii. It would not have an adverse environmental impact on its surroundings

- 8.161 The application is accompanied by an Environmental Impact Assessment (EIA). This was prepared in accordance with the requirements of the Town and Country Planning (EIA) Regulations 1999 as this is a scheme which represents a large scale urban development falling within the criteria of developments in schedule 2 of the regulations. The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended) require local planning authorities to take into account the information contained within an ES as well as any comments made by the consultation bodies, and the public about environmental issues. Planning authorities need to consider carefully the mitigation measures that may be suggested as a means of overcoming environmental impacts and the best means by which these should be secured.
- 8.162 In response to a report prepared by the applicant, the Council issued a formal scoping opinion in July 2009 identifying the issues and information to be included in the assessment. The assessment is presented in the form of an Environmental Statement (ES) which provides an overview of the baseline conditions within the application site and investigates the impact of the development with regard to the following areas; socio-economic and community context, retail impacts, urban design and architecture, archaeology and cultural heritage, flora and fauna, townscape and visual amenity, energy usage, microclimate, air quality, surface and ground water and noise and vibration.
- 8.163 Due to concerns raised by the Council in relation to the content of the assessment, the applicants submitted a revised ES in February 2011. Further points of query and clarification were required on this revised ES however, and in response the applicants submitted an addendum to be read alongside the revised ES (submitted June 2011). Following comments from HCC the applicants then submitted a further addendum to the revised Transport Assessment in September 2011 and submitted an updated Non-Technical Summary to the ES in November 2011.
- 8.164 As noted in this report, the applicants have also submitted a separate but linked application for the redevelopment of the station footbridge. Whilst this proposal is the subject of a separate planning application it should be noted that the environmental assessment of the proposed development considers the potential combined or 'cumulative' environmental impacts of the two schemes. In this regard the ES has, where necessary, also considered the cumulative impact of the development alongside other schemes of development in the locality.

- 8.165 The ES assesses the likely significant effects of the proposed scheme on the environment, including any direct and indirect, secondary, cumulative, short, medium and long term, permanent and temporary, beneficial and adverse impacts arising from the development proposals, both during construction and in the operational stage of the development. The ES also sets out a description of the measures proposed to prevent, reduce and offset any significant adverse effects.
- 8.166 A review of the applicants Environmental Statement (ES) has been undertaken and has been supplemented by the views of statutory consultees. Whilst the evaluation of the ES has narrowed down as far as possible any uncertainties it should be noted that some do remain and in these instances the applicant has identified where further action is required to be undertaken. The ES provides a structured approach to the complicated task of understanding the likely environmental effects and how these have been taken into account in the design of the project as well as the determination of the application. A summary of the main considerations and impacts is given in Appendix 4 to this report.
- 8.167 The ES concludes that the overall impact of the development is beneficial and that it provides:
- Increased access to the town centre from the Peartree Ward.
 - Increased economic and employment opportunities.
 - Improvements in housing provision including affordable and sheltered housing.
 - Improvements in the public realm.
 - Additional leisure and public facilities' not available in the town centre.
 - Improved energy efficiency and use of renewable energy.
 - Improved site biodiversity.
 - Improved site drainage.
 - Mitigation of previous sewerage overloading.
 - Improved access to public transport and routes for pedestrians and cyclists.
- 8.168 The ES recognizes that adverse impacts resulting from the development include;
- Noise and vibration during construction.
 - Dust and other nuisance during construction.
 - Diversions of traffic and reduction in access.
 - Increased traffic associated with the development.
- 8.169 The ES has also assessed other impacts of the scheme which are considered to be either minor or mitigated such that the residual impact is minor and these include:
- Retail impact
 - Operational noise impacts
 - Operational air quality impacts
 - Energy and water demand
- 8.170 The ES concludes that the overall environmental impact of the scheme is judged to be beneficial. There may some negative impacts during construction phases but these will be mitigated through considerate and good practice. The ES considers that the negative traffic impacts resulting during the operational stage of the scheme will be mitigated by road improvements and will be offset by improved access to amenities and links between the Peartree ward and the town centre. The redevelopment of the site is assessed to have major beneficial impact at a local, community and District level.

8.171 For the reasons set out elsewhere in this report in relation to retail, transport and urban design considerations, it should be noted that officers do not fully agree with the findings of the ES with regard to these matters.

iv. It would not take land which is designated for other uses in the Plan

8.172 The application site is part of an allocated development site in an out of centre location. As such the Council must consider whether the proposals are in accordance with the allocation (and therefore the development plan) and if not, the impact the proposal would have on this site by not being developed in accordance with the development plan needs to be considered. Accordingly, non-compliance with the allocation and therefore development plan could be considered to be a significant adverse impact of the proposal.

8.173 Policy EMP3 of the District Plan 'Mixed Use Development Site at Broadwater Road West' identifies the site for a mixed use development and that development should take place in accordance with a Supplementary Planning Document. EMP3 also states that development at this site needs to accord with the provisions of EMP2 'Acceptable Uses in Employment Areas' and other relevant policies of the plan.

8.174 The application documents state that the BRW SPD seeks a residential led development of the site. The planning statement, submitted in support of the application includes an appraisal of the requirements of the SPD and concludes that a residential led redevelopment is not viable and would lead to the site remaining vacant for the foreseeable future. Furthermore, and on the basis of this appraisal (prepared for the applicant by GL Hearn), the applicant argues that in land use terms, anything other than a scheme incorporating food retail would not be able to deliver the restoration of the listed buildings, vital improvements to the footbridge and the delivery of the community and leisure facilities suggested by the SPD.

8.175 In addition, correspondence submitted to the Council by the applicant's agents DP9 has continued to strongly contend that the only viable option to deliver the regeneration of the applicant's site is through the inclusion of an economic driver such as the Tesco store. Whilst retail is not included within the list of land uses suggested by the BRW SPD it is still acceptable to grant permission against policy so long as there are other material considerations. In this case, a key material consideration is the suggested need to include a foodstore as part of the proposals in order to make the regeneration of the site (and the scheme) viable.

8.176 In order to seek to understand the complexities of this argument, the Council appointed Colliers International (the company who had previously acted for the Council at the Public Inquiry for the adjoining Taylor Wimpey site). Colliers were asked to assess the robustness of the applicant's submitted financial appraisal. An initial report was prepared by Colliers for the Council and submitted directly to the applicant's advisers GL Hearn for comment. In summary the report prepared for the Council concluded that the applicant's appraisal paints an overly pessimistic picture and recommend GL Hearn be invited to provide clarification of the points highlighted and to submit revised appraisals with sensitivity testing.

8.177 In response to Colliers assessment of their appraisal GL Hearn submitted a further report on the financial justification for the application. This document submitted a second development appraisal alongside a Three Dragons Toolkit appraisal and considered how the property market had changed since September 2010. GL Hearn also provided a detailed response to the points raised by Colliers.

- 8.178 Following receipt of this further report, officers requested that Colliers review the response from GL Hearn and provide an updated report taking into account these matters. In this regard, Colliers have concluded that overall there are still major inconsistencies in the GL Hearn Three Dragons appraisal, and remain critical of the approach taken by GL Hearn..
- 8.179 Colliers have advised that this site is not a tightly-constrained, small-scale piece of urban land, fraught with the kind of technical problems typical of difficult inner city locations. It is a suburban, large-scale, and largely cleared site situated immediately adjacent to a main line railway. A development in accordance with the provision of the SPD should benefit from significant economies of scale: through procurement of materials in bulk and at the opportune time, through management of labour and through standardisation of unit types and layouts.
- 8.180 Overall, it is still the applicant's contention that the approved SPD cannot be delivered in the current economic climate and requires an 'economic driver' such as a retail superstore to ensure that its aspirations and objectives can be realised.
- 8.181 In September 2011 GL Hearn submitted a third report to the Council on behalf of the applicant, yet again to try and further justify why, in their view, the SPD scheme could not be delivered. Given the significance of this argument to the applicant, the Council sought yet further advice from Colliers International.
- 8.182 In summary, both Colliers and GL Hearn have differences of opinion on what constitutes a compliant scheme and the advice that officers have received is that this third report does not change the professional view of Colliers International in respect of the viability of the SPD scheme. Having sought the advice of Colliers to robustly assess what is a fundamental element of justification for the proposal and having spent a considerable amount of resources analysing this particular element of the proposal, officers have concluded that the application fails to demonstrate that a SPD compliant scheme cannot be delivered and that ultimately the store is not the only economic driver that is necessary to redevelop the site. Accordingly, the weight to be given to this argument as a means of demonstrating that a sufficient enough material consideration exists to outweigh the fact that the retail element is non policy compliant is limited.
- 8.183 Policy EMP3 of the District Plan allocates Broadwater Road West (of which the application site forms part) for mixed use development comprising primarily employment, housing, leisure and rail related uses. The policy requires that development on the site should comply with a development brief to be approved by the Council as a Supplementary Planning Document and that the development brief should prescribe the minimum amount of employment floorspace as the site falls within an employment area.
- 8.184 As is set out earlier in this report, Policy EMP3 also states that development of the site should be in accordance with the criteria in Policy EMP2 and other relevant policies of the plan relating to the uses proposed. With regard to retail development criteria (v) of Policy EMP2 advises that any retail element of a development should be ancillary to the main business use. In this regard the Council recognises that where it can be clearly demonstrated that existing land or premises are no longer required to meet future employment needs the Council may grant planning permission for other uses. However as is set out in para 12.23 of the District Plan, in considering such proposals the Council will also pay particular attention to the impact on the vitality and viability of the Borough's town centres. In this instance it is argued that the size of retail development and its siting would mean that the

proposed store is likely to function as a shopping destination in its own right. making little contribution to addressing the problems and weaknesses of the existing town centre and would exacerbate the shift in focus which arose from the opening of the Howard Centre in 1990 and which the current town strategy seeks to address.

- 8.185 PPS4 also contains a requirement for an impact assessment. Policy EC16.1.c specifically requires consideration of the impact of the proposals on allocated sites outside town centres being developed in accordance with the development plan. In this respect the site benefits from an adopted development plan policy and Supplementary Planning Document.
- 8.186 The Broadwater Road West SPD outlines the Council's vision for the site and sets out a comprehensive framework for mixed use development including residential, community uses and employment. The SPD was formally adopted, following public consultation, by the Council's Cabinet on 2 December 2008. The land use strategy set out in figure 5.2 in the SPD sets out the disposition of uses across the site with the Spenhill application site identified for the following uses
- Residential
 - Leisure
 - Re-use of listed silos
 - Community uses
 - Open space
- 8.187 Whilst the application proposes a mix of similar uses to those listed above it also includes a new retail store on part of the site identified for residential use in the SPD. Because the BWR SPD adopts a design led approach to the development of the site, the SPD itself does not identify a specific number of dwellings to be delivered on the site. However the masterplanning work which informs the proposals set out in the SPD identified that at least 920 dwellings could be delivered across the whole site, 720 of these from the application site. As such a monitoring target of 900 dwellings was included in the SPD.
- 8.188 The Council's Strategic Housing Land Availability Assessment (SHLAA) (October 2009) considered that the BRW SPD site had potential to deliver 1066 dwellings. The view that the site has potential for higher densities of development and that this is deliverable is also supported by the Taylor Wimpey approved scheme which is at present, delivering 209 dwellings as opposed to the originally envisaged 136 dwellings. .
- 8.189 The application proposes only 344 dwellings and leaves a shortfall of 376 dwellings from that envisaged in the original masterplanning work..
- 8.190 Whilst the Council has met the target for housing set out in the District Plan it still needs to ensure that it continues to provide a sufficient quantity of housing to meet future need and demand.
- 8.191 The Council has commenced work on the preparation of its core strategy and in 2009 undertook consultation on its Core Strategy Issues and Options report and more recently the Housing Targets for the borough. Although the Regional Spatial Strategy still forms part of the development plan for the borough, the housing target it provided for Welwyn Hatfield was successfully legally challenged and no longer forms part of the regional plan. The Council has therefore adopted an interim target of 5,800 dwellings for the period 2011 to 2031. The Council, as required by PPS3, has completed a Strategic Housing Land Availability Assessment (SHLAA) and has

assessed its housing capacity. This indicates that in order to meet this interim target the Council will need to release land from the Green Belt. The less housing that is provided for within urban sites the greater the amount of land that will be required to be released from the Green Belt. Policy R1 of the District Plan requires development to take place on land which has been used or previously developed. The Council in its Issues and Options Report (March 2009) made a commitment to maximise opportunities for residential development on land within our existing settlements.

- 8.192 As is noted above the interim housing target will result in land being taken from the Green Belt and so any housing that is not provided on the site would result in an increased amount of Green Belt land being required for housing in the future. In addition, a lower provision of housing on this site would also result in a lower number of affordable homes being provided in Welwyn Garden City. An SPD compliant scheme has the capability of delivering a substantial amount of housing in the next few years thereby helping to meet the government's call to significantly increase the supply of housing. The site is identified in the SHLAA and is our largest brown field site, in a sustainable location and capable of being delivered over the next five years. As such it makes an important contribution to our housing land supply and to the future provision of affordable housing in the borough.
- 8.193 Thus this proposal, for a form of retail development for which there is no demonstrable need and which has a significant impact on the town centre, would:
- Deny the Council the opportunity to make the most efficient use of land for housing on what is a sustainable location and would as a consequence result in more land being released from the Green Belt.
 - Prejudice the delivery of part of the site (Pall Mall) in accordance with the SPD. This is because even with the road widening of Broadwater Road and changes to the Bridge Rd/Broadwater Rd junction, the highway network cannot accommodate the predicted levels of traffic by 2016 and makes no allowance for future development of the Pall Mall site

The applicant has therefore failed to demonstrate to the satisfaction of the Local Planning Authority that an SPD compliant scheme cannot be delivered. Accordingly this has a significant adverse impact on the ability to deliver an allocated development site outside of the town centre in accordance with the development plan. The retail element of the proposal would take land which is designated for other uses to the detriment of the Council's aspirations for the site and the protection of the Borough's Green Belt. The proposal is therefore contrary to part vii of Policy TCR3, EMP2 and EMP3 of the Welwyn Hatfield District Plan and Policy EC17.1.b (in accordance with EC16.1.c.) of PPS4.

2 Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions;

- 8.194 Officers acknowledge that a significant amount of work has gone into the application proposals in terms of the architectural and urban design matters and in many respects the scheme works in urban design terms. The Council also undertook a significant amount of research and work in relation to urban design matters and a great amount of emphasis is placed upon the quality of design within the BRW SPD. There are a number of subjective matters that need to be assessed when determining the proposals success in terms of urban design. Given the significance of the application site and the need to robustly assess the impact of the proposals in design terms, Tibbalds Planning and Urban Design were appointed by the Council

to assess the urban design quality of the application proposals. The assessment of the proposals that has been undertaken is relative to policy and guidance contained in the District Plan and the BRW SPD.

8.195 The vision contained within the Broadwater Road West SPD states:

'To deliver an energetic and pioneering scheme of development which integrates the spirit of the garden city with the very best of high quality 21st century design , seizing the opportunity to enhance the local environment and create a sustainable, supported neighbourhood of an appropriate scale, which successfully integrates with the local community.'

8.196 A detailed analysis of the site identified a number of issues and opportunities that any scheme needed to address and these were opportunities exist to:

- Improve the bridge link to the Howard Centre to improve pedestrian links with the town centre;
- Enhance the East/West link across the site via Hyde Way;
- Maximise the site's accessible location and good road and public transport connections;
- Redevelop the Cereal Partners site using the silos as a landmark feature;
- Provide a network of usable green spaces on the site;
- Support business incubation at the Bio Park through adjacent new space;
- Emphasise the site's industrial character and develop taller buildings on the site;
- Incorporate mixed use blocks;
- Create new hub around public space;
- Create a highly sustainable 21st century development;
- Provide renewable and a CHP on the site;
- Provide a safe and crime free environment;
- Improve the current access route to the railway line used by Network Rail for maintenance work;
- Uplift the quality of development in Welwyn Garden City;
- Provide for the leisure/ cultural and community needs/ demands in the town;
- Emphasise the landmark buildings on the site to promote legibility; and
- Integrate the site into the surrounding area.

(Broadwater Road West SPD December 2008 page 14 Para 3.39)

8.197 The consideration of the urban design issues was separated into the following sections and is primarily based on the assessment undertaken by Tibbalds on behalf of the Council:

- Response to context
- Uses and activities
- Routes and connections
- Urban structure
- Active frontages and well supervised spaces
- Massing and enclosure of space
- Legibility
- Quality of public realm
- Character
- Quality of residential environment
- Quality of Architecture
- Outline application

8.198 However, there is a significant amount of detailed work that has gone into the assessment of the urban design issues and to reiterate the details in this section of the report would be unmanageable for anyone reading the report. Accordingly the issues are most appropriately summarised by answers to each of the key urban design objectives/questions from the SPD that are relevant to the urban design assessment and set out in the Tibbalds Urban Design Appraisal. These are whether the proposal would:

- Capitalise upon the assets of the site?
- Play an appropriate role and function that contributes to the place as a whole?
- Create an appropriate, positive character that responds to both industrial heritage and garden city character?
- Create connections that promote walking and cycling?
- Create or contribute towards a vibrant community?
- Achieve the highest quality 21st century design?

8.199 Capitalise upon the assets of the site?

- From an urban design perspective, the application proposals respond positively and appropriately to the industrial heritage in terms of the retention of existing buildings of significance, the works proposed to them and the new development in the north eastern part of the site. However existing trees are not capitalised upon in the application proposals the loss of mature trees, without adequate replacement, is not acceptable.
- Overall officers consider that in relation to landscaping there is still a considerable negotiation and redesign of certain areas to achieve the SPD vision and this should not left to determine by condition.

8.200 Play an appropriate role and function that contributes to the place as a whole?

- Creating strong linkages between the activities on site and those in the existing town centre will be essential to generate linked trips.
- The proposals as currently designed do not promote linked trips by foot sufficiently at present and so are not acceptable. This is particularly exacerbated by the convoluted routes that persons using the food store have to take to access the town centre.
- There is insufficient information included within the application (for determination as opposed to illustrative) for the outline proposals on the nature of the proposed housing and open space areas to allow a full assessment or to fix future decisions relating to these issues.
- There is a question over the future use of the Pall Mall site and the potential implications for the appropriate mix of uses in the north-western part of the application site

8.201 Create an appropriate, positive character that responds to both industrial heritage and garden city character?

- The application proposals respond appropriately to the industrial heritage, both in terms of the built form and the public spaces with the exception of the outline proposals to the north west of the application site.

- The character of the landscape proposals for the civic square is not acceptable at present. The landscape proposals do not sufficiently support the success of the civic square as an active and vibrant urban space.
- The character of the residential development is not acceptable at present as the landscape (in particular tree planting) is not sufficiently well integrated into the proposals to provide a green backdrop to a tight, urban form of residential development in accordance with the garden city ethos and objectives and vision of the SPD.
- Given the specific nature of the residential proposals, detailed coding or guidance would be necessary to fix the future quality of development.

8.202 Create connections that promote walking and cycling?

- In a number of key locations, the application proposals are unacceptable as they do not sufficiently promote walking or cycling including:
 - The design and positioning of the proposed footbridge, which does not promote safety;
 - The relationship between the supermarket, its car park and the civic square, which is not legible and will not promote linked trips to the town centre;
 - The dead frontage of the supermarket on Broadwater Road, which does not promote safety;
 - The residential cross streets on desire lines from Broadwater Road, in particular from bus stops, which do not promote safety;
 - The layout at the southern end of the linear open space, which is not legible; and

The cycle route to the south of the civic square, which is not safe for pedestrians and relies on the outline proposals for delivery

8.203 Create or contribute towards a vibrant community?

- The proposed mix of uses could contribute to creating a vibrant community in a number of ways but the design of public spaces, including the civic square, the linear open space and the recreation ground needs further amendment to take account of the opportunities available to secure the SPD objectives and the high quality of design required by the District Plan.

8.204 Achieve the highest quality 21st century design?

- The detailed application proposals generally demonstrate an aspiration for high quality of design, with exceptions in certain locations, which have also been identified for other issues, these being:
 - The southern edge of the supermarket, its entrance, access and circulation arrangements;
 - Buildings fronting the civic square where active frontages are not created;
 - The relationship between the leisure centre and the area to the north
- The outline proposals demonstrate that there is potential for an innovative high quality residential scheme, but the information provided in parameter plans and the Design and Access Statements is not sufficient to fix the quality of future development

8.205 The design of the detailed elements of the proposal generally has the potential to create a high quality development. However, there are a number of issues identified where the current proposals do not create the high quality of design required by the national and local planning policy framework:

- The southern edge of the supermarket, its entrance and access and circulation arrangements associated with it, to create a presence on Broadwater Road and linkages to the civic square;
- Buildings fronting the civic square where opportunities to create and to emphasise the presence of active frontages are missed;
- The relationship between the leisure centre and the area to the north (car park in the current application proposals);
- The north western area, where the current proposals do not comprise high quality design;
- The centre of the site, including the south of the supermarket, the civic square, Plots J and K and the footbridge. In this location, there are a number of issues that must be addressed at a relatively detailed level if the development is to create high quality design.
- The residential development, in terms of demonstrating that the proposed residential environment will work in practice.

8.206 At present, there is inconsistency between illustrative material and the parameter plans, in relation to a number of issues, so it is impossible to fully assess the design intent, for instance in relation to building heights, or street sections. The parameter plans are defined very tightly around the illustrative scheme. For instance the building heights or the parking parameters relate to the specific nature of the illustrative proposals, rather than fixing parameters that would allow different interpretations in the future. With this degree of specificity, it is critical that the illustrative scheme is well resolved and addresses all the issues that may arise. Accordingly, either a detailed code should be prepared or alternatively some of the illustrative drawings should be taken into the application and determined. Design codes offer a way for local authorities to ensure consistent design standards across developments. Covering matters such as street patterns, housing design and energy use and generation, they aim to provide clarity and certainty to developers about what is required from them in terms of design quality. The outline application material needs to be refined and clarified and the intent to fix a specific future layout confirmed with the applicant. The illustrative material in the two Design and Access Statements needs to be reconciled to create a single statement of future principles that can be used to tie into an outline planning permission to fix principles and secure the future quality of these parts of the development.

8.207 In relation to the specific design policies in the District Plan the application proposals comply in part, with some exceptions in certain locations. The key areas of the application proposals where these exceptions are concentrated, and where the proposals do not comply with D1, are:

- The north western area, where the current proposals do not comprise high quality design;
- The centre of the site, including the south of the supermarket, the civic square, Plots J and K and the footbridge. In this location, there are a number of issues that must be addressed at a relatively detailed level if the development is to create high quality design. However this part of the proposed development also has many positive design qualities and we consider that the issues identified could be satisfactorily addressed, albeit through a fundamental redesign.
- The residential development, in terms of creating a residential environment that works in practice.

8.208 The applicant submitted a Post Submission Response in September 2011 to try and further clarify and justify a number of issues that were raised in the first Tibbalds report on Urban Design. This included further information on the Parameter Plans,

Active Frontages, Routes and Connections, the landscape strategy and housing density. The response also included two scenarios for increasing the number of housing units on the site, however for the avoidance of doubt these are not going to be considered as part of the current submission because of the requirement to amend the Environmental Statement and because these are only two, of many options for housing that could be discussed with the applicant. The applicant has also agreed this approach. The post submission report also states that the amendments could be made via a series of planning conditions or through the approval of reserved matters (in the case of the outline proposals). The report has been the subject of further consideration by the Council's Urban Design advisers and officers. Although it provides some explanation of certain aspects of the proposals, they do not substantially alter the original assessment from a design perspective and ultimately it does not lead Tibbalds or officers to a different conclusion or recommendation in respect of urban design. There are a number of cumulative impacts in relation to the quality of urban design that have not been fundamentally addressed or resolved to this satisfaction of officers and the Council's Urban Design consultants. Whilst a number of these elements are somewhat subjective and could be overcome through negotiations on the design there are some fundamental issues that would affect the layout of the proposal.

8.209 It is acknowledged that a number of these issues could be resolved through negotiation and substantial redesign however fundamentally the current application proposals fail to achieve this and as a result fails to secure a high quality and inclusive design which fail to take the opportunities available for improving the character and the quality of the area and the way it functions. In relation to the outline application, the illustrative material in the two Design and Access Statements fails to establish future principles that can be used to fix principles of design for the outline application and therefore, fails to secure the future quality of these parts of the development.

8.210 Overall officers consider that the proposal would not result in a development of sufficiently high design quality and fails to secure a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions. In relation to the outline application, the illustrative material in the two Design and Access Statements needs to be reconciled to create a single statement of future principles that can be used to tie into an outline planning permission in order to fix principles of design and therefore secure the future quality of these parts of the development. The proposal is therefore contrary to the provisions of Policy D1 of the Welwyn Hatfield District Plan 2005, the Broadwater Road West Supplementary Planning Document 2008, the Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005, and the relevant provisions of Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Statement 3 (Housing).

3. Material Considerations covering the following matters:

- **PPS4 – Planning For Sustainable Economic Development**
- **CLG Chief Planning Officer Letters**
- **The draft National Planning Policy Framework (NPPF)**
- **Planning Obligations and Planning Gain**
- **Other Material Planning Considerations**

8.211 There are a number of considerations such as noise, land contamination, energy efficiency, visual impact, heritage impacts, impact on residential amenity and so on that need to be considered as part of the determination of this application. However,

because the application is accompanied by an Environmental Impact Assessment the consideration of these matters is set out in Appendix 4 of this report.

PPS4 'Planning For Sustainable Economic Growth'

- 8.212 PPS4 'Planning for Sustainable Economic Growth' sets out the Government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas. The policies contained within PPS4 complement but do not replace or override local plan policies or other national planning policies and should be read alongside other relevant statements of national planning policy. However, PPS4 is a material consideration which must be taken into account in development management decisions, where it is relevant.
- 8.213 The main policy considerations contained within PPS4 relate to the consideration of economic development and an assessment of the retail impact on town centres. Proposals for retail and town centre uses that are not located within an existing centre or in accordance with an up to date development plan must satisfy the requirements of the sequential approach and the 'significant adverse impact' tests before their positive and negative impacts and other material considerations are assessed (paragraph EC17.2). The impact test consists of two sets of assessments; one applying to all forms of economic development and the other to town centre uses only. Local planning authorities are guided to adopt a positive and constructive approach towards planning applications for economic development and planning applications that secure sustainable economic growth should be treated favourably.
- 8.214 Applications for economic development have to be assessed against the following impact considerations under Policy EC10.2:
- a. whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions and minimise vulnerability and provide resilience to climate change;
 - b. the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially on the trunk road network) after public transport and traffic management measures have been secured;
 - c. whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions;
 - d. the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives;
 - e. the impact on local employment.
- 8.215 In relation to the impacts on an existing town centre, planning applications for main town centres uses that are not in a centre (unless EC16.1.e applies) and are not in accordance with an up to date development plan should be assessed against the following impacts on centres:
- a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the study area of the proposal;
 - b. the impact of the proposal on the town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience offer;
 - c. the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;

- d. in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the study area to five years from the time the application is made and where applicable, on the rural economy;
- e. if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floor space) in relation to the size of the centre and its role in the hierarchy of centres;
- f. any locally important impacts on centres under Policy EC3.1.e (which requires RPB and LPAs as part of strategy for management and growth of centres to define any locally important impacts on centres which should be tested).

8.216 Under Policy EC17, if a proposal has not complied with the requirements of the sequential approach and is likely to lead to a significant adverse impact, whether on its own or cumulatively, it should be refused. Where there is no significant adverse impact, the Local Planning Authority is required to determine an application taking account of the positive and negative impacts of the proposal and any other material considerations, and the likely cumulative effect of recent permissions, developments under construction and completed developments.

EC17 states that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date development plan should be refused planning permission where:

- a. the applicant has not demonstrated satisfactory compliance with the requirements of the sequential approach (Policy EC15); or
- b. there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments

Where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:

- a. the positive and negative impacts of the proposal in terms of policies EC10.2 a. and 16.1 and any other material considerations; and
- b. the likely cumulative effect of recent permissions, developments under b. construction and completed developments

8.217 Judgements about the extent and significance of any impacts should be informed by the development plan and the guidance states that recent local assessments of the health of town centres which take account of the vitality and viability indicators in Annex D of this policy statement and any other published local information (such as a town centre or retail strategy), will also be relevant.

8.218 As per Policy TCR3 of the District Plan, under Policy EC14 of PPS4, a sequential assessment is required for planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up to date development plan. PPS4 is clear that applications should be refused where the applicant has not demonstrated compliance with the sequential approach. As set out earlier in this report the applicant has failed to submit a satisfactory sequential test. Based on the evidence and assessment that has been submitted with the application, the current proposal clearly fails to address the requirements of the sequential approach. Accordingly, the proposal not only fails to comply with policies TCR1 and TCR3 of

the Welwyn Hatfield District Plan 2005 but also Policy EC17.1.a of PPS4 in particular, a failure to comply with EC15.a, b c and d.

8.219 As set out above, where there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments the proposal should be refused.

8.220 Officers consider that the application has a significant adverse impact in relation to the following areas:

Policy EC10

- (b) The accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially on the trunk road network) after public transport and traffic management measures have been secured;
- (c) Whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions;

Policy EC16

- (a) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the study area of the proposal;
- (d) In the context of a retail or leisure proposal, the impact of the proposal on in- centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the study area to five years from the time the application is made and where applicable, on the rural economy;
- (b) The impact of the proposal on the town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience offer;
- (c) The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;

8.221 PPS4 is clear that where Local Planning Authorities identify a significant adverse impact under either EC10.2 or EC16 the application should be refused. Accordingly, under the approach in PPS4 there is no need to balance these negatives against any positive factors. However, for completeness consideration of the positive and negative aspects of the scheme (under the considerations in EC10.2 and EC16), including the material considerations that officers consider are relevant to the determination of this application are set out in the remainder of this report.

Positive Impacts

8.222 It is clear that the scheme overall could be viewed as having a number of positive impacts. The envisaged economic and physical regeneration impacts in the area including the impact on deprived areas and social inclusion objectives could be considered to be positive during the current climate. As stated above, the application's Design and Access Statement states that the *'The major missed opportunity in the SPD is the failure to consider the future of the east side of Broadwater Road in the context of its failure to survive as an industrial area and the need to regenerate the area and connect the town centre to the Peartree ward'*. However, this fails to acknowledge that this regeneration of the site would occur under the SPD scheme anyway with the only issue preventing this being the applicant's ownership of the site, purchased in full knowledge of the SPD.

- 8.223 The issue of job creation is also a positive impact. DP9 have stated that approximately 1,300 – 1,800 full-time jobs should be created on the site, with roughly 400 of these at the new foodstore and including many positions for the long-term unemployed. However the Environmental Statement states 1,640 new jobs. In addition, it states that *'local people unemployed for six months or more can apply through Tesco's Regeneration Partnership initiative and anyone who completes the company's six week training course is guaranteed a job in-store. The Regeneration Partnership scheme is designed to encourage personal development and progression through the company. Additionally, the wider Redevelopment provides office space and smaller studio unit's ideal for start-up businesses run by local entrepreneurs and which will employ local 400 local people'*.
- 8.224 NLP have advised that figure seems reasonable for a food superstore of the size proposed. This is on the basis that most of the proposed Tesco store's turnover is expected to be diverted from other retail facilities in Welwyn Hatfield. However NLP estimate that about 86% of the Tesco store's convenience turnover will be diverted from other facilities in Welwyn Hatfield, therefore about 14% will be new trade attracted to Welwyn Hatfield. Allowing for diverted jobs from existing facilities in Welwyn Hatfield, the net increase in jobs in Welwyn Hatfield generated by the food store may only be about 50 to 60 jobs.
- 8.225 Previous correspondence from Tesco to the Welwyn Garden City Society states that the jobs figures have been deliberately underestimated by 20% so as to not overstate the employment and that there were no plans to transfer staff from Oldings Corner, although individual members of staff were welcome to apply. According to Tesco Plc, this results in the following totals:
Full time – 133
Part time – 260
Total – 393
- 8.226 There is an estimated 78 (20%) jobs lost through displacement (the number of positions estimated to be lost because of socio economic forces) and this gives a net total of 315 or 228 full time equivalents.
- 8.227 The applicant's agent has responded to the NLP report and confirmed that the applicant estimates that the Tesco element will generate 400 jobs, with other uses on the site generating up to 1,000 permanent jobs and that this is in addition to the many hundreds of jobs created during the construction period although this is slightly reduced from the figures submitted with the application. The applicant's agent considers that the assertion that a reduction in trade results in a reduction in employees is circumstantial and that the NLP report fails to recognise that some 40% of the turnover will be diverted from the existing store at Oldings Corner and that there will be no loss of jobs from the transfer of custom.
- 8.228 The jobs associated with the construction phases and the elements would equally be provided via an SPD compliant scheme (such as through a leisure use and commercial uses) and therefore these can be discounted. It is considered that whilst weight should be afforded to this net increase in jobs it needs to be balanced against the increase in jobs that may occur in the existing employment area by virtue of the fact that an SPD compliant mixed use scheme with substantially more housing would provide a more sustainable 'pool' of labour in close proximity to the town's employment areas. It is clear that there will be an increase in the number of jobs created by the proposal, although there is sufficient doubt that it is not going to

be as high as the applicant suggests. Nevertheless, the employment generated is a positive impact of the proposal.

- 8.229 Overall, officers consider that the following positive impacts would result from the proposed redevelopment:-
- Promotes the redevelopment and regeneration of under-utilised Brownfield sites (In the same way the SPD does)
 - Preserves Listed Buildings and heritage assets and brings them back into viable use albeit with significant demolition
 - Delivers some new homes
 - Employment creation
 - Planning gains such as Heritage centre, Leisure centre and Energy centre
 - Pedestrian bridge improvements subject to the agreement of Network Rail
 - Improves consumer choice and competition
- 8.230 However, officers consider that non compliance with the SPD would result in the following negative impacts of the proposal would result if the application were to be approved:
- Failure to deliver the housing requirements of the development plan for this site and therefore the real possibility that additional Green Belt land would have to be released
 - Failure to deliver the SPD target of affordable units
 - Significant adverse impact on turnover and future investment within Welwyn Garden City town centre and prejudicing the delivery of allocated development sites
 - Significant adverse Impact on Welwyn Garden City town centre vitality and viability and
 - Significant adverse impact on the emerging town centre strategy
 - Detrimental impact on capacity of highway network and safety
 - Does not provide a sufficiently high quality design as envisaged by SPD

DCLG Chief Planning Officer Letters

- 8.231 The contents of various Department of Communities and Local Government 'Chief Planning Officers' letters also need to be taken into account as material considerations. These documents provide non-statutory advice and guidance on particular issues to expand on subjects referred to in legislation. Accordingly, the letter 'Planning for Growth' issued on 31 March 2011 is a material consideration. It advises that the Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.
- 8.232 The letter expects local planning authorities to plan positively for new development; to deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate. They should also make every effort to identify and meet the housing, business and other development needs of their areas, and respond positively to wider opportunities for growth, taking full account of relevant economic signals such as land prices.
- 8.233 When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of

sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore:

- i. consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;
- ii. take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;
- iii. consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);
- iv. be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;
- v. ensure that they do not impose unnecessary burdens on development.

8.234 In determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions. However, the growth that is referred to is from development that meets the tests within PPS4. Because the development fails some of those tests officers consider that it cannot claim support from 'Planning for Growth'.

8.235 Officers have given appropriate weight to this letter and have considered the points raised in (i) to (v). However, officers consider that none of the considerations in the letter outweigh the impacts would arise if the application were to be approved. Accordingly, it does not change the recommendation below.

Draft National Planning Policy Framework

8.236 The consultation on the draft National Planning Policy Framework (NPPF) was published on 25 July 2011. The draft NPPF is essentially a streamlining of existing Planning Policy Statements, Planning Policy Guidance Notes and some circulars to form a single consolidated document and this framework sets out the Government's key economic, social and environmental objectives and the planning policies to deliver them. The framework will have the same legal status as current Government policy documents. The provisions of the Planning and Compulsory Purchase Act 2004 already cover the status of national planning policy in plan preparation and decision making.

8.237 The draft NPPF contains a number of references to the presumption in favour of sustainable development, and the need to support economic growth through the planning system. These have previously been trailed in the Written Ministerial Statement on 'Planning for Growth' as set out above. Whilst it is a consultation document and, therefore, subject to potential amendment, it nevertheless gives a clear indication of the Government's 'direction of travel' in planning policy. Therefore, the draft National Planning Policy Framework is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker's planning judgment in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled. In conclusion, the NPPF is a consultation document that will no doubt be subject to change and therefore it should only carry limited weight at this stage and

accordingly, it would be inappropriate for officers to speculate regarding the impact of the various proposals on the determination of this application.

Planning Obligations and Planning Gain

- 8.238 The principal objective of the planning system is to deliver sustainable development, through which key Government social, environmental and economic objectives are achieved. The delivery of these goals is provided for in a framework of development documents, in which local communities are positively involved, and through a transparent system of decision-making on individual applications. In dealing with planning applications, local planning authorities consider each on its merits and reach a decision based on whether the application accords with the relevant development plan, unless material considerations indicate otherwise. Where applications do not meet these requirements, they may be refused. However, in some instances, it may be possible to make acceptable development proposals which might otherwise be unacceptable, through the use of planning conditions (see Department of the Environment Circular 11/95) or, where this is not possible, through planning obligations. Where there is a choice between imposing conditions and entering into a planning obligation, the imposition of a condition is preferable. Planning obligations (or "s106 agreements") are private agreements negotiated, usually in the context of planning applications, between local planning authorities and persons with an interest in a piece of land (or "developers"), and intended to make acceptable development which would otherwise be unacceptable in planning terms.
- 8.239 The use of planning obligations must be governed by the fundamental principle that planning permission may not be bought or sold. It is therefore not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms. Similarly, planning obligations should never be used purely as a means of securing for the local community a share in the profits of development, i.e. as a means of securing a "betterment levy".
- 8.240 The various obligations and planning gain elements need to also be afforded weight in the decision making process such as the leisure centre, bridge improvement works, heritage centre, energy centre, although some of these would also be delivered with an SPD complaint scheme. These types of "consequential planning gain" are certainly material considerations in the decision making process, and may provide justification for allowing a development, possibly outweighing other planning objections. However, in this case officers consider that an assessment of these is not necessary but is included for information. Furthermore, they arise directly from the opportunities raised by an applicant's intention to develop land, and the conventional operation of planning policies thereon.
- 8.241 Guidance given in Circular 05/05 'Planning Obligations' stated that a planning obligation must be:
- (i) Relevant to planning;
 - (ii) Necessary to make the proposed development acceptable in planning terms;
 - (iii) Directly related to the proposed development;
 - (iv) Fairly and reasonably related in scale and kind to the proposed development; and
 - (v) Reasonable in all other respects.
- 8.242 The introduction of the Community Infrastructure Levy Regulations 2010 changed the tests for Planning Obligations under Regulation 122 and is that there is now a

statutory requirement for planning obligations to meet three of the five tests that were previously set out in Circular 05/05:

1. Necessary to make the development acceptable in planning terms;
2. Directly related to the development;
3. Fairly and reasonably related in scale and kind to the development

8.243 There is however a fundamental difference between consideration of a 'Planning Obligation' and benefits which are deemed to be 'Planning Gain'. The term "planning gain" is commonly used in town planning documents, but it has been given various interpretations, and is therefore a source of some confusion. The legal distinction is more correctly drawn as between those obligations which satisfy the requirements of Regulation 122 of the CIL Regulations 2010, and those that do not. The common theme of Regulation 122, therefore, is that there must be a connection between the obligation being sought and the proposed development.

8.244 These two topics are linked as planning obligations are the legal means by which planning gain may be legally secured when such gain is to be achieved by contributions or physical provision of facilities away from the immediate site of a planning application. Planning Gain is likely to be a material consideration in the determination of an application, since it refers to an overall benefit to the community which would derive from allowing that application and its subsequent implementation. However, distinction needs to be made between 'planning gain' which arises as the normal consequence of the implementation of an approved development, and 'planning gain' which is either

- a. A benefit which the developer of land is prepared to concede to gain a favourable permission, or
- b. A requirement which a local authority using its planning powers may exact, being over and above that which purely functional/commercial criteria related to the development in question, or the application of approved planning policies, would dictate.

Consequential Gains

8.245 These are benefits which would occur as the result of the implementation of a development. In terms of general economic benefits, a development is likely to be a knock-on stimulus to the national, regional or local economy and in many cases will provide employment opportunities in their own right. A proposal may well aid policies contained in development plans such as targets for housing or industrial development, plans to achieve an acceptable balance of uses within an area, or plans to develop road/public transport/pedestrian linkages. General infrastructure and environmental benefits to the community in general may also follow from a development such as those arising from necessary consequential improvements to roads, open space or other community services at locations away from a site. A new development may also be a catalyst for the development of nearby land in need of regeneration. Removal of an existing unsatisfactory situation caused by existing uses and structures may also follow. For instance a development may get rid of an ugly or un-neighbourly use, remove land contamination or perhaps remedy an unsatisfactory access. A new development may also allow the retention or improvement of existing desirable site features which would otherwise be under threat.

8.246 These types of "planning gain" are certainly material considerations in the decision making process, and may provide justification for allowing a development, possibly outweighing other planning objections. However, they arise directly from the

opportunities raised by an applicant's intention to develop land, and the conventional operation of planning policies thereon. As consequential gains will normally have a direct relationship to a proposed development there is little likelihood of challenge on the basis of unlawfulness or conflict with ministerial guidance. However, as shown below, there is a point at which a facility offered or required may be considered to be unrelated/extraneous to the development proposed, and questions may then start to be asked as to whether a) developers in putting forward facilities are in fact offering inducements to a local authority to grant planning permission, or b) local authorities in requiring facilities are extorting a price for a planning permission.

Extraneous Planning Gain

- 8.247 Extraneous gains may arise when benefits which a development scheme provide are alleged to go beyond the reasonable expectations of a new development a) that it will function properly in itself and will have adequate internal or external infrastructure, b) that it will be successful speculatively or otherwise fulfil specific commercial or personal requirements. This form of provision could be in the form of planning gain and arises when a developer offers, or a local authority requires, payments for, or the physical provision of, facilities which may be seen as extraneous to the development itself, whether they be located on site or away from the site, the subject of an application. It is important for members to understand that a Planning Obligation which fails the circular and CIL tests can still be valid as a planning obligation but it would not be a sufficient reason for granting planning consent and so would not be a material consideration in the decision.
- 8.248 In policy terms, a planning obligation must be proportionate and must not be used for securing an ulterior purpose or an unjustified planning gain. In order to seek to clarify the issues involved the various obligations and what could be given weight in the termination of this application comments on the various obligations are set out below. In accordance with a draft Heads of Terms letter provided by the applicant on 3 August 2011 the developer obligations are set out below and are to be delivered prior to the opening of the proposed foodstore:
1. The provision of a Leisure Centre (including a swimming pool and gymnasium) for public use. The Leisure Centre would be constructed to a specification approved by the Council or if considered necessary a financial contribution to be used towards enhancing existing leisure facilities in the area. There will also be an accompanying management plan to ensure that the Leisure Centre is made available for use by the public for a minimum prescribed period of time.
 2. The provision of a Heritage Centre to shell and core to an agreed specification and offered at a peppercorn rent to an appropriate organisation/body for use as a museum or other community facility as agreed by the Council.
 3. The provision of an Energy Centre to serve the proposed development to be operated and maintained either by the Developer or an appropriate agent.
 4. Refurbishment of listed former Shredded Wheat Factory Production Hall to an agreed specification.
 5. Refurbishment of the silos including the Roof Building and Ground Floor Café to an agreed specification.

6. The provision of a new public square, recreational facilities and play areas. These facilities will be made available to the public but managed and maintained by the developer.
7. Highway works and infrastructure associated with the development including the construction of a spine road to adoptable standard.
8. The provision of a replacement footbridge, cycle storage and lift building, as detailed in application reference: N6/2011/611/FP or any such revision as agreed by the Council. The delivery and maintenance of these facilities will be agreed with Network Rail.
9. Construction of x units of affordable housing or payment of a commuted sum of [x] in lieu of on-site provision of affordable housing, such sum to be used by the Council to facilitate the provision and/or improvement of social housing within the District.
10. A commitment to provide on-site parking management to be operational as soon as the supermarket is trading and to include a parking enforcement team of Civil Enforcement Officers (CEOs). A Resident Parking Permit Scheme (RPPS) shall be operational prior to occupation of the first residential unit.
11. A financial contribution towards the cost of monitoring parking levels and illegal parking in Peartree Ward in those areas that are within 10 minutes walking time of the Site boundary, and to contribute towards the cost of implementing a controlled parking zone (CPZ) should it be required.
12. A commitment to maintain a public Right of Way for pedestrians and cyclists between Broadwater Road and the footbridge over the railway.
13. The costs associated with any Road Traffic Orders that may be required.
14. A £200,000 financial contribution towards the cost of enhancing bus service 403 to provide evening and weekend services.
15. A financial contribution towards the cost of general public transport service improvements to take the form of a 5-year contribution from the time of the supermarket opening for trade. A pot of money will be agreed and Hertfordshire County Council will use the funds where they are most needed.
16. A commitment to maintain Hertfordshire County Council access to the cycle parking racks adjacent to the eastern end of the footbridge over the railway in order that they may operate and maintain them, and provide additional racks in future should they be required.
17. The provision of a Construction Management Plan, to be submitted to and approved by Welwyn Hatfield Borough Council prior to commencement of construction on the Site.
18. The provision of a site-wide travel plan (TP) and travel plan statements for specific uses, to be submitted to and approved by Welwyn Hatfield Borough Council prior to occupation of the Site.

19. A financial contribution towards the cost of implementing the off-site highway mitigation measures included as part of the mitigation strategy and detailed in the Transport Assessment report.

8.249 The obligations being offered of more general applicability for remaining Phases of the development are:

1. Provision of a Doctor's Surgery to an agreed shell and core specification.
2. A commitment to facilitate access to the Pall Mall site along the new access road, as part of any redevelopment of the Pall Mall site in accordance with the aspirations of the SPD.
3. Provision of affordable housing.

Comments on the obligations, the submitted Heads of Terms and the elements of planning gain that have been offered, are set out below.

Highway Infrastructure provision

8.250 DP9 have confirmed that it is the applicant's intention to ensure that the construction of the highway works is completed prior to the opening of the store for trade to the public. As already noted the provision of infrastructure which relates to a particular development, and which is necessary for it to proceed, is a legitimate planning requirement to be sought through the medium of planning obligations. Turning to the Pall Mall access road this cannot be seen as a gain because of the Urban Design issues this causes as set out in the urban design section of this report.

8.251 However, whilst the applicant has offered £200,000 towards enhancing the 403 bus service, the 'financial contribution' and 'commitment to maintain' are sufficiently vague even though a commitment to provide it is included. The Addendum Report contains a list of highway and transport items to be covered within a S106 Agenda. This list is extensive and as yet no detailed discussions have been agreed and therefore the Highway Authority are uncertain as to whether the measures put forward will address their concerns, mitigate fully against the proposals and support the aims of the LTP. In officers view Members will need much more detail before they can form a view with regard to the weight to be afforded to this obligation.

Affordable Housing

8.252 This is a legitimate planning obligation and the submitted draft Heads of Terms states that the applicant will, prior to the opening of the foodstore deliver the *'Construction of x units of affordable housing or payment of a commuted sum of [x] in lieu of on-site provision of affordable housing, such sum to be used by the Council to facilitate the provision and/or improvement of social housing within the District'*.

8.253 The applicant's agent has also clarified that they will seek to maximise the proportion of affordable housing up to a policy compliant level (30%), in accordance with the local authority's priorities and taking account of the overall financial viability of the scheme. However, that they propose to *'undertake a financial viability assessment to establish a baseline proportion of affordable housing for the site. This will enable the substantial planning obligations and abnormal costs included within phase one of the development - primarily the new railway footbridge, leisure centre and site wide infrastructure to be reflected in a comprehensive assessment of the development as a whole'*. And that *'We will work with the Council to agree a*

site-wide proportion of affordable housing that is viable on current day costs and values’.

8.254 On this basis the applicant has offered at least 30% of the residential element in Phase 1 as affordable housing. This will consist of 12 apartments in Building K, comprising 4 one bedroom and 8 two bedroom units for intermediate housing and shared ownership. As an alternative, the applicant has offered *‘to contribute the level of this subsidy as a commuted sum, on a financially neutral basis, if the Council has a higher priority use for this funding to provide affordable housing elsewhere within the borough’.*

8.255 However, it is considered that this somewhat vague and it appears that the applicant is seeking to delay decisions on the affordable housing offer until the reserved matters stage with no guarantee that they are going to deliver the District Plan requirement. In accordance with current policy, the applicant should be committing now to affordable housing at required policy level of 30%. A legal mechanism for assessing viability could be considered for the S106 but the starting point should be the policies in the local plan. In relation to the commuted sum, officers consider that the size of this site should be able to accommodate its own affordable housing provision, there are no other alternative suitable sites and accordingly, a commuted sum is not appropriate. The applicant was informed of the Council’s position on off-site provision before the revised Heads of Terms were received.

Open space, public square and Multi Use Games Area (MUGA)

8.256 In relation to the delivery and maintenance of these, the applicant’s agent has confirmed that

‘The delivery of the proposed public square and recreation ground/teenage play area adjacent to the leisure centre will form part of phase one of the development. The completion and management of these elements will be an integral part of the trading of the store and the letability of the other commercial elements which are proposed such as the offices and cafes/restaurants. The ongoing upkeep and maintenance of these areas will form part of the comprehensive estate management/service charge strategy.

The linear park forms part of the outline element of the scheme. Once again, its delivery is a key element to the success of the proposed residential development and the applicant proposes that its upkeep and maintenance will be secured through the estate management, funded through the service charge to be paid by residents. Ownership of the public square, play area, linear park and public realm within the estate will remain with the applicant. The intention is for the Section 106 Agreement to contain a management plan which will require the areas to be laid out to an agreed specification and thereafter maintained and managed throughout the lifetime of the development’.

8.257 Officers consider that this is a standard approach and can be adequately incorporated into the Section 106 Agreement. Overall, this consequential planning gain has clear policy support and a legal connection to the development. Whilst its delivery will require submission and approval of a maintenance and management plan, this is common and is not needed at this stage. Members can therefore afford this obligation weight.

Works to the bridge – Application N6/2011/611/FP – New footbridge, cycle storage and improved access.

- 8.258 The applicant has submitted a separate application for the footbridge which details the erection of a replacement pedestrian bridge up to the existing bridge over the operational lines and the construction of a bridge link building, including a ticket machine and bike shed. This application is a separate item on the agenda. At the time of writing this report the delivery and maintenance of these facilities has still to be agreed with Network Rail and Network Rail have an unresolved objection to the revised proposals. However, any grant of consent would be subject to a clause within any S106 legal agreement to ensure this is provided and made available for use prior to the opening of the store.
- 8.259 The applicant has offered that delivery of the bridge improvements, as set out in planning application reference N6/2011/0611/FP, will be linked to the opening of the store. In other words, there will be a restriction on the actual opening of the store for trade until such time as the works are completed.
- 8.260 The applicant has proposed that the obligation will be drafted along the following lines:
- "not to permit the Store to open for trade until such time as the works required to be undertaken pursuant to planning permission reference N6/2011/0611/FP which comprising the erection of replacement pedestrian bridge and construction of a bridge link building, including the installation of a ticket machine, have been completed to the reasonable satisfaction of the Council".*
- 8.261 It is currently envisaged that Network Rail will undertake the works themselves and there will be a separate agreement between the applicant and Network Rail concerning the cost and timing for carrying out and completing the works. In terms of future maintenance, the applicant has agreed to commit to an obligation to ensure that the bridge works are maintained and it is also likely that responsibility for actually undertaking the maintenance will be transferred to Network Rail in return for payment of an annual fee. However, the details of this have yet to be agreed with Network Rail.
- 8.262 There is clear policy support in the SPD and clear legal connection to the proposed development because if the application were to be approved it would need to be on the basis of an upgraded bridge link. The bridge is described as 'unattractive and in poor condition;' within the SPD and that it is essential that the pedestrian bridge link be upgraded or replaced by a structure that meets both accessibility standards and user requirements. However, members should be aware that there is no evidence to suggest that an acceptable scheme of improvement works could not be implemented in connection with a fully SPD compliant scheme and whilst it is a clear aspiration of the SPD, it is unclear how *"any such revision as agreed by the Council"* could be achieved, other than by way of another planning application.
- 8.263 In conclusion, members can give significant weight to the principle of providing an upgraded footbridge. Whilst it is unfortunate that there is a lack of certainty surrounding what is being proposed based on Network Rail's recent objection it is not unreasonable to require, by way of a section 106 legal agreement that the store opening is restricted until the improved bridge link is operational. The issue to bear in mind is that if the link is constructed in accordance with Network Rail's wishes then the legibility of the scheme is reduced because the bridge link will be shortened to ensure access is only from Network Rail owned land

Provision of Leisure Centre

- 8.264 The applicant has had preliminary discussions with potential operators to ascertain how the leisure centre can be run on a commercial basis. However the applicant's agent also states that *'These discussions will inform any final decisions on the size and depth of pool (it is currently envisaged that this will be a 25m pool with a maximum depth of 6 feet) and the specification and equipment to be contained within the gymnasium'* and that *'Our client intends to provide a facility which is of benefit to the public. It will therefore be essential that the rates charged for using the facilities are affordable – we anticipate that they will be in line with the rates charged for other leisure facilities within the borough, such as those operated by Finesse. The specific mechanism of how access to the general public will be managed will be a key factor in any management agreement entered into with the operator'*.
- 8.265 The applicant is agreeable to the inclusion in the Section 106 Agreement of a requirement for the public access element [and charging] to be agreed with the Council, and, whilst they have stated they will provide headings for a management plan they consider that it would be more productive to discuss matters with the Council in relation to the issue of the length of operation, it is the applicant's intention for the leisure facility to be in existence and available for use for as long as there is sufficient demand to justify its retention.
- 8.266 There is support for the provision of 9,000sqm of leisure space within the SPD; therefore Members can lawfully take this into account in the decision. However, the main issue here is the need to judge the proportionality of the proposed facility against the need as envisaged by the SPD and in any subsequent assessments that have been undertaken.
- 8.267 The current proposal is for a 3,390sqm facility with the intention that the facility will include a pool and gymnasium. The Welwyn Hatfield Sports Facilities Study (March 2011) indicates that in quantitative terms, the existing pool provision currently meets local demand. However, some residents of Welwyn Garden City are unable to access an unrestricted pool within 10 minutes and a qualitative demand for swimming space has been identified from not only sports clubs but also residents of the town but this essentially a qualitative need. However the study also concludes that if more of the existing facilities had full community access there would not be a need for additional water space but ultimately that if a new pool is to be provided it should be located in Welwyn Garden City. With regards to the health and fitness aspect the study concludes that there is little justification for additional health and fitness centres although by 2026 investment will be needed to improve attractiveness and ensure centres meet the needs of the community.
- 8.268 Overall, the provision of a swimming pool can be given some weight but only in terms of a qualitative need but this has to be weighed by members in light of the objections from Gosling Sports Park and the fact that the attached health and fitness facility is not required to meet a specific demand. It is considered that the benefit of a swimming pool is outweighed by the fact that it could potentially be provided for as part of a fully SPD compliant scheme and the fact that the negative impacts of the proposal significantly outweigh this qualitative demand.

Provision of Heritage Centre

- 8.269 Again, this is an extraneous planning gain that does have some policy support but the phrase "for use as a museum or other community facility" is again somewhat vague. Whilst there is some policy support for the centre within the listed building, it is similarly non-specific and more details are needed from the applicant in terms of

the type of use to which the facility might be put, e.g. industrial heritage museum. At present, the facility need not be provided on this site, which in officer's opinion is a weakness in the legal connection test set out above and therefore it should not be afforded any significant weight.

Provision of Energy Centre

- 8.270 This element has significant policy support in the SPD and there is also a clear connection between the centre and the development which it will serve so officers are satisfied with the level of detail supplied at this stage. Accordingly, members can afford this weight but also need to recognise that it is also part of a fully compliant SPD scheme.

Redevelopment of disused industrial site

- 8.271 This is a consequential gain of the development and should be afforded weight in the consideration of the application. However, officers consider that the weight afforded to this should be limited given the fact that the applicant has not demonstrated that an SPD compliant scheme, which would have the same benefit cannot take place. In fact, the only reason why it may not take place is because of the applicant's ownership of the site.

Retention of Silos and listed buildings

- 8.272 The works are a consequential gain of the development and should be afforded weight in the consideration of the application if the retention of the silos is still considered necessary.

Doctor's Surgery and commitment to facilitate Pall Mall access

- 8.273 In relation to the doctor's surgery, more detail is needed on the demand for this surgery and there has been no indication from the applicant of any discussions with the Primary Care Trust taking place. At present, this is much too vague to have any real meaning and at this stage it is an extraneous planning gain that has not been fully substantiated.

Offsite Parking Controls

- 8.274 The applicant has also confirmed that various on site and off site parking measures will be controlled through a S106 agreement. On the one hand, this could be considered to be an indication of a robust Transport Assessment but on the other, given the concerns surrounding parking provision it could be seen as an indication that the applicant considers this type of mitigation will be required because the parking provision for the scheme is not appropriate and will cause off site parking problems. There is also no evidence that this would be an acceptable solution to both residents and the Council.

Public Art

- 8.275 In relation to other matters, clarification has been sought as to why public art has not been included as per the SPD and DP9 have stated that the restoration of the buildings would be part of the contribution to public art. Officers do not agree that restoration of a listed building could really be considered to be public art and in any event delivery of public art should be in addition to development, rather than just being the development itself. Policy D10 is a saved policy and requires contributions to public art. Whilst the applicant has not put forward any proposals for public art, in reality the application would not be unacceptable and refused on these grounds if public art was not included.

Primary and Secondary Education Contributions

- 8.276 Given capacity issues in respect of both primary and secondary education HCC are seeking financial contributions towards both primary and secondary education as set out within Table 2 of the Toolkit. The use of formulae and standard charges in the toolkit is a means of addressing the likely cumulative impact of development in a fair, equitable and transparent way and financial contributions will be sought where necessary to fund both on and off-site provision as appropriate. However, neither the application nor the amended Heads of Terms make any provision for these contributions.

Other Material Planning Considerations

Protected Species

- 8.277 The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.
- 8.278 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).
- 8.279 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."
- 8.280 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of a EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:
- Consider whether an offence to an EPS is likely to be committed by the development proposal.
 - If the answer is yes, consider whether the three "derogation" tests will be met.
- 8.281 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 8.282 This planning application is accompanied by an Environmental Statement which includes an ecology assessment of the site. Based on this assessment the site as a whole is considered to be of low ecological value. However, the scheme will include redevelopment of an area of colonized rural habitat on derelict land to the north-west of the site. The main receptors identified as likely to be affected by the scheme include reptiles, bats, invertebrates, trees, and nesting birds. At the Council's request additional bat and reptile surveys were undertaken. These

indicate that none of the buildings on site are currently being used by roosting bats but there is a negligible risk of bats using the buildings for occasional roosting. As such a precautionary approach to demolition is recommended. The only reptile species confirmed to be present on site was the slow worm which is protected under the Wildlife and Countryside Act. However, only two slow worms were observed and as such it is considered that only a small population of the species is using the site and mitigation is proposed in the form of a method statement that will include the preparation of a receptor site and translocation to this receptor site prior to works commencing on the main scheme. The ecological assessment did not include an invertebrate study but recognizes that the undeveloped habitat on the north west of the site may support a number of uncommon invertebrate species which are also of conservation concern. As this land generally comprises of the final phase of the wider development proposals it is proposed that an invertebrate study be carried out prior to any works commencing on this phase. This, alongside the introduction of features such as brown roofs and a biodiversity management plan for the whole site will ensure that there is no net loss in invertebrate habitat during construction.

8.283 From the information submitted, Natural England and The Herts Biological Records Centre have confirmed that there is not a reasonable likelihood of EPS being present. As such, it is unlikely that a EPS offence will occur and it is therefore not necessary to consider the Conservation Regulations 2010 further.

8.284 The Natural Environment and Rural Communities Act 2006, The Badgers Act 1992 and PPS9 are relevant for species protected by UK legislation only. PPS9, Key Principles, sub paragraph (vi), details

“The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

Given the findings of the ecological assessment and the advice of Natural England and Herts Biological Records Centre, it is considered that the proposed scheme and the mitigation promoted by the applicant is acceptable and significant harm can be prevented in this instance.

8.285 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:

- i. 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,
- ii. He failed to consider the likely environmental effects of revoking Regional Strategies

8.286 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill, which is expected to begin its passage through Parliament before Christmas. 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.

8.287 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.

Representations

A significant amount of representations have been received from residents, organisations and consultee's by the LPA in connection with this application. The issues raised by these and other material planning considerations have been discussed within this report or considered as part of the Transport and Environmental Impact Assessments of the scheme. There are a number of instances where conditions have been suggested or would be appropriate to address the comments raised. However, in light of the recommendation these have not been explored further but these the imposition of such conditions are not felt to overcome the suggested reasons for refusal.

9 Conclusion

9.1 This is an extremely significant application which raises a number of complex issues which are considered in this report. The regeneration of this site is a priority for this Council, demonstrated by the approval of the SPD. The current proposals have the benefit of bringing forward regeneration proposals including the securing of the long term future of key listed buildings on the site. However these benefits have to be considered against the other planning considerations set out in this report and these are summarised below.

Retail Impact

9.2 The submitted PPS4 Retail Assessment has failed to demonstrate to the satisfaction of the Local Planning Authority that the applicant has complied with the requirements of Policy TCR1 and TCR3 of the Welwyn Hatfield District Plan Policy EC15(d)(i), (ii), (iii) and (iv) of PPS4 - Planning for Sustainable Economic Development. The applicant has also failed to demonstrate that each of the town centre options has been thoroughly assessed as a sequentially preferable alternative to the application site. The application, therefore, fails to satisfy the requirements in Policy EC15 (a), (b) (c) and (d) and should be refused permission in accordance with Policy EC17.1 (a).

9.3 In relation to the impact on the vitality and viability of the town centre and the emerging town centre strategy, the take up of nearly all the available expenditure by the proposed foodstore and forecast growth is likely to impact on the potential investment and development by existing and potentially new retailers in the town. Whilst the centre has vacancy rates below the national average, the lack of available expenditure suggests that the potential for these units to be occupied is reduced and vacancy rates could increase. In addition, if the proposed foodstore

results in the closure of some of the smaller retailers the likelihood of these units being occupied is reduced further.

- 9.4 By taking up a significant proportion of forecasted comparison expenditure capacity, the retail element of the store would jeopardise the Council's overall strategy for attracting investment in to Welwyn Garden City town centre. This would have the effect of delaying investment to improve the amount and range of comparison retail floor space in Welwyn Garden City town centre. For example, a consequence of rendering development at the Town Centre North undeliverable would be that, in order to meet identified needs, the Council would be forced to make provision for comparison retail floor space outside the town centre. Going forward, this would clearly have an adverse impact on the vitality and viability of the town centre. A lack of investment would potentially result in a greater leakage of expenditure out of Welwyn Hatfield to Districts where investment in improved shopping facilities is proposed (such as Stevenage town centre and Brookfield Farm). This would have impacts for sustainability, firstly, because the local economy of Welwyn Hatfield would suffer relative to neighbouring Districts and, secondly, because people would have to travel further to obtain the range and choice of shopping opportunities they are likely to aspire to, increasing the likelihood of their needing to travel by car and so increasing CO2 emissions.
- 9.5 The retail impact of the proposed development could also start to jeopardise the role of Welwyn Garden City in the wider retail hierarchy when seen in the context of competing towns and cities in Hertfordshire and beyond. If the town centre cannot attract significant investment to support improvements in its comparison offer, it will start to fall down the rankings relative to nearby centres. The longer that investment is delayed, the more the town centre could start to stagnate relative to neighbouring centres. The longer it stagnates, the less attractive it would be for future investment.
- 9.6 The consideration of retail impact is not a precise science and judgment has to be exercised in relation to the likely impacts. It is considered that the proposal would have a significant impact on in centre trade/turnover, on existing, committed and planned public and private investment in the town centre and accordingly, the vitality and viability of the town centre in the medium and long term. Although there is a degree of uncertainty surrounding the likely impact, officers consider that the proposal fails to comply with Policies TCR1 and TCR3 of the Welwyn Hatfield District Plan 2005 and Policy EC17.1.b (in accordance with the requirements of EC16.1.a, b and d) of PPS4 'Planning for Sustainable Economic Growth'.
- 9.7 PPS4 (EC17) states that if a proposal is likely to lead to a significant adverse impact, whether on its own or cumulatively, it should be refused. Where there is no significant adverse impact, the Local Planning Authority is required to determine an application taking account of the positive and negative impacts of the proposal and any other material considerations. This relates not only to retail impact but impact in the wider sense as set out in PPS4 Policies EC10 and EC16.1. It is considered that the proposal would have significant adverse impacts but for clarity the positive and negative aspects of the scheme have also been considered. Even if the argument was to be accepted by the Council that there are not significant adverse impacts (as required to be demonstrated to result in a refusal under Policy EC17.1) the negative impacts of the proposal outweigh the positive impacts under Policy EC16.1 on retail terms alone.
- 9.8 The application would also have a significant adverse impact on the delivery of an allocated site outside of the town centre being delivered in accordance with the

development plan, as a whole and in relation to the delivery of the Pall Mall site if permission were granted because of the highway impact. In summary, this is because the proposal, for a form of retail development for which there is no demonstrable need and which has a significant impact on the town centre, would deny the Council:

- The opportunity to make the most efficient use of land for housing on what is a very sustainable location and would as a consequence result in more land being released from the Green Belt than is necessary.
- The proposal would also prejudice the delivery of part of the site (Pall Mall) in accordance with the SPD. This is because even with the road widening of Broadwater Road and changes to the Bridge Rd/Broadwater Rd junction, the highway network cannot accommodate the predicted levels of traffic by 2016 and makes no allowance for future development of the Pall Mall site

9.9 The applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that an SPD compliant scheme cannot be delivered and accordingly this has a significant and adverse impact on the ability to deliver an allocated site outside of the town centre in accordance with the development plan and therefore the retail element would take land which is designated for other uses. The proposal is therefore contrary to part vii of Policy TCR3, EMP2 and EMP3 of the Welwyn Hatfield District Plan and Policy EC17.1.b (in accordance with EC16.1.c.) of PPS4.

Traffic Impacts and Parking

9.10 HCC as highway authority have objected on the grounds that the traffic arising from the proposed development will be detrimental to highway safety, capacity and free flow of traffic and therefore fails to comply with PPG13, the Hertfordshire Local Transport Plan and Policies TCR3 and D1 of the Welwyn Hatfield District Plan 2005.

9.11 In respect of capacity analysis the applicant has failed to demonstrate that the proposed mitigation measures can:

- (i) Adequately offset the potential increases in demand.
- (ii) Feasibly and reasonably be delivered.

9.12 The proposal therefore fails to comply with PPG13, the Hertfordshire Local Transport Plan and Policies TCR3 and D1 of the Welwyn Hatfield District Plan 2005. In addition, the impact is considered to be 'significant adverse' in relation to the requirements of Policy EC10.2.b of PPS4.

9.13 Furthermore, the applicant has failed to demonstrate satisfactory measures to promote sustainable travel and therefore the proposal fails to comply with PPG13 and Hertfordshire Local Transport Plan and Policies TCR3 and M3 of the Welwyn Hatfield District Plan 2005, in particular,

- Acceptable measures to promote sustainable travel have not been advanced in the planning application.
- The travel plans submitted as part of the application are not robust enough to promote alternative modes of travel.

9.14 There is also a significant concern regarding the traffic impact of the scheme on the delivery of more sequentially preferable development sites within the town centre. The impact of the proposed scheme on the capacity of the local strategic highway

network brings uncertainty and potentially additional costs to the Council's town centre strategy and the ability to bring forward Town Centre North as the preferred development site for retail floorspace in the town centre. In addition there is further uncertainty that the local highway network would have the capacity to enable longer term retail growth in the town centre if this scheme were to be approved. If the Council cannot deliver additional retail growth via the development of Town Centre North site, or other sequentially preferable sites in the town centre it could be vulnerable to further planning applications for out of town or edge of centre retail schemes.

9.15 The car parking for the store exceeds the standards set out in the Council's adopted parking standards and officers consider that sufficient flexibility has not been shown in relation to car parking for this element of the scheme. In addition, the measures submitted to encourage alternative more sustainable transport measures have not been proven to be appropriate or deliverable to the satisfaction of the County Council as highway authority and the Local Planning Authority. The current proposal, if approved would result in scheme that would encourage increased car travel and overall would run counter to the objectives and aims of the local plan, in particular to:

- Reduce the overall need to travel by integrating land uses with transport.
- Reduce dependency on the car and encourage modes of travel which have less adverse environmental impact
- To give priority to walking and cycling
- Encourage effective traffic management and the improvement of road safety for all sectors of the community
- Facilitate the accessibility needs of all in a safe and sustainable manner.

9.16 In conclusion, the proposed parking provision for the store would be contrary to PPG13 and Policies M2, M14 of the Welwyn Hatfield District Plan 2005.

9.17 In relation to the parking standards for the residential element, whilst this is in outline form the level of parking provision does not meet the minimum standards as set out in the Council's adopted Supplementary Planning Guidance on car parking (January 2004). The standards allow for a lower parking standard for sites in zones 1 and 2 but otherwise no further zonal restraint needs to be applied and the failure to meet the minimum number of residential car parking spaces has a number of implications both on site and off site.

9.18 In terms of onsite impacts, a lack of appropriate parking provision for the residential areas could result in significant conflict in the residential areas between all users of the scheme, pedestrians, cyclists and vehicle users. In addition it would have negative impacts on the urban design objectives for the site set out in the SPD and could have further off site impacts in terms of illegal parking on the Peartree ward.

9.19 Overall, the parking provision for the residential streets is considered not be appropriate in terms of numbers and allocation, could not be overcome at the reserved matters stage and therefore is a sufficient enough reason to warrant refusal of the scheme on these grounds.

Urban Design

9.20 In relation to urban design it is acknowledged that a number of these issues could be resolved through negotiation and substantial redesign however fundamentally the current application proposals fail to achieve this and as a result fails to secure a high quality and inclusive design which fail to take the opportunities available for

improving the character and the quality of the area and the way it functions. In relation to the outline application, the illustrative material in the two Design and Access Statements fails to establish future principles that can be used to fix principles of design for the outline application and therefore, fails to secure the future quality of these parts of the development. The proposal is therefore contrary to Policies D1, M1, M5, M6, D4, D6 and D8 of the Welwyn Hatfield District Plan 2005, the Broadwater Road West Supplementary Planning Document 2008, the Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005, and the relevant provisions of Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Statement 3 (Housing). In addition, the proposal is contrary to Policy EC10.2 (b) of PPS4 'Planning for Sustainable Economic Development'.

Compliance with EIA Regulations

- 9.21 An audit of the ES has been conducted on behalf of the Council by RPS Planning, Transport and Environmental. RPS has extensive experience in the preparation, co-ordination and audit of environmental impact assessments and environmental statements and the RPS Group is an Assessor Member of the Institute of Environmental Management and Assessment (IEMA).
- 9.22 The assessment of the ES indicates that within the context of the audit methodology a C grade can be attributed. This identifies that the ES is generally considered to be satisfactory. However, the assessment does identify that there is potential bias in some areas of the assessment and some mitigation measures are not confirmed. The audit also highlighted that the lack of information in the Non Technical Summary, when taken together with Part A of the ES and the Addendum Non Technical Summary, did not provide sufficient information on the development or the assessment of impacts to comply with the relevant EIA regulations. The updated Non Technical Summary submitted in November has now generally resolved these concerns and RPS have also awarded the revised Non Technical Summary a C grade (as despite the improvements, this latest version introduces new wording which in some instances may lead to a different interpretation of the findings of the ES).

Planning Obligations and Planning Gain

- 9.23 In relation to the issue of planning obligations and planning gain, there are a number of 'heads of terms' which require further detail and clarification despite a number of requests for the applicant to clarify the offer. The current offer is considered to be inadequate and without a sufficient level of detail, if Members were to grant permission, they must give very limited weight at this stage to the heads of terms that are lacking in detail and essentially they are the affordable housing, the replacement bridge, the highway matters, the heritage centre, the leisure centre, the offsite parking management and the doctor's surgery. To do otherwise would run the risk of the Council making a decision which could be considered as being '*Wednesbury*' unreasonable. Because the applicant has failed to secure the necessary obligations to the satisfaction of the Local Planning Authority it is also recommended that, as per the normal approach the application be refused for failing to secure necessary planning obligations. However, members should be aware that officers fully expect that this is a matter which is, in principle capable of being resolved if satisfactory arrangements are made by the applicant.

10. **Recommendation**

10.1 It is recommended that planning permission be refused for the following reason(s):

1. The submitted PPS4 Retail Assessment has failed to demonstrate to the satisfaction of the Local Planning Authority that the applicant has complied with the requirements of policies TCR1 and TCR3 of the Welwyn Hatfield District Plan 2005 and Policy EC15(d)(i), (ii), (iii) and (iv) of PPS4 - Planning for Sustainable Economic Development in respect of the sequential approach. The applicant has also failed to demonstrate that each of the town centre options has been thoroughly assessed as a sequentially preferable alternative to the application site. The application therefore, fails to satisfy the requirements of policy LA3 of the East of England Plan, 2008 policies TCR1 and TCR3 of the Welwyn Hatfield District Plan 2005 Policy EC15.1 (a), (b) (c) and (d) and therefore should be refused permission in accordance with Policy EC17.1 (a) of PPS4.
2. The proposals by virtue of the inclusion of the retail store would have a significant adverse impact on public and private investment in Welwyn Garden City town centre, the vitality and viability of Welwyn Garden City town centre and on in centre trade/turnover. The proposal would therefore be contrary to policies TCR1, TCR3 of the Welwyn Hatfield District Plan 2005 and Policy EC17.1 (b) (in accordance with the requirements of EC16.1 (a), (b) and (d)) of PPS4. The applicant has failed to prove to the satisfaction of the Council that material considerations exist that warrant approval of the application proposals contrary to these policies.
3. In urban design terms, the proposal is unacceptable, principally because of:
 - The urban structure and scale of development in the northwestern part of the site;
 - The safety and legibility of key pedestrian/ cycling routes and connections;
 - The role, safety, and activity associated with key spaces in the public realm;
 - The landscape character of key spaces and the residential area.
 - Quality and appropriateness of soft landscaping proposals.

Accordingly it fails to secure a high quality and inclusive design which takes the opportunities available for improving the character and the quality of the area and the way it functions. In relation to the outline application, the illustrative material in the two Design and Access Statements fails to establish future principles that can be used to fix principles of design for the outline application and therefore, fails to secure the future quality of these parts of the development. The proposal is therefore contrary to the Policy EC10.2 (b) of PPS4 'Planning for Sustainable Economic Development', policies ENV6, ENV7 of the East of England Plan, 2008, the provisions of D1, M1, M5, M6, D4, D6 and D8 of the Welwyn Hatfield District Plan 2005, the Broadwater Road West Supplementary Planning Document 2008, the Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005, and the relevant provisions of Planning Policy Statement 1 (Delivering Sustainable Development) and Planning Policy Statement 3 (Housing).

4. The proposal, for a form of retail development for which there is no demonstrable need would deny the Council:
 1. The opportunity to make the most efficient use of land for housing on what is a sustainable location and would as a consequence result in more land being released from the Green Belt than is necessary.
 2. The delivery of the Pall Mall site in accordance with the SPD.

Furthermore, the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that an SPD compliant scheme cannot be delivered and accordingly this proposal has a significant adverse impact on the ability to deliver an allocated site outside of the town centre in accordance with the development plan and therefore the retail element would take land which is designated for other uses. The proposal is therefore contrary to policies H1, H2, LA1 of the East of England Plan, 2008, part vii of Policy TCR3, EMP2 and EMP3 of the Welwyn Hatfield District Plan and Policy EC17.1.b (in accordance with EC16.1.c.) of PPS4.

5. The proposal, by virtue of the site layout and traffic arising from the proposed development has a significant adverse impact on highway safety, capacity and free flow of traffic of the surrounding highway network. In relation to the issue of capacity analysis, the applicant has also failed to demonstrate that the proposed mitigation measures can:

- (i) Adequately offset the potential increases in demand.
- (ii) Feasibly and reasonably be delivered.

Furthermore, the applicant has failed to demonstrate to the satisfaction of the Highway Authority Local Planning Authority satisfactory measures to promote wider sustainable travel measures. The proposal therefore fails to comply with Policy EC17 (in respect of EC10.2.b) of PPS4 'Planning for Sustainable Economic Growth', PPG13 'Transport', the Hertfordshire Local Transport Plan 2011 – 2031, Policies T1, T3, T8, T9, T14 of the East of England Plan, 2008 and Policies TCR3, EMP3, M1, M5, M14, D1 and D5 of the Welwyn Hatfield District Plan 2005 and the Broadwater Road West Supplementary Planning Document, 2008.

6. The overprovision of car parking for the Tesco store, and the failure to demonstrate satisfactory measures to promote wider sustainable transport measures would result in a scheme that would encourage increased car travel. This is contrary to the aims and objectives of PPG13, 'Transport' (as amended) and in addition, is contrary to the objectives set out in the adopted District Plan to reduce dependency on the car and encourage modes of travel that have less adverse environmental impact. The car parking provision for the store is therefore contrary to Supplementary Planning Guidance Parking Standards (January 2008) Policy M14 of the Welwyn Hatfield District Plan 2005
7. The failure to meet the minimum car parking standards for the residential area as set out in the adopted Supplementary Planning Guidance Parking Standards (January 2008) would have adverse impacts on the safety, quality and character of the residential areas and would therefore fail to comply with Policies EMP3, D1 and M14 of the Welwyn Hatfield District Plan, the Broadwater Road West Supplementary Planning Document 2008 and the

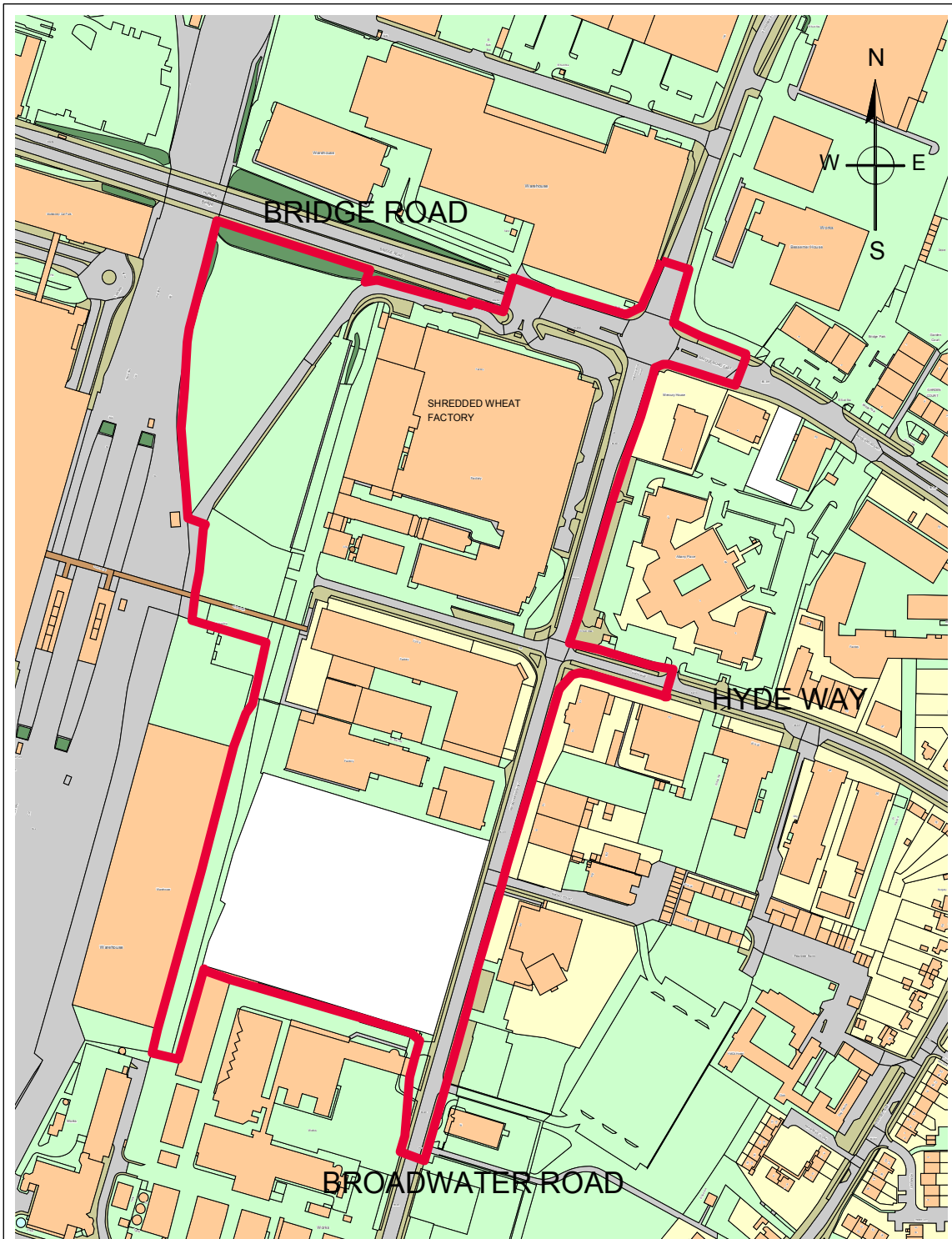
Supplementary Design Guidance of the Welwyn Hatfield District Plan 2005
(Statement of Council Policy).

8. The applicant has failed to satisfy the sustainability aims of the plan and to secure the delivery of the physical, social and community infrastructure, necessary to make the development acceptable in planning terms and directly related to the proposal by failing to secure, to the satisfaction of the Local Planning Authority planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended). The Local Planning Authority considers that it would be inappropriate to secure the required obligations and contributions by any method other than a legal agreement and the proposal is therefore contrary to Policy IM2 and M4 of the Welwyn Hatfield District Plan 2005.

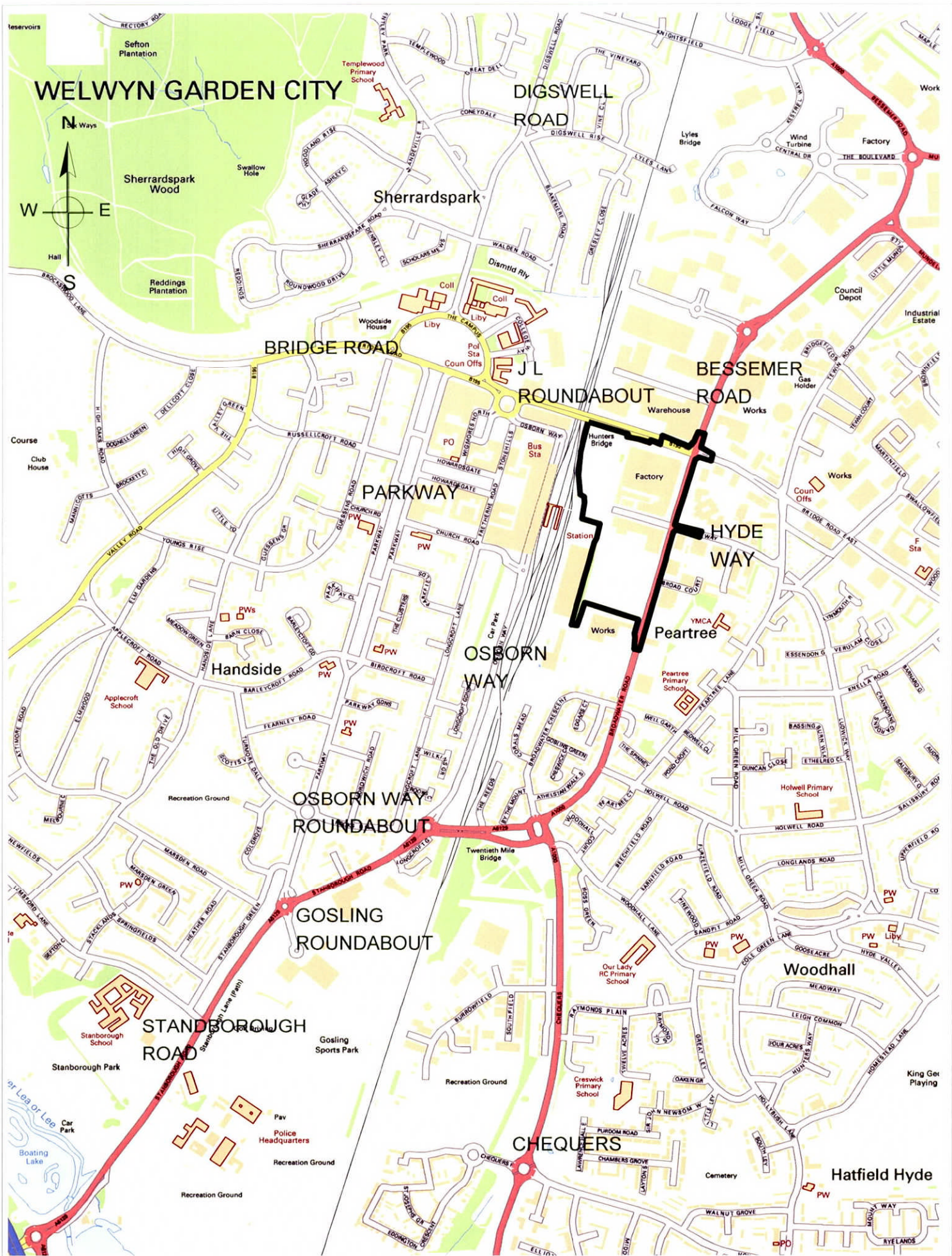
Richard Aston (Strategy and Development)

Date (21 December 2011)

Background papers to be listed (if applicable)



<p>Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE</p>	<p>Title: Former Shredded Wheat Factory, Bridge Rd, WGC</p>		<p>Scale: DNS</p>
	<p>Project: PCC Meeting</p>	<p>Drawing Number: N6/2010/2055/MA</p>	<p>Date: 08 September 2011</p>
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Name	Andrew Windscheffel	Department	Project PCC Meeting
Scale	DNS		
Title	BROADWATER ROAD, WCC		
			
Date	11 January 2012	© Crown Copyright. All rights reserved Welwyn Hatfield Borough Council LA100019547 2011	

APPENDIX 3
ORIGINAL REPRESENTATIONS
Period –up to 05/11/2010

Objecting representations

STREETS	OBJECTIONS (Number of Properties)	TOTAL NUMBER OF OBJECTORS
Applecroft Road	2	3
Barleycroft Green	5	6
Barleycroft Road	3	3
Barnside Court	3	3
Beehive Lane		
Bennett Close	1	1
Birch Grove	1	1
Blakemere Road	2	2
Bridge Road	3	3
Broadwater Crescent	1	1
Brockett Close	1	2
Brockswood Lane	4	5
Brocksfield	3	4
Broomhills	2	3
Bushey Ley	2	2
Codicote Road	1	1
Cole Green Lane	1	1
Colgrove	1	1
Coltsfoot	1	1
Coneydale	2	2
Cranborne Gardens	1	1
Daniells	1	1
Dawley	1	1
Dellcott Close	3	3
Digswell Road	3	3
Duncan Close	1	2
Edgars Court	1	1
Elm Gardens	2	3
Elmwood	10	13
Farm Close	1	1
Fernley Road	2	4
Forwich Road	2	2
Fulling Mill Lane	1	1
Graysfield	1	1
Fulling Mill Lane	1	1
Graysfield	1	1
Great Ley	2	2
Guessens Road	6	8

STREETS	OBJECTIONS (Number of Properties)	TOTAL NUMBER OF OBJECTORS
Hall Grove	1	1
Hardings	1	2
Handside Lane	10	10
High Grove	1	1
High Oaks Road	1	2
Homerfield	1	1
Jackdaws	1	1
Kenyon Place	1	1
Knella Road	1	1
Knightsfield	3	3
Lady Grove	1	1
Lemsford Lane	2	2
Lemsford Village	1	1
The Links	1	1
Little Ley	1	1
Little Youngs	1	1
Lodge Drive	3	1
Longcroft Lane	3	3
Ludwick Way	1	1
Mandeville Rise	2	1
Meadow Green	3	4
Meadway	1	1
Mill Green Road	1	2
Monica Court	1	1
Moorlands	1	2
Moorside	1	1
Nut Grove	1	2
Oakdale	1	1
The Old Drive	2	3
Parkfields	2	2
Parkway	3	3
Parkway Gardens	1	1
Peartree Lane	1	1
Pentley Close	1	1
Picketts	1	2
Pitsfield	1	1
Polayn	1	1
Ravenfield Road	1	1
Reddings	3	3
Ridgeway	1	1
Rooks Close	1	1
Rooks Hill	2	2
Rosedale	3	4
Roundwood	2	2
Russellcroft Road	1	1

STREETS	OBJECTIONS (Number of Properties)	TOTAL NUMBER OF OBJECTORS
Sandpit Road	15	1
Sherrardspark Road	2	4
Sir John Newsom Way	1	1
Springfields	1	1
The Stables	1	1
Stapleford	1	2
Stuart Road	1	1
Templewood	1	1
Tubbs Croft	1	1
Turmore Dale	2	2
Uplands	1	1
The Valley Green	1	2
Valley Road	10	14
Vine Close	1	1
The Vineyard	1	1
Wellgarth	1	1
Westcott	2	3
Windhill	1	1
Woodhall Lane	1	1
Wren Wood	1	1
Yew Grove	1	1
Unknown	10	10
		Total
		234

Supporting representations

STREETS	SUPPORT (Number of Properties)	TOTAL NUMBER OF SUPPORTERS
Elmwood	1	1
Longcroft Gardens	1	1
Pear tree Lane	2	2
Somersham	11	1
Wellcroft Road	1	1
Unknown	1	1
		Total
		7

OBJECT SUMMARY

- The existing footbridge is inadequate for the increase footfall that the new Tesco's would inevitably bring
- Contrary to the District Plan
- The proposal requires a section 106 planning agreement
- Spennings has failed to provide evidence and demonstrate the community need for another supermarket
- Detrimental impact on neighbouring shopping facilities and potential fracturing of the current Town Centre
- Potential job loss
- Increase in traffic and congestion
- The current infrastructure of Broadwater Road may not cope with the extra traffic
- Increase in noise pollution
- Negative impact on air quality
- The residential development is not conducive with the WGC ethos
- It will be too high in density
- Landscaping is inadequate with little usable green space
- The design and layout of the residential area is poor and does not provide provisions for new access roads
- No need for an extra surgery
- Question over the maintenance and running of the proposed leisure facilities
- Potential future costs to the borough
- The proposed pool is too small and now inadequate. They should honour their original 50ft proposal
- No justification for the current location

- Inadequate consultation with the community
- Statement of community involvement flawed
- No school provisions for potential families moving in
- The housing does not seem affordable
- Potentially a premature decision in relation to making such significant changes to the boundaries of the existing Town Centre
- No justification for their proposed care home (considering the Police Station proposal) as it goes against the government policy to try and ensure people remain in their homes

SUPPORT SUMMARY

- The site is ideal for a mixed retail development that will enrich the economical development, especially as it will be adjacent to the current Town Centre
- Job prospects
- The land and site need to be regenerated and redeveloped, which will bring much improvement to the area
- More leisure facilities
- The preservation of the grain silos, in turn, maintaining the landmark and town centre heritage
- The regeneration will improve security for those who frequently use the railway and Town Centre
- Cheaper alternative shopping for residents that cannot afford public transport

APPENDIX 4
REPRESENTATIONS AFTER 05/11/2010

Objecting representations (last updated 16/12/2011)

STREETS	OBJECTION (No. of properties)	Total number of OBJECTORS
Barleycroft Green	1	1
Barleycroft Road	1	1
Barnside Court	1	1
Bessemer Road	1	1
Birds Close	1	1
Birdcroft Road	1	1
Briadwater Crescent	1	1
Broadwater Crescent	1	1
Boundary Lane	1	1
Brockswood Lane	1	1
Bushey Ley	1	1
Carlton House Terrace, London	1	1
Chequers	1	1
Church Road	1	1
Coltsfoot	1	1
Crookhams	1	1
Dale Wood	1	1
Eddington Crescent	1	2
Elmwood	3	3
Essendon Gardens	2	2
Fern Grove	1	1
Four Acres	1	1
Furzeffield Road	1	1
Gatcombe Court	1	1
Great North Road	1	1
Great Ganett	1	1
Guessens Road	5	5
Guinness House	1	1
Haldens	1	1
Handside Lane	2	2
Harwood Close	1	1
Harwood Hill	1	1
The Hollies	2	2
Hollybush Lane	1	1
Howlands	1	1
Hempstall	1	1
Kimptons Mead	1	1
Knella Road	2	2
Knightsfield	3	3
Leigh Common	1	1
The Links	1	1

STREETS	OBJECTION (No. of properties)	Total number of OBJECTORS
Lodgefield	3	4
Ludwick Way	1	1
Mandall	1	1
Meadow Green	1	1
Meadway	1	1
Melbourne Court	1	1
Millgreen Road	1	1
Nutfield	1	1
Oaktree Garth	1	1
The Old Drive	1	1
Parkfields	2	2
Parkway	2	2
Peartree Lane	2	2
Pentley Close	1	1
Pentley Park	1	1
Purdom Road	1	1
The Quadrangle	2	2
Reddings	1	1
Reynards Road	1	2
Rosedale	2	2
Rosanne Hse, Bridge Road	1	1
Roundwood Drive	1	1
Russellcroft Road	1	1
Sheepcote	1	2
Sherrards Park Road	1	1
Sloansway	1	1
Springfields	1	2
Templewood	1	1
Tempsford	1	1
Thistle Grove	1	1
Turmore Dale	1	1
Tubbs Croft	1	1
Uplands	1	2
Valley Road	4	5
Walnut Grove	1	1
Westcott	1	1
Westly Wood	1	1
Willow Grove	1	1
Youngs Rise	1	1
Unknown	25	1
		Total
		134
		Of these 2 were Postcards

Supporting representations

STREETS	SUPPORT (No. of properties)	Total No. of SUPPORTERS
Barleycroft Road	1	1
Barnfield Road	2	2
Barrington Mews	1	1
Bedwell Close	1	1
Birchall Wood	1	1
Blythway	1	1
Boundary Lane	2	2
Broadwater Crescent	3	3
Brookfield	1	1
Brownfields	1	1
Carve Ley	1	1
Creswick Court	1	1
Chedburge	2	2
Chequersfield	1	1
Cloverfield	2	2
Coltsfoot	1	1
The Commons	1	1
The Croft	1	2
Copperfields	1	1
Cornmead	1	1
Cyress Avenue	1	1
Crookhams	2	2
Daniells	1	1
Dawley	1	1
Drovers Way	1	1
Elmwood	1	1
Essendon Gardens	1	1
Four Acres	3	4
Furzefield	1	1
Glenwood	1	2
Goblins Green	2	2
Goldings House	1	1
Graysfield	1	1
Great Break	1	1
Great Ganett	1	1
Guinness	1	1
Guinness House	2	2
Handside Lane	2	3
Haldens	2	2
Hardings	1	1
Harwood Hill	2	3
Hatfield Avenue	1	1
Haymeads	1	1
Heronswood Place	2	2
Heronswood Road	7	7
STREETS	OBJECTION	Total number of

	(No. of properties)	OBJECTORS
Hillyfields	1	1
Hitherway	1	1
Holwell Road	4	5
Home Meadow	1	1
Homestead Moat	1	1
Howicks Green	1	1
Howlands	40	41
Hunters Way	1	1
Ingles	1	2
Jordans	1	1
Kates Croft	1	2
Kilworth	1	1
Kimptons Mead	1	1
Knella Green	1	1
Knella Road	12	13
Knightsfield	1	1
Leigh Common	3	3
Little Hardings	1	1
Lodge Field	1	1
Longcroft Lane	1	1
Lords wood	2	2
Lowerfield	1	1
Ludwick Way	4	4
Lumbards	1	1
Lumbercroft	1	2
Manderville Rise	1	1
Maple	1	1
Margery Wood	2	2
Mendlesham	1	1
Mill Green Road	2	2
Moors Walk	1	1
Mountlay	1	1
Northwood	1	1
Oakdale	1	2
Oakington	1	1
Peartree Court	2	2
Peartree Lane	1	1
Pinewood	1	1
Poppyfields	1	1
Poundwell	7	7
Ramslers Way	1	1
Reddings	1	1
Rivenhall End	1	1
Rupert House	1	1
Ryelands	2	2
Salisbury Road	2	2
Scholars Mews	1	1
STREETS	SUPPORT	Total No. of

	(No. of properties)	SUPPORTERS
Sefton Court	1	2
Somersham	1	1
St Albans Road	1	1
Stapleford	1	2
Sweet Briar	15	16
Templwood	2	2
Thistle Grove	1	1
Upperfield Road	1	1
Upper Shot	1	2
Vine Close	1	1
Vineyard	1	1
Walnut Grove	2	2
Wareside Close	2	3
Whitehorn	1	1
Woodhall	3	3
Woodhall Court	1	1
Wyton	1	1
Yew Grove	1	1
Unknown	16	16
		Total
		213
		Of these 141 were postcards

OBJECT SUMMARY

- Inadequate investment for the new footbridge
- The site is not well connected to the Town Centre
- Contrary to the District Plan
- Spennhall has failed to provide evidence and demonstrate the community need for another supermarket
- Detrimental impact on neighbouring shopping facilities and potential fracturing of the current Town Centre
- Potential job loss
- Job creation is grossly overstated
- Increase in traffic and congestion
- The current infrastructure of Broadwater Road may not cope with the extra traffic
- Increase in noise pollution
- Negative impact on air quality
- Environmental impact
- The residential development is not conducive with the WGC ethos
- The residential development will be too high in density
- Design is unsympathetic and out of character for WGC

- Too many high rise residential buildings
- Overwhelming scale
- Landscaping is inadequate with little usable green space
- Hours of business trade is out of normal hours and will disrupt surrounding residents
- Potential future costs to the borough especially with regards to the proposed leisure facilities
- The proposed pool is too small and now inadequate. They should honour their original 50ft proposal
- Location of pool
- No justification for the current location of store
- No school provisions for potential families moving in
- Non-Technical summary is unrealistic
- Purely commercial gain

SUPPORT SUMMARY

- Swimming pool – leisure facilities
- Job prospects - including youths and young families
- More affordable housing
- High quality scheme that will benefit the regeneration of this area of WGC improving the economy and the Town Centre overall
- A new and safer bridge
- Better access to the Town Centre
- An affordable and accessible supermarket for the older generation and those who cannot afford public transport
- Unlikely to be used as an industrial space again as it is unable to compete

**WH/251/2010 Site: Former Shredded Wheat Factory, Welwyn Garden City
District Ref: N6/2010/2055/MA**

Decision: Refusal

1. Traffic arising from the proposed development will be detrimental to highway safety, capacity and free flow of traffic and therefore fails to comply with PPG13 and Hertfordshire Local Transport Plan.
2. In respect of capacity analysis the applicant has failed to demonstrate that the proposed mitigation measures can
 - (i) adequately offset the potential increases in demand.
 - (ii) feasibly and reasonably be delivered.
3. The applicant has failed to demonstrate satisfactory measures to promote sustainable travel and therefore fails to comply with PPG13 and Hertfordshire Local Transport Plan.
4. The applicant has failed to demonstrate the impact of the site layout upon the safety of pedestrians and cyclists and therefore fails to comply with PPG13 and Hertfordshire Local Transport Plan

Comments

These comments are based on the following documentation:

- Transport Assessment revision B dated 10 June 2011 and drawings submitted following the issue of a Regulation 19 notice by WHBC.
- Addendum report to the Transport Assessment dated 12 September 2011.

They also relate to pre-application discussions between HCC and the applicants transport Consultants Arup and Safety Audits of the proposed highway works.

The assessment is based on the information available at the time of writing and although the Highway Authority considers that some issues may be able to be resolved through discussion there are fundamental issues that account for the Highway Authority recommending the current scheme is refused.

Policy

The proposals would be contrary to the guidance in PPG13 which aims to give priority to people over ease of traffic movement and plans to provide more road space to pedestrians, cyclists and public transport in town centres, local neighbourhoods and other areas with a mixture of land uses.

New development should help to create places that connect with each other sustainably, providing the right conditions to encourage walking, cycling and the use of public transport. People should come before traffic.

PPG 13 comments that the planning system can have a substantial influence on the safety of pedestrians, cyclists and occupants of vehicles through the design and layout of footpaths, cycleways and roads. Planning can also influence road safety through its control of new development

The proposals would be detrimental to HCC's Local Transport Plan (LTP3) 2011-2031 challenges to:

- Keep the county moving
- Improve accessibility for all
- Improve road safety

To meet these challenges the County Council will ensure the transport and safety implications of development proposals are considered.

Section 3.8 of the LTP states that development will be resisted where

- "i) the proposals would increase the risk of accidents or endanger the safety of road or rights of way users
- ii) the proposals would cause or add significantly to road congestion, especially at peak travel times."

Conclusion

The proposed development requires major changes to the highway network adjacent to the site and wider mitigation to accommodate the predicted levels of traffic. However even with the road widening of Broadwater Road and changes to the Bridge Road/Broadwater Road junction the highway network can not accommodate the predicted levels of traffic by 2016 and makes no allowance for future development of the adjacent Pall Mall site. The Highway Authority considers that the proposed highway works will not improve accessibility for local residents and may increase the potential for conflict between vulnerable road users and vehicles. The scheme appears to give capacity higher priority than the needs of cyclists and pedestrians and this relates to the internal layout in addition to the proposed changes to Broadwater Road. The proposals are therefore contrary to PPG13 and the Hertfordshire County Council's Local Transport Plan.

Detailed response

Capacity

- **Trip Rates**

Trip rates for the proposed land uses were agreed between the applicant and HCC at the pre-application stage in March 2010. All trip rates are based on sites within town centres with good access to public transport.

- **Trip generation**

Following agreement of the trip rates a schedule of land use was provided by Arup to calculate trip generation which was input into the WGC Paramics model. The figures for trip generation and trip distribution were agreed on 17/03/2010. It was acknowledged that the land use schedule may change before the scheme was submitted as a planning application. Arup recalculated the trip generation and revised trip generation figures used the Paramics model in 23/03/2010. HCC consider that the trip generation figures used in both the Paramics modelling and the Transyt modelling are robust. The proposed land use submitted for this application will generate slightly fewer trips than used in the modelling work.

- **Trip distribution**

It was agreed at the pre-application stage that the traffic from the site would be distributed 50% north and 50% south from the site.

- **Growth rates.**

It was agreed at pre-application stage that all future year modelling would be based on low growth rates. The growth rates are taken from the national Tempo datasets.

- **Future year modelling**

Modelling was carried out for the year 2016 and 2021. The modelling for 2021 included for an Supplementary Planning Document (SPD) compliant development on the Pall Mall site. The following modelling exercises were carried out; Paramics 2016, Transyt 2016, Transyt 2021 and Paramics 2021.

- **Modelling of junctions**

Discussions at pre-application (Arup paper Proposed Transport Assessment Methodology 29 July 2009) agreed that, following the modelling in Paramics, certain junctions would be looked at in more detail, particularly the Bridge Road/Broadwater Road signal junction and the new signalised junctions onto Broadwater. In the first meeting regarding scoping (28/9/2009) it was agreed that Broadwater Road/Chequers Roundabout and Broadwater Road/Osbourne Way junctions would be analysed. Although these are considered within the Paramics model which indicates that congestion occurs at these junctions, no further detailed analysis had been carried out on these junctions in the TA June 2011. The Transport Addendum includes modelling for the both the Broadwater

Road/Chequers roundabout and the Broadwater Road/Osbourne Way roundabout and assesses the impact of the proposed mitigation measures at these junctions.

- **Broadwater Road/Bridge Road junction.**

The original proposals for Broadwater Road/Bridge Road signals allowed for a 3 lane approach on each arm and two lane exits on all arms except Bridge Road East. The revised drawings submitted with the Addendum report show 3 lane approaches on Broadwater Road and Bridge Road, 2 lane approaches on Bessemer Road and Bridge Road East. All arms now have a single exit lane. Redesigning this junction has allowed for staggered pedestrian crossing islands to be provided. The alterations to the timings of the traffic signals have improved flow through the junction compared with the earlier layout and design. This is discussed in more detail below.

- **Paramics Modelling 2016**

The Paramics modelling for 2016 is based on the layout submitted in the TA and demonstrates that the network will perform considerably worse in the PM peak when compared with the base model which allowed for an SPD compliant scheme for the site. The modelling includes for widening on the south bound approach to Chequers roundabout.

In the PM peak the main source of congestion is the westbound approach of Bridge Road at the Campus gyratory as the queues consistently block back to the John Lewis roundabout.

The results of the Paramics modelling were fed into the Transyt analysis for the signalised junctions on Broadwater Road.

The table below gives some comparisons between the SPD base scenario and Spenhill scenario in 2016. The figures for the base scenario are taken from MVA Information note 1 Version1 dated 15 April 2010 which allows for an SPD compliant scheme but with the existing road layout. This is compared with the Spenhill scheme with the proposed changes to Broadwater Road.

2016 AM Peak	SPD Base scenario	Spenhill scenario Current application June 2011 layout
Main congestion hotspots	Standborough Road N/B Chequers N/B Parkway S/B Osborn Way S/B	Standborough Rd N/B Chequers N/B Parkway S/B Osborn Way S/B Bessemer road S/B Bridge road W/B
Periodic queuing	Bridge Road/ Broadwater Road	Broadwater Road/Bridge Road
Non released vehicles	<10	1,015
Average vehicle speed (kph)	16	13
Average time spent in network (s)	299	426

2016 PM Peak	Base scenario	Spenhill scenario Current applicatin
Main congestion hotspots	Broadwater Road/ Bridge Road Parkway S/B and N/B Osborn Way S/B Bridge Road W/B Broadwater Road S/B Church Road	Broadwater Road/ Bridge Road Parkway S/B and N/B Osborn Way S/B Bridge Road W/B Broadwater Road S/B Church Road Digswell Road
Non released vehicles	<10	2,353
Average vehicle speed (kph)	14	9
Average Time spent in network (s)	361	591

The volume of non-released traffic gives an indication of the vehicles that could not be released into the network due to congestion. If the value is high as in the Spenhill scenario it identifies a congested network that has no available space left for other vehicles to join.

No further Paramics modelling has been carried out to take account of the revised road layout at Broadwater Road/Bridge Road submitted with the Transport Addendum report.

- **Transyt modelling 2016- Broadwater Road**

Transyt modelling has been carried out on the three proposed junctions of Bridge Road/Broadwater Road, Broadwater Road/ Hyde Way and the new joint site access with Taylor Wimpey for 2016. Two scenarios were run for the AM and PM peak, the 'likely peak' scenario and the 'release of held back traffic' scenario. The Highway Authority considers the 'release of

held back traffic' the most robust analysis as it ensures all traffic to and from the development is included.

The original Transyt modelling shows that in the 'held back traffic' scenario, the PM peak shows the higher level of congestion with queuing on Bridge Road extending beyond the John Lewis roundabout.

The Addendum report shows the results of the Transyt modelling for the revised junction layout. This shows that this layout does improve flow through the junction, however in the release of held back traffic the PM peak still shows certain movements through the junction are operating above capacity. The Addendum Report confirms that although some congestion occurs in the PM peak this is primarily confined to Bessemer Road and Bridge Road East and that the two more critical arms (Broadwater Road and Bridge Road) are considered to operate satisfactorily. HCC consider that Bessemer Road is a critical arm as it is a principal road the A1000 and designated as a main distributor road. The queuing on both Bessemer Road and Bridge Road East will queue beyond the next junction in the network. The queuing on Broadwater Road for the straight ahead and left traffic needs to be accommodated evenly within the two lanes to prevent queuing back through the Hyde Way signals, this will be dependent on how the lanes are marked between the Hyde Way signals and the Broadwater Road signals. This has not been shown.

Paragraph 4.51 of Guidance on Transport assessments states that the key issue is the need to ensure that development proposals strive to achieve nil-detriment to the strategic network for the opening year and appropriate horizon year. In this case it is necessary to compare the proposals with an SPD compliant scenario as the highway authority have accepted that the redevelopment of this site will have some impact on the highway network.

In paragraph 8.5.7 the TA suggests that the 'Release of held back traffic' scenario would not occur as a proportion of the traffic would relocate onto the adjacent road network beyond the limits of the PARAMICS model. This is dependent on there being an alternative route for this traffic. Although some traffic from areas such as Shire Park may chose to use alternative routes, for other traffic originating within or with destinations within the Paramics model there is no obvious alternative north south route through Welwyn or east to west.

The TA suggests that the trip generation used in the traffic modelling should be considered an overestimate as the trip generation used in the modelling is slighter higher than that expected to be generated from the development. However the 2016 modelling does not include for any traffic from the Pall Mall site and the inclusion of these trips would give a greater level of traffic than used in the modelling.

The TA also states that the number of car trips for the office element will be lower than predicted due to the restricted parking, public transport links and travel plans. In response the HA would state that the trip rates used were based on town centre sites with restricted parking and good public transport links.

• **Transyt modelling 2021- Broadwater Road**

The 2021 Transyt modelling was carried out with and without Pall Mall traffic. The cycle time used was 120 seconds and background traffic was increased using low growth factors. Based on the revised junction layout in the Addendum report even without allowing for development on the Pall Mall site, Bessemer Road, Bridge Road East and Broadwater Road are all shown operating with a Degree of saturation (DoS) of 100% or more in the PM peak with significant queues forming. The results worsen with the inclusion of Pall Mall traffic.

Although background rates were agreed at the scoping and set at low growth, the Addendum report states that the traffic growth figures used may be an overestimate. These growth rates have been calculated using Tempro which is based on Government predictions. Although traffic growth has been lower over the last few years Tempro is considered the most acceptable form of traffic growth prediction. It should be noted that when comparisons have been made with an SPD compliant scheme the same level of background growth has been applied.

• **Future Year modelling 2021 - Paramics**

The future years modelling for 2021 showed a worsening of the network performance when compared with 2016 despite the introduction of the mitigation measures identified in the 2016 modelling.

2021 AM Peak	Spenhill scenario (current application)
Main congestion hotspots Periodic queuing	Unreleased vehicles at Bessemer road S/B Chequers N/B Parkway S/B Bridge road W/B Stanborough Rd N/B at Gosling roundabout Queuing on Bridge Road E/B Broadwater Rd/Tesco junction
Non released vehicles	963
Average vehicle speed (kph)	13
Average time spent in network (s)	392

2021 PM Peak	Spenhill scenario (current application)
Main congestion hotspots	Unreleased vehicles on Bessemer Rd S/B Digswell Rd S/B Chequers N/B Queuing on Parkway S/B Osborn Rd S/B Bridge Rd E/B Broadwater Rd N/B
Non released traffic	3,010
Average vehicle speed (kph)	7
Average time spent in network (s)	735

2021 Saturday Peak	Spenhill scenario (current application)
Main congestion hotspots	Unreleased vehicles on Bessemer Rd S/B Digswell Rd S/B Stanborough N/B Queuing on Parkway S/B Osborn Rd S/B Bridge Rd E/B
Non released traffic	2291
Average vehicle speed (kph)	9
Average time spent on network (s)	576

The results of the Paramics 2021 show that allowing for low background growth, and a series of mitigation measures being introduced, by 2021 the proposals will increase queuing and reduce traffic speeds within the town centre in the PM peak. The proposed mitigation works do not result in a nil-detriment scenario.

Although the scheme submitted in the Addendum report addresses the issues raised previously regarding the length of the pedestrian crossings there are still safety and capacity issues relating to the proposals that the highway authority consider have not been addressed.

- **Broadwater Road/Chequers Roundabout**

The Addendum report contains modelling to consider the impact of the development proposals on this junction in both 2016 and 2021. The proposals lead to increased congestion at this junction by 2016 and therefore as suggested in the Paramics modelling report, mitigation

measures are proposed which would widen the northbound approach from Chequers as well as widen the southbound approach on Broadwater Road. The modelling shows that with these mitigation measures in the release of held back traffic scenario for 2016, some arms of the junction are still operating above capacity and queuing has increased on the Chequers arm in the am peak and Broadwater Road west arm in the PM and Saturday peak. However the queues can be accommodated on the road network without affecting other junctions.

- **Osborn Way Roundabout**

The Addendum report contains modelling to consider the impact of the development proposals on this junction in both 2016 and 2021. The proposals lead to increased congestion at this junction by 2016 and therefore as suggested in the Paramics modelling report, mitigation measures are proposed which would widen the southbound approach on Osborn Way. The modelling shows that the proposed mitigation would improve the operation of the roundabout and that it would accommodate the development proposals in the Release of Held back traffic scenario for 2016.

- **Mitigation measures**

The TA states a five fold mitigation strategy:

1. The promotion of sustainable travel initiatives with the proposed development and across the wider WGC area.
2. Implementation highway improvements along Broadwater Road included in the traffic modelling assessment and at the Chequers, Gosling and Osborn Way roundabouts, at the Campus and on Parkway.
3. Linked signal timings of the site access junctions and Broadwater road/Bridge Road.
4. Consideration given to limited future highway upgrades on the road network with the aim of redistributing through traffic onto more strategic routes away from the town centre.
5. Continued monitoring of traffic levels in the town centre to identify where future highway upgrades are most needed.

The Addendum report provides drawings and cost estimates for the mitigation measures identified in the Paramics report.

From the 2016 recommendations

- signalisation of the Campus,
- removal of 50m of on-street parking on the Parkway northbound on the approach to the Campus
- extension by 50m of the Broadwater Rd southbound flare on the approach to the Chequers roundabout
- extension by 25m of the Chequers northbound flare on the approach to the Chequers Roundabout

From the 2021 recommendations

- widening of the southbound and eastbound approaches to the Osborn Way roundabout,
- widening on southbound exit from Gosling roundabout (it should be noted the drawings submitted show widening on the southbound entrance to the roundabout)
- extension of the flare length of Disgwell Road on approach to the Campus

The TA proposed that these mitigation measures be reviewed in more detail at a later date and a monitoring programme set up to establish how traffic volumes are changes and where highway works are needed. HCC and WHBC were concerned that with this approach it would be difficult to ensure that sufficient levels of contributions were included for within any S106 agreement to ensure these works could go ahead. The Addendum report now provides estimated costs of the mitigation works and states that these would be used as a basis for agreeing an appropriate level of developer contribution towards the cost of delivering the works as part of a S106 Agreement. No discussions regarding this have yet taken place. Therefore the LHA considers that it has not been demonstrated that the proposed mitigation measures can feasibly and reasonably be delivered

Access to Pall Mall site.

Although no provision was made within the original Transport Assessment for access to the Pall Mall site, this matter has since been reviewed by Arup and is now included within the TA revision B for the 2021 modelling. Two scenarios have been introduced for the Pall Mall site, one it being used as warehousing with all traffic accessing the site via the Bridge Road left in and left out and one with an SPD mix of offices and residential with 90% of the traffic using the shared Spenhill Taylor Wimpey road and 10% using the network rail access to Bridge Road Trip rates used were the same as those used for the Spenhill site.

The addition of the Pall Mall site traffic increases the amount of queuing observed in the Paramics and Transyt 2021 modelling which was already showing that the junctions were operating over capacity.

Safety

- **Safety audit**

Following an interim safety audit by Hertfordshire Highways, the applicants have provided a designers response to the points raised in the audit. This has been reviewed by Hertfordshire Highways. The view of the LHA is that while the applicant has managed to address some of the issues raised in the safety audit other matters are still outstanding. The revised junction layouts submitted as part of the Addendum Report have

also been submitted for an interim safety report. The following comments relate to this latest report.

The Safety Audit raises the concern that the need for increased capacity has been considered to the exclusion of the requirements of pedestrians and cyclists.

There are a number of issues raised in the safety audit reports which have not been addressed in either the designer's response or in the revised layout submitted with the Addendum Report. Resolving some of these issues may have an impact on the design and capacity of the highway network. Some of the main points are as follows:

1. Proposed signal junctions may not be able to accommodate large vehicles. Although tracking diagrams have been provided, they are not for the worse case type of vehicle and therefore some amendments to the layouts may be required to ensure that kerbs do not get over-run.
2. No tracking has been provided for the traffic movements in and out of the eastern arm of Hyde Way to and from Broadwater Road. The introduction of signals and islands at this junction may make it difficult for delivery vehicles to access the industrial units on Hyde Way.
3. New Southern Access - joint with Taylor Wimpey. The access to No 29 Broadwater Road has still not been incorporated in this junction and the stop line would need to be moved to accommodate access. This would have an impact on the length of the proposed right turn stacking and may impact on the flow through the traffic signals.
4. Pedestrian islands in the centre of the new access road and the store arm of Hyde way are substandard as is the island on the northbound approach to the shared access. These alterations may impact on lane and or footway widths and therefore the highway authority can not be assured that this junction can meet all the necessary safety and capacity requirements.
5. Broadwater Road/Bridge Road junction. The safety audit has raised a number of concerns relating to the layout of this junction that have not been addressed either in the Designers response or in the new layout submitted with the Addendum report.

Although some of the issues raised in the Original Interim Safety report and the safety comments are detailed matters that could be addressed during the detailed design process for the section 278 agreement, others need to be addressed to ensure that the proposals will not increase the risk of accidents or endanger the safety of road or rights of way users contrary the LTP3.

Sustainability/Accessibility

- **PTU**

There has been discussion between Arup and HCC over the preferred location of the bus stops. The balance is to try and ensure that all residential properties on the site are within walking distance of a bus stop. It has now been agreed between HCC and Arup that new bus stops should be provided between on Broadwater Road, between Bridge Road and Hyde Way. This will allow bus route (403) to be diverted via Hyde Way, ensuring frequent services of four buses per hour each way to the northern part of the site. Agreement in principal has been given by Arriva to divert via Hyde Way which would be subject to appropriate junction alterations at Peartree Way. Arup have provided a layout drawing for alterations to the HydeWay /Peartree junction including the provision to relocate bus stops from Peartree Lane to Hyde way. This plan has not yet received HCC approval. Measures may need to be put in place to ensure that other large vehicles do not start using this route.

The TA sets out proposed improvements to bus services and funding for bus services that would form part of the S106. Generally the £200,000 towards the 403 service would seem a good starting point for negotiation but no details have so far agreed.

The TA also refers to a 5 year contribution which will again need further discussion and should be towards passenger transport enhancements such as services, accessibility issues at WGC bus station, AVL, etc.

The existing bus shelter on the southside of Bridge Road currently blocks the route of any future shared cycleway/footway. The applicant has agreed to carry out the earthworks required to provide a recessed bus shelter at this location.

- **Cycling**

It is proposed to provide 950 cycle parking spaces across the site, 750 located to serve the various units on the site which meets the requirements of the WHBC parking standards and a further 200 to serve the railway station. Currently there are approximately 120 spaces provided in Hyde Way.

The rail strategy in LTP3 (April 2011) states that safe and secure cycle parking should be provided for 5% of joining passengers. This equates to approximately 400 cycle spaces for Welwyn Garden City Station. If the applicants are proposing to only provide 200 spaces, additional land should be set aside within the development to allow for some additional spaces to be provided as and when required. Currently the cycle racks are located on the public highway. If Hyde Way is 'stopped up' as proposed by the applicant, measures must be put in place within S106 agreement to ensure that all issues relating to maintenance and access are covered to the satisfaction of the highway authority.

It is proposed that following the stopping up of Hyde Way, a cycle route between the Hyde Way/Broadwater Road junction and the railway footbridge will be provided across the site. Measures to ensure that access for cyclists across the site is maintained will need to form part of the S106 Agreement.

- **Pedestrian network - internal/external, crossings**

As part of the proposals it is proposed to stop up Hyde Way as public highway. However a pedestrian route linking from Broadwater Road to the footbridge will be maintained as a public route. The details of this will form part of the S106 Agreement. The pedestrian route will be the southern footway of Hyde Way. This will be a 3m wide footway.

- **Promotion of sustainable travel initiatives**

Although the TA mentions that the proposed measures to mitigate against the impact of the development will include the promotion of sustainable travel initiatives across the wider Welwyn Garden City area, there are no details within the TA of what the measures are. HCC consider that there are measures that could be supported to promote sustainable travel initiatives across the wider WGC area which would support the aim of reducing reliance on the private car. For example HCC has aspirations for a bus lane/cycle route on Bridge Road and for the improving the bus station to meet the requirements of the Equality Act.

Travel Plan

A revised travel plan was submitted as part of the Addendum Report. This revised travel plan is a Framework Travel Plan (FTP) and follows the format requested by HCC Sustainable Travel Advisor. It sets the overall targets and outcomes for the whole site as well as a requirement for individual landowners/occupiers to develop their own travel plans. Each of the individual travel plans would have their own targets specific to their land use but each would feed into the FTP. The FTP co-ordinator would then be responsible for the site achieving the stated targets. The revised travel plan is based on outcomes that are best expressed in terms of the maximum levels of car use to be allowed. The LHA considers that format of the FTP is a good starting point for further discussion on issues such as the maximum number of vehicle trips to be permitted from the development and the measures that would need to be put in place to ensure that the demand for parking particularly for the residential and offices can be met on site. The LHA considers that subject to these details being agreed and targets and penalties included in the S106, the completion of the Travel Plan could be covered by Planning Condition.

S106 issues

The Addendum Report contains a list of highway and transport items to be covered within a S106 Agenda. This list is extensive and as yet no detailed discussions have been agreed and therefore the Highway

Authority are uncertain as to whether the measures put forward will address their concerns, mitigate fully against the proposals and support the aims of the LTP.

Internal site layout

It is proposed that the internal road and footway layout within the site will remain private and not be adopted as public highway. However the LHA has concerns that the proposed layout does not fully consider the safety of pedestrians and cyclists and that potential points of conflict have been not been reduced.

Though the residential part of the site is in outline only, the main roads in the site form part of the detailed application. It is important that all roads within the site are designed to keep traffic speeds to low. The Addendum Report states that a 20mph speed limit will be enforced throughout the site through signage and traffic calming measures however no details have been provided.

The potential for conflict between pedestrians and cyclists moving east/west across the site and vehicles using the station drop off and surface leisure centre car park still exists. The Addendum report states this will not be an issue as traffic speeds will be low and the only traffic will be vehicles accessing the leisure centre drop off and surface car park. No mention is made of the station drop off. The station drop off is located so that all pedestrians and cyclists coming to or from the footbridge link to the station and town centre will have to cross it

The SPD road layout followed a grid format, with vehicles being able to move throughout the site. The proposed layout separates the proposed Tesco store traffic from the traffic from the remainder of the site, each being served by an access onto Broadwater Road. Similarly the traffic for the store service yard, the hotel and the YMCA can only be accessed from the Bridge Road access. Although this layout will prevent the site being used as a rat run to avoid the traffic signals on Broadwater Road, the Highway Authority was concerned that there was no provision for alternative routing should any of these routes become blocked. The revised TA and drawings show an emergency access route between the leisure centre car park and the northern access road which could be brought into use should the main access road to the site become blocked. The Highway authority would recommend that the fire service should be consulted regarding any access requirements they may have.

Between Hyde way and the new southern access it is proposed to provide a 2m wide footway on Broadwater Road, however drawing number 568_07_802 of Volume 3-Addendum Drawings and Parameter Plans shows an illustrative plan which indicates that this footway will be oversailed by balconies. A proposed ownership boundary is indicated at the edge of the boundaries. The Addendum Report states that the extent of footway oversailed by balconies will be privately maintained however

no plan is provided to show whether it is intended that the whole width of footway would be privately maintained or just part of it.

Drawing no 207043-00-231 has been provided in the Addendum Report to demonstrate how a hammer head turning area can be provided on the YMCA access road, however this turning head does not appear to follow the line of the proposed emergency access link, and the tracking over runs the site boundary. The Highway Authority is therefore unable to determine whether an adequate turning head can be provided.

The construction phase drawing indicates a kiss and ride layby on Broadwater Road. It is not clear whether this is within the existing highway layout or the proposed highway layout.

Although it is proposed that the roads within the site will remain private, the Highway Authority has raised concerns regarding the layout at the western end of the proposed shared access road and the connection to the Taylor Wimpey site. This junction is shown with traffic on the shared access road giving way to traffic on the north-south boulevard. The southern end of the boulevard is a dead end that may or may not be used for parking therefore this junction will not operate as a give way but rather a tight bend. It is not clear whether adequate forward visibility can be achieved around this bend even allowing for speeds of 20mph. It is important that adequate visibility is provided between those exiting from the Boulevard and those using the western roadway within the Taylor Wimpey.

Depending on how these roads are connected, traffic from within the Spenhill site could use the Taylor Wimpey Roads to try and avoid the traffic signal controlled junction of the shared access road with Broadwater Road

It should be noted that the proposed Highway Layout drawing in the TA No 207043-00-229 still shows the loading layby on Broadwater Road north of the Hyde way signals which the Highway Authority understood to have been removed from the scheme.

General Comments

Bridge-feasibility

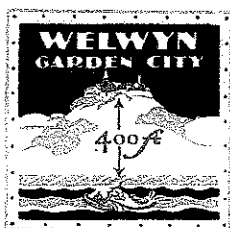
It is recognised within both the SPD and the TA that the footbridge forms an important link between the site and the town centre and railway station and is an important east /west pedestrian link. A separate application has been received for the bridge. The provision of a lift and steps will ensure access by all including the mobility impaired.

Parking

The level of parking required for the development will be determined by the LPA, however the agreed levels of trip generation were based on constraint levels of parking. It is noted that for all uses on the site, the

levels of parking have been constrained apart from for the proposed food store, where the level of parking is almost the maximum requirement based on the WHBC parking standards. The TA sets out the proposed parking strategy and this should be agreed with the LPA.

Within the GTP it is proposed that parking on street in the site would not be permitted except in designated bays between 0600-1800 Monday to Saturday. The TA acknowledges that the restrained level of parking for the residential and office part of the development may have an impact on parking in the surrounding residential area and puts forward a proposal to introduce a CPZ across the western part of Peartree. This would be a matter for the LPA to determine. The aims of the Green Travel Plan will only be achieved if parking from the development is not allowed to spread off site. How this is to be achieved will depend on the measures in the individual Travel Plans, S106 agreement and management strategies of the occupiers of the site.



WELWYN GARDEN CITY SOCIETY

www.wgcsoc.org.uk

www.saynototesco.org.uk

Petition to the Borough Council

I do not support the building of yet another supermarket here in the town (this one being proposed by Tesco PLC on the Broadwater Road site) when there is already a large Tesco store less than a mile away at Hatfield.

I believe that this is against the best interests of Welwyn Garden City as it will tear the heart out of the existing Town Centre. We already have seen the Hatfield Town Centre in the Borough hugely damaged by an edge of town supermarket, and we don't want the same thing repeated here.

I don't think that Spenshill – the development arm of Tesco PLC – has produced a plan for the Broadwater Road development which in any way reflects the ethos of the town, and I think its designs are boring, mediocre and sadly lacking in flair and imagination.

I urge the Council to ensure that the proposals put before the Council are rejected.

RESULTS OF PETITION AS AT 12 DECEMBER 2011

The first tranche, Books 1 and 2, submitted on 16 August 2011 contained sheets numbered 1 – 618. The second tranche of signatures, also in Books marked 1 and 2 containing sheets 619 - 1419 are now handed over. The second tranche also includes 1,452 petitioners who completed the petition on line on the Society's website.

Petitioners' signatures have been analysed into the following post codes:

AL6	AL7	AL8	AL9	AL10	ALZ	TOTAL
1010	5056	3804	252	418	3581	14,121
7.15%	35.80%	26.94%	1.78%	2.96%	25.35%	100%

The postal codes breakdown is for the Welwyn & Hatfield Borough: AL6, AL7, AL8, AL9 and AL10. All respondents who reside outside the Borough are recorded as ALZ. These are visitors to the town, primarily in town for shopping.

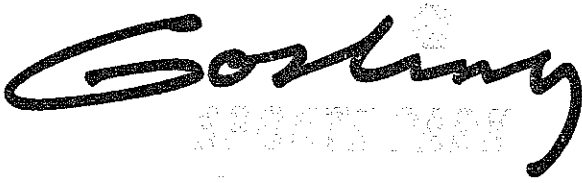
The total is audited on an Excel spreadsheet, a copy of which is on a disk and which is appended. Neither the disk nor the data upon it may be used for any other purpose than supporting this petition. This requirement follows directions given by the Office of the Data Commissioner whose advice was sought in the preparation of this petition.

Both the on-line petition and that collected on paper have been scrutinised for duplications which, so far as they can be, have been removed from the total and are not shown in the audit summary. These duplications are noted in red.

If Tesco Plc decides to continue with this planning application, including going to appeal, then the Society reserves the right to continue with this petition and to take it to the wider Borough

Secretary
Welwyn Garden City Society

14 December 2011



Gosling Sports Park is a registered charity and a popular local and national destination sports facility with over a million visits per annum.

We receive no public sector funding and rely solely on income from subscriptions and memberships. This contrasts to other local leisure facilities. We object only to the leisure element within the Tesco proposal for the old Shredded Wheat site and specifically, that a gym operator will be required to subsidise the proposed swimming pool. This has been confirmed to us by Tesco. If this were allowed it would have a very damaging impact on Gosling and undermine its ongoing viability and ultimate survival.

We urge all supporters of Gosling Sports Park to sign our petition to register our opposition to the leisure element of Tesco's planning application at the old 'Shredded Wheat' Site

Steve Ryan Chairman Gosling Sports Park

APPENDIX 8 SUMMARY OF ENVIRONMENTAL STATEMENT

Construction Phase Impacts

Mitigation measures have been proposed for all predicted negative effects. A site wide Code of Construction Practice (CCoP) has been produced to govern the management of construction activities. Furthermore, for each phase of the development a principal contractor will be appointed and contractually obliged to ensure that the CCoP is implemented. As design works progress a bespoke Scientific Construction Method and Management Statement (SCMMS) will also be prepared.

Construction Method and Programme

It is intended that the scheme would be constructed over four phases as follows:

Phase 1: construction duration 24 months

- Plot A – leisure centre and new access facilities to pedestrian bridge
- Plot C – offices including basement parking for 120 cars
- Plot D – retail store including basement parking for 459 cars
- Plot E – café and heritage centre at base of silos
- Plot F – addition retail units, café and offices above including basement parking
- Plot G – CHP plant to serve phase 1
- Plot K – additional retail units with residential above including basement parking

Phase 2: construction duration 12 months

Plots J, L & M – all residential units

Phase 3: construction duration 12 months

Plots N, O, P & Q – all residential units

Phase 4: construction duration 12 months

- Plot B – nursery, youth/community centre and YMCA accommodation
- Plot H – hotel

It is not clear from the ES when the replacement footbridge works would be undertaken although the applicant has advised that this will form part of the phase 1 works.

Details of the enabling works and main construction activities are provided for phases 1 and 2 which are likely to include the demolition of structures that are not to be retained, highways and junctions modifications, service diversions, site preparation, installation of primary services plus temporary services and construction facilities, excavation of basements for underground car parks. As noted above, each phase will have one principal contractor responsible for ensuring co-ordination and compliance with the CCOP. This requires the team and the appointed contractor to assess the most appropriate construction method for each element or part thereof and to embrace efficient construction techniques.

Some demolition works are required to the listed Shredded Wheat factory complex – notably the single storey production hall and some smaller ancillary buildings. The demolition contractor will be required to have proven capability in the management and retention of listed buildings and elements of historic significance. The demolition contractor will also be made responsible for all temporary works required to support

or protect retained elements. A detailed intrusive survey will be undertaken to further understand the structural form and construction of the buildings prior to demolition and works will only proceed once all retained elements of the existing structures have been supported/protected. Along with the CCoP and SCMMP the demolition contractor will be required to comply with the British Standard Code of Practice for Demolition as well as guidance by the Health and Safety Executive. Demolition waste will be managed in accordance with the CCoP and a Site Waste Management Plan.

It is intended that normal working hours will be 0800 to 1800 on weekdays and 0800 to 1300 on Saturdays. No work will take place on Sundays and Bank or Public Holidays. However, some internal fit out works may extend beyond the hours stated where there is less potential for nuisance.

The impact of construction traffic during phase 1 has been assessed as it is in this period that the peak of traffic generation will occur. During the construction works HGVs and service vehicles will be required to transport goods and materials to and from the site. In addition staff and other operatives will generate additional travel demand. To mitigate impact each principle contractor on site will be required to produce a Traffic Management Plan or Construction Management Plan which will promote sustainable transport measures during construction. Based on the assessment of construction operations and the schedule of works for phase 1 the estimated number of construction vehicle movements would peak at 10 two way trips per hour which is not considered to have a significant impact on the operation of the local highway network.

For the majority of the phase 1 build period access for construction traffic and staff/operatives will be via Hydeaway. The ES also advises that throughout this time access by pedestrians and cyclists to the footbridge will be retained via the provision of a dedicated route along the southern boundary of the phase 1 site area. For the later phases site access will be via the southern access route which is shared with the Taylor Wimpey scheme to the south. This may result in construction vehicles travelling through the scheme for a period in relation to the construction of phase 4.

Social and Economic Impacts

A social and economic impact assessment was undertaken on the development proposals and forms an assessment of the scheme with regard to issues such as social inclusion, employment, local education, health and care services, crime and safety and housing demand. Whilst there will be some short term disruption and adverse impacts during the construction phase the ES generally concludes that the residual socio economic impacts resulting from the scheme will be of a beneficial nature;

- Demographic changes – the ES highlights the expected population increase within the borough over the next 15 years and notes that the proposed development will be significant in addressing the expected demographic changes.
- Labour supply - The potential for new jobs to be created and the provision of new health and social facilities as well as the provision for new housing will all have a beneficial impact on the labour supply. The ES notes that to enhance this impact there may be a need for encouragement schemes, training programmes and access advice.
- Social inclusion – the location of the development site means that its impacts are more likely to be felt in the town centre and Peartree. The inclusion of publicly

accessible, socially oriented facilities within the scheme is likely to result in positive social impacts and is considered to integrate the two sides of the town.

- Employment – one of the major socio-economic benefits identified in the ES is the provision of new jobs resulting from the scheme. Whilst there may be some displacement resulting from the movement of existing or new businesses into the scheme it is considered that the redevelopment will result in significant employment gain both through the provision of temporary construction jobs as well as permanent jobs. An employment estimate indicates that approximately 1640 new jobs will be provided which will require a range of skill levels and also provide part time working opportunities.
- Local education – the ES highlights that due to the type of housing proposed (particularly as part of phase 2) the scheme could yield approximately 10 secondary school pupils and a potentially higher yield of 28 primary school pupils. These figures are caveated, however, as there could be displacement from the existing catchments and it is considered that the impact on existing local schools will not be significant.
- Health Care Services – the proposed new health centre is designed to accommodate 9 GPs which would provide adequate cover for a population of over 12,850 and with existing provision slightly above the average figure for England there is a beneficial impact on health care for the area.
- Crime and safety – given that the site is currently derelict the proposed redevelopment will reintroduce new land uses and activities in the area. The ES does not consider that the scheme will result in any significant impact in relation to crime and safety and that in the long term the scheme will be of some local benefit in this regard.
- Housing tenure – the proposed scheme will provide a mix of unit types as well as a proportion of affordable housing. However, whilst this will provide some reduction in the identified shortfall of affordable housing the impacts on tenure will be negligible.
- House market changes – the applicant considers that the proposed redevelopment and the phasing of the scheme will provide some local benefit and stimulus to the housing market in the area.

Community Impacts

The ES considers that any potential adverse community impact associated with the introduction of a retail supermarket (such as the introduction of car borne shopping trips) on the site will be minor and will not reduce the potential benefits associated with the introduction of new community facilities and new income streams. In order to maximize these benefits the ES also proposes supporting public sector and community groups to develop local programmes and initiatives to encourage participation and interest in the new facilities.

As is set out in this report, officers have undertaken a detailed analysis of the retail impacts resulting from the scheme and are of a view that the proposed retail foodstore does result in negative impacts. Officers do not therefore agree that the retail impacts of the scheme would be entirely beneficial and do not fully agree with the findings of the ES in this regard.

Retail Impacts

A retail impact assessment has been undertaken and is included as part of the ES. This assessment concludes that:

- The redevelopment is not viable without the proposed supermarket.
- The redevelopment will not adversely impact planned investment in existing centres in the borough.
- The redevelopment will not affect the vitality and viability of the town centre.
- The main impact in terms of convenience and comparison goods shopping will be on out of town stores at Black Fan Road and Oldings Corner.
- The scale of new retail floor space will allow the development to enhance competition in terms of product range and quality with the town centre stores and to compete effectively with the out of centre stores.
- A reduced format store would not be able to compete effectively in product range and services and would not contribute effectively to local trade completion.
- The retail elements of the scheme would have a significant beneficial impact in terms of job creation and regeneration.

As is set out in this report, officers have undertaken a detailed analysis of the retail impacts resulting from the scheme and are of a view that the proposed retail foodstore does result in negative impacts. Officers do not therefore agree that the retail impacts of the scheme would be entirely beneficial and do not fully agree with the findings of the ES in this regard.

Urban Design

The ES considers that the scheme has been designed to relate positively to the local and wider townscape and this will balance any potentially adverse impacts arising from its scale and visibility. The likely impact on the townscape within the local vicinity of the site is therefore considered to be major but entirely beneficial. Furthermore, the ES judges that the impact of the redevelopment will be beneficial to the setting of the listed buildings.

As is set out in this report, officers have undertaken a detailed urban design analysis of the scheme and are concerned with various elements of the proposed design. Officers do not therefore agree that the urban design impacts of the scheme would be entirely beneficial and do not fully agree with the findings of the ES in this regard.

Architectural Assessment

The scheme includes significant alterations to parts of the former Shredded Wheat Factory as well as demolition of other parts. As this is a Grade II listed building a detailed assessment of building significance has been undertaken. The principle elements of the listed factory complex are considered by the ES to be the original multi-storey production hall, the grain house, the boiler house and the full range of silos. All of these are proposed to be retained. Where demolition is due to take place (predominantly the single storey production hall) the degree of harm to the listed building is not considered to be substantial due to the minor degree of significance held by these elements.

As is noted in this report, English Heritage have commented on the scheme and raise no objection to the proposed works to the listed building, however, officers do not entirely agree that the residual impact resulting from the scheme is major beneficial.

Archaeology

The baseline assessment suggests that the site may have been significantly impacted by 20th century development and as such any potential archaeological evidence may have suffered a degree of truncation. In terms of pre-modern archaeology the site has a moderate potential for late Iron Age occupation evidence and Romano-British finds but only a low potential for Anglo-Saxon medieval, post medieval and early modern remains as it was known to have been undeveloped agricultural land throughout these periods and until the establishment of the garden city. As such it only has a low potential for remains dating from this period and any remains would be small scale and agricultural in nature. It is not, however possible to determine the specific impact without more detailed information on the presence, nature and survival of below ground archaeological deposits and the scheme does include the development of basement car parks which are likely to be the most significant impact of the scheme to such deposits. The central section of the site was originally occupied by a group of sectional factory buildings whereas the southern part of the site included the former British International Film Studios. This building was recently demolished and it is likely to have resulted in disturbance to this part of the site. The ES therefore recommends that a programme of archaeological evaluation be undertaken prior to development groundworks and concludes that the scheme would have a minor adverse impact in respect of archaeology.

Public Realm and Landscape Assessment

The ES concludes that the impact of the changes has been assessed to be between negligible to major and entirely beneficial as the scheme will significantly improve the site and surrounding locality which currently suffers from a poor townscape character.

A Townscape and Visual Impact Assessment has been undertaken to review the current townscape and identify the sensitive features within it. A number of views were constructed and assess for visual impact. The impact on some local views is judged to be particularly sensitive but still beneficial due to the high architectural and urban design quality of the development. It is considered by the ES that the scheme will not harm the setting of any of the retained heritage assets. However, the assessment does note that there is an adverse impact on the view of the listed Shredded Wheat complex from the proposed replacement bridge. This arises because the existing bridge is of an open lattice design and the proposed replacement bridge is required by Network Rail to have a solid balustrade.

Accessibility and Traffic Impacts

A revised transport assessment was submitted as part of the addendum to the ES in June and the impact of the development on the surrounding network has been assessed through the undertaking of a comprehensive modelling exercise. The scheme results in a major adverse impact on the local area and so the ES promotes a range of mitigation measures. A further Addendum Report to this transport assessment was submitted in September as a response to the comments of HCC as Highway Authority which promotes a revised junction arrangement at Broadwater Road and Bridge Road.

With the introduction of the proposed mitigation measures the ES considers that the residual impact on the local, district and regional highway network will be reduced to moderate adverse. As is noted above the impact of construction traffic has been assessed and is considered to be insignificant. Whilst the site access arrangements for phase 1 and the subsequent phases are noted the phasing programme contained

within the ES does not appear to confirm at which stage the mitigation measures noted above would be delivered.

As is set out in this report, officers have undertaken a detailed analysis of the transport impacts resulting from the scheme and several concerns are raised in relation to accessibility, highway capacity, car parking and sustainable travel measures. Officers do not therefore agree that the transport impacts of the scheme would be minor adverse and do not fully agree with the findings of the ES in this regard.

Energy Usage

The ES confirms that an energy strategy has been developed for the scheme which prioritises the passive design and energy efficiency of the new buildings before applying low and zero carbon technologies. As is promoted by the SPD, a central Combined Heat and Power plant is proposed for the site. Passive energy design utilizes the orientation of the building to optimize natural energy sources such as daylighting and ventilation. Furthermore energy efficient plant and control systems will work to minimize energy consumption. For phase 1 (including the retail store) these measures will result in a 16% reduction in CO₂ emissions and for phases 2 to 4 a 15% reduction in CO₂ emissions both reducing what would have been a major adverse impact to a minor adverse level of impact.

Impacts on Microclimate

A Daylight Sunlight Assessment indicates that three areas will be subject to significant overshadowing – the east façade of Plot C (offices), the south and west façade of Plot D (retail store) and residential Plots P and Q to the south of the site. Plots C and D are predominantly impacted by the silos but the usage of these buildings means the impact is unlikely to have an appreciably negative impact. Plots P and Q are predominantly impacted by the taller buildings to the southern perimeter of the blocks which will cause overshadowing. The ES highlights that some of the individual gardens in Plots P and Q will have greater than 25% of the space overshadowed permanently when assessed on a typical spring day (March 21st). The ES argues that these dwellings do have direct access to adjacent private and public community green areas which should be deemed as extensions to the private garden areas and will enable access to sunlit spaces.

A Wind Assessment was also undertaken and advises that the wind conditions can be expected to be suitable for leisure use including periods of standing and sitting in the public areas.

Air Quality Impacts

An Air Quality Impact Assessment has been undertaken. The baseline assessment indicates that there is no evidence of air quality objectives being exceeded in Welwyn Garden City and that the Council has not identified the need for any Air Quality Management Areas. The consideration of cumulative impacts should the Pall Mall site be reopened or redeveloped has been taken into account in the consideration of this issue as well as any emissions resulting from the proposed Combined Heat and Power plant (CHP). The assessment has identified that during the operational phase there would be small to medium increases in the concentration of polluting emissions. As such the operational impact on air quality is considered to be minor.

Surface and Groundwater Impacts

An assessment of the impacts of the proposed development on water and sewer services and groundwater and drainage has been undertaken.

- Flooding – the EA indicative flood map shows that the site is located in Flood Zone 1 and as such there is very low risk (less than 0.1%) of flooding from river and sea sources to any part of the site in any year. Due to the scale of development however, a Flood Risk Assessment was carried out. The EA confirmed there is no record of flooding from river, sea or groundwater sources on the site and Thames Water and the Local Drainage Board confirmed that there have been no incidences of flooding from public sewers surcharging in the local area. The assessment therefore concludes that there is no increase in flood risk from any source and the risk of flooding remains low for the site.
- Surface water run off – given the scale of redevelopment proposed there is a required to introduce sustainable drainage systems (SUDS) to capture and treat surface water run off before its discharge into sewer, underlying groundwater or surrounding watercourses. The aspiration is to achieve a run off level that is no more than green field levels and to provide sufficient attenuation for the 1 in 100 year flood event plus allowances for climate change. The characteristics of the scheme were assessed against the various SUDS techniques and their effectiveness considered. The following options are considered viable for the site – green roofs, rainwater harvesting, oil/petrol interceptors, landscaping and planting, filter strips, permeable paving, soakaways and attenuation/storage tanks. The Environment Agency has also confirmed that they have no objection to the proposed scheme.
- Sewer systems – Thames Water had previously confirmed that the existing foul sewer network is over capacity and liable to flooding in several locations remote from the site. Four options were modelled and considered in relation to the proposed scheme and of these it is proposed that the use of an onsite detention and pumped solution will be adopted. This will be designed to discharge at an agreed flow rate and Thames Water have confirmed that they have no objection to the proposed scheme.

Ground Conditions

During operation risk of ground contamination will arise from the storage of bulk liquids on site, oil/diesel/petrol spills from vehicles, liquid deliveries and the introduction of non-native invasive species. Given the previous industrial history of the site is in not considered that there is any additional impact or risk resulting from the proposed scheme. Due to the use of SUDS within the scheme design, however, bypass separators will be used to treat surface water runoff (up to a certain flow level) to ensure that water entering the system soakaways does not contaminate ground water.

Logistics and Waste Management

The redevelopment includes a range of uses, each with their own requirements for deliveries, servicing and waste collection. Access for servicing will be via the northern access road for the foodstore, hotel and YMCA and via the southern access road for all other uses. The applicants have confirmed that the outline residential element will have a recycling strategy that accordable with the Councils waste collection requirements.

Noise Impacts

There are three elements to noise arising from the proposed scheme – noise during the demolition and construction phase, noise from traffic and noise during the operation of the development itself. As noted above a construction noise assessment has been undertaken to determine the effect of noise and vibration on the nearest residential receptors. Where there is the potential for significant noise or vibration impacts during demolition and construction the ES proposes a mix of mitigation measures such as the use of silencers/mufflers, restricted hours of working and the use of the CoCP.

With regard to noise impacts arising from the operation of the development itself the ES has assessed potential noise impacts resulting from the retail service yard, the impact of mechanical plant equipment associated with the development, the potential for noise resulting from the proposed CHP plant, the impact of the internal traffic flows within the scheme and in relation to the existing noise climate, the impact on the scheme were the Pall Mall site to re-open and operate as a storage and distribution centre.

With regard to the assessment of these impacts the ES advises that the assessment of retail servicing noise indicates that servicing of the store can take place during the daytime with negligible impact on existing and proposed residential amenity. An assessment of the proposed CHP has highlighted that detailed design measures will need to consider the introduction of elements such as noise control louvers, acoustic seals and low noise fans in order to mitigate noise impact. This equally applies in relation to other plant equipment that will be proposed on site.

The impact of the increased traffic and internal traffic flows associated with the development has highlighted that there are some residential elements of the proposed scheme that will need to be designed to incorporate adequate sound insulation at façade to ensure that these units will have acceptable internal noise conditions suitable for habitation. Finally an additional noise assessment has been undertaken to consider the potential impact associated with the Pall Mall site re-opening for use as a B8 warehouse, storage and distribution centre. The analysis shows that with the introduction of an acoustic bund along the boundary between the two sites, the use of the facility during daytime hours should not result in a significant loss of residential amenity. The assessment has not, however, taken into account the fact that the Pall Mall site has no restricted opening hours and only a daytime noise assessment has been undertaken. Whilst the BRW SPD does recognise that noise is a constraint, officers are concerned at the level of acoustic mitigation that is required as a result of the traffic impact and layout of this scheme is considerable.

Light Pollution

An assessment for light pollution has not been undertaken, however, the ES confirms that all lighting schemes proposed as part of the development will be specified to avoid light nuisance and pollution, furthermore all external lighting will be in compliance with the guidance of the Institution of Lighting Engineers on the reduction of obstructive light (2005).

Impact on Fauna and Flora

An ecology assessment of the site has been undertaken comprising of both desk based study and site surveys. Based on this assessment the site as a whole is considered to be of low ecological value. However, the scheme will include redevelopment of an area of colonized ruderal habitat on derelict land to the north-west of the site. The main receptors identified as likely to be affected by the scheme

include reptiles, bats, invertebrates, trees, and nesting birds. At the Council's request additional bat and reptile surveys were undertaken. These indicate that none of the buildings on site are currently being used by roosting bats but there is a negligible risk of bats using the buildings for occasional roosting. As such a precautionary approach to demolition is recommended. The only reptile species confirmed to be present on site was the slow worm. However, only two slow worms were observed and as such it is considered that only a small population of the species is using the site and mitigation is proposed in the form of a method statement that will include the preparation of a receptor site and translocation to this receptor site prior to works commencing. The ecological assessment did not include an invertebrate study but recognizes that the undeveloped habitat on the north west of the site may support a number of uncommon invertebrate species which are also of conservation concern. As this land generally comprises of phase 4 of the development proposals it is proposed that an invertebrate study be carried out prior to any works commencing on this phase. This, alongside the introduction of features such as brown roofs and a biodiversity management plan for the whole site will ensure that there is no net loss in invertebrate habitat during construction.

A tree survey has also been undertaken and a revised tree removal and planting plan has been provided. The tree survey noted 137 individual trees across the application area, although none were noted as being veteran or of exceptional conservation value and only 12 trees were considered to be of moderate quality/amenity value. Of these a line of common lime trees plus a large cherry tree along the northern boundary of the site adjacent Bridge Road are recommended for retention to provide screening. However, the scheme proposed their removal to enable the access road to the parking area for Plots H and B. The ES notes that due to the visual improvement resulting from the redevelopment these trees are no longer required to provide a screening function. A total of 30 trees are proposed for retention across the application site area with 2 mature trees to be retained in the recreation ground north of the proposed leisure centre.

The landscape masterplan proposes 302 new trees across the site and a range of species and variety of forms are considered. Native species as well as species selected for biodiversity enhancement are proposed by the applicant and the residual impact of the scheme in this regard is considered to be beneficial.

The local bird population is another group that is potentially affected by the proposed development. Whilst the common blackbird was noted during the site inspection there is evidence of bird presence on the site e.g. nests/feathers. Whilst trees are to be removed on site these will be replaced with a greater number and wider variety of trees which should have a positive impact on habitat for birds. To mitigate any impact on the local bird population, tree removal will occur outside of the bird nesting period. In addition features such as 'house bricks' for swifts and the installation of bird boxes will be used in the design of the scheme.

The ecological survey did identify that the invasive species 'Japanese Knotweed' is present on the site. This is to be cleared from affected areas and a monitoring programme will be put in place to ensure that re-infestation does not occur.

Impact on Residents

The ES notes that during the operational phase of the development, the key impacts on the wider area comprise of:

- Socio-economic (including job creation)
- Visual impacts and impacts on townscape and heritage
- Traffic impacts
- Retail impacts
- Noise impacts

The ES considers that of these the socio-economic effects of the scheme, as well as the visual, townscape and heritage impacts will affect the wider community and will be wholly beneficial. The ES recognises that the development of the currently derelict site will result in traffic impacts as well as impacts related to noise, air quality and other environmental impacts. However, the ES considers that the mitigation that has been put forward in respect of these areas means that the residual impact on the wider community is negligible to minor. Clearly, for the reasons set out in this report in relation to retail, transport and urban design considerations officers do not fully agree with the findings of the ES in this regard.

Cumulative Impacts

This site is part of the wider Broadwater Road West development site, the remainder of which is owned by Pall Mall Investments, Taylor Wimpey and the Bio Park. A scheme for the Taylor Wimpey site has been approved and is now being constructed on site. Proposals for the Pall Mall site are unknown but the adopted SPD for the site does provide an indication of the appropriate land uses for the site. Other recent developments in the locality of the site which have also been taken into account include the extension to the Waitrose store and the new Sainsbury store in the town centre, a new Somerfield to the south east of the site and residential development at Broadwater Crescent. The cumulative impacts in relation to visual character, leisure facilities, air quality, water and sewerage, noise, traffic, and flora and fauna have been assessed and the ES concludes that the proposed scheme will not have a significant cumulative adverse effect.

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2011
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2010/2060/LB

FORMER SHREDDED WHEAT FACTORY COMPLEX AND LAND ADJOINING
BROADWATER ROAD WEST, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7
3AY

WORKS FOR AND INCLUDING PART DEMOLITION, REPAIR, RESTORATION,
EXTENSION AND CONVERSION OF THE FORMER SHREDDED WHEAT
FACTORY COMPLEX TO PROVIDE RETAIL (A1 AND A3), BUSINESS (B1),
HERITAGE CENTRE (D1) AND ENERGY CENTRE.

APPLICANT: SPENHILL REGENERATION LTD

(Peartree)

1 Site Description

- 1.1 The site is located to the east of Welwyn Garden City town centre in the Peartree ward. The planning application boundary extends to a total area of 10.4 hectares. The site is located within the designated Welwyn Garden City Employment Area and forms the major part of the Broadwater Road West development site, an area allocated for mixed use development in the Welwyn Hatfield District Plan and the subject of the Broadwater Road West Supplementary Planning Document (BRW SPD). The site is bounded with Broadwater Road (A1000 distributor road) to the east; the Taylor Wimpey housing development to the south (a scheme which includes the re-use of the former Roche Products reception building, a Grade II listed building); the East Coast Mainline to the west; and Bridge Road and Hunters Bridge (which provides the main access to Welwyn Garden City from the east of the town), to the north.
- 1.2 The Pall Mall warehouse and distribution centre is also located to the south west of the site and the access to this site is currently provided via the application site.
- 1.3 Welwyn Garden City town centre is immediately west of the East Coast Mainline and an existing pedestrian route extends across the site via Hyde Way and the footbridge over the railway that links the industrial area and Peartree ward to the railway station and the town centre.
- 1.4 The area was predominantly occupied by industrial buildings but has since been largely cleared. There is residential development to the south and the large Hertfordshire Bio Park office and laboratory building lies to the southwest, with office buildings to the east.

- 1.5 The site and its buildings are currently vacant. There are only two building groups left on the site today; the remaining buildings of the Polycell factory to the south of Hyde Way, and the Shredded Wheat Factory buildings to the north of the site. Designed by Louis de Soissons and his partner Arthur W. Kenyon, the former Shredded Wheat factory buildings date back to 1924 and are Grade II listed (and this listing also includes the redundant silos). The factory complex was listed on 16 January 1981 and a copy of the listing description is attached at Appendix 1.
- 1.6 In terms of historical background, one of the elements or 'zones' put forward as part of the concept of the 'Garden City' was that of a factory belt to attract non-polluting industries. In Welwyn Garden City the land at Broadwater Road was recognised as the best site for industry and one of the first manufacturing industries to locate to the town was Shredded Wheat, which opened in May 1924 with a multi storey factory, boiler house and 18 grain silos. The company was sold to The National Biscuit Company, Nabisco, in 1928 and extensions to the factory took place between 1937 and 1939. These included a new single storey production hall and the silos increased from 18 to 45. The factory was then extended again in the 1950s and 1960s.
- 1.7 The buildings that comprise the factory are:
- 1920s multi storey production hall
 - 1920s grain house
 - 1920s boiler house
 - 1920s grain silos
 - 1930s grain silos
 - 1930s single storey production hall
 - 1950s corner entrance building
 - 1950s offices and administration
 - 1950s warehouse
 - 1950s garage
 - 1950s dispatch

2 The Proposal

- 2.1 The application seeks to demolish the single storey production hall element of the Shredded Wheat complex and to retain, restore and find new uses for the remaining significant elements of the Shredded Wheat factory structures, including the silos. For the avoidance of doubt, this report only relates to the physical works to the listed structures on the site, all other matters related to the wider redevelopment of the application site are considered in application N6/2010/2055/MA. The works to the various listed elements are set out below but can be summarised as follows:
- Repair and restoration of the multi storey production hall to provide a new office block.
 - Demolition of the single storey production hall and the later 1950s additions to provide a new supermarket with associated admin, servicing and back of house functions.
 - Demolition of the 1950s warehouse building and garages to enable a new office building with retail at ground floor.

- The restoration and conversion of the boiler house to provide a new Energy Centre.
- The restoration and conversion of the grain house to provide a new heritage centre.
- The retention and refurbishment of the landmark silos to provide café use at ground floor.

In detail the proposals are:

The 1920's Multi Storey Production Hall

2.2 The 1920s former production hall was designed by Louis de Soissons and is an example of 20th century food production and manufacturing techniques. It is visually prominent from the railway line and is part of the original factory complex. The production hall is to be converted to office accommodation (plot C). The planning and listed building applications together propose works to the refurbished external shell of the building leaving the interiors as empty spaces which will then be the subject of a future application to establish the nature of the fit out; the cores and the layouts of the partitions. The redevelopment proposes that all of the production hall windows be replaced by new windows and where old windows have been bricked in new openings will be made. The present windows have the same horizontal divisions but only five vertical divisions with mullions at irregular spacing. The proposal will keep the horizontal proportions and the 'seven by five' grid spacing, but with an equal vertical spacing retained. At first floor the taller windows will have eight horizontal divisions rather than seven.

2.3 On the west elevation facing the rail line, external stair frames, flumes and alterations accrued during the factory's lifetime will be removed to reveal the uniform facade, as originally intended, with a central entrance at ground level. The green metal cladding will be replaced with white render and new window panes will be installed to match the existing horizontal panes in appearance. The glazing on the east elevation will also be restored and will be seen above the proposed new supermarket building from the east. At ground level, an entrance with symmetrical, full-turn external staircases similar to the original will be reinstated on the east elevation. The top storey will be extended to the east, to allow for lift space. The roof plant will be shielded from view by a screen designed so as to minimise its visibility. Internally, the mushroom pillars will be retained and insulation added to bring the building up to current standards. The plans showing internal subdivisions are indicative only; and the application states that a management guide will be prepared to control where they are placed and how they are constructed by future occupants.

The 1930s Single Storey Production Hall

2.4 The demolition of this building is proposed and the internal space and machinery is to be recorded in detail before demolition. It will be replaced with a new retail supermarket building (plot D) of a similar height to the existing single storey production hall, albeit with a different design. The existing angled skylights will be replaced by a folding roof and ventilation funnels. Glazing on the south elevation will allow views into the proposed supermarket, and a new entrance will be marked by a projecting canopy, addressing the new public space. The west elevation of the proposed supermarket will be detached from the multi-storey production hall (plot C), allowing the east elevation, and former main entrance, of that significant part

of the Listed Building to be restored and returned to view, with a private garden space separating the two buildings. A simple folding wall will screen the service yard at the north elevation.

The 1950s Offices, Warehouse and Corner Entrance Building

- 2.5 Demolition is proposed for the northern, single storey production hall and offices, built in 1957. Again, the internal space and machinery would be recorded in detail before demolition. A new office building is proposed which will extend from the north side of the proposed supermarket, following the line of the supermarket glazing. It will be of white brick and a simple form with horizontal emphasis in keeping with the character of the original factory complex. A folded wall will shield the service entrances from sight along the north side of the site; its low mass and regular folds are intended to retain the rhythm of the existing elevation whilst its vertical emphasis is intended to relate to the silos rising beyond.
- 2.6 The Northeast corner entrance and office building (1957-9) will also be demolished. The internal spaces will be recorded in detail before demolition. A new corner building is also proposed that will be linked to the proposed supermarket and used as offices. This building is designed with large rectangular openings in the north and east elevations that will relate to the window openings of the multi-storey production hall and will allow views into a private landscaped space.

The 1920s Boiler House

- 2.7 The boiler house is to be retained and restored for a new use. On the immediate west of the civic square proposed as part of the wider development proposals (under application N6/2010/2055/MA) the boiler house will be retained and adapted for use as the Energy Centre for the development (plot G). The Energy Centre will contain mains gas-fired Combined Heat and Power (CHP) Units serving both the store and the remainder of the redevelopment.
- 2.8 The elevations of the boiler house will be restored to match the appearance of the grain house and the multi-storey production hall. The post-1950s 'link building' presently joining it with the grain house and attached structures at ground level will be removed to restore its simple form with two large window openings on the west elevation. It will be clearly defined from the other elements of the former factory complex, as originally intended and will allow views from the west through to the new civic square. The chimney to the east (at the rear) and water drums to the south will be retained and incorporated into the proposed open space to the east and south of the boiler house. It will be maintained and secured in its present state until this or another use can be achieved. The mass of the new office building (plot F) and its white walls and broad window openings with recessed metal panels have been designed to relate to the original factory buildings and to form an appropriate backdrop to the boiler house in easterly views.

The 1920s Grain House

- 2.9 The grain house is to be retained and restored for a new use. As part of the wider redevelopment scheme it is proposed to use the grain house as a heritage centre (plot E). The facades of the grain house will be replaced with white render and the windows replaced to match the existing horizontal panes and those of the multi-storey production hall. The upper level walkway to the multi storey production hall will be retained. The ground level entrance

and structures on the west elevation will be removed along with the post-1950s 'link buildings' which presently join it with the boiler house and the multi storey production hall. Internally, the aim is to accommodate a heritage museum in this space and the building will be maintained in its present state whilst potential occupants are sought. This building comprises four floors of various heights and the redevelopment proposal focuses on renovating the external shell whilst leaving the interior open. From the entrance it would be possible to view one of the silo hoppers which have been left intact. The application proposes the provision of the centre to a 'shell and core' specification that would be provided to an agreed specification and offered at a peppercorn rent to an appropriate organisation/body for use as a museum or other community facility as agreed by the Council.

The Silos

- 2.10 The silos and any internal related machinery are to be retained and the roof structure restored and repainted white. The ground level will be opened up with glazing so as to accommodate shops/restaurant and/or a cafe to front the new open space (civic square) that is proposed as part of the wider redevelopment proposals. The aim is to secure a safe and viable use for the silos (above ground level) and roof structure, and they are to be maintained in their present state until this can be achieved. The applicant has advised that a management plan and maintenance fund will be prepared, in consultation with the Local Planning Authority, to ensure that the silo complex is properly maintained and that it can be converted to a new use in future if a viable option is found.

Garage Blocks

- 2.11 The 1927 garages building (located to the south of the boiler house and chimney) will be demolished to make room for a new landscaped open space at the foot of the silos and to the east of the boiler house. Demolition is also proposed for the 1957 garages, which along with the southeast warehouse block will be replaced by a new office building, with retail at ground level (plot F).

South East Warehouse (1957-1959)

- 2.13 As is noted above, demolition of this building is proposed. The garages and southeast warehouse block are to be replaced by a new office building, with retail at ground floor level (plot F). The applicant advises that this new building has been designed to address Broadwater Road and is of a similar length to the existing garage and warehouse building with white walls and broad window openings with recessed metal panels which will relate to those of the retained and restored factory buildings.

3 Planning History

- 3.1 This application represents the first major development proposal since the site became vacant and ceased to provide an employment generating use. The planning history comprises a variety of applications for minor alterations to the existing buildings or for the development of buildings which have since been demolished.
- 3.2 The site has an adopted Supplementary Planning Document (BRW SPD) which was prepared to support Policy EMP3 of the District Plan which identifies the site as an area of opportunity for mixed use development. The BRW SPD was adopted by the Council on 2 December 2008. The aim of the

document is to set out a clear framework to bring about the sustainable regeneration and redevelopment of the site. The SPD establishes the type, amount and mix of development that should be delivered on the site, as well as identifying design and layout constraints, and other requirements that need to be addressed as part of the redevelopment process: details on design and sustainability initiatives are also provided.

- 3.3 In relation to the listed buildings on site, the BRW SPD advises that it is intended that the listed structures should be retained and refurbished for new uses although the demolition of the single storey production hall is envisaged in the masterplan. In relation to the silos, they are highlighted as representing a notable landmark that could be used as a focal point to encourage legibility in the site and that there is potential to re-use the top and ground floors for a commercial or leisure purpose.
- 3.4 Pre-application discussions pursuant to N6/2009/0714/PA were entered into with the applicant in relation to the general principles of redevelopment including the design and listed building issues, access and transport, environmental impacts and the retail impact of the scheme. Officers formally requested clarification with regard to outstanding discussions in September 2010 following the Development Consultation Forum held on 19 August 2010. In particular reference was made to the outstanding matters that still needed to be formally discussed and resolved including outstanding issues of design/landscaping, planning obligations, listed building issues, viability and environmental considerations, however these discussions were never formally completed by the applicant and the current application was received on 30 September 2010.
- 3.5 The following linked applications should be also be noted
- 3.6 N6/2010/2055/MA – This is a hybrid application comprising a full application for part of the site (phase 1) where full details have been submitted and an outline planning application for the remainder of the scheme where all matters are reserved apart from means of access. Comprehensively, this application seeks to provide the following:
- 13,957 sqm of office floor space (B1)
 - 37,000sqm of residential floor space – approximately 344 units (C3)
 - A retail supermarket with net sales area of 4,300sqm (A1)
 - An additional 800sqm of retail floor space (A1-A5)
 - 1,000sqm of café restaurants (A3)
 - A 3,225sqm leisure centre (D2)
 - A 950sqm doctor's surgery (D1)
 - A 4,200sqm extra care home (C2)
 - A YMCA facility of 5,800sqm (C1, C2, D1 and D2)
 - A 3,200sqm hotel (C1)
 - The provision of 909 cycle spaces
 - The provision of 1,108 car parking spaces (291 for residential use)
- 3.7 N6/2011/0611/FP - The applicant has submitted a separate application for the footbridge which details the erection of a replacement pedestrian bridge up to the existing bridge over the operational lines and the construction of a bridge link building, including a ticket machine and bike shed.

- 3.8 N6/2009/705/EI – EIA screening request. Screening Opinion issued 06/05/09.
- 3.9 N6/2009/1114/EI – EIA scoping request. Scoping Opinion issued 10/07/09.

4 Planning Policy

- 4.1 National Planning Policy
PPS5 – Planning for the Historic Environment, 2010
- 4.2 East of England Plan 2008
ENV6 – The Historic Environment
- 4.3 Welwyn Hatfield District Plan 2005
R27 – Demolition of Listed Buildings
R29 - Archaeology

5 Constraints

- 5.1 The site lies within Employment Area EA1 as designated in the Welwyn Hatfield District Plan 2005, contains the former Shredded Wheat Factory buildings which are Grade II listed. The site is also identified as a 'Mixed Use Development Site' under Policy EMP3 of the District Plan. To the immediate south of the site lies Wildlife Site 199 (Twentieth Mile Bridge Allotments).

6 Representations Received

- 6.1 This application has been advertised by site notice, newspaper notice and neighbour notifications. A number of representations have been received (including representations by the Welwyn Garden City Society, Welwyn Hatfield Chamber of Commerce, Welwyn Garden City Town Centre Partnership, Welwyn Hatfield Access Group, the Town and Country Planning Association and CABE) in relation to the application but these have been primarily in relation to the linked planning application, N6/2010/2055/MA. Accordingly, members should cross reference the representations section of that report to this application for consideration of the representations made during and after the expiry of the original notification period.

7 Consultations Received

- 7.1 **English Heritage** – English Heritage's remit in this case principally concerns the listed Shredded Wheat Factory and its setting.
- The proposed demolition of substantial parts of the Shredded Wheat Factory would not entail substantial harm to its significance and should be assessed against Policy HE9.4 of PPS5.
 - The harm ensuing from the work would appear modest, unless a full assessment of the works to the buildings to be retained indicates otherwise.
 - In assessing the public benefit arising from the proposals, the retention and reuse of the original buildings may be considered such a benefit, subject again to a full assessment of the works to these buildings and

also a full assessment of the proposed maintenance fund for the silo range.

- Overall, however, it would seem that the proposed approach to the building is to preserve the original fabric and plan and to remove later utilitarian additions. Certain elements that are or may be original (internal plinths and ramps, the stub of the external canopy on the grain house) would be removed either for practical reasons or as part of the general tidying up of the building.

It could be argued that the approach to the major elements of the Shredded Wheat Factory that it is proposed to repair and reuse is not wholly coherent. The legitimate distinction drawn by the applicants' consultants, the Tavernor Consultancy, between those parts of the existing factory that it is proposed to retain and those that are of subordinate or minor interest might suggest a more emphatic approach to the reinstatement of the original form of the former than is apparent in the scheme. For example, a case could be made for the restoration of the distinctive external canopy to the grain store, rather than the removal of its vestige. That there must be some departure from the original for reasons of practicality need not be questioned, however; and it may be that the balance of the proposed works to the major elements of the factory would serve to protect and reinforce the building's original character.

One major element of the proposed works that might have been treated more fully is the replacement of all of the building's windows. In principle the replacement of the existing windows, which are not original, with new double-glazed windows may be appropriate. The proposed windows would be closer in form to the originals than are the existing windows, although the illustrative material provided makes this hard to gauge independently. The beneficial effect of the reinstatement of something approximating to the original pattern of fenestration may outweigh any change in character resulting from the use of double-glazing. In a building of this scale and character the aesthetic difference between single and double-glazing might anyway be thought less significant than it would be in many other types of historic building. To confirm the appropriateness of what is proposed, however, it might be sensible to require the installation of a full-scale sample of the proposed fenestration prior to approval of the change. This could be dealt with by means of a condition.

In conclusion, on the basis of the additional information provided by the applicants' planning advisers English Heritage believes that the proposed works to the principal buildings of the Shredded Wheat factory may be considered acceptable, and therefore agrees that the repair and adaptation of the buildings proposed in the scheme put forward may be considered a public benefit, in the sense of the phrase as it is used in PPS5. Our general conclusions about the scheme remain as stated previously.

- 7.2 **The Twentieth Century Society** – Overall, we have no major objection to the plans for the redevelopment of the site. We are concerned that no future use, other than a ground floor café has been found for the Silos. The scheme proposes that substantial amounts of the listed building are

demolished and this demolition will result in the loss of context and significance for the factory. In assessing the proposal against Policy HE9.4, the society feels that in the case of the Silos, the balance has yet to be found. The proposals for the silos are minimal and there is little evidence that serious exploration and consideration has been given to the re-use.

There are currently important views of the factory and its silos from the station and passing trains. The society is concerned that the proposed height of the leisure centre will obscure this view from the south west and that the redevelopment does not preserve any of these key long distance views of the factory and its silos.

- 7.3 **Built Environment Advisory Management Service (BEAMS)** - The proposed redevelopment affects the setting of heritage assets - 1920s and 1930s Grade II listed buildings (architects Louis de Soissons 1924 - 27 and Louis Wirsching Jr 1937- 39) to be retained in the proposals; the setting of the former Roche Products Factory (Grade II listed building), just to the south of the application site on Broadwater Road; and also the wider setting of the nearby conservation area, immediately beyond the railway line to the west of the application site.

The Townscape and Visual Impact Assessment (Professor Robert Tavernor Consultancy, September 2010) is helpful as a basis for consideration of the Allies + Morrison design proposals and in weighing up the urban design impacts - together with a judgement about impact on the setting of the preserved listed buildings and any *harm* (in terms of PPS5 HE9.2 and HE9.4) that might derive from the proposals to them and the nearby conservation area. The Views Assessment is useful in evaluating the likely beneficial opening out of new views- and also in considering some blocked views.

Also relevant is the recent Appeal Decision letter for the adjoining former Roche Products Factory redevelopment site, dated 11 March 2010 - for 207 dwellings and retention and alteration of the Grade II listed 1938 - 40 white Modern Movement offices (architect Otto R Salvisberg and C Stanley Brown). The scale/ massing/ form/ proportions/ rhythm of the grid of rectangular blocks and intervening spaces was considered by the Inspector to *enhance the character and appearance of the area in general and the setting of the listed building in particular. Also that this important heritage asset was showing signs of deterioration...a benefit of the proposed development is that it would be put back into beneficial use.*

The proposed redevelopment must satisfy the requirement for the LPA to have special regard to preserving a listed building or its setting and with reference to design, the policies of PPS1 and PPS5; and the other national urban design guidance and advice- such as By Design (ODPM/ CABE, 2000) and local planning policies - including the Broadwater Road SPD (2008).

With regard to the proposed general layout, form/ scale/ massing/ proportions of the buildings, links and spaces- the submitted proposals have, for the most part, sought to relate the new development to the alignments of Broadwater Road/ Bridge Road/ Hyde Way and to the strong rectilinear layout of the conserved 1920s and 30s listed buildings, which also looks to the Garden City principle of axuality in terms of routes, intervening spaces and a grid of linear parallel blocks of buildings. The appearance of the built forms is decidedly contemporary, which is to be encouraged in this context.

The dominant landmark building of the former grain silos will provide most emphatic focal point for orientation/ legibility within - and beyond - the proposed new development. The pedestrian routes through the site are clear and easily navigable- satisfying the permeability and connectivity criteria for a *successful place* (in *By Design* terms). Public and private space is clearly distinguished. There is clarity of layout and built form.

The scale, bulk, massing and location of the new buildings proposed generally takes reference to the scale of the listed buildings, the wider context of Broadwater Road (east side) and need for separation space in order to create a balanced enclosed feeling within a mostly sense of comfortable openness and, hopefully, wellbeing. This is particularly noticeable with the civic square proposals and the approach routes to this public space- and the dramatic towering presence of the silos, to the north. However, the space north of the office building (F) adjacent to the silos- together with the area immediately north of the tall silos themselves- will be heavily overshadowed and could be a rather grim, windswept canyon area.

A further area of concern is the far south-east corner residential block. The buildings comprising this corner block are sited tightly to the back edge of the footway to Broadwater Road. This approach from the north, towards the key frontage part of the former Roche office building, will need particular sensitivity. The crowding out of this important frontage element is to be avoided. It is considered that the scale, bulk, massing and siting of the buildings in this corner would be harmful to the setting of the Grade II listed Roche office building- to the extent of dominating the northern approach to this important building. The southward approach, within the Roche site has been retained as an open view, which provides breathing space and an appropriate level of separation to give opportunity for a serial view and full appreciation, when moving towards the building.

The appearance of the various building types is mostly acceptable, though with the further detailed consideration of actual materials, finishes, surfacing/ paving/ edgings/ kerbs/ street furniture/ signage etc, hopefully the actual textures/ colours/ inter-relationships may be refined. The treatment of space seems well ordered and building heights: space relationships sympathetically defined. Landscaping/ planting appear well thought through. Selection of larger trees could certainly include walnuts, tulip trees, London planes, Japanese maples- as well as the usual WGC range of species.

Subject to these points - and some reservations about the indicative materials and detailing selections Material Studies (Allies + Morrison presentation document, July 2010) - the proposals are, for the most part, thoughtfully related to the site constraints and context in general and to the settings of the listed buildings (and wider setting of the conservation area) and represent a positive place-shaping opportunity and welcomed regeneration of this reasonably prominent site. Perhaps there are further opportunities for sustainable building and greater potential for energy saving and the use of renewable energy? With close attention to selection of suitable high quality materials and detail in the evolution of the design to a working scheme, this could certainly be an excellent development - so long as the mix of uses can be accepted in wider planning terms.

As discussed previously the package of proposals with this application comprise an approach to provide an economically viable (in PPS5 terms) future for the site - and, critically, the range of now redundant and neglected listed buildings, worryingly starting to fall into serious disrepair. In particular the monumental silos are difficult to find a new use for. The part use of the ground floor is especially welcomed - it is a shame that the idea of use of the upper floor seems to be not viable.

On balance, from an urban design and conservation of historic assets viewpoint, it is considered that the package of proposals represent a sound way of positively conserving and enhancing a derelict and cleared site- to enable the former factory buildings to make a full contribution to the cultural, social and economic life of WGC.

- 7.4 **Hertfordshire County Council Archaeology** - Welwyn Garden City has revealed an extensive landscape of Iron Age and Roman occupation. This includes cemeteries and burials. These have been noted both by the Historic Environment Record (HER) and identified in the Local Plan: the site lies between Areas of Archaeological Significance at Salisbury Gardens and Shotlands Green. These note that evidence of Iron Age and Roman occupation has been found and that there is potential for further discoveries. The site of a possible medieval moat at Peartree Farm (HER2615) lies just to the south of the site and Roman pottery has been found at the junction of Hyde Way and Broadwater Road to the north (HER2615). In addition the Shredded Wheat Buildings are listed as being of architectural and historic importance and were part of the industrial development of the Garden City before and after the Second World War (LB158251).

The applicant has submitted an archaeological desk based assessment and reports that discuss the historic buildings with this application. Although I requested similar information in my letter of 8/7/09, I am disappointed that I was not consulted regarding the production of these documents and therefore not given an opportunity to issue a Design Brief. The proposed development is likely to have an impact on heritage assets; I recommend therefore that conditions relating to archaeological recording and a full field evaluation be imposed, should planning permission be granted.

- 7.5 **Natural England** advises that if the local planning authority feels that the proposals as presented have the potential to affect species protected under European or UK legislation, you are initially referred to our Standing Advice on protected species. We further advise that environmental impacts have been fully assessed in the Environmental Statement (including the Ecological Impact Assessment) submitted with this application. We would encourage your authority to take a positive view of the various biodiversity enhancements proposed within the ES in line with your PPS9 duties.
- 7.6 **Ancient Monuments Society** – None received.
- 7.7 **The Council for British Archaeology** – None received.
- 7.8 **The Georgian Group** – None received.
- 7.9 **Society for the Protection of Ancient Buildings** – None received.
- 7.10 **The Victorian Society** – None received.

8 Discussion

8.1 This application is presented to the Planning Control Committee because of the significance of the application proposals.

The main issues to be considered are:

1. Whether the works to the listed buildings are appropriate in accordance with PPS5 'Planning for the Historic Environment' and District Plan Policy R27

- 8.2 Approval is sought for planning permission for the redevelopment of Broadwater Road West and for listed building consent for works to the Shredded Wheat Factory, which occupies part of the site. For the avoidance of doubt, this report only relates to the physical works to the listed structures on the site as set out in the section two of this report. All other planning matters are considered in the report to the Planning Control Committee on N6/2010/2055/MA.
- 8.3 The value of the historic environment and the contribution it makes to our cultural, social and economic life is set out in the Government's Statement on the Historic Environment for England, 2010. The intention of this document is to help the Government realise its vision for the historic environment and it sets out both the Government's understanding of the value of the historic environment and the many roles that both Government and others can play. It also sets out the Government's belief that *'the historic environment is an asset of enormous cultural, social, economic and environmental value'*.
- 8.4 PPS5 comprises policies that will enable the Government's vision for the historic environment (as set out in the 2010 statement) to be implemented through the planning system. Planning has a central role to play in conserving our heritage assets and utilising the historic environment in creating sustainable places. The inspiration of imaginative and high quality design is encouraged in PPS5 (Policy HE3.1) and local distinctiveness and a sense of place are also promoted (Policy HE3.4). The desirability of sustaining and enhancing the significance of heritage assets - in this case the listed building, the wider conservation area and the unique sense of place in Welwyn Garden City – whilst providing a positive role in place-shaping is also emphasised (Policy HE7.4).
- 8.5 PPS5 is accompanied by a Practice Guide which sets out in paragraphs 76-78 the fundamental approach to be taken when "weighing-up proposals" for alteration to the historic environment. Paragraph 91 relates to proposals resulting in substantial harm to, or total loss of, a heritage asset. In particular, it explains that a case can be made on the grounds that it is necessary to allow a proposal that offers substantial public benefits.
- 8.6 The relevant policies to consider are contained within PPS5 and include:
- HE7 'POLICY PRINCIPLES GUIDING THE DETERMINATION OF APPLICATIONS FOR CONSENT RELATING TO ALL HERITAGE ASSETS'
 - HE9 'ADDITIONAL POLICY PRINCIPLES GUIDING THE CONSIDERATION OF APPLICATIONS FOR CONSENT RELATING TO DESIGNATED HERITAGE ASSETS'

- HE10 'ADDITIONAL POLICY PRINCIPLES GUIDING THE CONSIDERATION OF APPLICATIONS FOR DEVELOPMENT AFFECTING THE SETTING OF A DESIGNATED HERITAGE ASSET'

- 8.7 Policy HE7 advises that in decision making, local authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by a proposal, taking into account the evidence submitted with the application, any designation records or similar sources of information, the heritage assets themselves and the outcome of consultations with interested parties. A consideration of the impact of the proposal on the heritage asset can then be undertaken, taking into account the significance of the asset, the desirability of sustaining and enhancing such significance, the contribution that conservation can bring and the desirability of new development making a positive contribution to the character and local distinctiveness of the historic environment.
- 8.8 Policy HE9 provides further guidance and advises that there should be a presumption in favour of the conservation of the designated heritage asset and that the more significant an asset, the greater this presumption should be. In this regard the policy notes that the significance of an asset can be harmed or lost through alteration, destruction or development within its setting and that any loss affecting an asset requires clear and convincing justification. Where an application would lead to 'substantial harm or total loss of significance' Policy HE9.2 advises that local planning authorities should generally refuse consent unless the harm, or loss of significance is necessary in order to deliver substantial public benefits and the nature of the heritage assets prevents all reasonable uses of the site. If, however, the proposal has 'a harmful impact on the significance of the heritage asset that is considered to be less than substantial harm' Policy HE9.4 advises that local authorities should weigh the public benefit of the proposal against the harm and recognise that the greater the harm to the significance of the asset, the greater the justification that will be needed for any loss.
- 8.9 Policy HE10 advises when considering applications for development that affect the setting of a heritage asset, local planning authorities should treat favourably applications that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. Where applications do not achieve this the wider benefits of the application should be weighed against any harm to the significance of the heritage asset.
- 8.10 The relevant saved District Plan Policy is R27, 'Demolition of Listed Buildings' which states:

Listed Building Consent for the complete or partial demolition of any building of special architectural or historic interest will not be granted other than in the following exceptional circumstances:

- (i) *Clear and convincing evidence has been provided that it is not practicable to continue to use the building for its present or previous use and that no viable alternative uses can be found, and that preservation in some form of charitable or community ownership is not possible;*
- (ii) *The physical condition of the building has deteriorated, to a point that it can be demonstrated that demolition is essential in the interests of public safety. A comprehensive structural report will be required to support this criterion;*

- (iii) *Demolition or major alteration will not be considered without acceptable detailed plans for the site's development. Conditions will be imposed in order to ensure a contractual obligation has been entered into for the construction of the replacement building(s) and / or the landscaping of the site prior to the commencement of demolition; and;*
- (iv) *Where, exceptionally, consent is granted for the demolition or major alteration to a listed building, before any demolition or major alteration takes place, applicants will be required to record details of the building by measured drawings, text and photographs, and this should be submitted to and agreed by the Council.*

8.11 The application proposes, in broad terms to reduce the factory to its original buildings. The multi storey production hall would be preserved and converted, as would the grain and boiler houses. The silo range, comprising both phases of silos, would be preserved and its ground floor converted into a café/restaurant facility. The remaining buildings, the single storey production hall, the extension to it and the contemporary office range, the large warehouse and a small garage range that is contemporary with the original factory would be demolished. Whilst the requirement for demolition arises because of the applicants' aims and objectives for the site (as promoted in planning application N6/2010/2055/MA) it is recognised that in terms of Policy R27 of the District Plan it is not practicable to continue to use the building for its previous use and the BWR SPD itself promotes the refurbishment of the listed buildings on the site.

8.12 In terms of compliance with national planning policy, the applicant has undertaken a detailed assessment of the significance of each element of the Grade II Listed former Shredded Wheat factory, in accordance with the PPS5 Practice Guide. The assessment concludes that the proposed demolitions would have 'a harmful impact on the significance of [the] designated heritage asset which is less than substantial harm' and argues, therefore, that Policy HE9.4 of PPS5 applies. The applicants state in summary:

- *The structures proposed for demolition are not mentioned in the Listing Description;*
- *All structures mentioned in the Listing Description will be retained and restored to their original appearance where possible;*
- *All of the original factory buildings designed by Louis de Soissons will be retained except for the garage, which has no architectural or historical value in its own right and contributes little, if at all, to the historic interest of the original factory group;*
- *All of the buildings proposed for demolition, except for the 1920s garage, were built later and designed by different architects; none of these late additions are of exceptional design in their own right and all have contributed to the erosion of the architectural and aesthetic significance of the original factory complex and its setting;*
- *None of the buildings proposed for demolition have historical value except for the single storey Production Hall added in the 1930s; that significance is to be balanced against its significant erosion of the original factory complex setting, the limited architectural and aesthetic interest of the building itself, and the heritage and public benefits proposed by its removal and replacement;*

- *None of the buildings proposed for demolition have aesthetic or architectural value except for the 1930s single storey Production Hall and 1950s reception building at the northeast corner of the Site; that significance is minimal and outweighed by the opportunity that their removal presents for an improved setting to the original factory buildings and the public benefits brought by the proposals overall.*

8.13 The applicants assessment also summarises the determination of significance by stating *‘the buildings that do not contribute to the significance of the heritage asset will be demolished; these are all late additions to the original factory complex and have all contributed to the erosion of its character. Three buildings are proposed for demolition that are identified as having some degree of significance. However, it has been established that the degree of significance is minor and that other attributes of these buildings, at the same time, diminish the significance of the heritage asset overall. The degree of harm proposed to the significance of the designated heritage asset on site can be termed "less than substantial" (HE9.4). In this case, paragraph HE9.4 of PPS5 is applicable and requires harm to be weighed against public benefit. Policy HE10 of PPS5 is also applicable and requires harm to the setting of designated heritage assets to be outweighed by public benefits’.*

8.14 Although the proposals are for substantial demolition of the factory buildings, officers consider that this would not result in *‘substantial harm or total loss of significance’*, which is the criteria that has to be applied under Policy HE9.2 of PPS5. Instead, officers agree that the proposal should be assessed against Policy HE9.4 as the proposals would have a *‘harmful impact on the significance of a designated heritage asset which is less than substantial harm’* (and this is in line with the advice of English Heritage).

8.15 In taking the view that the harmful impact on the significance of the asset is less than substantial and in accordance with para.HE9.4, the council should:

- (i) *weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and*
- (ii) *Recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss’.*

Members should note that it is the harm to the significance of the heritage asset that it being assessed rather than the impacts of the proposed use of the site (which is assessed under application N6/2010/2055/MA).

8.16 The PPS5 statement submitted by the applicants in support of the application concludes that the harm to the significance of the heritage asset caused by the loss of the 1930s single storey production hall, 1950s corner reception building and 1920s garage is outweighed by a number of key heritage and public benefits and these are:

- *The eastern, former front elevation and entrance of the multi-storey Production Hall will be restored;*
- *Green space will separate the multi-storey Production Hall from the supermarket;*
- *The ground level of the silos will have a new use;*
- *Internal elements of the Grain House will be retained and incorporated into the internal refit required to house a Heritage Centre;*

- *The Boiler House will retain its character by containing the CHP for the Redevelopment,*
 - *Insulation and refurbishment works to the structure and windows of the retained buildings have been considered carefully so as not to harm their character and to restore them to their original appearance as much as possible; and*
 - *Removal of later additional buildings will allow the insertion of new public space and routes and views between the buildings.*
- 8.17 The statement also concludes that *'The Redevelopment will fully comply with the Policy of PPS5. It will sustain the significance of the designated heritage on site and has been carefully composed so as to ensure that new uses and restoration works will provide the Listed former factory complex with a sustainable future, as well as contributing to the character and vitality of Welwyn Garden City overall'*.
- 8.18 Both English Heritage and BEAMS have considered the approach that has been taken by the applicant to be acceptable, but do not necessarily endorse the conclusions of the applicant's PPS5 statement. English Heritage's own analysis concludes that it is in the original multi storey production hall, grain and boiler houses and the extended range of silos where the principal significance of the Shredded Wheat Factory lies. It is in these buildings that the special architectural and historical interest of the factory exists and it is also these buildings that are referenced in the statutory listing of the building.
- 8.19 The retention of the multi storey production hall and the silos would ensure that the greater element of significance of the factory complex is retained. The demolition of the 1920's garage range would erode some of the completeness of the complex but overall the historic interest of these structures is agreed to be minimal. Conversely it is considered that the demolition of the single storey production hall, its extension and the attached office range and warehouse would erode some of the significance of the heritage asset. Furthermore, given the fact that the replacement structure to house the proposed supermarket is significantly different in terms of design the harm could be considered to be more than modest.
- 8.20 The proposals would, however, secure the future of the multi storey production hall and the grain and boiler houses which would be repaired and given new uses (although the end user of the grain house is currently undetermined) and this is considered to be a significant public benefit subject to the details.
- 8.21 Reference was made by English Heritage during the original consultation period to the significant alterations to the multi storey production hall and that the original submission did not enable these works to be fully understood and assessed because the submitted drawings were not supported by any explanatory material. However, further justification was provided by the applicant during the course of determination. Accordingly, English Heritage have revised their previous comments and now concludes that overall, *'the proposed approach to the building is to preserve the original fabric and plan and to remove later utilitarian additions. Certain elements that are or may be original - internal plinths and ramps, the stub of the external canopy on the grain house - would be removed either for practical reasons or as part of the general tidying up of the building'*.

- 8.22 However, one remaining element of the proposed works to the multi storey production hall that English Heritage consider might have been treated more fully is the replacement of all of the building's windows. In principle, as with all listed buildings, the replacement of the existing windows which are not original with new double-glazed windows may be appropriate. The proposed windows would be closer in form to the originals than the existing windows. The beneficial effect of the reinstatement of something close to the original pattern of fenestration however, outweighs any subtle change in character resulting from the use of double-glazing and the inevitable change in profiles from the use of modern window frames. Overall, in a building of this scale and character, the aesthetic difference between single and double-glazing is less significant than it would be in many other types of historic building. Notwithstanding this view, it is considered reasonable that a condition to secure the exact details of the windows, including the details of their installation and a full-scale sample of the proposed fenestration prior to the commencement of development to ensure that these elements are considered fully.
- 8.23 In relation to the silos, the application proposes to insert fully glazed cantilevered projecting bays into the ground floor level of the silos building on both north and south elevations, to allow for its use as a cafe/restaurant. This approach is sensitive to the listed building and with window seats in each bay, would help to give the uses some visual presence on the civic square proposed as part of the wider redevelopment scheme. Accordingly, this element will result in minimal harm to the character and setting of the building.
- 8.24 The reuse of the silos, however, is a difficult issue to resolve. The applicant proposes the *'refurbishment of the silos including the roof building and ground floor café to an agreed specification'*. Both English Heritage and the Twentieth Century Society have expressed concern that provision has not been made for access to the attic space and that the balance of harm versus the public benefit has yet to be found in relation to Policy HE9.4. The silos were specifically designed for the storage and movement of grain and therefore the form of the building relates directly to its function. Accordingly, the adaptation of the silos to accommodate another commodity, function or even human occupation requires substantial structural changes. Whilst the ground floor is easier to resolve, the use of the attic is less so. A number of leisure and commercial uses have been considered by the applicant but access and health and safety requirements result in no viable use being identified.
- 8.25 It is clear that the silos are a significant landmark of the town and accordingly have significance that extends beyond their special architectural and historic interest. The applicant has offered a management and maintenance plan and confirmed that a maintenance fund will be prepared with the aim of ensuring that this integral part of the listed factory complex is properly maintained in the long term and that it can be converted to a new use in future, if a viable option can be found.
- 8.26 Whilst this commitment has been made officers have no specific details to confirm that this can actually be delivered. However, the future maintenance of the silos, once they have been repaired may not be that onerous. For example, the painting of the concrete silos is not necessarily an unreasonable requirement and although there is a degree of uncertainty,

officers consider that an appropriate S106 legal agreement could be entered into to secure the specification of the repair works and the future management and maintenance of the silos. Furthermore, this is an approach that can be taken on all elements of the retained listed buildings.

- 8.27 With regard to Policy HE10, two new buildings are proposed – the single storey building to be used as a retail store (plot D) and the four storey mixed use block comprising of office, café and retail uses (Plot F).
- 8.28 The proposed supermarket is a tall, single storey large floorplate building, with a large scale. It has a storey height that is similar in scale to the single storey production hall it replaces in this location on the site. The structure is based on a large grid that supports a folded roof, which refers to the forms of large industrial units. The ridges of the roof run east to west, so that the Broadwater Road elevation is expressed as a regular series of structural bays with columns expressed and the gables of the roof oversailing. White brick infill panels are offset from the structural grid and roof by glazed or metal panels. Whilst it could be considered that the replacement building does not relate to the actual design of the existing building, the approach that has been taken successfully creates a rhythm along this elevation and provides articulation and depth to this frontage. Furthermore, the proposed materials should relate well to the industrial heritage (subject to the submission and approval of samples).
- 8.29 The proposed mixed use office block will essentially replace the 1950s garage building to be demolished. The two buildings are comparable in terms of height and bulk and the new block has been designed to have a similar horizontal emphasis with white walls, broad window openings and recessed metal panels which will relate to those elements of the factory complex to be retained.
- 8.30 The applicant has also provided a townscape and visual impact assessment which allows the setting of the retained and restored elements of the listed building to be considered. Given the advice of consultees, it is considered that those elements of the setting of the listed building that contribute to the significance of the factory complex as a heritage asset are generally treated favourably.
- 8.31 Although the advice in the district plan pre-dates the approach taken in PPS5 and notwithstanding the view that the application proposals are acceptable in PPS5 terms, an assessment of the proposals against Policy R27 of the District Plan is still required.
- 8.32 In terms of the requirement under Policy R27 (i), the approach taken by the applicant is that the demolitions are significantly beneficial to the preservation and enhancement of the designated heritage asset as a whole. The applicant therefore has not sought new uses for the elements of the designated heritage asset which are of little or no significance and proposed for demolition. It is considered that this is a reasonable approach to take.
- 8.33 In relation to the multi storey production hall, this was designed to accommodate large, well-lit floorspace that would lend itself to modern office use and it is not practical that this building could be used for its previous use owing to the internal changes due to changes in industrial production methods since it was originally built.

- 8.34 Were the grain house, boiler house and silos to be demolished then this would have required demonstration that, through marketing, no other owner could be found to secure a viable use and no charitable body could support its conservation in the long-term. The redevelopment proposals entail the retention of all of those parts of the listed factory that are of significance and new uses for those buildings are proposed for these retained buildings.
- 8.35 The proposed works to the principal buildings of the Shredded Wheat factory complex would entail some moderate harm to the factory complex but overall this is considered to be less than substantial and would not be materially harmful to its character and setting. Furthermore, the public benefits in PPS5 terms are that the works secure, subject to the completion of a S106 legal agreement, a viable use of the heritage asset and this outweighs this moderate harm caused by the proposals in terms of demolition and changes to the external appearance of the buildings.

9 Other Material Planning Considerations

- 9.1 **Protected Species:** The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.
- 9.2 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).
- 9.3 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.”*
- 9.4 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:
- “Deliberate capture or killing or injuring of an EPS”
 - “Deliberate taking or destroying of EPS eggs”
 - “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of a EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)
- 9.5 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 9.6 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of a EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:
- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
 - b) If the answer is yes, consider whether the three “derogation” tests will be met.
- 9.7 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 9.8 As set out earlier in this report, this application is linked to planning application N6/2010/2055/MA for the wider redevelopment proposals for the site. Application N6/2010/2055/MA is accompanied by an Environmental Statement which includes an ecology assessment of the site. Based on this assessment the site, as a whole, is considered to be of low ecological value. However, the scheme will include redevelopment of an area of colonized ruderal habitat on derelict land to the north-west of the site. The main receptors identified as likely to be affected by the scheme include reptiles, bats, invertebrates, trees, and nesting birds. At the Council’s request additional bat and reptile surveys were undertaken. These indicate that none of the buildings on site are currently being used by roosting bats but there is a negligible risk of bats using the buildings for occasional roosting. As such a precautionary approach to demolition is recommended. The only reptile species confirmed to be present on site was the slow worm which is protected under the Wildlife and Countryside Act. However, only two slow worms were observed and as such it is considered that only a small population of the species is using the site and mitigation is proposed in the form of a method statement that will include the preparation of a receptor site and translocation to this receptor site prior to works commencing on the main scheme. The ecological assessment did not include an invertebrate study but recognizes that the undeveloped habitat on the north west of the site may

support a number of uncommon invertebrate species which are also of conservation concern. As this land generally comprises of the final phase of the wider development proposals it is proposed that an invertebrate study be carried out prior to any works commencing on this phase. This, alongside the introduction of features such as brown roofs and a biodiversity management plan for the whole site will ensure that there is no net loss in invertebrate habitat during construction.

9.9 From the information submitted, Natural England and the Herts Biological Records Centre have confirmed that there is not a reasonable likelihood of EPS being present. As such, it is unlikely that a EPS offence will occur and it is therefore not necessary to consider the Conservation Regulations 2010 further.

9.10 The Natural Environment and Rural Communities Act 2006, The Badgers Act 1992 and PPS9 are relevant for species protected by UK legislation only. PPS9, Key Principles, sub paragraph (vi), details

“The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

Given the findings of the ecological assessment and the advice of Natural England and Herts Biological Records Centre, it is considered that the proposed scheme and the mitigation promoted by the applicant is acceptable and significant harm can be prevented in this instance.

9.11 **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:

- i. 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,
- ii. He failed to consider the likely environmental effects of revoking Regional Strategies

9.12 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill, which is expected to begin its passage through Parliament before Christmas. 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.

- 9.13 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.

10 Conditions

- 10.1 In relation to conditions, aside from the standard conditions relating to listed building applications the submission of samples of materials and archaeological conditions are considered appropriate. Furthermore, the detailed drawings, fenestration details and sections of the specification works can be secured by condition. The imposition of these conditions is considered to be entirely reasonable and necessary and in accordance with the provisions of Circular 11/95 'Use of Planning Conditions'.
- 10.2 As is set out in Policy R27 of the District Plan, demolition or major alteration of a listed building will not be considered acceptable without detailed plans for the site's development. Similarly, Policy HE7.7 of PPS5 outlines that 'where loss of significance is justified on the merits of new development, local planning authorities should not permit the new development without taking all reasonable steps to ensure the new development will proceed after the loss has occurred by imposing appropriate planning conditions or securing obligations by agreement'. The accompanying major application submitted by the applicants sets out their intention for the whole site and whilst the details of this scheme are to be determined separately, it is recognised that the listed building is located within a defined development site. It is important that demolition should not proceed until an acceptable scheme has been agreed and therefore, in line with the guidance in PPS5, it is recommended that a condition which ties the proposed demolition with a contract for the works to the wider development site be imposed.

11 Conclusion

- 11.1 The repair and adaptation of the buildings proposed in the scheme put forward are considered to be a public benefit, in PPS5 terms and the changes to the buildings character and appearance would not be so detrimental to the significance of the buildings that refusal should be warranted on these grounds alone. The introduction of the Community Infrastructure Levy Regulations 2010 changed the tests for Planning Obligations under Regulation 122 and accordingly, there is now a statutory requirement for planning obligations to meet three of the five tests that were previously set out in Circular 05/05 and they are as follows:
1. Necessary to make the development acceptable in planning;
 2. Directly related to the development;
 3. Fairly and reasonably related in scale and kind to the development
- 11.2 Whilst officers are broadly satisfied with the principles of the impact on the listed buildings, there is still a level of uncertainty surrounding the exact details and methodology for the listed building works and accordingly, officers have agreed with the applicant that this could be resolved by the completion of a S106 legal agreement to secure the detailed specification of the works to the buildings and the future maintenance and management

proposals for them. Officers consider that it would be more appropriate to secure these by a S106 legal agreement as opposed to conditions and that the requirement for these is in accordance with the above tests. On this basis, it is recommended that listed building consent should be granted as set out below.

12 Recommendation

12.1 It is recommended that listed building consent be approved subject to the satisfactory completion of an appropriate S106 legal agreement before the expiry of 12 months from the date of this resolution to secure the matters set out below and in addition, the following conditions:

1. The detailed specifications of the works proposed to the listed buildings including the following:
 - Method statement for demolition including:
 - i. the programme and method for the demolition and the steps required to be taken during the process of work to secure the safety and stability of that part of the building that is to be retained.
 - ii. details of adequate support and shelter arrangements to be provided at all time to the remaining walls and roof whilst the building works are carried out.
 - iii. details of any further repair works proposed.
 - iv. details of any materials to be removed which in the opinion of the Local Planning Authority should be salvaged for re-use.
 - v. details of proper and adequate protection to those features/areas of the building noted as being of special interest in the listing description or noted as areas that are sensitive to change in the applicants PPS5 Statement (received and dated 28/04/11) for the duration of the works.
 - vi. measures to control the emission of dust and dirt during the works.
 - A detailed management and maintenance plan for the listed buildings including a 'Maintenance Fund' for the silos.

Conditions

1. C.2.2 – Time limit for commencement of development to listed building
2. C.13.1: Development in accordance with approved plans
568_07_109_Rev B, 568_07_110_Rev B, 568_07_111_Rev B,
568_07_112_Rev B, 568_07_113_Rev B, 568_07_114_Rev B,
568_07_115_Rev B, 568_07_116_Rev B, 568_07_500_Rev A
568_07_501_Rev A all received and dated 28/04/11 and the schedule of
demolition works issue 31/01/11.
3. Notwithstanding the details shown on the approved drawings listed in condition 2 above, no works shall take place until detailed plans and elevations (including sections) of the listed building works have been submitted to and agreed in writing by the Local Planning Authority. The submitted plans shall include details of the proposed fenestration to the multi storey production hall and where necessary shall be at 1:5 scale

illustrating the detail of the proposed new openings, frames and windows. The works shall then be implemented in accordance with these approved details.

REASON: To ensure the historic and architectural significance of the buildings is properly maintained, in accordance with Planning Policy Statement 5: Planning and the Historic Environment and to ensure an appropriate standard of works in accordance with Policy ENV6 of the East of England Plan 2008.

4. Prior to the commencement of demolition or enabling works, the developer shall record details of the existing building by measured plans, text and shall undertake a photographic record survey of the building as existing to the satisfaction of the local planning authority.

REASON: The building is Grade II Listed and a record should be made before it is altered in accordance with the provisions of Policy R27 of the Welwyn Hatfield District Plan, adopted 2005.

5. C.5.1 – Samples of materials to be submitted and agreed

6. No development shall take place until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority. Subsequently the developments shall not be carried out other than in accordance with the scheme unless otherwise agreed in writing by the Local Planning Authority.

The scheme shall include the following measures:

1. The programme and methodology of site investigation and recording.
2. The programme for post investigation assessment.
3. Provision to be made for analysis of the site investigation and recording.
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
5. Provision to be made for archive deposition of the analysis and records of the site investigation.
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Archaeological Written Scheme of Investigation.

REASON: To ensure that a historical record is kept of any archaeological finds due to the implementation of the development and to comply with Planning Policy Statement 5: Planning and the Historic Environment and policy ENV6 of the East of England Plan 2008.

7. No demolition works hereby approved shall commence until a contract for the redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides (either in accordance with the provisions of planning application N6/2010/2055/MA or otherwise an alternative application). A copy of the contract shall be submitted to and receipt acknowledged in writing by the Local Planning Authority.

REASON: The works are only permitted by virtue of the wider redevelopment to be carried out in accordance with the provisions of Policy HE7 and HE9.4 of Planning Policy Statement 5: Planning and the Historic Environment and Policy R27 of the Welwyn Hatfield District Plan, 2005.

8. Following the carrying out or completion of the building operations or alterations for which consent is hereby granted, all making good of the existing buildings shall be carried out in materials and finishes which closely match, like-for-like, those historic materials and finishing details used in the existing building or structure to accord with usual conservation good practice and to the satisfaction of the Local Planning Authority. If there is any doubt regarding the approach to any proposed making good, or any alternative materials are proposed, a precise specification of the materials and finishes should be submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure the historic and architectural significance of the buildings is properly maintained, in accordance with Planning Policy Statement 5: Planning and the Historic Environment and to ensure an appropriate standard of works in accordance with Policy ENV6 of the East of England Plan 2008.

Summary of reasons for grant of consent (if applicable)

The proposal has been considered against Planning Policy Statement 5 'Planning and the Historic Environment', East of England Plan 2008 Policy ENV6 and development plan policy R27 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

Name of author	Richard Aston
Title	Principal Development Control Officer
Date	19 December 2011

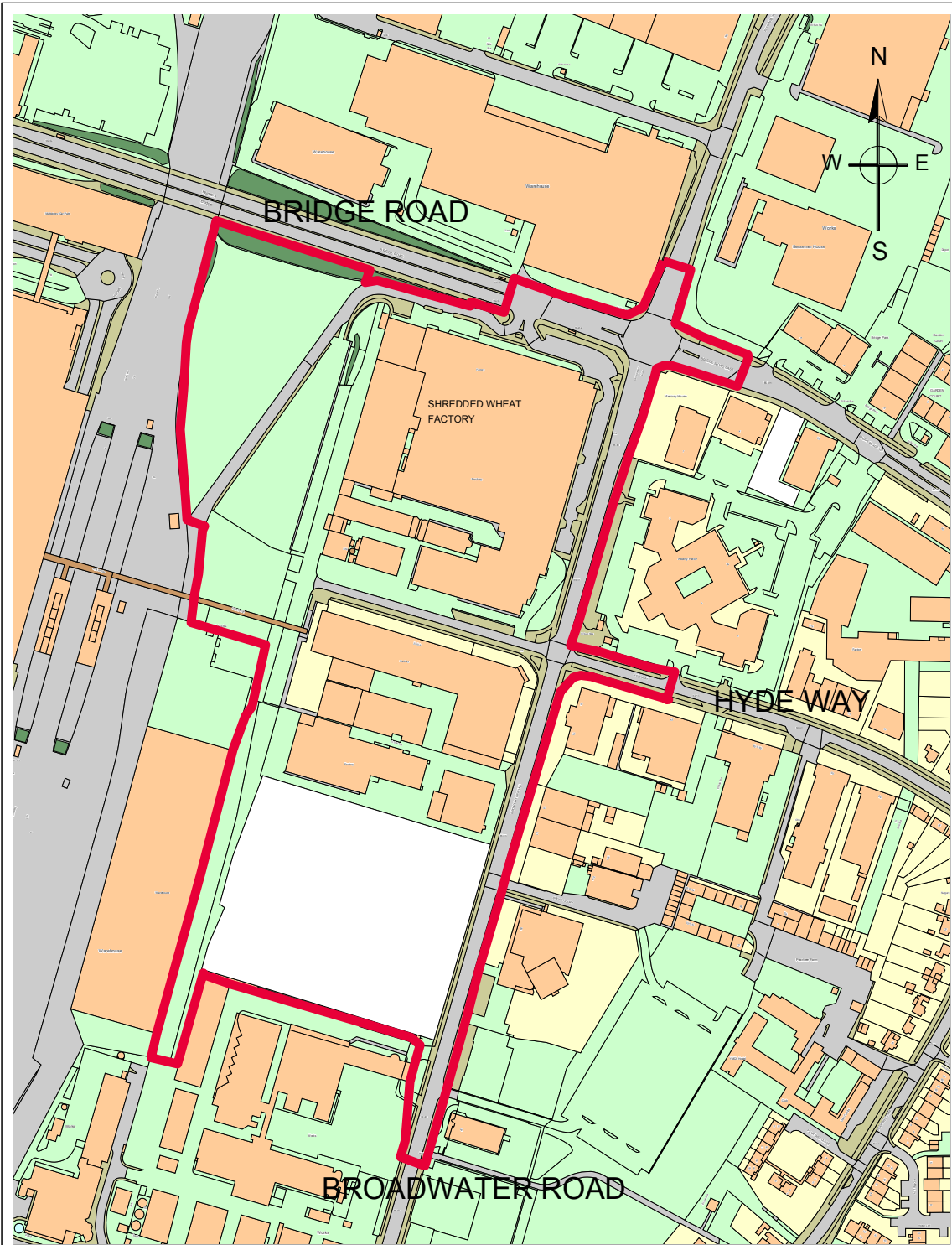
Background papers to be listed (if applicable)

Listed Building Description

Shredded Wheat Factory – Grade II

1925. Architect Louis de Soissons. Two concrete ranges, at right angles with links. Southern range consists of giant range of cylindrical concrete drums 15 bays long with flat oversailing capping with railings right over the whole top. Behind this is a plain attic storey with 28 plain windows with plain capping over. On one end elevation is a 3 bay projecting tower rising just above the main roof level.

At the west end of the range is a 2 bay wing with large windows, the southern bay of 3 storeys and the northern of 4. Flat roofs. Adjacent is a 7 bay, 4 storey block, with large windows divided by narrow piers. Flat oversailing capping at roof level.



<p>Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE</p>	<p>Title:</p> <p>Former Shredded Wheat Factory, Bridge Rd, WGC</p>	<p>Scale: DNS</p>
	<p>Project:</p> <p>PCC Meeting</p>	<p>Date: 08 September 2011</p>
<p>Drawing Number:</p> <p>N6/2010/2055/MA</p>		<p>Drawn: Darren King</p>
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WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2011
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2011/0611/FP

LAND BETWEEN BROADWATER ROAD WEST AND THE HOWARD CENTRE
WELWYN GARDEN CITY HERTFORDSHIRE

ERECTION OF REPLACEMENT PEDESRTIAN BRIDGE AND CONSTRUCTION OF
BRIDGE LINK BUILDING INCLUDING LIFT, TICKET MACHINE AND BICYCLE
PARKING

APPLICANT: Spenhill Regeneration Ltd

Peartree Ward

1 Site Description

- 1.1 The application site is approximately 0.1 ha and comprises of the existing pedestrian footbridge that links the Howard Centre, the WGC station platforms and Hyde Way. In addition the site includes the area directly to the west of the Broadwater Road West development site and the non operational railway lines within the ownership of Network Rail.
- 1.2 The existing footbridge comprises of nine spans running east/west and is of two distinct sections. Span 1 is closest to Hyde Way and Span 9 is nearest to the Howard Centre. Spans 1 to 6 are of historically earlier construction and span a private car park, a Network Rail access road and the railway sidings. This section of the bridge is of a steel truss structure with part concrete and timber decking and is of a deck width of 2.35m (although this is currently further reduced by hand railings running parallel to the main girders). Spans 7 to 9 span the operational railway and are of a more modern construction, enabling a level of disabled access to both the station and the platforms (via lifts). This section of the bridge is also fully enclosed and has a deck width of 3m.

2 The Proposal

- 2.1 The application should be read alongside the applicants wider redevelopment proposals for the Broadwater Road West development site which are proposed in applications N6/2010/2055/MA and N6/2010/260/LB (also to be considered at this meeting).
- 2.2 The applicant originally proposed the shortening of the older section of the existing footbridge by only removing some of the spans. A new canopy structure was then proposed to be attached to the remaining pier to provide a lift and stair access. Following accessibility and design concerns raised by officers as well as the completion of a study, undertaken by Gifford Engineering Consultants on behalf of Network Rail and the Council, to review the options for replacing the bridge the applicant submitted this independent application promoting an alternative proposal.

- 2.3 The proposals submitted under this planning application propose the erection of a replacement pedestrian bridge (following the complete removal of spans 1 to 6 of the original bridge) and the construction of a bridge link building including a ticket machine and a separate bike shed. The replacement bridge will span the existing private car park, the Network Rail access road and the railway sidings. The more modern, western section of the bridge over the operational railway lines (spans 7 to 9 from the Howard Centre to the rail platforms) will be retained.
- 2.4 During the consideration of the planning application, changes have been made to the scheme following negotiations. Officers made the following comments in relation to the proposed replacement bridge promoted in this application in the summer of 2011 having also sought specialist urban design advice:
- The design does include ticketing facilities and the wider application does include elements such as cycle parking, short stay kiss and ride, access to open space, buildings and public areas. There are concerns with the ticket machine which could result in people blocking the lift and the stairway at the deck level should be wider to accommodate cyclists taking bicycles on trains and this would also allow for the fitting of 'wheeling channels' to allow cyclists to push up the stairs.
 - The footbridge varies in width so that at its east end it is wide enough for both lift and stairs. This has the advantage of allowing people access to the lift at ground floor from a position that has some limited supervision from the spine route. However it creates a blind corner at the top of the stairs where people will not be able to see if there is anyone at the first floor level lift entry. Overall the revised proposals do not address the key issue of safety caused by the reduction in its length.
 - A solution is that the footbridge should be extended in length so that the steps come down either to meet the north south spine route on its west side or within the civic square on the east side of the north south spine.
 - The lift needs to be offset further from the stairs so that the lift entry at ground level is not underneath them or of a similar arrangement as proposed in the current planning application N6/2010/2055/MA
 - A covered footbridge will provide an improvement to the environment, particularly in winter. However, we do not consider that the proposed height, or the variation in height, will necessarily enhance the experience of using the footbridge.
 - The proposed lighting could encourage its use. However, it is not clear how much the introduction of perforated metal screens will reduce views out, and the levels of daylight on the footbridge.
 - Whilst the design includes a roof covering for the benefit of users, there are concerns at the appearance of the proposed aluminium mesh cladding. Whilst the use of glazing does have maintenance considerations to bear in mind the concerns of Network Rail in relation to this material are supported and it is considered that an alternative design or cladding material should be considered.

- Given the nature of the proposal it is difficult for the end result to look like one continuous structure in terms of its external appearance. However, there is the opportunity to ensure that, from a user's perspective, the internal design arrangement provides a seamless link between the new and existing bridge sections. This could be achieved through the use of consistent features such as flooring and lighting but would need to be discussed further with Network Rail. In this regard the use of the bound aggregate flooring is queried as an appropriate material.
- Whilst the use of modern materials is supported, the mix of materials chosen is questionable in relation to matters such as future maintenance and vandalism e.g. use of painted metal work.
- The design allows for the roof soffit to incorporate lighting and cabling for CCTV but no further commitment is given in relation to the provision of CCTV. It would also be useful to understand how the use of lighting and CCTV could be extended to the staircase entrance area and cycle parking areas to further ensure the safety/security of users.
- The proposal does include lift access onto the Broadwater Road West development (BWRW) site and it would be useful to understand whether this would be operational 24/7 or whether this would only be usable during the station operating hours. Furthermore no information is given on the capacity of the lift (i.e. number of persons it can hold).

2.5 The applicant took on board the comments and submitted a revised scheme on 11 August 2011. The revisions include:

1. The lift was moved in line the bridge and alongside the stair.
2. The bridge was extended so that the steps come down closer to the north south spine route.
3. Introduction of bridge lifts.
4. Increase in the barrier height to 1500mm along the length of the bridge.
5. Relocation of the ticket machine.
6. Relocation of the cycle parking underneath the bridge.

2.6 Accordingly, the proposal under consideration is for the replacement of the entire older eastern section of the bridge which spans over the existing private car park, the Network Rail access road and the railway sidings. The most recently rebuilt western section of the bridge over the operational railway lines will be retained.

2.7 A new lift will be provided at the end of the bridge which now terminates in line with the facade of the proposed leisure centre that fronts onto the public square (proposed in planning application N6/2010/2055/MA). The bridge widens from the retained bridge spans (spans 7 to 9) from a width of 3.8m to 7.8m at the stair entrance. Bicycle parking is contained underneath the bridge structure adjacent to the Network Rail access road. The bridge remains of a vierendeel truss design with steel piers and an anodised aluminium mesh construction with painted metal barriers and a metal roof. The lift shaft is concrete.

3 Planning History

- 3.1 Proposals for reducing the span length of the existing footbridge alongside the introduction of a new stair and lift were included as part of planning application N6/2010/2055/MA. However, as a result of ongoing discussion with Network Rail and officers this application for a replacement bridge is now submitted.
- 3.2 The part of the site and the adjoining land has an adopted Supplementary Planning Document (BWR SPD) which was prepared to support Policy EMP3 of the District Plan which identifies the area off Broadwater Road as an area of opportunity for mixed use development. The BWR SPD was adopted by the Council on 2 December 2008. The aim of the document is to set out a clear framework to bring about the sustainable regeneration and redevelopment of the site. The BRW SPD establishes the broad amounts, type and mix of development that should be delivered on the land, as well as identifying design and layout constraints, and other requirements that need to be addressed as part of the redevelopment process: details on design and sustainability initiatives are also provided.
- 3.3 Pre-application discussions (N6/2009/0714/PA) were entered into with the applicant in relation to the general principles of redevelopment of part of the Broadwater Road West redevelopment site including the design and listed building issues, access and transport matters, environmental impacts and the retail impact of the scheme. Officers formally requested clarification with regard to outstanding discussions in September 2010 following the Development Consultation Forum held on 19 August 2010. In particular reference was made to the outstanding matters that still needed to be formally discussed and resolved including outstanding issues of design/landscaping, planning obligations, listed building issues, viability and environmental considerations, however these discussions were never formally completed by the applicant and the current planning application (N6/2010/2055/MA) was received on 30 September 2010.
- 3.4 The following linked applications should be also be noted
- 3.5 N6/2010/2055/MA – Part demolition, repair, restoration, extension and conversion of the former Shredded Wheat factory complex to provide retail (A1 and A3), business (B1), heritage centre (D1), energy centre, new leisure centre building and Civic Square building including residential and retail (A1 to A5). Associated alterations to existing vehicular and pedestrian access and highway layout within and around the site, including the creation of two vehicular access ramps to basement parking, hard and soft landscaping, the provision of a civic square, park, public and private open space. Development of land to the west and south of the shredded wheat factory to comprise the following uses: Retail (A1 and A5), business (B1), hotel (C1), residential, to include: houses, flats, care home and YMCA (C2 and C3); doctors surgery and pharmacy (D1); with all matters reserved apart from means of access.
- 3.6 N6/2010/2060/LB – The applicant has submitted a separate application for Listed Building Consent for the proposed demolition and works to the listed building.
- 3.7 N6/2009/705/EI – EIA screening request. Screening Opinion issued 06/05/09.
- 3.8 N6/2009/1114/EI – EIA scoping request. Scoping Opinion issued 10/07/09.
- 3.9 There are a number of historic planning applications on this and the adjoining land relating to the commercial uses and advertisements. These include:-

C6/1987/1034/FP - Use of land for industrial purposes (Class B2) following closure of highway, with new access road, car parking and modification to footbridge - Refused 16/12/1988

4 Planning Policy

4.1 National Planning Policy

PPS1: Delivering Sustainable Development
PPG13: Transport

4.2 East of England Plan 2008

T5 – Inter-Urban Public Transport

4.3 Welwyn Hatfield District Plan 2005

SD1 - Sustainable Development

M1 - Integrating Transport and Land Use

M4 - Developer Contributions

M5 - Pedestrian Facilities

M6 - Cycle Routes and Facilities

IM2 - Planning Obligations

D1 - Quality of design

D2 - Character and context

D4 - Quality of the Public Realm

D5 - Design for Movement

D6 - Legibility

D7 - Safety by Design

D9 - Access and Design for people with disabilities

EMP3- Mixed use Development at Broadwater Road West

4.4 Supplementary Design Guidance, February 2005

4.5 Broadwater Road West Supplementary Planning Document, December 2008

4.6 Supplementary Planning Guidance, Parking Standards, January 2004

4.7 Welwyn Garden City Urban Transport Plan, Hertfordshire County Council

5 Constraints

5.1 The site lies within Employment Area EA1 (as designated in the Welwyn Hatfield District Plan 2005) and is adjacent to the former Shredded Wheat Factory buildings which are Grade II listed. The site that the bridge joins into is also identified as a 'Mixed Use Development Site' under saved Policy EMP3 of the District Plan. To the immediate south of this site lies Wildlife Site 199 (Twentieth Mile Bridge Allotments).

6 Representations Received

- 6.1 This application has been advertised by site notice, newspaper notice and neighbour notifications.
- 6.2 Seventy three representations have been received from residents in the locality as well as the owners of the Howard Centre, Welwyn Garden City Society, Hertfordshire Action on Disability and the Welwyn Hatfield Access Group. Sixty (60) of the letters were in support, three asked general questions/made general comments about the proposals and ten (10) were objections to the proposals.
- 6.3 A summary of the comments are given below:
- Support for the principle of a replacement bridge and the accessibility improvements resulting from proposals.
 - The replacement of the bridge has been a long time overdue.
 - Concern for the loss of a historical feature.
 - Mixed views as to the design of the proposed bridge and the materials to be used but general support for the lift access and ticket machine proposed as part of the scheme.
 - Questions over the capacity of the proposed bridge.
 - Queries as to the future management and maintenance of the proposed bridge.
 - Concerns and objections to the proposal on the basis that this is part of a wider redevelopment project which includes a new retail store for which there is known objection.
 - Queries as to the level of cycle parking to be provided.
- 6.4 **LaSalle Investment Management Limited** who manage the Howard Shopping Centre object on behalf of the owners, Coal Pension Properties Limited. The objection raises concern that the application does not address the fundamental concerns of poor access and connectivity between the Broadwater Road West redevelopment site, the Howard Centre and the wider town centre. It is argued that the proposal forms part of the wider plans by Spenhill for the redevelopment of their site and will result in an unattractive and convoluted route from the proposed retail store to the footbridge. Concern is also raised that the proposed ticket machine will also reduce the level of activity in the Howard Centre, weakening footfall and trading potential. Finally, the scheme design is considered to be bulky and fails to accord with the provisions of Policy D9 of the Adopted District Plan.
- 6.5 **Welwyn Garden City Society** object to the application. The Society considers that the proposed bridge would be dangerous as it is unlikely that the bridge would be able to accommodate the amount of traffic that is envisaged by the applicant. The Society considers that it's narrowness at pinch points will be hazardous when wheelchairs and cycles are taken into account. The Society believes that a proper analysis of forecast traffic volumes is required to assess bridge sizing and the dangers that the latest proposals imply. The Society questions the health and safety implications were a major emergency to occur on the railway or station platforms. The safety of the proposed ticket machine at the top of the stairs is also questioned on the grounds that it could cause congestion.

Finally, the Society considers that the proposed bridge does not meet the original aspirations promoted by Spennhill in their original consultation proposals.

- 6.3 **The Welwyn Hatfield Access Group (WHAG)** query whether the proposed bridge would comply with prevailing statutory physical access standards. Whilst the group are confident that the proposal will meet the minimum requirements they request further information on the access route to the new bridge and the location of the nearest bus stop. The group also query who will assume responsibility for lift maintenance and that lift use will be possible over 24 hours, 7 days a week. Finally, the main concern raised by WHAG is that this proposal is conditional on first receiving approval for the development of the retail store. The planning application for the proposed 4 phases of the overall development comprises a full application for phase 1 and an outline application for the remainder. The group query whether there are any guarantees provided to ensure the full development will proceed in the order outlined and in a matching time frame.
- 6.4 **Hertfordshire Action on Disability** support the application as the application involves the provision of lifts at the Broadwater Road end making the bridge fully accessible. The group point out another problem with the existing bridge which is the limited width so that two wheelchairs can't pass one another. The planning application will also improve lighting for partially-sighted (and others). The group understand that costs and constraints mean it is not possible to widen the whole bridge but are satisfied that everything practical that can be done is being done.

7 Consultations Received

- 7.1 **Network Rail (NR)**: note the design of the new bridge, and our overall observation is that the proposed replacement of the bridge spans across the non-operational lines should be welcomed and are a significant improvement on that previously proposed. The proposal falls short of complete replacement, as envisaged by the SPD, as it does not propose the replacement of the bridge spans across the electrified lines. The design of the bridge appears to meet the aspirations of the Council and ourselves (as provided for in the Gifford's Report), although the caveat remains that finer detail may be subject to review and change once further detailed design work is carried out under the service agreement that will have to be entered into with us to permit construction of the bridge. Some specific comments on this are set out below, but probably could be treated by means of condition.
- 7.2 Unfortunately, the application does not propose any cosmetic improvements to the retained bridge spans and whilst the application as a whole is an improvement on that previously proposed, and the original aim was to provide a new and better structure, the Authority may wish to consider whether further financial contributions should be sought towards some refurbishment of the retained bridge in order that the whole bridge offers a continuous high quality, safe experience for those using it in the future.
- 7.3 Although strictly speaking not a planning matter there is an issue about on-going maintenance as regards the position of the new liftshaft and staircase. They appear to be sited on land outside of Network Rail's ownership. This presents Network Rail with maintenance and ownership issues. There is no guarantee that the train operating company would be willing to take this area into the lease and that could leave the lift in limbo. Future renewals and maintenance may require Network Rail seeking access from a private party, which can cause

operational and maintenance difficulties (as an example, the current bridge owners refused access by NR to install propping to the existing footbridge). The Company does not want to be held to a similar situation in the future.

The following points need to be considered:

- The staircase tapers creating a pinch point at the top landing level particularly when people ascend the staircase. This may be of concern for fire regulations.
- For safety reasons the barrier rail needs to be higher. A minimum parapet height of 1500 mm is needed and could be 1800 mm over the railway.
- The aluminium mesh may be vulnerable to vandalism so something more substantial and robust would be preferred.
- No lighting is shown on the staircases.
- Provision for services required in the soffit.
- The roof will need to be accessed for maintenance therefore access hatches are needed. Also, fall arrest or safety barriers will be required.
- Any demolition sequence should make provision for a temporary footbridge or other access arrangement during the construction phase.
- We presume the footbridge height clearances have been planned in relation to the existing and proposed uses, but this point should be confirmed particularly in respect of any future highway requirement.

7.4 These points, along with additional officer comments were sent to the applicant on 27 July 2011. Following the receipt of revised plans from the applicant which took into account the requested changes, Network Rail submitted an objection to the proposal on 27 September 2011 on the grounds that although the changes are an improvement they do not address the fundamental issue that the lifts and stairs will not be on Network Rail land.

7.5 Network Rail's view is that all of the station functions need to be within their (and the station facility operator's) control. In addition, NR will not allow the bridge to become a dedicated right of way, principally on the grounds of safety (passenger flow control) and revenue protection. Whilst they acknowledged the work that was carried out in the Gifford study was for a new bridge, they now consider the best solution is removal of the existing old spans and the provision of a staircase/lift on Network Rail land to achieve mobility impaired access to the station. Although they also recognised this would not entirely meet the aspirations of the Council, in their view it is the simplest and cost effective means of providing mobility impaired access to the station and will further improve the accessibility of the Broadwater Road East redevelopment area from the Station. Accordingly, they suggested that this application is withdrawn in favour of revised proposals concentrating on shortening the bridge spans and including lifts/stairs at the end of the remaining bridge span.

7.6 **Hertfordshire County Council Transport Programmes and Strategy** does not wish to restrict the grant of permission subject to the following:

Section 106 Agreement Planning permission be granted subject to the completion of a Section 106 Agreement between the applicants, Welwyn Hatfield District Council and Hertfordshire County Council to cover issues relating to the relocation of the bike racks underneath the bridge deck.

Conditions 1. The proposed bridge should be constructed and open to the public prior to the opening of any of the development proposed under planning application N6/2010/2055/MA.

- 7.7 These amended plans show the bridge deck being lengthened and the bridge ending closer to the civic square. Under these proposals the cycle racks are located in the space under the bridge deck and appear to form part of the bridge application.
- 7.8 The issue of maintenance and access to the bike racks was to be covered within the S106 for the main site redevelopment application. I assume that this proposal does not alter this; if it does then a S106 would be required for this application to cover issues relating to the bike racks.
- 7.9 The siting of the bike racks should meet the guidance in the County Councils Cycle Parking Guide (<http://www.hertsdirect.org/infobase/docs/pdfstore/cycleparkguide.pdf>) The guide states that cycle parking should provide security for its users by being sited where it is constantly overlooked. In some instances security may be improved by the provision of additional lighting and CCTV coverage. The re-siting of the bike racks underneath the bridge means that the cycle racks are not well overlooked and there may be a need for CCTV to reduce the risk of theft.
- 7.10 It is unclear from the application whether the bike racks would have to be closed off for any form of bridge maintenance. The racks are mainly as replacement for those on Hyde Way and the County Council would want to ensure that the racks were available at all times and if they did have to be closed for maintenance of the bridge this would not be frequent and would follow an agreed notification period.
- 7.11 The previous comments submitted remain the same: This application links with the current application for the redevelopment of the land to the west of Broadwater Road for mixed use development including retail, leisure, offices, hotel, care home and housing. The application for Broadwater Road included alterations to the existing footbridge to provide lift access.
- 7.12 The SPD for Broadwater Road recognised the importance of providing an improved link between the site and the town centre, rail and bus stations. The existing footbridge is only accessible via a set of steps and therefore can not easily be used by the mobility impaired or those with prams and pushchairs. To increase the sustainability of the site it is recognised that improvements are needed to the bridge to allow access between the site and the town centre by all.
- 7.13 This proposal provides for a replacement bridge structure from the site to the existing part of the bridge over the live rail lines. Access to the bridge would be via steps or a lift.
- 7.14 This replacement bridge structure will ensure that those wanting to reach facilities within any Broadwater Road West site redevelopment will be able to do so. The bridge should be made accessible for all prior to the opening of any of the development within the Broadwater Road re-development application. The size of the lift should be suitable for those in mobility scooters.

- 7.16 **Non-respondents** – The following organisations were consulted on the planning application but did not wish to respond – Thames Water, Hertfordshire Fire and Rescue Service, Environment Agency.

8 Discussion

- 8.1 This application is presented to the Planning Control Committee because it is linked to the consideration of planning application N6/2010/2055/MA.

- 8.2 The main issues to be considered are:

Whether the replacement bridge proposals are acceptable in planning terms, taking into account the following considerations:

- 1. Accessibility**
- 2. Design (including disabled access)**
- 3. Health and safety**
- 4. Other Material Planning Considerations**

1. Accessibility

- 8.3 A key objective of the Broadwater Road West SPD (paragraphs 6.53 – 6.55) is to provide a high quality pedestrian link to and from the town centre. Whilst the current pedestrian bridge is well used, it is of poor quality and does not present an attractive route. This connection is a principle access point to the development site and therefore the BRW SPD considers that this justifies the replacement of the existing bridge link with a high quality pedestrian link to the town centre and train station. The BRW SPD also advises that any replacement bridge and wider redevelopment proposals should be designed to enable the following:

- Improved access for disabled users as well as those with mobility restrictions and those with young children in prams/pushchairs.
- To consider opportunities for improved ticketing facilities, cycle parking and short stay kiss and ride.
- Improved access to open space, buildings and public areas.

- 8.4 As this is a key planning objective of the masterplan for the site a study was commissioned by the Council from Network Rail to consider five options for the enhancement of the existing access arrangement. The purpose of the study was to review and understand the cost/deliverability issues that relate to each option so that a suitable option may be selected for further consideration.

- 8.5 The study was undertaken by Gifford Engineering Consultants on behalf of Network Rail and the following options were considered taking into account factors such as buildability and programme, health and safety and indicative costings.

Options assessed:

- | | |
|----------|---|
| Option 1 | Complete removal of existing bridge and erection of a new bridge. |
| Option 2 | Retention and refurbishment of existing bridge and construction of a new bridge parallel to the existing within the station franchise area. |

- | | |
|----------|--|
| Option 3 | Retention and refurbishment of existing bridge and construction of a new bridge outside the station lease area. |
| Option 4 | Retention and refurbishment of existing bridge to station platform (spans 1 to 7) and construction of new bridge over the sidings. |
| Option 5 | Construction of a new bridge outside the station lease area and refurbish the existing station bridge and replace the remaining structure over the sidings (combination of options 3 and 4). |

N6/2010/2055/MA planning application proposal. Due to the timing of the study it was considered reasonable for Gifford to also consider the original Spenhill proposal for the bridge.

- 8.6 Gifford considered that options 1 and 4 were those that best met the planning aspirations of the Council and these options were assessed further. To summarise, the implementation of option 1 (new bridge) will result in significant disruption to the East Coast Mainline and the station and will require the construction of a temporary footbridge in order to enable the station to function efficiently. The implementation of option 4 (part renewal/part replacement) will result in significantly less disruption and can be achieved without the need for a temporary footbridge. Whilst modifications to the station footbridge proposed under option 4 will require possessions (effectively a period in which works can be undertaken on the network), the number required is also significantly lower than for option 1. Furthermore, the level of risk associated with the modifications to the existing bridge when considering the potential for disruption to the railway and station due to problems within the possession is also considerably lower than for option 1.
- 8.7 The application under consideration effectively proposes a scheme similar to option 4. The proposals put forward the replacement of the entire older eastern section of the bridge which spans over the existing private car park, the Network Rail Access Road and the railway sidings. The most recently rebuilt western section of the bridge over the operational railway lines will be retained.

2. Design

- 8.8 The study undertaken by Gifford also considered the following parameters suggested by the Council as a specification for the five options that were assessed.
- Fully covered and glazed.
 - To look like one continuous structure.
 - Of a modern design, using modern materials.
 - Well lit and covered by CCTV.
 - Accessible to cyclists, i.e. they could push or carry their bikes over the bridge.
 - Accessible for the disabled with lift access onto the development site.
 - Of a similar design to the new footbridge being constructed over the railway lines at West Hampstead Thameslink Station.
 - Accessible by lift to the development site during station operating hours (until the last train). The lift should be able to accommodate 16 people and the bridge should be accessible by stairs 24/7.
- 8.9 The proposed bridge design does take on some of the recommendations given by Gifford in relation to achieving some of the suggested specification parameters e.g. use of vierendeel truss design but not all of them.

- 8.10 The widening bridge design and the proposed lift will help to ensure that this link is accessible by disabled and other users as requested in the BRW SPD and represents an improvement to the existing provisions. Furthermore, the design does include ticketing facilities and bicycle parking. It is considered that the stairway at the deck level should be wider to accommodate cyclists taking bicycles on trains and this would also allow for the fitting of 'wheeling channels' to allow cyclists to push bikes up the stairs although this is not a design change that the applicant has proposed.
- 8.12 This is a significant improvement to the bridge designs originally proposed by the applicant under application N6/2010/2055/MA and the first proposal that was submitted as part of this current application. The applicant has clearly sought to address a number of the concerns that the Council have raised in relation to the design and safety issues and has taken on board the comments of the Council's specialist urban design adviser in respect of where the bridge terminates. The design of the proposal would be a significant improvement above and beyond the existing pedestrian footbridge and in planning terms alone is considered to be acceptable. For the reasons noted above the current proposal is considered to be more achievable and deliverable than a full bridge replacement and the proposed scheme will significantly improve the accessibility of the site and accords the aims and aspirations of the SPD.

3. Health and Safety

- 8.19 Representations have been made with regard to the width of the proposed bridge and the volume of traffic it will be required to accommodate (taking into account the wider redevelopment proposals).
- 8.20 The study undertaken by Gifford was also required to provide an assessment of this issue and utilised footfall data assumptions provided by both First Capital Connect and from survey work undertaken by Hertfordshire County Council. Gifford have also considered the Highways Agency Standard BD29/04 'Design Criteria for Footbridges' which states that the clear width of a bridge should not be less than 2m and that for a level structure (or one with a gradient up to 1 in 20) a width of 300mm for a flow of 20 persons per minute is required.
- 8.21 The data provided by First Capital Connect allows the consideration of ticketed entries onto the bridge and when combined with the footfall data collected by Hertfordshire County Council, the potential peak total number of movements across the structure is predicted as 6197 movements per hour (taking into account the wider redevelopment proposals). To facilitate this level of peak movement the width of bridge required is 1.55m. The proposed bridge will be 3.8m wide at its narrowest, giving a minimal potential capacity of 12,000 persons an hour and which would meet both current and predicted levels of footfall. However, this is where the design of the bridge and elements such as the location of the ticket machines are key to reducing potential points of congestion. With regard to the fact, Gifford note that the effect of obstructions such as the operation of the lifts, ticket barriers and the potential for reduced flow due to the passage of pushchairs or wheelchairs would require a full flow analysis which would be undertaken before any detailed design stage.

4. Other considerations

- 8.22 **Proper Planning of the Area:** Whilst this application is independent of planning application N6/2010/2055/MA it basically seeks to revise an element of the development proposals submitted as part of it. The application must be considered on its own merits but the link to the wider redevelopment proposals mean that the scheme is unlikely to go ahead independently. Whilst the design of the bridge is acceptable and the revised proposals address the health and safety and accessibility issues, the remaining issue to consider is how the implementation of this scheme can be secured.
- 8.23 At the time of writing this report the delivery and maintenance of these facilities has still to be agreed with Network Rail and Network Rail have an unresolved objection to the revised proposals. This revised objection is based on the fact that the lifts and stairs will not be on Network Rail land. This is contrary to the original views promoted by Network Rail in relation to the Gifford study and the comments received as part of the application process Network Rail have advised that this is not an acceptable position as all of the station functions need to be within their (and the station facility operator's) control. They now consider that the best solution is removal of the existing old spans and the provision of staircase/lifts on Network Rail land to achieve mobility impaired access to the station. Although Network Rail recognise this would not entirely meet the aspirations of the BRW SPD, they also consider that this is the simplest and most cost effective means of providing mobility impaired access to the station and will further improve the accessibility of the Broadwater Road West redevelopment area from the Station. For the avoidance of doubt, the Council consider that this proposal would not overcome the urban design issues of legibility and safety that have led to the current revised proposals.
- 8.24 At the time of writing this report the applicant is still in discussions with Network Rail in relation to this objection but is also hopeful that the objection can be overcome. This is because Network Rail essentially considers the current proposals as a maintenance liability and therefore they expect a commuted sum for maintenance purposes to be included as part of the proposal. In their view, this would be in addition to funds to provide for some improvement to the retained bridge spans that cross the electrified lines. They have confirmed that this could be achieved through the provision of a financial contribution, the exact sum being a matter of further discussion and this contribution would part fund some refurbishment to the existing bridge including cleaning, painting, improved lighting, surface works and CCTV.
- 8.25 **Planning Obligations:** As part of the consideration of N6/2010/2055/MA the applicant has offered that delivery of the bridge improvements, as set out in planning application reference N6/2011/0611/FP, will be linked to the opening of the store. In other words, there will be a restriction on the actual opening of the store for trade until such time as the works are completed. The applicant has proposed that an obligation under S106 of the Town and Country Planning Act (As amended) will be submitted with an obligation drafted along the following lines:

"not to permit the Store to open for trade until such time as the works required to be undertaken pursuant to planning permission reference N6/2011/0611/FP which comprising the erection of replacement pedestrian bridge and construction of a bridge link building, including the installation of a ticket machine, have been completed to the reasonable satisfaction of the Council".

- 8.26 For the avoidance of doubt, the application has to be determined on its planning merits and in this respect it accords with the design policies of the plan and the aims and objectives of the BRW SPD regardless of the fact that it is a key component of the applicant's justification for the redevelopment proposals on the Broadwater Road site. However, it should be noted that application N6/2010/2055/MA is recommended for refusal and accordingly any grant of consent for application N6/2010/2055/MA would also have to secure the implementation of the bridge. Accordingly, was such a situation to occur, a planning obligation would be required and a S106 legal agreement would need to be entered into between the applicant, Network Rail and the Council to ensure that the replacement bridge is operational prior to the opening of the store.
- 8.27 **Protected Species:** The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.
- 8.28 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species ('EPS') and the protection afforded to them derives from the EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).
- 8.29 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."*
- 8.30 The Conservation Regulations 2010, (Regulation 41) contains the main offences for EPS animals. These comprise:
- "Deliberate capture or killing or injuring of an EPS"
 - "Deliberate taking or destroying of EPS eggs"
 - "Deliberate disturbance of a EPS" including in particular any disturbance which is likely –
 - (a) to impair their ability –
 - (i) to survive, to breed or reproduce, or to rear or nurture their young, or,
 - (ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or
 - (b) to affect significantly the local distribution or abundance of the species to which they belong
 - "Damage or destruction of a EPS breeding site or resting place" (applicable throughout the year).

- e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates))
- 8.31 In some circumstances a person is permitted to ‘derogate’ from this protection. The Conservation Regulations 2010 establishes a regime for dealing with such derogations via the licensing regime administered by Natural England. The approval of such a license by Natural England may only be granted if three strict “derogation” tests can be met:
- the activity to be licensed must be for imperative reasons of overriding public interest or for public health and safety;
 - there must be no satisfactory alternative; and
 - favourable conservation status of the species must be maintained.
- 8.32 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat Directive and therefore should give due weight to the presence of a EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:
- a) Consider whether an offence to an EPS is likely to be committed by the development proposal.
 - b) If the answer is yes, consider whether the three “derogation” tests will be met.
- 8.33 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 8.34 It should be noted that this application is linked to planning application N6/2010/2055/MA for the wider redevelopment proposals for the site. Application N6/2010/2055/MA is accompanied by an Environmental Statement which includes an ecology assessment of the site. Based on this assessment the site as a whole is considered to be of low ecological value. However, the scheme will include redevelopment of an area of colonized ruderal habitat on derelict land to the north-west of the site. The main receptors identified as likely to be affected by the scheme include reptiles, bats, invertebrates, trees, and nesting birds. At the Council’s request additional bat and reptile surveys were undertaken. These indicate that none of the buildings on site are currently being used by roosting bats but there is a negligible risk of bats using the buildings for occasional roosting. As such a precautionary approach to demolition is recommended. The only reptile species confirmed to be present on site was the slow worm which is protected under the Wildlife and Countryside Act. However, only two slow worms were observed and as such it is considered that only a small population of the species is using the site and mitigation is proposed in the form of a method statement that will include the preparation of a receptor site and translocation to this receptor site prior to works commencing on the main scheme. The ecological assessment did not include an invertebrate study but recognizes that the undeveloped habitat on the north west of the site may support a number of uncommon invertebrate species which are also of conservation concern. As this land generally comprises of the final phase of the wider development proposals it is proposed that an invertebrate study be carried out prior to any works commencing on this phase. This, alongside the

introduction of features such as brown roofs and a biodiversity management plan for the whole site will ensure that there is no net loss in invertebrate habitat during construction.

8.35 From the information submitted on the linked planning applications, Natural England and The Herts Biological Records Centre have confirmed that there is not a reasonable likelihood of EPS being present. As such, it is unlikely that a EPS offence will occur and it is therefore not necessary to consider the Conservation Regulations 2010 further.

8.36 The Natural Environment and Rural Communities Act 2006, The Badgers Act 1992 and PPS9 are relevant for species protected by UK legislation only. PPS9, Key Principles, sub paragraph (vi), details:-

“The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

Given the findings of the ecological assessment and the advice of Natural England and Herts Biological Records Centre, it is considered that the proposed schemes and the mitigation promoted by the applicant is acceptable and significant harm can be prevented in this instance.

8.37 **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:

- i. 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,
- ii. He failed to consider the likely environmental effects of revoking Regional Strategies

8.38 However, the Government is still committed to the abolition of Regional Spatial Strategies through the Localism Bill, which is expected to begin its passage through Parliament before Christmas. 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.

8.38 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.

9 Conclusion

- 9.1 This application must be determined on its own planning merits, regardless of the fact it is directly linked to the scheme that is being put forward as part of N6/2010/2055/MA and which relates to the wider Broadwater Road redevelopment proposals.
- 9.2 The improvements to the bridge link when judged on their own are encouraged because the revised proposal accords with the design policies of the plan, the aims and objectives of the BRW SPD and represent improvements for users. Because of this, a S106 legal agreement to secure the implementation of the works prior to the opening of the store would only be required if planning application N6/2010/2055/MA is approved as this is required to improve access between the town centre and that application site. Accordingly, the application is recommended for approval subject to the following conditions.

10 Recommendation

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

1. C.2.1 – Time limit for commencement of development
2. C.13.1 – Development in accordance with approved drawings/plans – 568_01_07_001_P1, 568_01_07_002_P3, 568_01_07_100_P1, 568_01_07_102_P3, 568_01_07_103_P3, 568_01_07_104_P3 and 568_01_07_105_P2
3. C.5.1 – Samples of materials to be submitted and agreed
4. Prior to the commencement of development a scheme detailing the method and phasing of demolition works shall be submitted to and approved in writing by the Local Planning Authority. Such details should include: -
 - a. Means of enclosure of the site and measures to minimise disturbance to users of the accesses and neighbouring properties;
 - b. Access and location for contractors vehicles;
 - c. Access and location for delivery and haulage vehicles;
 - d. Facilities for the recycling of materials on site and the location of plant and spoil.

Reason: To safeguard the amenity of adjoining occupiers, users of the accesses and adjoining properties.

5. Prior to the commencement of the development the following shall be submitted to and approved by the local planning authority in writing:
 - a. site set up and general arrangements for storing of plant including cranes, materials, machinery and equipment, offices and other facilities, parking, loading, unloading and vehicle turning areas, vehicles;
 - b. site lighting and arrangements for site security;
 - c. access and protection arrangements around the site for pedestrians, cyclists and other road/access users;
 - d. external safety and information signing, interpretation boards and notices; screening, hoardings and artwork;
 - e. liaison, consultation and publicity arrangements;

The construction activities shall be designed and undertaken in accordance with the code of practice set out in BS5228 and with the agreed details unless the local planning authority agrees to the variation of any detail in advance and in writing.

Reason: To ensure that the construction of the development is managed to minimise adverse impacts upon users.

6. Prior to the commencement of development, full details of the following matters shall be submitted to and approved by the local planning authority in writing including:
 - a. Internal and external surface treatments and finishes;
 - b. Lighting and CCTV;
 - c. Signage;
 - d. Location of ticketing machines;
 - e. Barriers and any balustrades and railings;
 - f. Entrance/exit details;
 - g. The size of the lift to ensure it can accommodate a mobility scooter:The timing for the completion of the works shall be undertaken in accordance with a programme to be agreed in writing with the Local Planning Authority.

Reason: To ensure that the details of development are acceptable.

7. Notwithstanding the applicant's submitted details, prior to the commencement of development, full details of the provision of cycle facilities including racks and spacing shall be submitted to and approved by the local planning authority. The provision will be completed prior to the opening of the replacement bridge and undertaken in accordance with the agreed details unless the local planning authority agrees to the variation of any detail in advance and in writing.

Reason: To ensure that the details of development are acceptable and meet cycle parking requirements generated by this development.

8. The replacement bridge and cycle racks hereby permitted shall not be closed or unavailable for use unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure access to the station, rail platforms and cycle racks is available at all times.

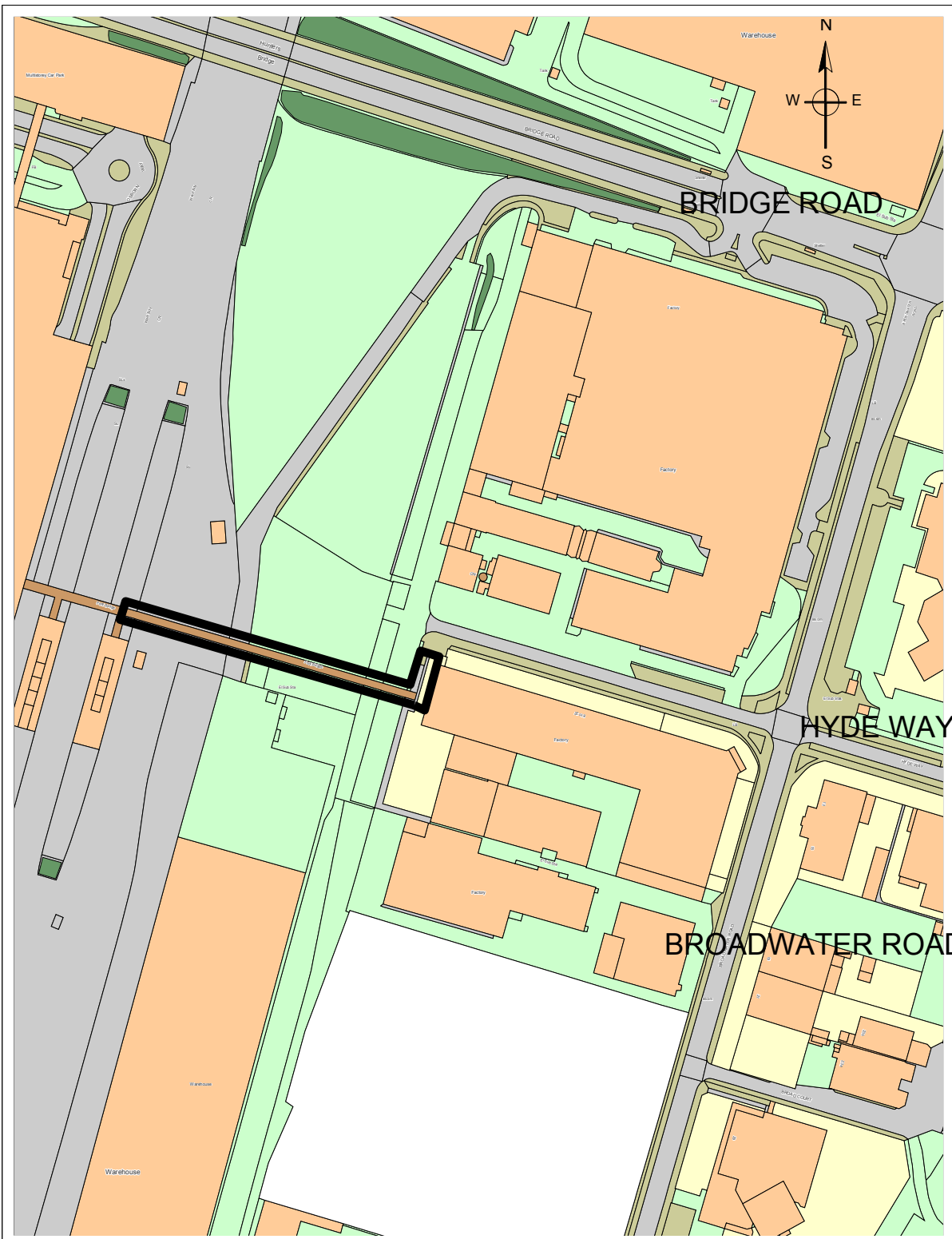
Summary of reasons for grant of permission (if applicable)

The proposal has been considered against Planning Policy Statement 1 and PPG13, East of England Plan 2008 policy T5 and development plan policies SD1, M1, M4, M5, M6, IM2, D1, D2, D4, D5, D6, D7, D9 and EMP3 of the Welwyn Hatfield District Plan 2005, in addition to the Human Rights Act 1998, which indicate that the proposal should be approved. Material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

Richard Aston (Strategy and Development)

Date: 21 December

Background papers to be listed (if applicable)



<p>Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE</p>	<p>Title: SPENHILL BRIDGE DEVELOPMENT</p>		<p>Scale: DNS</p>
	<p>Project: PCC Meeting</p>		<p>Date: 08 September 2011</p>
	<p>Drawing Number: N6/2011/0611/FP</p>		<p>Drawn: Darren King</p>
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WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2011
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2011/1628/FP

LAND AT THE REAR OF 17 THE AVENUE, WELWYN, AL6 0PW

RETENTION OF GYPSY SITE WITH FIVE RESIDENTIAL CARAVANS, FIVE UTILITY BLOCKS WITH ASSOCIATED PARKING AND HARDSTANDING.

APPLICANT: Mr L Rooney

(Welwyn East)

1 Site Description

- 1.1 The site is located on The Avenue with a vehicular access on to this highway and consists of an area of approximately 0.23 hectares. The site adjoins the rear and side boundary to 19 The Avenue to the west and the northern side boundaries of 15 and 17 The Avenue to the south. The remainder of the paddock is located to the north with the rear garden of 25 The Avenue beyond. To the western boundary is a group of trees that are part of Tree Preservation Order 1, Group 5 (1972). These trees form the dividing line between the application site and Wildlife Site 18 (Grassland East of Danesbury Hospital) beyond. The boundaries of the site, vary from close boarded fencing (such as that along the northern side of the access behind which is the exposed bank that resulted from the excavation of the land to create the access) to being open with 17 The Avenue and the remainder of the paddock which is separated by a temporary looking wire fence with timber posts.
- 1.2 Originally the main body of the application site was a paddock, which included grazing land and numerous trees. There is no evidence that there was any form of hardstanding on the application site or any other form of development. The access to the site was a dense strip of vegetation between 17 and 19 The Avenue.
- 1.3 Based on the evidence that the Council has, the hardstanding, including the access, was not substantially complete until 2009. Both the access and the hardstanding in the main body of the site required large amounts of land to be excavated, which is evident from the exposed bank behind the fence on the northern side of the access and the western end of the application site. Numerous trees and large amounts of vegetation were removed from the site. At the time of the site visit on 19 October 2011 there were three caravans, four timber outbuildings/utility rooms and a lorry on the site.

2 The Proposal

- 2.1 The application seeks full planning permission for the use of the land as a gypsy site comprising five residential caravans, five utility blocks, associated parking and hardstanding. The description submitted by the applicant states that this is the “retention of...”, which is true in part. The hardstanding and access road

have already been laid and it is understood that one of the proposed occupiers has been living on the site. The remaining four caravans, the utility block and landscaping are all proposed.

- 2.2 The hardstanding, including the access, have already been constructed. The access runs from the western side of The Avenue between 17 and 19 The Avenue. It is approximately 5.5 metres in width and is finished with tarmac. The remainder of the hardstanding has a looser surface. It covers the majority of the western three fifths of the application site. It measures approximately 26 metres in width and between 33 and 42 metres in length.
- 2.3 The residential caravans would be touring caravans. Limited information has been submitted about the caravans, apart from indicative footprints. These indicate that the footprints would be approximately 8.5 by 4.5 metres.
- 2.4 Each of the utility blocks would be located next to a caravan. They would be timber structures with a mono-pitch roof. They would provide a bathroom and the sewerage would connect to main sewerage system along The Avenue, through 17 The Avenue. The utility blocks would be approximately 3 metres deep by 3 metres wide and would stand to a maximum height of 2.9 metres.
- 2.5 The associated parking would be provided within the hardstanding as described above.
- 2.6 The caravans, timber structures, vehicles and materials currently on the site are all proposed to be removed. New utility rooms and caravans would be installed on the site.

3 Planning History

- 3.1 Members will recall that on 3rd November 2011 approval was granted for an enforcement notice in relation to the operational development on the application site.
- 3.2 N6/1976/0218/FP - Site for detached chalet bungalow with garage and stables – Refused 17/06/1976
- 3.3 N6/1975/0198/FP - Siting of residential caravan for temporary accommodation – Granted 16/06/1975.

This application related to the strip of land on which the access to the proposed pitches has been constructed. This was a separate parcel of land located between 17 and 19 The Avenue. The caravan was granted for a temporary period until the dwelling being built on the adjoining site was ready for occupation. It does not relate to the main body of the application site to the rear of 19 The Avenue.

- 3.4 N6/1961/859/OP – Erection of a single private dwelling – Refused 20/09/1961
- 3.5 N6/1953/166/OP – Development of land – Granted 21/04/1953

4 Planning Policy

- 4.1 National Planning Policy

PPS 1: Delivering Sustainable Development

PPS: Planning and Climate Change - Supplement to Planning Policy Statement 1
PPG 2: Green Belts
PPS 3: Housing
PPS9: Biodiversity and Geological Conservation
PPG 13: Transport
PPS 23: Planning and Pollution Control
PPG 24: Planning and Noise
PPS 25: Development and Flood Risk

4.2 East of England Plan 2008

H3 Provision for Gypsies and Traveller

East of England Plan (Single Issue Review): Policy H3: Provision for Gypsies and Travelers. The Council is required to provide 17 pitches by 2011 (as part of a regional requirement to make provision for a backlog of 1,237 residential pitches and 160 transit pitches) and then a further 14 by 2021. The policy states "... *that local authorities should achieve the levels of provision required by 2011 as soon as possible through development control decisions and Development Plan Documents*". In the absence of relevant Development Plan Document, such as a Site Allocations document, this application falls to be determined through a development control decision.

Whilst the Secretary of State has announced the Government's intentions to abolish Regional Spatial Strategies, until this takes place, Policy H3 remains part of the borough's development plan and should be given significant weight in consideration of planning applications (refer paragraph 4.7 regarding 'weight').

4.3 Hertfordshire Structure Plan Review

None

4.4 Welwyn Hatfield District Plan 2005:

SD1 Sustainable Development
GBSP1 Definition of the Green Belt
R7 Protection of Ground and Surface Water
R15 Wildlife Sites
R19 Noise and Vibration Pollution
R20 Light Pollution
M14 Parking Standards for New Development
D1 Quality of Design
D2 Character and Context
D3 Continuity and Enclosure
D8 Landscaping
H13 Gypsy Sites
RA10 Landscape Regions and Character Areas

4.5 Supplementary Design Guidance, February 2005

4.6 Supplementary Planning Guidance, Parking Standards, January 2004

4.7 Other Material Considerations

A note has been provided with a number of these considerations regarding weight. This is in reference to the weight that each of these documents or policies should be accorded as part of the overall considerations with this application.

- Housing Act 2004: All local authorities are required under the Housing Act 2004 to undertake Assessments of the Accommodation Needs of Gypsies and Travellers.
- Circular 01/2006: In April 2011, the Secretary of State for Communities and Local Government published details of a draft Planning Policy Statement (PPS), intended to replace circular 01/2006 (and 04/2007), However, the draft PPS has been the subject of extended consultation including whether or not it should be subsumed into the proposals for a National Planning Policy Framework. Consequently, only limited weight should be given to the draft PPS, to which the Council's response was considered by Cabinet Housing and Planning Panel on 9th June 2011. Circular 01/2006 remains the current relevant Circular.
- National Planning Policy Framework (NPPF): The Planning Inspector at Foxes Lane took into account the contents of this draft framework, which was published on 25 July 2011. However, the draft NPPF is likely to be subject to amendment before the final version is published and little weight can be afforded to it in connection with this application.
- Gypsy and Traveller Accommodation Assessment (Opinion Research Services, 2006): Identified a need for 45 pitches by 2011 (35 permanent, 10 transit) across Northern and Eastern Herts (which includes Welwyn Hatfield). It also identified an on-going need for 15-20 additional pitches every 5 years thereafter. However, there was no evidence to demonstrate that provision needed to be made in one area over any other. A limited amount of weight should be attached to this assessment in so far as this relates to the need for pitches in Welwyn Hatfield.
- Gypsy and Traveller (G&T) Area of Search Report (Scott Wilson, 2007). No sites were identified within the urban area. The study only identified one potential site in Welwyn Hatfield. This site is in the Green Belt and no decision by the Council has been made as to whether this or any site is considered suitable for allocation. Existing sites were not considered suitable for expansion by the consultants.
- Two Caravans, Foxes Lane, Welham Green – This is a decision allowed on appeal by the Planning Inspectorate on 28th July 2011. The considerations within this appeal in relation to impact of gypsy/traveller developments on the Green Belt, the immediate unmet need within the borough and lack of alternative sites have a significant material weight attached to them for Green Belt sites within the borough, under current planning policies. In addition for this application, the location within Welham Green, its proximity to the built up area and impact upon the purposes of including land within the Green Belt, was also given significant weight.
- The Communities and Local Government website in relation to travellers advises that Gypsies and Travellers face the most serious disadvantages of all ethnic minority groups. The government is proposing to:

- Replace Planning Circular 01/06 Planning for Gypsy and Traveller sites with new light-touch guidance;
- Introduce stronger planning enforcement powers to help local authorities deal with breaches of planning control and limit the opportunities for retrospective planning applications;
- Encourage local authorities to provide, in consultation with the local community, an appropriate number of traveller sites that reflect local and historic demand, exploring incentives for site provision and innovative ways in which traveller sites can be funded and maintained; and
- Co-ordinate action across Government to tackle the discrimination and poor social outcomes faced by Gypsies and Travellers; seeking to remove barriers that are stopping them from taking part in the Big Society.

4.8 The timescale for any replacement guidance is not clear. This proposal, in the absence of any further detailed guidance from government, is being assessed in accordance with the development plan (national, regional and local plan policies) as well as having regard to other matters such as case law, appeals and Office of the Deputy Prime Minister Circular 01/2006.

5 Constraints

5.1 The site lies within the Metropolitan Green Belt and Landscape Character Area (Danesbury Settled Slopes), is immediately adjacent to wildlife site (WS18) and Tree Preservation Order 1, Group 5 (1972) runs along the western boundary of the site as designated in the Welwyn Hatfield District Plan 2005.

6 Representations Received

This application has been advertised by site notice and neighbour notifications. 73 representations have been received from residents in The Avenue, The Avenue Road Association, Roundwood Close, Oldwood, Danesbury Park Road, St Margaret's Close (Manchester), Walmersley Road (Bury), Danesbury Lane, The Crest, The Gardens (Hitchin), Gwynfa Close, Willow Walk, Copper Beeches, Glebe Road, Bluebells, Longcroft Lane, Oak Piece, Pottersheath Road and an agent on behalf of a number of residents all objecting to the application. 9 further representations have been received from anonymous sources all objecting.

Summary of the comments:

- The site was a field on which sheep grazed until the owner of 17 The Avenue cut down the trees and tarmaced over the site. Aerial photos of a before and after have been submitted.
- This is not 'retention of...'
- Inappropriate use of land in a residential road.
- The proposal does not comply with Green Belt regulations.
- Circular 01/2006 states "*New Gypsy and Traveller sites in the Green Belt are normally inappropriate development...*". The draft Circular proposed to replace 01/2006 makes it clear that "*normally*" would be removed.

- Circular 01/2006 sets out a definition for gypsies and travellers. No material evidence has been submitted about the intended occupants to demonstrate they met this definition.
- The proposal is inappropriate development in the Green Belt in terms of its principle and the applicant has not demonstrated any very special circumstances.
- The incursion into the countryside is one of the fundamental aims of including land in the Green Belt: *'to prevent urban sprawl by keeping land permanently open'*
- The proposal is not in character with the surrounding area.
- The applicant has a background of being a member of an Irish Travelling Community, but has resided in 17 The Avenue for many years. They should be treated as no different as other home owners.
- If approved, the application could set a precedent for other residents to build buildings on their land for their children or to sell on for a profit.
- Acting without planning permission demonstrates a willingness to do things without the appropriate permissions in place.
- There is another gypsy site within half a mile on the Great North Road. How dense can sites expect to be?
- Concern over environmental health and safety issues, and security of neighbouring homes.
- Reduction in the value of properties in the road.
- There has been between 3 and 12 caravans parked here.
- The applicant's ponies have entered neighbouring sites as they do not maintain their fences.
- The house at 17 The Avenue barely used, family live in caravans to the rear.
- The redevelopment of 17 The Avenue has resulted in the whole site being paved over and the loss of all the soft landscaping.
- 17 The Avenue is also used for housing foreign workmen and a base for running an industrial business, with numerous vans, industrial equipment and business materials.
- Photos of various vehicles and machinery stored at the rear of the application site have been submitted.
- On Google street view the access is shown being constructed. These photographs have a copy right from 2009, less than three years ago.
- The caravan of the previous owner was never located on the application site. Photos have been submitted showing it within the owner's garden.
- There is nature reserve within yards of this site.
- A number of trees and vegetation have already been removed from the site.
- A long established badger set to the south of the spinney has been destroyed.
- The access to the site was previously dense vegetation, with only a narrow access sufficient for a person.
- Heavy excavation was required to create access.
- No sewage connections seem to have been sought nor granted in the past.
- Photos of rubble and destruction of the Spinney have been provided.
- The site can be seen from the road, public footpath and the elevated section of the A1/M before it passes over The Avenue.
- The applicant, by his own actions, has demonstrated he is willing to do things without consideration for planning processes, neighbours or the wider environment. There are concerns that more unauthorised work will take place on the remainder of the land owned by the applicant.

During the course of the application it was requested that the applicant submit additional information/evidence to demonstrate status as a Traveller in accordance with Circular 01/2006, plus to demonstrate what the applicant feels are the very special circumstances that should be taken into consideration in this planning application. Neighbours were consulted again and seven representations were received from residents of The Avenue, Roundwood Close, the Avenue Road Association and an agent on behalf of a number of residents, all objecting the proposal. Period expired 28 November 2011.

Summary of the comments:

- The application is not retention of.
- The application should be refused and the site returned to its original state.
- No evidence has been submitted to support the gypsy status of the applicant's children.
- Mr Rooney lives in the house for medical reasons and has no reason to live in a caravan. Their personal circumstances are not relevant.
- The additional information does not demonstrate the gypsy status of the applicant's children. Their names are not provided and there is no information about where they currently reside. There may not be a need to provide accommodation for them.
- If this site is legitimately for the applicants' children, why has so much damage taken place to the site and surrounding area?
- It is convenient that the grandchildren have been enrolled into local schools.
- There are five caravans and a large number of commercial vehicles on the site.
- WHBC has many caravan pitches in carefully considered locations.
- The attractive rural character of the area has been destroyed by the applicant and the laying of the hardstanding.
- The application contains significant misleading information and inaccurate statements of fact without substantiation.
- The additional information does not address a lot of the concerns raised in the letters of objection.
- The additional information has a formulaic appearance relied on in numerous gypsy and traveller applications. The health status of the application and educational requirements of the grandchildren are not unique or supported by evidence.
- No very special circumstances exist and the situation appears to have been conveniently constructed.
- The Foxes Lane appeal should not be a material consideration in this application.
- The situation with Mr Rooney living at the house surrounded by his family only started when the enforcement notice was first threatened.
- The applicant removed all of the trees that bordered the path from the road to the paddock.
- The appendices are also formulaic in their content.
- The letter from the gypsy council stated that Mr Rooney travelled in order to earn a living, however, the Land Registry form relating to the purchase of 17 lists an address of a suburban home in Luton.
- The objections from residents are not based on racism or discrimination. They are based on the harm on the Green Belt caused by the actions of the applicant.
- Human rights legislation is a two way street.

7 Consultations Received

- 7.1 **Hertfordshire County Council Transportation Programmes and Strategy** – No objection. The site is accessed from The Avenue and this section of the Avenue is private not maintainable at public expense. Adequate parking and turning space is provided to enable cars to enter and leave the site in a forward gear.
- 7.2 **Welwyn Hatfield Borough Council Landscaping** – Despite attempts to arrange a site visit, they have not been able to access the site. Their comments are therefore based on the site photos, their observations from the rear of the site, photos of the paddock submitted by neighbouring residents and before and after aerial photos.
- 7.3 They have objected to the application. The excavation works have had a detrimental impact on the health and amenity of the Protected trees along the rear boundary of the site. The applicants have removed the remaining tree cover within the site which will have contributed to the overall tree'd nature of the area and this places further pressure and importance on those trees that are remaining. The damage is not repairable and they would expect the remaining boundary trees to show signs of decline over the next 5-10 years and it could ultimately lead to the death of the trees.
- 7.4 **Hertfordshire County Council (Gypsy and Traveller Section)** – No response received (due 28 September 2011).
- 7.5 **Hertfordshire Biological Records Centre** – have no biological data for the site. The site is located on the urban edge and consists of rough grassland with mature trees and scrub. These types of habitat are favoured by breeding birds. They recommend that site clearance and the laying of tarmac should only take place during the period October-February. In response to a photo of a newt submitted by a neighbouring resident, their conclusion is that it was a smooth newt, although they comment on the poor quality of the photograph submitted.
- 7.6 **Welwyn Hatfield Borough Council Environmental Health (Noise)** – Concerns have been raised regarding this site due to the proximity to the A1(M). Some indicative noise readings were taken on the application site and the readings suggest that the site falls into the upper end of NEC C. The site is to be used for permanent residential accommodation including for children. Further information should be gathered for this site regarding noise disturbance to assess the likely impact on residents and to identify any mitigation measures that can be taken to minimise that disturbance
- 7.7 **Herts and Middlesex Wildlife Trust** - No response received (due 28 September 2011).

8 Town / Parish Council Representations

- 8.1 Welwyn Parish Council “objects to this application. The proposal is incompatible with The Avenue and is also contrary to this Council’s previously expressed policy against inappropriate development in the Green Belt. The Council believes that section 6 of the application is incorrect insofar as an access road is consistent with the Borough’s policy for the provision of sites for Travellers”.

9 Discussion

9.1 This application is presented to the Planning Control Committee because Councillor Storer has called it in on the grounds of development in the Green Belt.

9.2 **The main issues to be considered are:**

- 1. Whether the applicant can demonstrate Gypsy or Traveller status in accordance with Planning Circular 01/2006;**
- 2. Whether the development proposed would be appropriate development in the Green Belt and its impact on its openness and visual amenity**
- 3. Whether the proposal complies with Development Plan policies;**
- 4. Sustainable development**
- 5. Impact on Protected Species**
- 6. Balancing Exercise**
- 7. Other Considerations**

1. Whether the applicant can demonstrate Gypsy or Traveller status in accord with Circular 01/2006

9.3 Circular 01/2006: *Planning for Gypsy and Traveller Caravan Sites* defines, for the purpose of planning 'gypsies and travellers' as meaning "Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling show people or circus people travelling together as such."

9.4 It is necessary as part of the proposal for the proposed residents of the application site to demonstrate their status in planning terms in order for the development to be determined with regard to the Circular advice, relevant planning policy and any other relevant material consideration.

9.5 Information has been submitted detailing that consent for the development is sought on behalf of the applicants five children and their families:

- Larry Rooney and his wife Breda and they have one son.
- Felix Rooney and Annie Marie who have four children aged ten, nine, three, and four months.
- Johnny Rooney and Helen who have two children aged five and five months.
- Kathleen and husband Bill Gammon.
- Anne and her husband Martin McCarthy who have three children aged eight, five and one.

9.6 The details of the proposed occupiers of the application site were provided in the additional supporting information that was received on 3 November 2011. However, whilst the additional information submitted may identify the proposed occupiers of the site, it primarily focuses on the applicant and his wife, who by their own admission live in the dwelling-house at 17 The Avenue, which is not within the red line of the planning application site as set out on the 1:1250 Site Location Plan received and dated 24 August 2011. Details (confidential) of the health of the applicant and his wife have also been provided and may demonstrate why they have now chosen to live in a dwelling-house, but this does

not directly explain, with reference to the definition in Circular 01/2006, the need for their children to have a settled base on this particular site.

- 9.7 The additional supporting information includes a letter from the Gypsy Council. It confirms that Mr and Mrs Rooney were born Irish Traveller and the Rooney Family are well known in the Gypsy Traveller Community, particularly in the East and South East of England, although members of the family live throughout the UK. It states that *“Mr and Mrs Rooney’s children grew up residing in caravans, and still maintain a travelling lifestyle”*. It is also stated that *“[m]embers of the family travel to Horse Fairs and cultural events across the country, and are regular attendees at Horse fairs such as Stow on the Wold, Appleby etc.”*, and that *“[m]embers of the family still travel for work”*.
- 9.8 The supporting information demonstrates that the applicant’s children and proposed occupiers of the site have been brought up with a travelling lifestyle in the East and South East of England and that the applicants and their children are Irish Travellers as recognised by Race Relations case law. However, it is not clear on what Circular 01/2006 grounds; i.e. *“... only of their own or their family’s or dependants’ educational or health needs or old age the potential occupiers have ceased to travel temporarily or permanently”*.
- 9.9 On balance, it is considered that on the basis of information submitted to date, Traveller Status in terms of the Planning Circular has not been sufficiently demonstrated for the planning application site.

2. Whether the development proposed would be appropriate development in the Green Belt and its impact on its openness and visual amenity

- 9.10 The carrying out of operations and the making of a material change in use of land is stated by Planning Policy Guidance Note 2: Green Belts (PPG2), to be inappropriate unless they maintain the openness and do not conflict with the purposes of including land in the Green Belt. In addition, Circular 01/2006 states (paragraph 49):

“There is a general presumption against inappropriate development within the Green Belts. New gypsy and traveller sites in the Green Belt are normally (author’s emphasis) inappropriate development, as defined in Planning Policy Guidance Note 2: ‘Green Belts’. National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, and the settled population. Alternatives should be explored before Green Belt locations are considered...”

- 9.11 The construction of new buildings inside a Green belt is inappropriate unless it is for any of the purposes stated in paragraph 3.4 of PPG2. This includes essential facilities which are *“... genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it.”* (Both paragraphs 3.4 and 3.5 of PPG2 advise).
- 9.12 The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Paragraph 1.5 of PPG2 sets out the (five) purposes of including land within the Green Belt:
- *“to check the unrestricted sprawl of large built-up areas;*
 - *to prevent neighbouring towns from merging into one another;*
 - *to assist in safeguarding the countryside from encroachment;*

- *to preserve the setting and special character of historic towns; and*
- *to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.”*

9.13 The Sustainability Statement submitted with the application argues that operational development took place more than four years and that the application site should be considered as previously developed land. It is argued that the hardstanding had already been laid and that the applicant only resurfaced this, and that a caravan has been parked on the site for many years. However, based on the evidence available, the Local Planning Authority cannot agree with any of these assertions and it is considered that the site should be considered as a greenfield site.

9.14 It is clear from aerial photos that can be obtained from both Bing and Google maps, that the application site was an area of grassland with a number of mature trees in and around the application site. This is also supported by a number of the neighbour representation letters and the description of the application site by Hertfordshire Biological Records centre. There was not a vehicular access into the paddock and only a narrow footpath lined by trees provided direct access from The Avenue. It is also clear from the images available on Google street view that the access was more than simply resurfaced as suggested. Similarly, there is no evidence that a caravan was stored on the site. In fact, the only evidence of the siting of the caravan in question are photos that were submitted with a letter of representation that shows the caravan parked in the residential curtilage of the owner.

9.15 The laying of a significant amount of hardstanding, the stationing of five touring caravans and the erection of five utility blocks would, therefore, clearly reduce the openness of the application site, which is visible from the Wildlife Site to the west, neighbouring sites to the east, along the access from The Avenue and when driving on the A1(M). Whilst some natural screening is provided by what landscaping remains along the boundaries of the site, this site would be appreciated from the surrounding area, in particular in the winter months and it is considered that the proposal has/would have a significant impact on the openness of the Green Belt.

9.16 Turning to the purposes of including land in the Green Belt, the appeal decision at Foxes Lane sets out that conflict with the first purpose of Green Belts, “*to check the unrestricted sprawl of large built-up areas*” would according to the Inspector, paragraph 13,

“...require Welham Green to be a large built up area, or be part of such an area... it was described as a large village. Even if it fell into the category of a small town, I would find it hard to conclude that it could be described as a large built up area. Hatfield is not far to the north, but to all intents and purposes Welham Green sits surrounded by countryside and is relatively self contained.... I see no conflict with that purpose of PPG2.”

9.17 The Inspector’s considerations are considered applicable to this development and therefore there would not be any conflict with the first and second purpose of Green Belts to check the unrestricted sprawl of large built-up areas and to prevent neighbouring towns from merging into one another.

- 9.18 In a similar vein, Oaklands is not a historic town and the proposal would not, therefore, conflict with fourth purpose.
- 9.19 The application site is located to the rear of residential dwellings within The Avenue, but to the side of 15 The Avenue. There is no development to the rear, west/south west of the site, until you reach the old Danesbury Park Estate and Welwyn Village. The development of the application site would, therefore, encroach further into the countryside than the existing development in the area, conflicting with the third purpose of Green Belts.
- 9.20 Paragraph 3.4 of PPG2, in reference to new buildings includes:

“The construction of new buildings inside a Green Belt is inappropriate unless it is for the following purposes:

essential facilities for outdoor sport and outdoor recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it”

As stated above, the proposed development would not preserve the openness of the Green Belt and would conflict with one of the purposes of including land within it and the development would represent inappropriate development in the Green Belt. As such consideration needs to be given as to whether the applicant can demonstrate that very special circumstances exist that would outweigh the harm of the proposal by virtue of its inappropriateness or any other harm.

Very Special Circumstances

- 9.21 It is well established in case law that the existence of very special circumstances is a matter of planning judgement for the decision maker.
- 9.22 It is accepted in case law that there is no prescribed list of what might constitute Very Special Circumstances. It may be that a single aspect of a proposal may itself be a Very Special Circumstance (VSC) sufficient to justify development or it may be that a number of circumstances may cumulatively amount to Very Special Circumstances. As Lord Justice Pill said in *South Bucks District Council v Secretary of State for Transport, Local Government and the Regions* [2003] EWCA Civ 687, [2003] All ER (D) 250 (May): *“It is of the essence of very special circumstances that the applicant establishing them is in a very special category.”*
- 9.23 The decision-maker is also required to apply substantial weight to other aspects of harm to the green belt where these harms relate to either the purposes of the green belt (set out in para 1.5 of PPG2) or the objectives of the green belt (set out in para 1.6). All other (non-green belt) harm caused by the development, for example the impact of the proposal on visual amenity, will also be given weight, although not “substantial weight”. Against this assessment of harm, the decision-maker must then assess both the mitigation of that harm and the need for (and benefits of) the proposal. Such issues will clearly be assessed on a case by case basis but might include ecological, economic or policy needs and benefits. Once the decision-maker has assessed all the requisite elements—on both sides of the scale—you must then determine whether or not the resulting balance demonstrates the existence of VSC.

9.24 A case of very special circumstances has been advanced by the applicant to justify the development. This comprises:

- The need for further sites for Gypsies and Travellers in Welwyn Hatfield Borough Council as identified in the East of England Plan 2008;
- Access to education for the applicants grand children;
- The health of the applicant and his wife;
- The consequences for the applicants of the application being refused, including impact on the applicants rights under Article 8 of the European Convention on Human Rights;
- The recent appeal decision for Foxes Lane in the same Green Belt.

Whether any such case of very special circumstances clearly outweighs any harm by reason of inappropriate development in the Green Belt (or any other harm)

The need for further sites for Gypsies and Travellers in Welwyn Hatfield Borough Council as identified in the East of England Plan 2008

9.25 The additional information refers to the Foxes Lane appeal and reference this specific quote:

“As noted above it is acknowledged by the Council that the immediate unmet need for Gypsy sites in the Borough attracts substantial weight in its own right.

The East of England Plan identified a need for 17 sites by 2011. As 3 sites have since been provided the Council accepts a need of 14 sites and is using that number as a basis for future work. The acknowledge need in the wider area of Northern and Eastern Hertfordshire is estimated to be 45 pitches for the period of 2008-2013, 35 of which would be permanent.”

9.26 The supporting statement goes on to state that the appeal was upheld and three pitches allowed and so the need would now be 11 pitches. They state that where *“there is an identified unmet need in a particular area, and that need is not going to be provided for through recognised standard planning routes or out comes, then the unmet need is going to have to be provided by windfall applications, such as this application”*.

9.27 The East of England Plan 2008 (policy H3: Provision for Gypsies and Travellers) placed a requirement on the authority to provide pitches/sites to meet the identified needs of Gypsies and Travellers. The numbers allocated to Welwyn Hatfield were within ‘Accommodation for Gypsies and Travellers and Travelling Showpeople in the East of England: A Revision to the Regional Spatial Strategy for the East of England’ July 2009, which identified the borough had 51 authorised pitches in January 2006 and a requirement to provide a minimum of 17 additional pitches between 2006-2011, plus a further 14 pitches between 2011 and 2021. Following the recent planning application for Four Oaks, 1-4 Great North Road (N6/2010/0211/S73B), which provided for an additional 3 pitches and the planning appeal at Foxes Lane which also provided for an

additional 3 pitches, an additional 11 pitches are required by the end of 2011, plus a further 14 between 2011 and 2021.

- 9.28 A Gypsy and Traveller Accommodation Needs Assessment (GTAA) was carried out in 2006 in partnership with Broxbourne, East Hertfordshire, North Hertfordshire and Stevenage Borough Councils and Hertfordshire County Council. The assessment concluded that there was a need for 35 residential pitches between 2006 and 2011, most of which would be likely to be needed on public sites. Confirmation, as part of the previous planning application N6/2011/0211/S73B was received from Hertfordshire County Council, Gypsy and Traveller Section advising, and verbally repeated with this proposal, that “we are not looking at extending or providing any new sites, there is no date for a review of this, this is due to all grants being withdrawn and no budget for this.” It will therefore be necessary for local authorities to provide, as part of the Local Development Framework, pitch numbers and sites for gypsy and travellers within each of their areas.
- 9.29 The general need for gypsy and traveller sites is acknowledged and this should be attached substantial weight in the determination of this application. In the absence of any allocated sites, it needs to be determined whether this site is the most appropriate for such a development. Paragraph 49 of Circular 01/2006 states “*New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: ‘Green Belts’ (PPG2)...Alternatives should be explored before Green Belt locations are considered*”.
- 9.30 No information has been submitted as to why this site has been chosen with this application. It can only be assumed that this piece of land was chosen because it was to the rear of the residential curtilage of the dwellinghouse in which the applicant current resides and under his ownership. However, it does not demonstrate that alternative sites have been explored before a Green Belt site.
- 9.31 No information has been submitted to demonstrate where the occupants of the five caravans are currently living. Through officers enforcement investigations in relation the occupation of the dwellinghouse at 17 The Avenue it became apparent that one of the applicant’s sons and their family was living in a caravan on the application site. There have also been two caravans on the application site itself and there are a couple of timber sheds, which appear to have been used as utility blocks, but to the Councils knowledge, these have not been occupied by the applicant’s children. It is not clear whether the intended occupiers of the site currently have accommodation available to them and no evidence has been submitted to demonstrate that a search has been conducted for alternative sites within the area, which need not be solely restricted to a site search with the borough of Welwyn Hatfield.

The health of the applicant and his wife

- 9.32 Details of the medical problems of the applicant and his wife have been submitted and the educational needs of their grandchildren advanced. Considerations of health and education have been considered many times by Planning Inspectors at appeal. The Communities and Local Government website, ‘Travellers’ page, states:

“Gypsies and travellers face the most serious disadvantages of all ethnic minority groups with a much shorter life expectancy, low income and poor

access to finance. Their children have high mortality rates and the lowest educational attainment.”

This is also referred to within Circular 01/2006

- 9.33 It is stated that the applicant and his wife no longer maintain a travelling lifestyle due to poor health. A Private and Confidential statement has been submitted to state what these health issues are and why regular access to medical services is required (please see part 2 of this report). Regardless of the contents of this document, the health issues in question relate to Mr and Mrs Rooney who reside in the dwellinghouse at 17 The Avenue with ancillary accommodation in the rear garden, which is not within the application site. The ‘Additional Information’ makes it clear that they settled in this dwellinghouse due to their medical problems. They would not live on the application site and if planning permission is not granted it is stated that they will continue living in this house.
- 9.34 It is stated that “*Mr and Mrs Rooney are finding difficult to adjust to living in a house as opposed to living in a caravan*” and they argue that “[*t*]he presence of other members of the extended family living on the proposed pitches, offset the potential negatives of this change of lifestyles”. It has also been stated that the children will live within the vicinity because this is part of the family support structure. Whilst this may be the case, no evidence has been submitted to support the health claim of the applicant and his wife and it has not been demonstrated that all five children and their families need to have a permanent base within such close proximity to the applicant.
- 9.35 There is no suggestion that any of the residents of the proposed pitches need to reside in this location due to their own health. It is acknowledged that a permanent base would provide access to a GP, but this is not a reason why this specific site is more appropriate than any other.
- 9.36 No evidence that the occupiers of the proposed caravans need to live on this site for their health or for their dependant’s health. Accordingly no weight should be attached to this in the determination of this application.

Access to education for the applicants grand children

- 9.37 It has been stated in the Additional Information that the applicant’s grand children need to be able to access education. There are 10 children that either are in education or will need to be able to access education, and it is stated that some of the children attend school locally.
- 9.38 It is accepted that a settled base would provide the applicants grand children with access to education. However no details have been provided about which children attend a local school and no details have been provided about which school they attend and how long they have attended them. The information submitted does not indicate that this need is exceptional or that the applicant’s children would need to settle on this particular site in order to gain access to appropriate education. It is therefore advised that little weight is attached to the need for the applicant’s grandchildren to access education.
- 9.39 This conclusion reflects that reached by the Planning Inspector in the Foxes Lane appeal:

“Notwithstanding the acknowledged general health problems and low educational attainment within the wider Gypsy community, the needs of

the family in these respects appear to me to be quite commonplace and I cannot afford more than minimal weight to those needs, which could be met from other locations”.

The consequences for the applicants of the application being refused, including impact on the applicants rights under Article 8 of the European Convention on Human Rights

9.40 In the supporting statement it is stated that *“it would be unthinkable that Mr and Mrs Rooney’s children will not live in the general vicinity of Welwyn and Hatfield”*. Confirmation was sought from the applicant as to what this statement meant. It was explained that in the Gypsy and Traveller communities a strong family bond exists and, where there are health issues, that there would be a cultural obligation to *“live close by and when they go travelling to stay in touch and return when necessary”*. It is also stated that *“it is often common practice for the grandchildren to live with the grandparents so they can access education, and help out after school, if their parents need to travel a lot for employment “*. However, in terms of the last statement, it is not actually stated that this would be the case in this instance. The issues surrounding the health of the applicant are discussed above.

9.41 No evidence to indicate what the alternative living arrangements have been to date or would be if this application were refused for the occupiers of the proposed caravans. It is therefore considered that limited weight should be attached to this consideration.

9.42 Human Rights Act 1998

The applicant has raised Human Rights as part of this application. They are a material consideration. The Act came into effect in October 2000 when provisions of the European Convention on Human Rights were incorporated into UK law. The Act makes it unlawful for a public authority to act in breach on Convention Rights unless it could not have acted differently under primary legislation. Any interference with a Convention Right must be proportionate to the objective in question and must not be arbitrary, unfair or oppressive. Some rights are “qualified” rights, not “absolute”. It is unlawful for a public authority to act incompatibly with the Convention rights. However, a public authority will not have acted unlawfully under the Act if as the result of a provision of primary legislation (such as another Act of Parliament) it could not have acted differently. The following is a brief summary.

9.43 Article 8 relates to “Private life and family”. This includes the right to enjoy living in your home without public authorities intruding or preventing you from entering it or living in it. The Article confers the right to the peaceful enjoyment of one’s home. The right may be restricted, provided such interference has a proper legal basis, is necessary in a democratic society and is proportionate.

9.44 Protocol 1, Article 1: Protection of property. The right to the peaceful enjoyment of your possessions without interference. A public authority will not breach this right if a law says that it can interfere with, deprive, or restrict the use of a person’s possessions, and it is necessary for it to do so in the public interest. The Article requires public authorities to strike a fair balance between the general interest and the rights of individual property owners.

- 9.45 None of these confer a right to a home but the right to enjoy ones home peacefully. Further, an interference must be weighed against the wider public interest. If the development is considered harmful to the Green Belt the very special circumstances advanced do not outweigh that harm, then permission should be refused. Therefore, refusal, if necessary would be proportionate, and would not lead to a violation of their human rights under the above Articles.
- 9.46 In certain limited cases, Article 2: Right to Life, may also apply. This Article imposes a duty on the 'state' (in this case the planning authority) to take positive steps to protect life where it is being threatened. For example, where there is an environmental hazard that poses a very high risk to the life of the people living nearby, the council may have a duty to provide information about that hazard to enable the people to take steps to protect themselves and their families.
- 9.47 If refusal of this application is considered necessary and proportionate, it is considered that this would not result in a violation of the human rights of the applicant or his children and their families. This opinion has been agreed with in appeal reference APP/E2001/A/11/2149969, Land at Backcarr Lane, Nafferton, East Riding of Yorkshire.

The recent appeal decision for Foxes Lane in the same Green Belt

- 9.48 The additional information relates to the Foxes Lane appeal decision in two contexts. The first relates to the weight that the inspector attached to the unmet need in accordance with the East of England Plan. This unmet need has been discussed above. The second relates to the planning inspectors view of the consequence of refusing the application with reference to Article 8 of the European Convention of Human Rights. Again this has been addressed above.
- 9.49 Whilst the Foxes Lane appeal was upheld, the reason for this related to the unique circumstances of that application and a balancing exercise between those elements for and against that proposal. The current application, relates to a different site, in a different context. The personal circumstances and known living arrangements of the applicants differ as does the level of encroachment on the Green Belt and the impact on its visual amenity. So whilst Foxes Lane is a material consideration in the determination of this application, the consideration of it should relate to the way in which the application was considered, rather than the weight attached to the various issues.

3. Whether the proposal complies with Development Plan policies

- 9.50 The East of England Plan (Single Issue Review): Policy H3: Provision for Gypsies and Travellers requires the Council to make provision for 17 additional pitches by 2011 (as part of a regional requirement to make provision for a backlog of 1,237 residential pitches and 160 transit pitches) and then a further 14 by 2021. The policy states "... *that local authorities should achieve the levels of provision required by 2011 as soon as possible through development control decisions and Development Plan Documents*". In the absence of a relevant Development Plan Document, such as a Site Allocations document, this application falls to be determined through a development control decision.
- 9.51 Local Plan policy H13: Gypsy Sites is also relevant. This states:

"Planning permission will be granted for small-scale gypsy sites where all of the following criteria can be met:

- (i) The proposed site is not within the Green Belt, unless special circumstances exist which might exceptionally make such development acceptable;*
- (ii) The site has good, safe and convenient access to the road network;*
- (iii) The site is conveniently located for schools and other community facilities;*
- (iv) The site will not visually encroach into the open countryside;*
- (v) The use would not detract from convenient, safe and enjoyable use of a public right of way;*
- (vi) The site should either have substantial natural screening or be landscaped and screened with new planting;*
- (vii) The requirements of the appropriate design policies and guidance can be met;*
- (viii) Hardstandings can be provided and the site is capable of being provided with basic facilities including electricity, water supplies, sewage disposal and waste collections;*
- (ix) The site will be situated so that it neither affects the visual amenity or character of the area or nearby residents, nor is it affected by any environmental hazards which may affect the residents' health or welfare”*

- 9.52 As identified above, the proposed development is in the Green Belt and constitutes inappropriate development. In accordance with criteria (i) the very special circumstances forwarded by the applicant are considered above. However, it should be noted that Policy H13 states “*unless special circumstances exist which might exceptionally make such development acceptable*”. The use of the term ‘*exceptionally*’ does not relate to national planning policy or Circular 01/2006, which refer to ‘*very special circumstances*’. To determine the application on the basis of ‘*exceptional*’ would go beyond what is reasonably required in national planning policy. The considerations above are therefore based on ‘*very special circumstances*’. Criteria (iii) and (iv) have also been dealt with above.
- 9.53 Criteria (ii) relates to the access to the site. Hertfordshire County Council (Transportation Planning and Policy) have assessed the proposal and advised that the proposal would not have an adverse impact on the safe and efficient operation of the surrounding public highway. Sufficient space is available on site for parking of vehicles. To increase the sustainability of the site, it would be reasonable, if approved for a condition to be attached requiring the submission of details for the parking of bicycles.
- 9.54 The proposed development does not affect a public right of way, so (v) is not relevant to this application. The nearest footpath is approximately 100 metres to the west/south west.
- 9.55 Criteria (vi) relates to the consideration of the proposal against design policies and guidance.
- 9.56 Policy D1 of the local plan is applicable to design. This requires developments to meet a high standard of design. Additionally, Good Practice Guide, ‘Designing Gypsy and Traveller Sites’, May 2008, Communities and Local Government is also relevant.
- 9.57 This document, paragraph 4.4 states that sites are designed to provide for a mobile home, touring caravan and a utility building, together with space for parking. Paragraph 7.17 details that:

“It is essential for an amenity building to be provided on each pitch...The amenity building must include, as a minimum, hot and cold water supply; electricity supply; a separate toilet and hand wash basin; a bat/shower room; a kitchen and dining area.”

Amenity buildings also need to meet current Building Regulations. They would be served by drainage and have electricity and discussions with Building Control have confirmed that they would require Building Regulations and would be subject to the same considerations as any other residential development. A timber building would not meet these.

- 9.58 The 1:500 Block Plan received and dated 24 August 2011 shows five residential caravans and five utility blocks located on the hardstanding at the western end of the application site. Following discussions with the applicant and their agent it is evident that these caravans would be touring caravans. The five utility blocks would be of a timber construction, with narrow walls and would be approximately 3 metres square. They provide bathroom facilities, with water and electricity being provided from the dwellinghouse, 17 The Avenue.
- 9.59 The proposed pitches would not comply with the good practice guidance detailed above. The amenity building would not provide storage, a utility room, a kitchen or a dining area. Whilst this may be an active choice by the applicant, it is still reasonable to assume that there would be significant pressure in the future to grant permission for more permanent and significantly larger amenity blocks to meet the needs of these young families. These would have a considerably greater impact on the openness and visual amenity of the Green Belt and would require the hardstanding to be extended. It is an active choice of the applicant to provide the application in this form, so it is not considered that would be reason to refuse the application. However, if it is decided that permission on a permanent or temporary basis should be granted, this should be subject to condition limiting the each of the five pitches to a touring caravan and a utility block as depicted on the proposed plans
- 9.60 Criteria (viii) relates to the provision of Hard standings, Electricity, Water, Sewage and Waste Collections:

Hard standings: A hardstanding and access have already been laid on the site. In order to provide a level surface significant excavations took place along the access and to the rear (western end) of the application site. The hardstanding has fundamentally altered the visual amenity of the application site and has result in the loss of and damage to a large number of trees, although the exact number is not clear. The consideration of the impact of the hardstanding is considered below.

Waste Collections: Welwyn Hatfield Borough Council's Client Services has advised that refuse would need to be provided on the boundary of the site. This could be provided in a safe location off the highway and therefore this part of the criterion could be complied with.

Electricity and Water: It is understood that the site would be connected through the dwellinghouse at 17 The Avenue. It would therefore be reasonable to conclude that this would be complied with.

Drainage/Sewage: Same as electricity and water.

- 9.61 Criterion (ix) relates, in part, to the impact on visual amenity and criteria (vi) relates to natural screening and landscaping. These will be considered together. PPG2 also sets out that development in the Green Belt needs to be considered in terms of its impact on visual amenity.
- 9.62 Prior to the formation of the access and the laying of the hardstanding, the application site was an undeveloped site. The access was a narrow strip of land in-between 17 and 19 The Avenue, which contained a footpath that provided access to the paddock and lined by trees. The main body of the site was part of a paddock. It considered of grassing land and a number of trees. This is the starting point for considering the impact on the visual amenity and character of the area.
- 9.63 The site is located to the rear of dwellinghouse in The Avenue. The access is clearly visible from the highway and the site can be viewed up this access. The site is visible from the surrounding residential sites, which is evident from the photos submitted with some of the letters of representation. The site is also visible when travelling south on the A1/M during the winter months, due to its elevated position and the lack of leaves on the trees. To the west of the application site is Wildlife Site 18, which is part of the Danesbury Settled Slopes, a Landscape Character Area. The application site is also part of this Landscape Character Area. A footpath runs through the area to the Wildlife site approximately 100 metres to the west of the application site. It is evident from the letters from neighbouring residents that the wildlife site to the rear of the site is used by a large number of local residents for recreational purposes. A number of residents refer to the 'Spinney', which is what they call the strip of trees and landscaping that used to run along the rear boundary of the application site. They clearly know the rear boundary of this site well and consequently it is reasonable to assume that they would continue to use the land to the rear of the site for recreation purposes and the site would continue to be viewed from this perspective.
- 9.64 The wildlife site to the west is open and the western boundary of the site is visible throughout. The amount of soft landscaping along the western boundary of the site has been significantly reduced in recent years. Using the aerial photos available on Google and Bing maps and the comments in the representations received, it is reasonable to assume that this is primarily due to the excavations that took place at the western end of the application site to enable a flat surface to be created. This is clearly evident on site with the exposed bank at the western end of the site, which used to be level with the rest of the paddock as the photos of the site prior to the development clearly show. Running along the western boundary of the application site are/were a number of trees protected by TPO1 G5 (1972). This order includes 8 Oaks, 3 Elms and 1 Cherry Tree. It is evident on site that not all of these trees remain and those that remain and are adjacent to the hardstanding have been harmed by the excavation works carried out on the site. The impact on these trees is addressed below.
- 9.65 The hardstanding and access have fundamentally altered the character and visual amenity of the application. This is clear from the aerial view of the site that can be obtained from Google Maps and Bing Maps and the Landscape Officer has expressed the same concern. All of the trees along the access and the majority within the main body of the site have been removed and the proposal now has an urban appearance, rather than a rural character on the edge of existing development. Similarly the caravans and utility blocks would form uncharacteristic additions on a site where there has previously been no

development. It is acknowledged that the touring caravans would not be permanent fixture on the site. However, with four of the applicant's children with young families, and as one of the reason for finding a permanent base is to provide them with permanent education, it is reasonable to assume that these caravans will be on the site for many months of the year, with term time approximately eight months of the year.

- 9.66 The Landscape Officer was able to observe the health of the trees from the Wildlife Site to west of the application site. Some of the protected Oak trees are dead with large deposits of spoils around the base of the trees, but the Landscape Officer highlights that it is not clear when these trees died and whether it is the work that has been carried out in relation to this application that caused these to die.
- 9.67 The protected Oak trees that remain are located adjacent to the top of the bank where the excavation took place to create the hardstanding. Whilst the agent has not responded to attempts to arrange a site visit for the Landscape Officer, they have been able to use the Case Officers site photos, aerial photos and photos submitted by residents to assess the impact of the excavations. It is clear from these photos that half of the root system of the remaining Oaks has been removed, which the Landscape Officer considers would have a detrimental impact on the health, stability and visual amenity of these protected trees. They also highlight that these works were unnecessary and if the applicant had consulted the Council before carrying out the works the damage to these trees could have been avoided. As it stands though, the stability of these trees has been significantly reduced and could impact on the future use of the site and the public land to the rear of the site.
- 9.68 A number of unprotected trees have also been removed from within the site to make way for the access and the hardstanding. The removal of these trees has further reduced the visual amenity of the site and the Landscape Officer states that their removal only serves to increase the pressure on the protection of the protected trees along the boundary of the site. The Landscape Officer does acknowledge that replanting is discussed in the supporting information, but, in their opinion, there is insufficient space for planting to take place to suitably compensate for the harm caused to the visual amenity of the site. The visual amenity of the site has been significantly harmed and it will take decades for this to be restored.
- 9.69 Whilst the excavations have had a detrimental impact on the health and visual amenity on the protected trees along the boundary, it has also reduced the prominence of the proposed development. Similarly, a fence has been erected along the western boundary when reduces the visibility of the site from the Wildlife Site. However, the excavations and the erection of a closed boarded fence in this location are not considered acceptable due to their impact on the visual amenity of the site and the Green Belt. The removal of the fence would increase the prominence of the site and increase the impact of the development on the visual amenity on the Green Belt.
- 9.70 It is considered that, based on the evidence available, the excavation and the laying of the hardstanding and access have had a detrimental impact on the visual amenity of the application site and will be to the detriment of the health, stability and visual amenity of the protected trees along the boundary of the site. Whilst a landscaping condition would partially compensate for the harm caused by the development, it is not considered that this would compensate for the harm

caused by the proposed development. This is especially true in the winter months when the harm would still be appreciated through a landscaping scheme and when the caravans are more likely to be present due to school term times. It is therefore considered that moderate weight should still be attached to the harm of the proposal on the visual amenity and character of the area, even with the landscaping condition attached.

- 9.71 Criterion (ix) also relates to the impact on neighbours residential amenity and the affect by environmental hazards which may affect the residents' health or welfare.
- 9.72 The application site adjoins onto the northern boundary of 15 and 17 The Avenue and the western boundary of 19 The Avenue. 15, 17 and 19 The Avenue are located within 10 metres of the vehicle access to the site and 15 The Avenue is located within the 20 metres of the nearest caravan. A reasonable amount of natural screening exists between 15 and 19 The Avenue and the application site. Whilst there may be a small amount of disturbance caused by vehicles using the access, this would not be dissimilar to the access road that exists to 13 and 15 The Avenue to the rear of 17 The Avenue or the access road that runs along the northern side boundary of 20 The Avenue that provides access to 22 and 24 The Avenue. It is not considered that the proposed access would be to the detriment of the residential amenity of adjoining occupiers.
- 9.73 Giving consideration to the scale of the proposal, the siting of windows in the adjoining properties and the orientation of the dwellings, it is considered that the proposal would not have an unreasonable impact on the daylight or sunlight afforded to the neighbouring residency, have an overbearing impact or the level of privacy they currently enjoy. It is considered that the proposal would not have a detrimental impact on the amenity of adjoining occupiers in accordance with Policy D1.
- 9.74 Objections have been received on the basis of house values being affected and difficulties selling homes. Concern has been raised over health and safety issues and the depositing of rubble and rubbish in the local area. These issues relate to land outside of the application site and do not specifically relate to the proposed residential use of this site if planning permission was granted. These are not normally planning considerations and therefore cannot be given significant weight as part of this proposal.
- 9.75 The following paragraphs consider noise and vibration, contamination and flood risk. These are all matters that are referred to within Circular 01/2006, paragraph 64 'Sustainability', as well as policy H13. This requires consideration to and assessment of environmental impacts in the allocation of sites for Gypsy and Travellers. It is necessary, therefore, to ensure that the site is environmentally safe for the families to live.

Noise and Vibration: The site is adjacent to the A1(M) and is therefore subject to traffic noise throughout the day and night. Some indicative information readings were taken on site by the Environmental Officer, which indicated that noise levels on the site would be at the upper end of NEC C. Given the proximity of the application site to the A1/M and the direct line of sight between the two the Local Planning Authority would have expected the issue of noise to have been addressed within the original submission. However, it was not and no noise survey has been submitted.

Environmental Health has requested that a full survey is submitted, including an accurate assessment of the noise levels on the site during the day and night and, based on this assessment, demonstrating sufficient mitigation measures. Without this information it is not possible for Environmental Health to fully consider the impact upon the living conditions of the families and make any conclusions.

Land Contamination: This was a greenfield site. There is evidence that materials and vehicles have been stored on the hardstanding since it was laid, however, there is no reason to believe that the site was contaminated before the hardstanding was laid.

Flood Risk: The application site is not within a Flood Zone and is over 600 metres from the nearest river.

4. Sustainable Development

9.76 Paragraph 64 of Circular 01/2006 advises that:

“Issues of sustainability are important and should not only be considered in terms of transport mode and distances from services. Such consideration should include;

- a) the promotion of peaceful and integrated co-existence between the site and the local community;
- b) the wider benefits of easier access to GP and other health services;
- c) children attending school on a regular basis;
- d) the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment; and,
- e) not locating sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans.”

9.77 The location of the site, close to the settlement of Oaklands could lead to peaceful and integrated co-existence between the site and local community. From the information provided, granting planning permission would enable the family to comply with (b) and (c). The location of the site also complies with (e).

9.78 In relation to (d), very little information has been provided about the travelling habitats of the intended occupiers of the application site. It has only be stated that some members of the family travel to horse fairs, but it is not clear who or for how long. It is also unclear where they currently live and where they stay when they are travelling. Without this information it is not possible to say that the proposed development would provide the sustainability benefits set on in (d) and no weight should be attached to this in the consideration of this application

5. Impact on Protected Species

9.79 The presence of protected species is a material consideration, in accordance with PPS9 (Biodiversity and Geological Conservation), Natural Environment & Rural Communities (NERC) Act 2006 (section 40), Wildlife and Countryside Act 1981 as well as Circular 06/05.

9.80 Protected species such as great crested newts, otters, dormice and bats benefit from the strictest legal protection. These species are known as European Protected Species (‘EPS’) and the protection afforded to them derives from the

EU Habitats Directive, in addition to the above legislation. Water voles, badgers, reptiles, all wild birds, invertebrates and certain rare plants are protected to a lesser extent under UK domestic law (NERC Act and Wildlife and Countryside Act 1981).

- 9.81 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.”

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

- “Deliberate capture or killing or injuring of an EPS”
- “Deliberate taking or destroying of EPS eggs”
- “Deliberate disturbance of a EPS” including in particular any disturbance which is likely –

(a) to impair their ability –

(i) to survive, to breed or reproduce, or to rear or nurture their young,
or,

(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate, or

(b) to affect significantly the local distribution or abundance of the species to which they belong

- “Damage or destruction of an EPS breeding site or resting place” (applicable throughout the year).
 - e.g. bat maternity roost (breeding site) or hibernation or summer roost (resting place)
 - e.g. great crested newt pond (breeding site) or logpiles / piles of stones (resting place)
 - e.g. dormice nest (breeding site or resting place (where it hibernates)

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

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

- 9.84 Notwithstanding the licensing regime, the Council as Local Planning Authority (LPA) has a statutory duty to have regard to the requirements of the Habitat

Directive and therefore should give due weight to the presence of an EPS on a development site. Therefore in deciding to grant permission for a development which could affect an EPS the LPA should:

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

- 9.85 A LPA failing to do so would be in breach of Regulation 9(5) of the Conservation Regulations 2010 which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
- 9.86 Directly adjacent to the western boundary of the application site is wildlife site. Hertfordshire Biological Records Centre was consulted. They have no record of any protected species, but they have noted that from their records that the site would be an attractive place for birds to nest. They have therefore recommended that the clearing of the application site take place during the winter months.
- 9.87 The letters of representation have stated that historically there was a badger sett at the western end of the application site and a photograph of a newt in the rear garden of 25 The Avenue was submitted. There is no evidence of the badge sett on the application site anymore and Hertfordshire Biological Records Centre does not have a record. It is understood that the police were informed of the destruction of this Badger set, but no action was taken. There appears to be no evidence that badgers lived on the site and there is no evidence to suggest that the laying of the hardstanding would adversely affect any badgers within the surrounding area. With regard to the photo of the newt, it was not claimed that this was a great crested newt and Hertfordshire Biological Records Centre concluded that it was a smooth newt. It is therefore not a protected species and no further consideration is required here.

8. Balancing exercise

- 9.88 The summary of the considerations outlined in the report requires a balance between the matters which support the application and those which indicate permission should be refused.
- 9.89 Against the proposal:
- Harm by inappropriateness, which carries substantial weight;
 - Harm to the openness of Green Belt, which carries significant weight;
 - Harm to Green Belt purposes – safeguarding the countryside from Encroachment, which carries moderate weight;
 - Harm to the visual amenity of the Green Belt, which is of moderate weight; and
 - Character and appearance of the area, which carries moderate weight.
 - The environmental constraints of the site – noise and vibration. This carries significant weight.
- 9.90 In favour of the proposal:

- The immediate unmet needs for sites, which attracts substantial weight;
- The consequences for the applicants if the application is refused, this carries limited weight.
- Access to education for the applicants grand children; which carries limited weight
- The health of the applicant and his wife, which carries limited weight
- The recent appeal decision for Foxes Lane in the same Green Belt, which carries limited weight

9.91 Overall, it is considered that there is greater aggregate weight against the development rather than in favour. It is considered that the considerations in favour of the development do not outweigh the harm to the Green Belt and as such, the applicant has failed to demonstrate to the satisfaction of the Local Planning Authority that very special circumstances exist that outweigh the harm to the Green Belt. The proposal therefore fails to comply with criterion (i) of policy H13, as well as criterion (ix) in respect to the visual amenity and character of the area.

10. Other Considerations

9.92 **Equality and Race Relations:** The Equality Act 2010, which came into effect on 1st October, includes a new public sector Equality Duty, replacing the separate public sector equality duties relating to race, disability and sex, and also covering age, sexual orientation, religion or belief, pregnancy and maternity, and gender reassignment. Part 11, Section 149 provides the following ‘Public sector equality duty’ on authorities:

“(1) – A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

9.93 Section 19A of the Race Relations Act 1976 (RRA 1976) prohibits racial discrimination by planning authorities in carrying out their planning functions. In addition, the majority of public authorities, including local authorities, have a general duty under the RRA 1976 as amended by the Race Relations (Amendment) Act 2000 to actively seek to eliminate unlawful discrimination and to promote equality of opportunity and good race relations in all they do. Circular 01/2006 sets out that the duty on local authorities to actively seek to eliminate unlawful discrimination, and promote good race relations does not give gypsies and travellers a right to establish sites in contravention of planning control.

9.94 Welwyn Hatfield Equalities and Diversity Policy 2009 and Welwyn Hatfield Council’s Single Equality Scheme 2011-2014 require the Council to properly

consider its duty in relation to this area of legislation. It is therefore necessary for the authority, in consideration of this application, as with consideration of any other application, to ensure that the above requirements have been met.

- 9.95 The application site is separated from Oaklands by the A1(M), although it is adjacent to the settled community that live in The Avenue on the northern side of the A1(M) and is close to the services within Oaklands, which would enable any future occupiers of the site to integrate themselves with the existing community.
- 9.96 **Commercial Use:** It has been specifically stated that the application site would not be used for commercial purposes and no materials would be stored on site, although the photos submitted by neighbouring residents and the site photos demonstrate that materials have been stored onsite. It is stated that vehicles used for jobs conducted by the occupiers of the site would be located on the site at night, but this would be incidental to the residential use of the site. If the situation was change and the applicant wanted to use the site in relation to their business then planning permission would be required and this would be considered on its own merits at that moment in time.

12. Neighbour Representations

- 9.97 The majority of neighbour representations have been addressed within this report. There are still a number that have not been discussed as part of the report, these are discussed below.
- 9.98 '17 The Avenue is also used for housing foreign workmen and a base for running an industrial business, with numerous vans, industrial equipment and business materials' – The application relates to a residential use and it has been stated that no business use would operate from the site and no materials would be stored. This application would be subject to a condition to ensure this is the case.
- 9.99 'If approved, the application could set a precedent for other residents to build buildings on their land for their children or to sell on for a profit' – Each application is considered on its own merits under the guidance and policies set out at a national, regional and local level and in accordance with any other relevant material planning consideration. If residents of The Avenue wish to build buildings within their sites then these applications will be dealt with based on the planning policy context at that moment in time.
- 9.100 'Acting without planning permission demonstrates a willingness to do things without the appropriate permissions in place' – This application has been submitted to resolve the unlawful development and change of use that has taken place on the application site. If any other unlawful development takes place then this will be dealt with at that point in time.
- 9.101 'There is another gypsy site within half a mile on the Great North Road. How dense can sites expect to be?' – There are no restrictions on the density of sites within a given area. The application site is distinctly separate to that on the Great North Road and the proximity of this site within half a mile is not relevant to the determination of this application.
- 9.102 'The applicant's ponies have entered neighbouring sites as they do not maintain their fences' – The keeping of ponies and the maintenance of fences does not relate to the proposed development and is not a material consideration in the determination of this application.

9.103 'The house at 17 The Avenue barely used, family live in caravans to the rear' – The use of 17 The Avenue has been considered in officers enforcement investigations of the site. It does not relate to the determination of this application, which relates to the use of the land to the rear of 17 and 19 The Avenue, which is a separate site.

10 Conclusion

- 10.1 The proposal is for the retention of gypsy site with five residential caravans and five utility blocks, although it is proposed only one of these caravans has been located on site and to removed all of the existing structures from the site. The development is considered to be inappropriate development because it would be to the detriment of the openness of the Green Belt and would conflict with the third purpose of including land within it. The applicant, in accordance with PPG2: Green Belts, paragraph 3.2 has fail to demonstrate to the satisfaction of the Local Planning Authority that very special circumstances exist that would outweigh the harm of the proposal by virtue of its inappropriateness and its impact on the visual amenity of the Green Belt.
- 10.2 Additionally, the site is constrained by noise. Insufficient information has been provided to enable an assessment of noise and vibration on the site and its impact on the occupiers of the site. Accordingly the development fails to comply with the relevant policy considerations.
- 10.3 It is not considered that Human Rights Act 1998 or The Equality Act 2010 should outweigh the considerations to each of the matters addressed above.

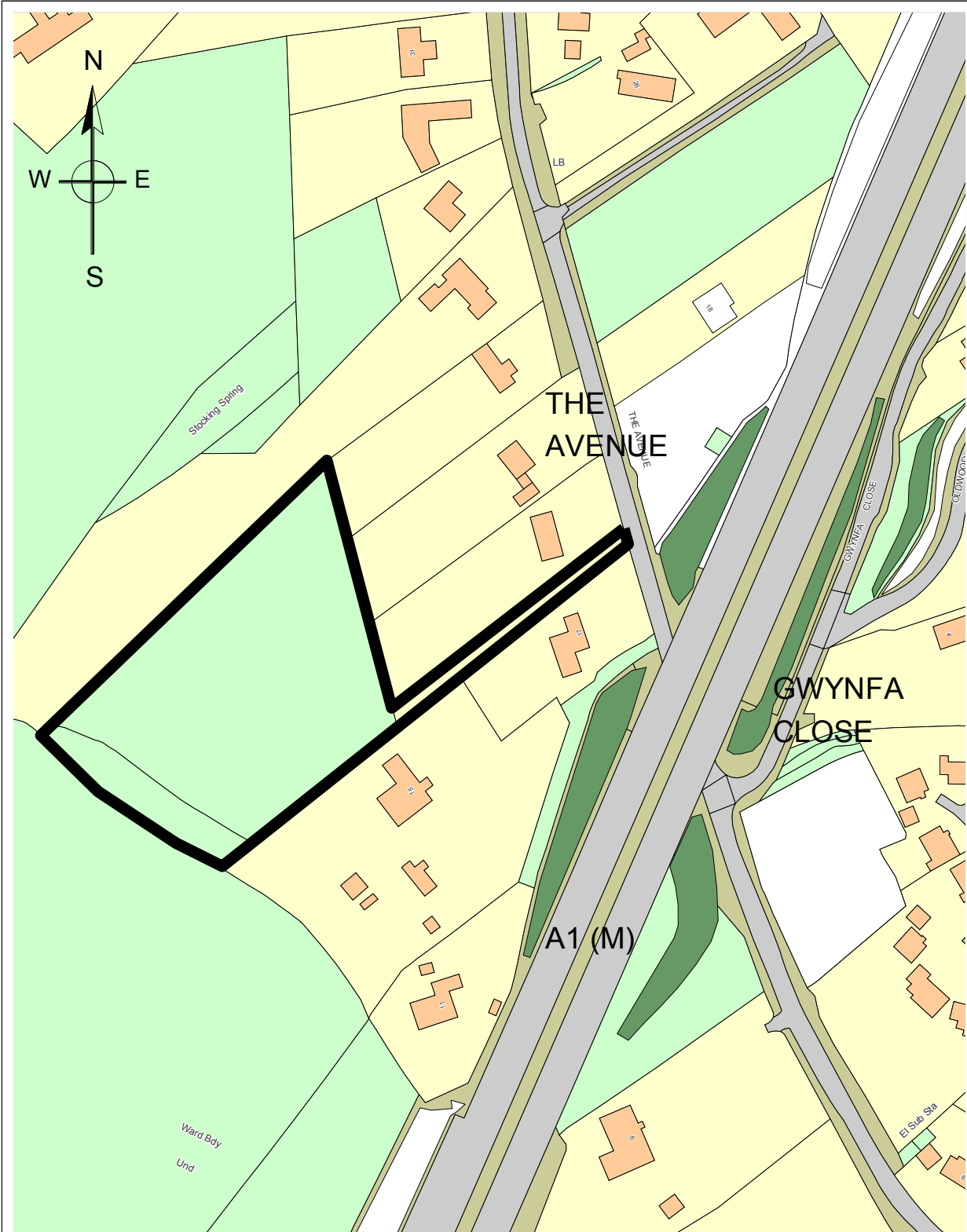
11 Recommendation

- 11.1 It is recommended that planning permission be refused for the following reasons:
1. The proposed development, by virtue of the scale of the hardstanding and the siting of five caravans and five utility blocks would be to the detriment of the openness of the Green Belt and would encroach into the Green Belt contrary to the third purpose of including land within it. The proposal would, therefore, be inappropriate development in the Green Belt. The proposal would also have a detrimental impact on the visual amenity of the application site and the Green Belt. The applicant has put forward a case to demonstrate Very Special Circumstances, however, the Local Planning Authority do not consider that the Very Special Circumstances that have been demonstrated are sufficient to outweigh the harm of the development on the Green Belt. The proposal therefore fails to comply with the PPG2 and Policy H13 of the Welwyn Hatfield District Plan 2005.
 2. Insufficient information has been submitted to determine whether the site is suitable for use as a gypsy site with touring caravans, given the potential impact from the adjacent A1(M). An assessment of noise and vibration from the nearby railway line by a qualified and competent person is required in accordance with the provisions of PPG24: Planning and Noise, BS 6472:1992 "The evaluation of human exposure to vibration in buildings" and policies H13 and R19 of the Welwyn Hatfield District Plan 2005.

Refused Plan Numbers: 1:1250 Site Location Plan & 1:500 Block Plan & Utility Block (Proposed) & WG1 received and dated 24 August 2011.

Sam Silcocks (Strategy and Development)
Date (5 December 2011)

Background papers to be listed (if applicable)



<p>Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE</p>	<p>Title: 17 The Avenue, Welwyn</p>	<p>Scale: DNS</p>
	<p>Project: PCC Meeting</p>	<p>Drawing Number: ENF/2010/0453</p>
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WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

Action Following Appeal Decisions

1. DCLG Ref No: C1950/A/11/2151475
Application No: S6/2009/2061/MA
Appeal by: Mr M Kanal
Site: Land to the north of Colesdale Farm, Northaw Road East, Cuffley
Proposal: Retention of chicken shed
Decision: Allowed – 18 November 2011

2. DCLG Ref No: C1950/A/11/2157036
Application No: S6/2011/0685/FP
Appeal by: Ludgate Property Developments
Site: Land at rear of 123 Tolmers Road, Cuffley
Proposal: Erection of new dwelling
Decision: Dismissed – 22 November 2011

3. DCLG Ref No: C1950/A/11/2153774
Application No: S6/2010/1981/FP
Appeal by: Mrs Gail Erkan
Site: 5 Strawmead, Hatfield
Proposal: Erection of front & rear porches and conversion of property into two apartments
Decision: Allowed – 25 November 2011 (PCC Overturn)

4. DCLG Ref No: C1950/A/11/2156409
Application No N6/2011/608/FP
Appeal by: Mr R Harding
Site: 10 Danesbury Park Road, Welwyn
Proposal: The demolition of a dwelling and the erection of a new dwelling
Decision: Dismissed – 6 December 2011
5. DCLG Ref No: C1950/A/11/2149249
Application No N6/2011/0006/DS
Appeal by: Fairhaven Properties Limited
Site: 12 – 14 The Avenue, Oaklands, Welwyn
Proposal: Discharge of conditions 1 (time limit), 2 (landscaping scheme), 3 (materials), 4 (details of ground levels), 5 (boundary treatment), 6 (access and parking), 7 (vehicle visibility splays), 8 (acoustically treated mechanical ventilation), 9 (roof specification), 10 (contamination desk top study) from Planning Application N6/2004/1721/FP and Appeal Decision APP/C1950/A/05/1179937
Decision: Dismissed – 20 December 2011

Recommendation: That the report is noted

Andrew Windscheffel (Strategy and Development)
22 December 2011

WELWYN HATFIELD BOROUGH COUNCIL
PLANNING CONTROL COMMITTEE – 11 JANUARY 2012
REPORT OF THE DIRECTOR (STRATEGY AND DEVELOPMENT)

N6/2011/0951/RW

LAND REAR OF KNELLA ROAD, WELWYN GARDEN CITY, AL7 3NS

DIVERSION OF FOOTPATH

APPLICANT: Crestel Homes

(Haldens and Howlands)

1 Background

- 1.1 Planning application N6/2011/0218/MA for the change of use of land from garages to residential with the erection of 24 affordable dwellings including a new vehicular access, parking and associated landscaping at land to the rear of 217-243 Knella Road, was granted planning permission on 30 August 2011. Due to the existence of a footpath to the western side of the application site and because this is affected by the proposed development an Order under Section 257 of the Town and Country Planning Act 1990 is required to divert the existing footpath.
- 1.2 As members will recall, members gave delegated authority to the Head of Development Control to make and advertise the Order and confirm the Order as an unopposed Order if there are no objections. However, four objections have been received, two from neighbour representations and two from statutory consultations, which have not been withdrawn and therefore the application cannot be confirmed by the Council and has to be referred to the Secretary of State for confirmation as the objections cannot be resolved.

2 Financial Implication(s)

- 2.1 The costs of works associated with the footpath will be paid by the developer, Crestel Homes. The costs associated with the footpath can be reclaimed from the applicant. However, Authorities are not permitted to charge to applicants the cost of pursuing an opposed order and a charge may be made only for the administrative costs incurred up to the point where the order is submitted to the Secretary of State for determination, and where such orders are subsequently confirmed, in advertising that confirmation.

3 Risk Assessment

- 3.1 The risk of not allowing the footpath to be diverted will result in problems such as delays in construction, increased costs and amended plans for delivering the affordable homes permitted on the site to the rear of Nos. 217-243 Knella Road.
- 3.2 Officers will attempt to mitigate against this risk by providing a robust statement to the Secretary of State, which is outlined with section 7 below.

4 The Proposal

- 4.1 The existing footpath runs near to the western boundary of the application site. Planning application N6/2011/0218/MA detailed the diversion of this footpath which would be alongside the western boundary of the application site which adjoins Hems Wood and alongside No. 215 Knella Road to the junction with Knella Road.
- 4.2 The proposed footpath would be sited to the west of the existing footpath. It would run generally south from the existing entrance into the alley way from Hems Wood alongside a newly created boundary with Hems Wood. It would then run alongside the boundary with No. 215 Knella Road for approximately 30m until it meets the junction with Knella Road. The footpath would have a width of 2m.

5 Representations Received

- 5.1 This application has been advertised by site notice and newspaper notice. Two objections have been received from two residents.
- 5.2 Summary:
- Concerns with the disturbance to wildlife in Hems Wood; and
 - The new path position will require removal of at least three mature trees, which are at present a screening barrier between the existing houses and the industrial area.

6 Consultations Received

- 6.1 **Hertfordshire County Council Transportation Planning and Policy Department** – No objections received and consultation expired 28 December 2011.
- 6.2 **Auto Cycle Union** – No objections received and consultation expired 28 December 2011.
- 6.3 **British Horse Society** – Objects to the Order. The Society agrees with the points raised by Open Spaces Society. It believes that the order should state 'Limitation: None' if that is to the case, to ensure future certainty and to be in accordance with the order guidelines published by County Council. The Society objects to the status of the path, but would withdraw if there were a concurrent creation agreement to raise the status from footpath to bridleway.
- 6.4 **Open Spaces Society** – Objects to the Order. By this order 4 refers to works but does not specify them. By this order 5 says Crestel will pay for the said works, but if there are none it should be deleted. Part 2, The Order should stated that point X is at the public road (Knella Road). Two metres is the minimum width of footpath normally accepted by HCC. No reason is given for such a dangerously narrow width. I have observed several cyclists using this path and there is a clear public need for that, and even at footpath status two metres does not allow two persons with dogs to pass each other on foot amicably. Does the planning consent, in itself, restrict this path to two metres? Is there to be an access roadway? Is that to be public? All this is pertinent and unless resolved then please take this in itself as an objection to the order. Part 2 should say limitations none, through this may not be strictly necessary in the light of Defra's guidance. What happened to the designation Bridleway as mentioned by the

developer? I have grid reference have not been checked. The draft, at the end, says it was an unopposed Order, would that it were. It is good that some of the issues raised previously have been addressed, but please take those that have not yet been addressed as still standing. Finally if you have arranged for the development to pay you for the your work then it would be appreciated if a proportion of that is paid to my Society for the assistance we have given in bringing about those improvements from the earlier draft.

- 6.5 **Byways and Bridleways Trust** – No objections received and consultation expired 28 December 2011.
- 6.6 **Ramblers Association** – No objections received and consultation expired 28 December 2011.
- 6.7 **Cyclists Touring Club** – No objections received and consultation expired 28 December 2011.
- 6.8 **British Driving Society** – No objections received and consultation expired 28 December 2011.
- 6.9 **Countryside Management Service** – No objections received and consultation expired 28 December 2011.
- 6.10 **Hertfordshire County Council Definitive Map Officer** – No objections received and consultation expired 28 December 2011.
- 6.11 **East Herts Footpath Society** – No objections received and consultation expired 28 December 2011.
- 6.12 **Hertfordshire County Council Rights of Way** – No objections received and consultation expired 28 December 2011.
- 6.13 **Herts Right of Way Association** – No objections received and consultation expired 28 December 2011.
- 6.14 **Midwest Highways** – No objections received and consultation expired 28 December 2011.

7 DISCUSSION:

The main issues are:

- 1. Whether the diversion of the public right of way is necessary; and**
- 2. Other Material Considerations.**

1. Whether the diversion of the public right of way is necessary

- 7.1 The existing footpath runs near to the western boundary of the application site. Planning application N6/2011/0218/MA details the diversion of this footpath which would be alongside the western boundary of the application site which adjoins Herts Wood and alongside No. 215 Knella Road to the junction with Knella Road. This will have the effect of maintaining pedestrian safety as the proposed development would create conflict between users of the footpath and cars accessing the development and the proposed car parking bays at the entrance of the site. Officers therefore raise no objections to the diversion of the right of way.

2. Other Material Considerations.

- 7.2 With regard to the representations received the Order has been prepared in the form prescribed by the Town and County Planning (Public Path Orders) Regulations 1993. The description of the schedule includes details of the width and path to be diverted.
- 7.3 A concern has been raised with regard to the width of the footpath. Schedule 12 A of the Highways Act 1980 states that the minimum width of a footpath which is not a field edge path is 1m. In this instance no objections have been raised from Hertfordshire County Council Rights of Way Officer concerning the proposed Order. Notwithstanding this, if the applicant was to consider widening the footpath this may be possible within Hems Wood given that Welwyn Hatfield Borough Council own this land. However, given that part of the footpath would be diverted between Nos. 215 and 217 Knella Road, there would not be space to create a wider footpath as this would interfere with the width of the proposed vehicular access road into the site. A narrower access road into the site would be likely to raise concerns with Hertfordshire County Council Transportation Planning and Policy Department in terms of highway safety.
- 7.4 An objection is raised concerning Part 2 of the Order where the objection stated that it does not refer to Limitations. However no limitations are proposed. Only if there is a limitation proposed should this then be recorded within the order.
- 7.5 The right of way is designated as a footpath and not a bridleway. The proposal is to divert an existing footpath and not to modify it to become a bridleway. It is considered unreasonable to request this from the developer considering the application seeks only to divert it.
- 7.6 Turning to the loss of wildlife and vegetation, these are matters that were dealt with under the planning application, N6/2011/218/MA. The Council's Landscape department and Herts Biological Records Centre (HBRC) and Herts Middlesex Wildlife Trust (HMWT) were consulted on this application.
- 7.7 HMWT stated that to ensure the integrity of the adjacent Wildlife site, conditions should be attached to a permission in relation to no storage or usage of materials in Wildlife site and that no demolition of buildings or removal or vegetation shall be carried out on site between the 1st March and 31st August unless searched by a ornithologist beforehand. HBRC raised no objections but recommended conditions associated with site clearance and the site being searched by a qualified ecologist immediately prior to works commencing.
- 7.8 The Council's Landscaping Team considered that the main concern is the protection of Hems Wood. A Hornbeam is required to be removed which is attractive and has a good life expectancy. However its loss is unlikely to have a detrimental effect on the amenity of the woodland as a whole.
- 7.9 They raised no objections subject to the inclusion of conditions on the planning permission which included a condition referring to tree protection. It should be noted that the trees within Hems Wood are owned by Welwyn Hatfield Borough Council and therefore any additional works would require consent from the Council.

- 7.10 These suggested conditions were placed on the planning permission granted under N6/2011/0218/MA and therefore these seek to ensure that there is no detrimental impact to the wildlife or trees with Hems Wood.

8 Conclusion

- 8.1 Officers consider that the order should be made under s257 of the Town and Country Planning Act 1990 (As amended) and are satisfied that it is necessary to divert the footpath to which the order relates in order to enable development to be carried out in accordance with the recommendation to grant permission pursuant to N6/2011/0218/MA. The objections raised concerning the preparation of the Order are considered to have little weight given that it has been prepared in accordance with the Town and County Planning (Public Path Orders) Regulations 1993 and the impact to wildlife and trees have been dealt with under the planning application. The fundamental concern, with regard to the width of the footpath, is unable to be overcome due to the narrow width between Nos. 215 and 217 Knella Road.

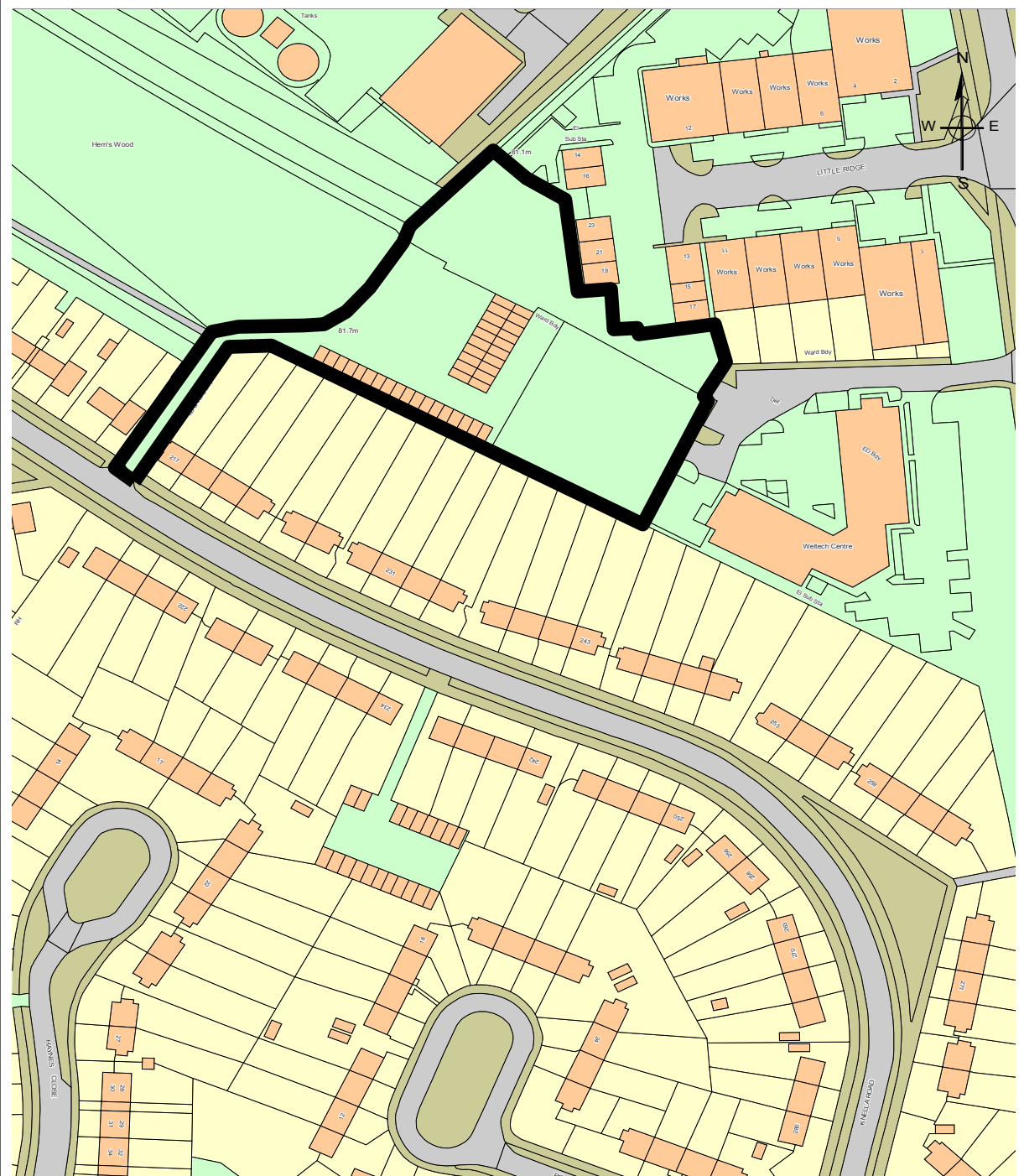
9. Recommendation


- 9.1 That the opposed Order is submitted together with the objections to the Secretary of State for confirmation.

Sarah Smith (Strategy and Development)
Date December 2011

Background papers to be listed (if applicable)

Appendix 1: Public Path Diversion Order



 <p>Council Offices, The Campus, Welwyn Garden City, Herts. AL8 6AE</p>	Title: Land to the rear of 217 -243 Knella Road, WGC		Scale: DNS
	Project: PCC		Date: 14 July 2011
	Drawing Number: N6/2011/0951/RW		Drawn: Andrew Windscheffel
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PUBLIC PATH DIVERSION ORDER
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257
WELWYN HATFIELD BOROUGH COUNCIL (WELWYN GARDEN CITY 9)
PUBLIC PATH DIVERSION ORDER 2011

This order is made by Welwyn Hatfield Borough Council ('the Authority') under section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely:

Land to the rear of 217-243 Knella Road, Welwyn Garden City - Change of use of land from garages to residential with erection of 24 affordable dwellings (6x2 bed flats, 6x2 bed houses, 2x3 bed houses, 9x3 bed houses, 1x4 bed house) including new vehicular access, parking and associated landscaping.

BY THIS ORDER

1. The footpath over the land shown by a bold continuous line on the attached order plan ('the Order Plan') and described in Part 1 of the Schedule to this order ('the Schedule') shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of Welwyn Hatfield Borough Council an alternative footpath for the use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by a bold line with short bars at intervals on the Order Plan.
3. The diversion of the footpath shall have effect on the date on which Welwyn Hatfield Borough Council certify that the terms of Article 2 above have been complied with.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule.
5. Crestel Partnerships is hereby required to pay for the cost of carrying out the said works and for all costs incurred by Welwyn Hatfield Borough Council in making this Order.
6. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

Part 1.

DESCRIPTION OF EXISTING PATH

The full width of Welwyn Garden City Footpath 9 to be diverted from Point A (TL 2535 1263) on the Order Plan running initially in a south south westerly direction then west south westerly direction to Point B (TL 2531 1261) on the Order Plan then south south westerly direction to Point C (TL 2528 1257) on the Order Plan. This distance from Point A to Point C is approx. 70m.

Part 2.

DESCRIPTION OF PROPOSED PATH

The footpath from Point W (TL 2535 1263) on the Order Plan will run generally south west along a newly created boundary with the eastern edge of Hens Wood for approx. 35m. The footpath will then continue in a south south westerly direction and run alongside the boundary with No. 215 Knella Road for approx. 30m to Point X (TL 2528 1257) on the Order Plan.

Width of footpath: 2m between Point W (TL 2535 1263) and Point X (TL 2528 1257).

GIVEN under the common Seal of Welwyn Hatfield Borough Council this.

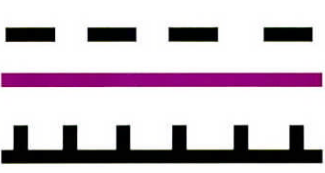
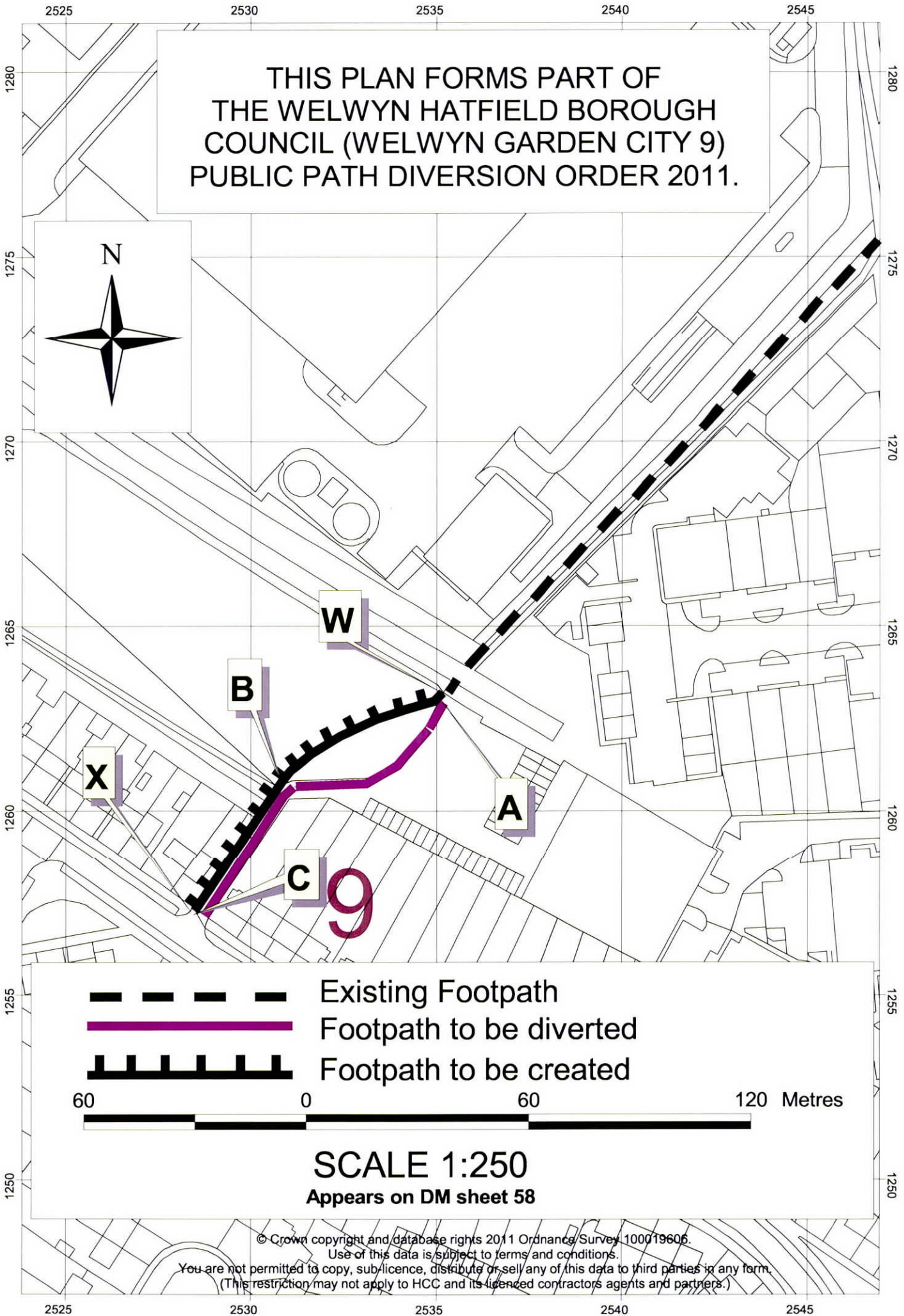
THE COMMON SEAL of the
WELWYN HATFIELD BOROUGH COUNCIL
was hereunto affixed
in the presence of:-

Deputy Mayor

Authorised Officer

This Order was confirmed as an unopposed order by Welwyn Hatfield Borough Council on
2011.

THIS PLAN FORMS PART OF
THE WELWYN HATFIELD BOROUGH
COUNCIL (WELWYN GARDEN CITY 9)
PUBLIC PATH DIVERSION ORDER 2011.



Existing Footpath
Footpath to be diverted
Footpath to be created



SCALE 1:250
Appears on DM sheet 58

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