Planning Committee

9th January 2014

Updates

Item 1

13/2314/FUL

Land at 36-44 Lodge Avenue

Previous application

Application TP/12/2644 was refused by the Planning Committee at the 20th June 2013 Planning Meeting. The reasons for refusal were as follows:

<table>
<thead>
<tr>
<th>1</th>
<th>Policies H8 and D21 of the Hertsmere Local Plan (2003) seek to ensure that new development respects or improves the character of its surroundings in terms of layout amongst other things. This is supported by policy CS22 of the Hertsmere Core Strategy (2013). The proposal is deemed to be over development of the site and is represented by the following characteristics:</th>
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<tr>
<td>•</td>
<td>Unit 5 and unit 6 are next to each other in an awkward and cramped spatial layout.</td>
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<tr>
<td>•</td>
<td>Unit 2, unit 5 and unit 6 are situated on the shared boundaries with no separation distances.</td>
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<td>•</td>
<td>Unit 6 is sited to have direct views from habitable rooms on the first floor in to the rear garden of 38 Lodge Avenue, 40 Lodge Avenue and to the rear of Fir Tree Court.</td>
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<td>•</td>
<td>Unit 3, 4, 5 and 6 have been designed to have a very narrow length in terms of the hard standing to the front of their respective garages. This is contrary to Part D of the Planning and Design Guide (2012) which requires a 6m deep hard standing to the front of the garage.</td>
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<td>•</td>
<td>Units 2, 4, 5 and 6 have small crown roof additions. These crown roof additions add to the overall size and mass of the units. The crown roofs make the units larger in size and thus contribute to the overdevelopment of the site as the spacing and setting of the units are not acceptable.</td>
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<td>•</td>
<td>The close proximity to 3 Tauber Close in terms of proposed and existing habitable room windows.</td>
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<td>•</td>
<td>Narrow access road which is contrary to the required width to serve 5 dwelling houses as a service vehicle would not be able to adequately service the site.</td>
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<td>•</td>
<td>Lack of a suitable turning head.</td>
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<td>•</td>
<td>Under provision of car parking.</td>
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<td>•</td>
<td>Under provision of amenity space serving unit 5 by 17.6m².</td>
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</tbody>
</table>

The detriment that would be caused by reason of the development being

2 Under the Core Strategy (2013) Policy CS4, this site would be expected to provide 35% of units as affordable housing, which is a total of 2 affordable units. The proposal is providing no affordable housing and no commuted sum payment. Paragraph 4.14 and 4.14 of the Affordable Housing SPD (2008) states that where the developer disputes the level of provision being sought on the grounds of financial viability study, an independent valuation will be required. The submitted viability study does not allow a proper determination of the proposal given that the applicant refused to pay for the study to be independently verified. On the basis of the lack of sound evidence in providing affordable housing, the proposal is contrary to the NPPF (2012), Policy CS4 of the Core Strategy (2013), Section 106 affordable housing requirements (April 2013) and the Affordable Housing SPD (2008).

3 The proposed 4m wide access road would not enable a service vehicle and/or a car to pass by together which would be required for a access road serving 5 dwelling houses. The proposed access road serving this site is inadequate by reason of the width at 4m and length at well over 40m to serve the proposed development. The development would therefore be to the detriment of public and highway safety in terms of the safe and free flow of movement. Further, there is insufficient space provided for the turning of vehicles in association with the development this would give rise to conditions detrimental to vehicular and pedestrian safety and as such would result in an unsatisfactory form of development. This would be prejudicial to general provisions of highway safety and convenience and contrary to the NPPF (2012), the Local Plan (2003) policies M2 and M12 and not in accordance with Roads in Hertfordshire “A Guide for New Developments.”

4 The Parking Standards SPD 2010 (as amended) states that four bedroom houses are required to provide 3 parking spaces. The proposal is considered to be unacceptable as the dimensions of the garages are inadequate below the required standard of 3m wide by 4.8m deep. Due to this reason, the proposal under provides on the required car parking amount by 4 car parking spaces. As such, the proposal would not comply with the Council’s Parking Standards (2008, amended 2010), Part D of the Hertsmere Planning and Design Guide (2012), Policy CS25 of the Core Strategy (2013) and the NPPF (2012).

5 Suitable provision for affordable housing, public open space, public leisure facilities, playing fields, greenways, cemeteries, museum and cultural facilities and section 106 monitoring have not been secured. Further, suitable provision for primary education, secondary education, nursery education, child care, youth, libraries and sustainable transport measures
The application therefore fails to adequately address the environmental works, infrastructure and community facility requirements arising as a consequence of the proposed form of development contrary to the requirements of policies R2, L5 and M2 of the Hertsmere Local Plan adopted 2003, Policy CS21 of the Core Strategy (2013), together with the Planning Obligations SPD Part A and Part B (2010), CIL Regulations (2010) and the NPPF (2012).

The proposed scheme would cause harm to those residing at 3 Tauber Close and the residents of Fir Tree Court. The windows of 3 Tauber Close serve habitable rooms apart from the first floor flank window which serves the bathroom. Whether the angle is taken straight from these windows or along a 45 degree line, the distance is less than 20m. There would be a demonstrable harm caused to outlook and privacy of those who reside at 3 Tauber Close as this is contrary to the 20m requirement of Part D of the Planning and Design Guide (2012). Further, the flank and rear elevations of 3 Tauber Close are situated at a proximity of 4m to the shared boundary with unit 2 and unit 3. Thus, the windows of 3 Tauber Close would be within 4m of the rear amenity of the units. This relationship is not deemed as acceptable to either those residing at 3 Tauber Close or to the future occupants of unit 2 and unit 3. Furthermore, bedroom 1 and 2 of unit 5 and bedroom 1 of unit 6 look directly into the rear amenity area of Fir Tree Court. There is a minimum of 6m to the shared boundary. The fact that there are habitable rooms on the first floor looking directly into the rear amenity of Fir Tree Court at a distance of 6m away is not deemed as acceptable. The privacy of the units at Fir Tree Court would be demonstrably harmed due to the close proximity. Objection is therefore raised by virtue of policy H8 of the Local Plan (2003) and Part D of the Planning and Design Guide (2012).

Additional neighbour and consultee responses

Two letters of support have been received from the occupier/owner of 38 Lodge Avenue. The letters of support state that the proposed development would benefit the area, take pressure off of the Green Belt and provide options for housing within Elstree.

Letters of objection has been received from the occupiers/owners of 45 Allum Lane, 7 Knowl Way, 27 Bishops Avenue, 46 and 50 Lodge Avenue. The letters do not raise any additional objections to the application which have not already been covered within the Committee Report.

The County Council has requested the following sums in the form of a S106 contribution:

Primary Education = £14,884
Secondary Education = £17,692
Nursery Education = £1,836
Childcare = £796
Youth = £328
Paragraph 3.2

For clarification purposes the proposal is for the increase of 4 units but overall there are to be 5 new dwelling houses (4 new houses and rebuilding the existing 42 Lodge Avenue) and thus this application is required to be determined by the Planning Committee.

Item 2

13/2395/FUL

The Old Dairy, Shenley Park

Consultations received

Shenley Parish Council raises no objection to the planning application.

The County Council has requested the following sums in the form of a S106 contribution:

- Primary Education = £2,072
- Secondary Education = £1,604
- Youth = £32
- Libraries = £294

The Highways Authority have requested no contribution towards sustainable transport measures.

Recommendation update

Now the requirements of the County Council are known paragraph 1.2 and paragraph 12.2 should read as follows:

Recommendation 2

Should the agreement or unilateral undertaking under Section 106 not be completed and signed by the 21st January 2014, it is recommended that the Managers of Planning and Building Control be given delegated powers to refuse the planning application, if it is reasonable to do so, for the reason set out below:

Suitable provision for public open space, public leisure facilities, playing fields, greenways, allotments cemeteries, museum and cultural facilities and section 106 monitoring have not been secured. Further, monies towards primary education, secondary education, youth facilities and libraries have also not been secured. The application therefore fails to adequately address the environmental works, infrastructure and community facility requirements

Paragraph 10.1

Paragraph 10.1 should read as follows:

The principle of the change of use of the building in the Green Belt was discussed during the pre-application with the previous Officer. The NPPF (2012) paragraph 90 states that the re-use of buildings is appropriate in the Green Belt provided that the buildings are of permanent and substantial construction. There is no mention in the NPPF (2012) that the use of the existing building is required to be the same. Consequently, the principle of residential development in the existing building is considered acceptable. No objection is therefore raised by virtue of policies C1, C3 and C5 of the Local Plan (2003), policy CS13 of the Core Strategy (2013) and the NPPF (2012).

Item 3

13/2017/FUL

37 Newlands Avenue, Radlett

Separation Distances

South side: Increased from existing to between 1.46m – 2m
North side: Same as existing at approximately 1.5m

In the surrounding area side separation distances are minimal, generally ranging between 0mm – 2m.

Examples:

- No.30 (opposite) has two storey development within 920mm of the north side boundary, 1060mm from the south side boundary.
- No.32 (opposite) has two storey development within 1m of both north and south side boundary.

Condition 16

This Condition should read:

NO DEVELOPMENT SHALL TAKE PLACE BEFORE details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development have been submitted to, and approved in writing by, the Local Planning Authority. This shall include details of replacement boundary treatment in the location of the existing
outbuilding on the rear boundary to be demolished. The replacement boundary treatment shall be of adequate height to ensure no privacy is lost as a result of the removal of the outbuilding for the residents of no.31 Newlands Avenue. PRIOR TO FIRST OCCUPATION OR USE OF THE DEVELOPMENT the walls (including retaining walls), fences, gates or other means of enclosure shall be erected as approved and shall thereafter be permanently retained and maintained.

Reason: CR 12 – Visual and residential amenities

(Further detail has been inserted regarding the requirement for replacement boundary treatment)

Condition 17

This Condition should read:

The development hereby permitted shall be carried out in accordance with the following approved plans:

• Design & Access Statement, date stamped 11/09/2013
• Arboricultural Impact Assessment, date stamped 11/09/2013
• Landscape Masterplan, date stamped 11/09/2013
• Drawing No. 1112/S01 Rev. B, date stamped 18/12/2013
• Drawing No. 1112/P01 Rev. C, date stamped 18/11/2013
• Drawing No. 1112/P02 Rev. D, date stamped 18/12/2013
• Drawing No. 1112/P03 Rev. D, date stamped 18/11/2013
• Drawing No. 1112/P04 Rev. D, date stamped 18/11/2013
• Drawing No. 1112/P05 Rev. C, date stamped 18/11/2013
• Drawing No. 1112/P06 Rev. D, date stamped 18/11/2013
• Drawing No. 1112/P07, date stamped 11/09/2013

Reason: For the avoidance of doubt and in the interests of the proper planning of the area.

(Reference to final drawing has been deleted - Drawing No. 291036-06B, date stamped 18/12/2013)

Impact on no.39 Newlands Avenue

A letter has been received from Mr. Tilley of CgMs Consulting on behalf of the residents of no.39 Newlands Avenue on 09/01/2014. The letter addresses the issues of scale, outlook and overlooking on no.39 (the neighbouring dwelling to the north).

The following provides the planning officers response to these concerns:

Scale

The ridge height of the proposed dwelling would be approximately 2.8m higher than the ridge of no.29. The current dwelling has a gable end with a height of 8.2m within
1.5m of the side boundary. The proposed dwelling would have a hipped roof. The height of the dwelling within 1.5m of the boundary would be 7.5m.

This would slope away from the side boundary, thereby increasing the sky gap between no.37 and no.39. The ridge height at 12m of the proposed dwelling would be 11.5m from the ridge of the roof of no.39. Given this separation distance, the increase in height would not be overbearing. In addition, the design of the roof would reduce visual bulk. Given the context and bulk of surrounding development, the proposal while large, would not be out of character. As the proposal meets planning guidelines, the scale would not warrant grounds of refusal.

Outlook

While the proposed dwelling would project further than no.39, it would sit within a 45 degree line. Therefore, in terms of planning policy, would not unduly impact outlook from no.39.

Overlooking

The central balcony, with a width of 2.5m would not allow views backwards towards the rear of the dwelling at no.39. The balcony would be located over 8m to the side boundary. The proposed dwelling projects further rear than no.39 and therefore there would be no outlook to the garden area within close proximity to the dwelling at no.39. This is deemed to be the most usable spaces. Outlook to the rear portion of the garden would not warrant grounds for refusal.

Item 5

13/2361/FUL

Cranborne Recycling Centre, Potters Bar

Update:

Paragraph 10.16 should read:-

Policy CS16 of the Core Strategy 2013

Comments from Environment Agency

The Environment Agency would normally object to a proposed waste activity located within Source Protection Zone 1. However the site is currently being used for a waste activity and the materials to be recycled under this proposal are low risk. Despite this, the Land Contamination Assessment submitted identifies the previous uses of the site as contaminative (sewage works and former car scrap yard) and that the land quality has been impacted. The EA are unable to assess the risk to groundwater and the nearby Potters Bar Brook watercourse with the information to date to be satisfied that the development does not pose an unacceptable risk.
The following conditions are therefore necessary to ensure the quality of groundwater and the river is protected.

**Condition 1**

No development approved by this planning permission shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:
   - all previous uses
   - potential contaminants associated with those uses
   - a conceptual model of the site indicating sources, pathways and receptors
   - potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

**Reason:**

To protect quality of groundwater and the nearby Potters Bar Brook main river from any contaminants mobilised by this development. Previous and current uses of the site may have led to contamination. The watercourse and groundwater under this site are vulnerable to any contaminants mobilised by this development, particularly as the site is located within Source Protection Zone 1. This means the groundwater beneath the site reaches a public drinking water abstraction point within 50 days and therefore should be protected. This condition is supported by your policies D4 and CS15.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).
Condition 2

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason:

To protect the quality of groundwater and the Potters Bar Brook watercourse. This condition ensures that all contaminated material identified on site has been removed or remediated. This condition is supported by your policies D4 and CS15.

The verification report should be undertaken in accordance with our guidance Verification of remediation of land contamination.

Condition 3

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason:

To protect groundwater and the Potters Bar Brook watercourse from contamination that is unexpected. Intrusive investigations will not necessarily capture all contaminants present, hence the need to appropriately address any new source discovered during excavation and development. This condition is supported by your policies D4 and CS15.

Condition 4

No infiltration of surface water drainage into the ground at this site is permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to ground and surface waters. The development shall be carried out in accordance with the approval details.
Reason:

To protect quality of groundwater and the Potters Bar Brook watercourse. We strongly encourage sustainable drainage systems using infiltration, but it must be demonstrated that the infiltration will be clean surface water into uncontaminated ground. This condition ensures that the site disposes of surface water without contaminating groundwater. This condition is supported by your policies D4 and CS15.

Condition 5

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to ground and surface waters. The development shall be carried out in accordance with the approved details.

Reason:

To protect groundwater and the Potters Bar Brook watercourse from contaminants that could be mobilised by the piling works. This condition is supported by your policies D4 and CS15.

Informative:

The EA recommend that developers should: 1. Refer to our ‘Guiding Principles for Land Contamination’ documents for the type of information that should be included in a PRA, pages 3 and 4 of GPLC3 provide specific guidance on PRA’s;
2. Follow the risk management framework provided in CLR11, ‘Model Procedures for the Management of Land Contamination’, when dealing with land potentially affected by contamination;
4. Follow the risk management framework provided in the ‘Piling into Contaminated Sites’ guidance. The following guidance document is also recommended http://publications.environment-agency.gov.uk/pdf/SCHO0501BITT-e-e.pdf

Response for Environmental Health’s (EH) Senior Scientific Officer (SSO) on Environment Agency comments

The SSO has discussed the comments with the EA and has responded as follows:-

The SSO was concerned with the outstanding ‘waste management licence’ which EH have asked the Environment Agency to revoke some years previous. EH have been advised to send a letter from our legal department to the EA legal department to ask them if we would be able to clean up the site (if required) with an ‘active waste management licence’ still outstanding? The EA contaminated land team didn’t seem to think this would make any difference because at the end of the day Hertsmere Borough Council have always been the landowners. Therefore if we had to clear up the site based on the activities of the scrap yard we could do a costs recovery to the
tenant if found still alive. We could follow through our investigations through the electoral register (EA may have a forwarding address). But as HBC are the landowner we would need to demonstrate that there are no risks to the groundwater beneath from the contamination on our land with this planning permission and therefore we will have to abide by the conditions.

Therefore Officers will have to work through each of the conditions in turn and this will probably mean more investigation work which will have a cost.

Back in 2011 the Environment Agency did carry out some investigation under Part 2A of the EPA, but had to stop once they discovered this active waste management licence. We could therefore continue on with this investigation work and move towards cleaning up the site. EH could get an up to date cost for the investigation, but would be unable to get a costing for the remedial work (if required) until the investigations are complete.

The Environment Agency informed the SSO that Officers could part discharge the conditions as we work through them.

**Hertfordshire County Council, Minerals and Waste Policy team comments**

Herts CC have confirmed that as a Deemed Consent Regulation 3 application the borough Council are the determining authority.

However, should the Council be mindful of permitting the application, a condition requesting a Site Waste Management Plan (SWMP) would be required and should be reviewed by Hertfordshire County Council.

**Response from Street Scene on HCC Comments**

Intentions are to use the facility to bulk and transfer waste paper (approx. 2,800t per annum). The material will be transferred in bulk to a repressor. The material bulked will be collected from properties within Hertsmere.

**Vehicle movements would involve one vehicle per day, every other week.** This vehicle will be the one collecting the material. The vehicles tipping at site are HBC vehicles and their base is Cranborne Depot, so would be returning to site in any case.

Site Waste Management Plans Regulations 2008 states that:

Any client who intends to carry out a project on any one construction site with an estimated cost greater than £300,000 excluding VAT must prepare a site waste management plan conforming to these Regulations before construction work begins.

The development will not create any waste material therefore a SWMP should not be required. The site will use existing materials as donated by Hertfordshire County Council Waste Management Department, the blocks donated will be used to form the bays for the bulk and storage of material.
Response to Members following technical briefing

1. Operational reasons for the works

Waste services have commented that there have been issues relating to the transfer station where the material is currently taken.

The current site is based in St Albans and provides facilities for transfer only, the material does not go through any sorting process whilst on the site.

Due to a period of uncertainty around use of this site it was decided that Hertsmere should strengthen their position and have facilities to allow for the transfer of the material. The land is located next to the Cranborne Depot and will also reduce the need for vehicles to travel to St Albans on a fortnightly basis.

2. Unclear regarding contamination issues and whether these have been overcome.

The Council’s Senior Scientific Officer has provided the following information:-

Members will recall that in 2006 the County Council advised that the site at Cranborne Depot owned by the Council was the preferred location for a Green Waste Transfer Station.

As a result of this interest this Council purchased the lease from the tenant and started negotiations with the County for the lease of the site. These negotiations continued with the County and then with two of its nominated contractors but this ultimately failed as the County chose to locate the facility elsewhere. Even though planning consent had been granted all be it with extensive conditions in October 2008.

In the meantime the site has been used for temporary storage by our own waste services department.

Waste Services approached the Estates Department with a proposal to use the site to construct a transfer station for dry recyclables and an Architect was engaged to carry out a feasibility study and costings to assist in the development by Waste Services of a business case for the project that was to be presented to the Asset Management Panel.

On ascertaining a brief from Waste Services it became clear that because of known difficulties with ground conditions in the area, that for a meaningful feasibility to be achieved, then a geotechnical and contaminated land assessment would need to be commissioned.

Competitive quotations were duly sought and a consultant commissioned to carry out a report into the ground conditions within the site, so the suitability and design of different foundations types could be assessed and to test the soils for possible contaminations as site was previously a car breakers yard and had also been a waste water treatment plant.
The survey consisted of an in depth desktop survey into the history of the site and the existing geological conditions this included looking and details of the existing planning permission that was granted by HCC for the site in October 2008 and the conditions that the pertained to that permission.

As the investigation progressed it became evident that the site was particularly sensitive in relation the ground water pollution control and was in fact located within Zone 1 Ground Source Protection Zones associated with ground water abstraction by Three valleys Water PLC at North Mymms Pumping station some 1.5 Km to the northwest of the site.

At this stage discussions were held with officers from our own Environmental Health Department to seek advice and a better understanding off the potential difficulties and risks any proposed development may hold.

Because the site is listed within Control Zone One which is monitored by the Environment Agency a meeting between officers from Estate Maintenance and Environmental Health and the Geotechnical Consultants was arranged to discuss the potential of any future development of the site. Any planning application for the site would go to the EA for them to comment, via the Planning Authority in this case HCC.

The agency expressed serious concerns about the development of the site in any capacity until it could be established if there was any contamination of the chalk aquifer from the site or from previous uses and as landowners we have a responsibility to ensure that this does not take place.

It would be EA policy to oppose any development of the site unless the stringent conditions for further investigation of the site could be met, these can be seen in the conditions set for the current planning permission for the site. Though they did agree that if the issues with possible ground contamination and possible water contamination cold be dealt with within the planning process to their satisfaction then it may be possible to develop the site. It was their belief that issues did exist with groundwater contamination in the area but they could not give an indication as to where they might be from, but it was our responsibility to prove otherwise.

A report from the consultants on the geotechnical issues and ground contamination issues within the site was produced. The report concluded that there were large concrete obstructions within the ground which are probably the remains of the concrete filter beds from the water treatment plant that stood on the site some year ago.

The report also indicated that there was some contamination of the groundwater under the site, the sample taken demonstrated elevated Chloride levels and electrical conductivity in conjunction with problematic levels of Nickel. It was also stated that it was not possible to identify whether this contamination was from the site directly or from another source within the area.

In February 2010, under the Environmental Protection Act 1990 the Environmental Health department informed the Environment Agency that they would like to
declare the area a ‘special site’ and request that the Environment Agency investigate the contamination.

The Environmental Health department received notification in June 2010 that the Environment Agency had been awarded £10k funding from DEFRA to start investigating the Cranborne Industrial Estate as a potential Special Site, as defined under the Contaminated Land Regulations.

The funding was to commence the first stage of the investigations which consisted of a desk top study (Phase1) to gather all the information relating to the past industrial uses in the area.

The Environment Agency commissioned an environmental consultant to undertake a Phase 1 investigation which was completed in February 2011.

Unfortunately, no further investigations were allowed to be carried out by the Environment Agency under Part 2A of the Environmental Protection Act 1990 due to a ‘waste management licence’ being still active on the site. This ‘waste management licence’ had never been surrendered by the previous tenant when the site was being used as a scrapyard.

Therefore Hertsmere legal department sent a letter to the Environment Agency legal department in February 2011 requesting that the ‘waste management licence’ be revoked to allow the Council to continue with their investigation under Part 2A.

To date the licence has still not been revoked by the Environment Agency and the Council has recently entered into correspondence with the Environment Agency to request again for the licence to be revoked.

However, in the meantime the waste department approached the Environmental Health department to gain advice as to whether the Environment Agency would allow the waste department to store paper on the site before being taken off to the Paper Mill. This paper was currently being collected from the domestic door to door collections within Hertsmere and was being taken to St Albans.

Therefore the Council met with the Environment Agency to discuss if the storage of paper would be allowed and under what permit would be required. Due to the waste activity being low risk and not involving any sorting, the Environment Agency allowed for the activity to be carried out under an exemption permit. However, the conditions of this exemption permit requires for the paper to be placed in storage sheds to prevent the paper being blown around, which has led to the request for planning permission to build bays to retain the paper. These sheds will not involve foundations, but will build off the existing concrete.

As the activities are limited to unloading, storing in a building, and then loading onto a bulker to be recovered or recycled elsewhere, the Environment Agency has allowed the permission to be granted, but subject to conditions to protect the groundwater beneath the site.
In conclusion it is due to the activity being the ‘storage of waste’ before being recycled at the paper mill and not a waste activity on site. Therefore, the Environment Agency has allowed the permission to be granted in this case.

The land contamination remains the same and will still require investigation and possible remediation, if required.

3. Need further justification in terms of PPS10

Paragraph 20 of PPS10 goes on to identify suitable sites and areas suitable for new or enhanced waste management facilities, waste planning authorities should consider:

- opportunities for on-site management of waste where it arises;
- a broad range of locations including industrial site, looking for opportunities to collate facilities together and with complementary activities.

In deciding which sites and areas to identify for waste management facilities, WPA should:

(i) assess their suitability for development against each of the following criteria:

- the extent to which they support the policies in the PPS
- the physical and environmental constraints on development, including existing and proposed neighbouring land uses.
- The cumulative effect of previous waste disposal facilities on the well-being of the local community, including any significant impacts on environmental quality, social cohesion and inclusion or economic potential.
- The capacity of existing and potential transport infrastructure to support the sustainable movement of waste and products arising from resource recovery, seeking where practicable and beneficial to use modes other than road transport.
- Give priority to the re-use of previously developed land, and redundant agricultural and forestry buildings and their curtilages.

The proposed recycling bays and ancillary works are considered to be sited suitably and be consistent in respect to scale and appearance to industrial and commercial uses within the vicinity. The proposal will not cause harm to Hertsmere through creation of air pollution, odour, noise, drainage or flooding concerns or be harmful to visual and residential amenities or impact detrimentally on highway safety. Consequently subject to the conditions as recommended the proposal is supported and would comply with the NPPF12. Planning Policy Statement 10 (2011) - Planning for Sustainable Waste Management and Waste Strategy for England 2007, policies B1, B3, D17 and D21 of the Hertsmere Local Plan 2003 and Policies CS16 and CS22 of the Core Strategy 2013.

Item 6
TP/12/0070

18 Watford Road, Radlett

Section 1- policy question

Clarification regarding the position of Local Planning Authority and the application of planning policy for this planning application TP/12/0070.

Background to referral

Following a discussion between the Council’s Legal Services and the Chair of Planning Committee/the Council’s Director of Environment immediately prior to Planning Committee on 12 December it was decided then to put a recommendation to members to refer the matter to the next Committee date (9th January 2014) in view of the importance of allowing a sufficient amount of time to properly consider the representations submitted by the objector resident at 20 Watford Road, the property neighbouring the application site, including the QC’s opinion these being received only within the few days previous to that Committee date.

The Opinion of Rupert Warren QC, to briefly summarise its contents, offers the proposition that the Council should as a matter of law determine this particular application in accordance with adopted policy at the time of determination and to do otherwise is “unlawful”.

Response from Local Planning Authority

Notwithstanding the contents of Mr Warren’s Opinion, the Council maintains the position it has taken to date regarding the policies to be applied to this application and other relevant applications validated before 17 January 2013 namely those policies in force before that date of 17 January 2013.

This position is entirely consistent with all public statements made by Hertsmere Borough Council since the Revised Core Strategy in the form it was then (ie for submission to the Secretary of State) was approved by full Council at its meeting of 16 November 2011 where in addition it was resolved that this Revised Core Strategy would be applied “for interim development control purposes for use in the determination of all valid planning applications registered on after 28 November 2011” the logical consequence being that once the Core Strategy in its final form were to be formally adopted that interim arrangement would cease.

Supporting Documents attached:

• Council resolution of 16 November 2011

• Letter of 25 November 2011 circulated to developers and other interested parties

• Extract from Council’s website – Core Strategy Section
Section 2 Dr Bickerton representation (Ashfords letter dated 2/1/2014)

Concerns have been raised that the current committee report does not cover points previously raised. However, following the Council’s Legal Departments advice it was agreed to cover points within this update sheet.

The issues raised in Rupert Warren QC’s opinion and the Council’s position regarding the application of planning policy are covered in Section 1 of this update sheet.

A Japanese Knotweed condition is to be added:

NO DEVELOPMENT SHALL TAKE PLACE BEFORE a Japanese Knotweed Management Plan has been submitted to and approved in writing by the Local Planning Authority. The removal and disposal of the Japanese Knotweed shall be carried out in accordance with the approved details.

Reason: To ensure that a controlled waste is removed in a satisfactory way to avoid damage to buildings and property, and disposed of in the correct way to avoid further spread of the weed. In accordance with policy D18 of the Local Plan 2003.

The plans condition will be updated to:

- Lower Ground and Ground Floor Plans (drawing number 12 0233-1A) date stamped 22/7/2013
- First and Second Floor Plans (drawing number 12 0233-2A) date stamped 22/7/2013
- Elevations (drawing number 12 0233-3D) date stamped 22/7/2013
- Site Layout Plan (drawing number 12 0233-5D) date stamped 22/7/2013
- Layout Showing Visibility Splays and tracking (drawing number 10000-03-55B) date stamped 22/7/2013

Section 3 Copy of 12 December update sheet

Councillors technical de-brief meeting

The Councillors have requested the following questions and clarification points:

Main comparisons between current and previous policies

Councillors have asked for the most salient comparisons between current and previous policies.

Local Planning Authority response

The main changes to planning policy have been the introduction of the National Planning Policy Framework 2012, Adopted Core Strategy 2013 and Part D of the Planning and Design Guide 2013.
The key topics which would impact on this planning application were it to be determined in accordance with current policies is:

- the lower threshold of affordable housing under the Adopted Core Strategy 2013;
- the introduction in room standards;
- and the rewording of how garden amenity space is calculated.

**S106 contributions**

Councillors asked why in comparison to Homefield Road, the S106 contributions are higher.

**Local Planning Authority response**

The S106 figures for Hertsmere Borough Council are based on the S106 calculator which forms part of a suite of documents that make up the Planning Obligations SPD 2010.

The S106 figures are based on floor space, amenity land and the position in relation to the railway. The cost per sq metre is also higher in Radlett in comparison to Bushey. This explains why the S106 contributions vary between application sites.

**Tree comments**

Councillors have requested tree comments.

**Local Planning Authority response**

The Case Officer has spoken to the Tree Officer. The previous comments made are to be referred to which confirmed that conditions are to be included as part of any planning application approved. This included a Tree Protection Plan and Method Statement.

**How close is the building to the centre of Radlett?**

**Local Planning Authority response**

The building is 530m to the shops in Station Road, which is approximately the centre of Radlett.

The application site meets the car parking requirements set out in the policy document. However the building is approximately 560m to Radlett train station. There is a bus stop opposite 18 Watford Road which links the centre of Radlett with Watford, High Street (602). On the side of 18 Watford Road, approximately 300m from the site is a bus stop which links the centre of Radlett with Hatfield (602). There are bus stops at regular intervals on both sides of Watford Road.

There are two similar sized flatted schemes on the opposite side of Watford Road. These are called Darnhills and Hawkesley Court. These are 112 m (Darnhills) and
48.2m (Hawkesley Court) from the site respectively. Therefore are not considered to be materially closer to the centre of Radlett than 18 Watford Road.

**National Planning Policy Framework 2012**

Councillors have highlighted that the National Planning Policy Framework 2012 is referred to throughout the committee report.

**Local Planning Authority response**

The planning application was valid from the 2/2/2012. The NPPF was formally adopted in March 2012. Therefore references to the NPPF shall be removed from the determination of this committee report.

**Japanese Knotweed**

The Councillors asked whether the presence of Japanese Knotweed had been submitted formally to the Environmental Health Department. They asked regarding the timeframes of when the Japanese Knotweed would be removed.

**Local Planning Authority response**

The Senior Scientific Officer in the Environmental Health Department has confirmed that there is no formal process in which the presence of Japanese Knotweed needs to be submitted to the Council. Japanese Knotweed is managed through a condition which will be included as part of any planning application approved. Within the Japanese Knotweed Management Plan condition timeframes would be agreed.

**Updates to delegated report**

Please note that the committee report published on the website is not a draft. This is the final version.

Under Statutory Start Date: It should be noted that this should read 1/2/2012. This is the date the planning application was originally validated. It reads on the committee report 22/7/2013 as the database did not allow a subsequent file to be opened under the same reference number.

Highways HCC consultation response states that the details added to the Hertsmere website were the 1 August 2013, on the website this is the 9 August 2013.

Darnhills and Hawkesley Court are both in Watford Road.

Please note that the Core Strategy reference should read ‘the Revised Core Strategy as submitted to the SofS Nov 2011’

The proposed building would not be 0.4m higher than the existing no.18. It would instead be 9cm lower than existing.
Conditions to be updated with correct version of policy— plans to include all new plans received 22/7/2013, Japanese Knotweed condition to be added. Highways conditions to include rewording of new access with 1.8 metre wide footpath.

Section 4 updates raised between 12/12/2013 and 9/1/2014

All references to the Core Strategy should read as follows: Policy CS?? of the Revised Core Strategy (for submission to the Secretary of State) November 2011.

Section 4: descriptions of Core Strategy to be updated in accordance with Revised Core Strategy November 2011, Policy number is correct.

All references to Part D should read as follows: Part D of the Planning and Design Guide 2006.

National Planning Policy Framework 2012 references to be removed.

Date of meeting to be amended to 9/1/2014.

Paragraph 2.6: The information on the GIS system incorrectly places 16 Watford Road within the Green Belt. On the Local Plan proposals map, 16 Watford Road is located outside the Green Belt boundary.

Section 4: Clarification these dates are taken from the date of dispatch database field of the planning application and not the decision made database field.

Paragraph 11.21: The proposed building is not 0.4 metres higher than the existing number 18. It would be 9cm lower than the existing.

Paragraph 11.22: Distance to 16 Watford Road is not approximately 120 m but approximately 110 m.

Paragraph 11.24: The proposed width is not 29.4 metres wide but 28.4 metres wide.

Paragraph 11.25: Clarification that the blocks A and B formed part of a wider site including 20 Watford Road.

Paragraph 11:30: It should be noted that there are crown roofs in the streetscene to 18 Watford Road including Hawkesley Court and Foxhills Manor (Gills Hill Lane) which is directly opposite the entrance to 18 Watford Road.

Paragraph 11.52: It should be noted that there are no first or second floor flank elevations facing 20 Watford Road. There are only high level rooflights.

Paragraph 11.54: Should be noted that hours of operation would be covered by Environmental Health legislation and therefore to include such a condition would fail on tests of Circular 11/95

Paragraph 11.57: Bin storage condition to be included for details to be provided on the internal requirements. This is to ensure have adequate bin storage.
Conditions

Conditions 5, 13-17 to be removed and replaced by:

Construction Management

Construction Management No development shall take place before a method statement for construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide for wheel cleaning facilities during the demolition, excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling materials, the provision of parking facilities for contractors during all stages of the development (excavation, site preparation and construction) and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.

Reason: In order to minimize the amount of mud, soil and other materials originating from the site being deposited on the highway, in the interests of highway safety and visual amenity. To comply with Policy M12 of the Hertsmere Local Plan 2003 and Policy CS24 of the Hertsmere Core Strategy 2011.

Access

The development shall not commence until details of the access as shown in principal on drawing no 1000/03/55B have been approved in writing by the Local Planning Authority and the Highway Authority. The building shall not be occupied until the access has been constructed in accordance with the approved details.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians including people with disabilities. To comply with Policies M2 and M12 of the Hertsmere Local Plan 2003 and Policy CS24 of the Hertsmere Core Strategy 2011.

Access

Within one month of the access being brought into use, all other existing access points not incorporated in the development shall be stopped up by raising the existing dropped kerb and reinstating the footway verge and highway boundary to the same line, level and detail as the adjoining footway verge and highway boundary.

Reason: To limit the number of access points onto the highway where vehicular movements can occur for the safety and convenience of the highway user. To comply with Policies M2 and M12 of the Hertsmere Local Plan 2003 and Policy CS24 of the Hertsmere Core Strategy 2011.

Highways
Prior to occupation a 1.8m footway shall be provided at the back edge of the existing carriageway.

Reason: To provide safe access to pedestrians to the site in accordance with To comply with Policies M2 and M12 of the Hertsmere Local Plan 2003 and Policy CS24 of the Hertsmere Core Strategy 2011.

Highways

Surface Water Run-Off No development shall take place before a scheme for the on-site storage and regulated discharge of surface water run-off has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.

Reason: To ensure the proposed development does not overload the existing drainage system resulting in flooding and/or surcharging. To comply with Policy D3 of the Hertsmere Local Plan 2003 and Policy CS15 of the Hertsmere Core Strategy 2011.

It is confirmed that there is no condition 18.

All condition reasons are to be amended with the relevant version and date of the policy.

Informative from Highways to be added: 1) Works to be undertaken on the adjoining Highway will require the applicant to enter a Section 278 Agreement with the Highway Authority. This will include the closure of the existing access, the reinstatement of the footway, kerbs and the construction of the new 1.8 metre footway (dedicated highway) Before commencing the development, the applicant shall contact Herts Highways, Highways House, 41-45 Broadwater Road, Welwyn Garden City AL7 3AX, to obtain their permission and requirements. This is to ensure any works undertaken in the highway are constructed in accordance with the Highway Authority’s specification and by a contractor who is authorised to work in the public highway.

Tree Condition

No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS 5837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall include:

a, a plan to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS 5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
b, the details of each retained tree as required at paragraph 4.2.6 of BS 5837 in a separate schedule.
c, a schedule of tree works for all the retained trees in paragraphs (a) and
(b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS 3998.

d, the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS 5837).

e, the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS 5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.

f, the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS 5837).

g, the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS 5837), (e.g. in connection with foundations, bridging, water features, surfacing)

h, the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the Root Protection Areas of retained trees.

i, the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.

j, the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.

k, the timing of the various phases of the works or development in the context of the tree protection measures.

Reason: To ensure satisfactory landscape treatment of the site which will enhance the character and appearance of the site and the area. To comply with Policies E7 and E8 of the Hertsmere Local Plan 2003 and Policies CS12 and CS21 of the Revised Core Strategy (for submission to the Secretary of State) November 2011.

Technical meeting

Members have requested that it is clarified under paragraph 2.7 that Hawkesley Court was approved on 7/2/2006.

Members have requested that it is clarified that the petition has been signed by persons in 2012. A cover sheet with a new date has been included however a copy of the old petition has been added.

Clarification has been sought in regards to date to which the original application was decided at committee. It is confirmed by Democratic Services that this was 24/5/2012.
They have requested the committee report is checked as some information is inconsistent.

A policy guide has been requested this will be provided to members prior to committee.