

Statement of Common Ground
Broadwater Gardens
Planning Appeal

Relating to site at
BioPark, Broadwater Road, Welwyn Garden City, AL7 3AX

May 2022



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1.0 Introduction

- 1.1 This statement sets out common ground between HG Group (“the Appellant”) and Welwyn Hatfield Borough Council (“the Council” or “WHBC”) in respect of the Appellant’s appeal against the Council’s refusal of application reference: 6/2020/3420/MAJ on 16th September 2021. The application proposed residential development at BioPark, Broadwater Road, Welwyn Garden City, AL7 3AX (“the appeal site”).
- 1.2 This Statement of Common Ground (SoCG) relates to the following proposed development:
- “Demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.”*
- 1.3 The application was submitted on 18 December 2020 and the application was heard at WHBC’s Development Management Committee on 9th September 2021. Despite receiving an officer recommendation to grant planning permission (see **Appendix 1** for the full Committee Report), and Members decided to refuse planning permission. The Decision Notice (**Appendix 2**) was published on 16th September 2021.
- 1.4 Prior to the submission of the appeal, the Appellant has not sought to share this draft Statement with the Council. Following submission, it is the Appellant’s intention to enter discussions to reach an agreed position on the Statement of Common Ground (SoCG) ahead of the Inquiry. Where possible, the Appellants will work with the Council to narrow the areas of disagreement prior to the Inquiry.

2.0 Appeal Site and Surroundings

Site Location and Description

- 2.1 The appeal site (Figure 1) comprises a part five, part two storey (with 2 basement levels) Research and Development (E(g)(ii) / formerly B1b use) complex which was formerly owned, used and let by the University of Hertfordshire. The existing building has a maximum height of 34.75 metres to the top of the chimney flues and a height of 30.51 metres to the stair core roof on the roof top. On the northern part of the appeal site, the complex includes specialist laboratory and associated office space within the main building and a number of outbuildings close to the eastern boundary. In the southern part of the appeal site there is an associated car parking area. The appeal site area is approximately 1.24 hectares.
- 2.2 The appeal site is located in Welwyn Garden City and is a short distance to the south east of the train station and town centre. The railway line separates the appeal site from the town centre with access provided via a footbridge approximately 350m to the north of the appeal site. Vehicular access to the appeal site is provided via BioPark Drive, a private road which joins Broadwater Road.



Figure 1: The appeal site and surroundings

Surrounding Area

- 2.3 The appeal site lies within the zone which was originally designated for industrial uses during the early growth of the Garden City. In recent years, the area to the west of Broadwater Road has been the subject of redevelopment which has resulted in residential uses being introduced into the area. The areas immediately to the east of the appeal site are now in residential use.
- 2.4 To the north of the appeal site is the Pall Mall distribution warehouse and the site of the Former Shredded Wheat Factory, which has been cleared for residential-led mixed use development. To the east is residential development at the former Roche Products site, to the south are allotments and residential properties on Broadwater Crescent, and to the west is a strip of hardstanding used for trailer storage, beyond which lies the railway line. The car parking area in the southern part of the appeal site is bordered by the allotments to the west and residential properties on Broadwater Crescent to the south and east.

Planning Designations

- 2.5 In the adopted Local Plan, the appeal site has the following designations (Figure 2):
- Employment Area (EA1 - Welwyn Garden City Industrial Area); and
 - Mixed Use Development Site at Broadwater West (save for land extending out to the south of the appeal site).

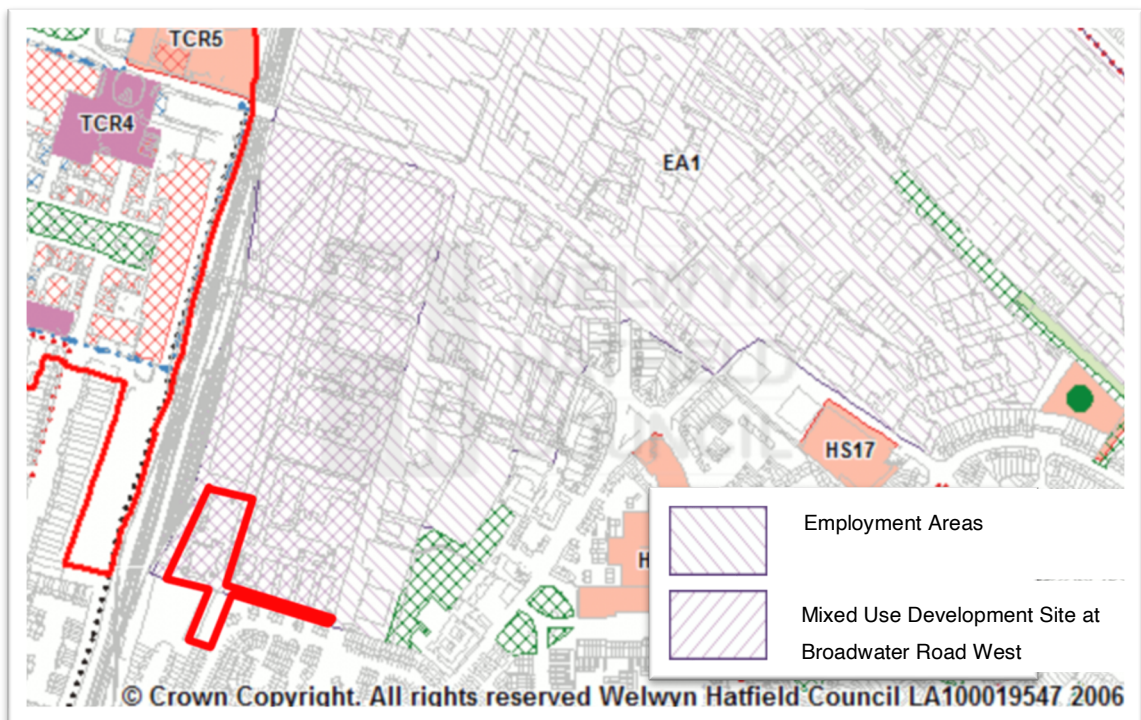


Figure 2: Extract from the adopted proposals map

- 2.6 The adopted Parking Standards Supplementary Planning Guidance (“SPG”) (2004) designates the appeal site predominantly within parking Zone 2 with the southern part used for car parking in Zone 3.
- 2.7 Figure 3 shows the proposals map for the draft Local Plan, which designates the appeal site within the Broadwater Road West Mixed-Use Area. SDS3 and SDS4 are transposed.

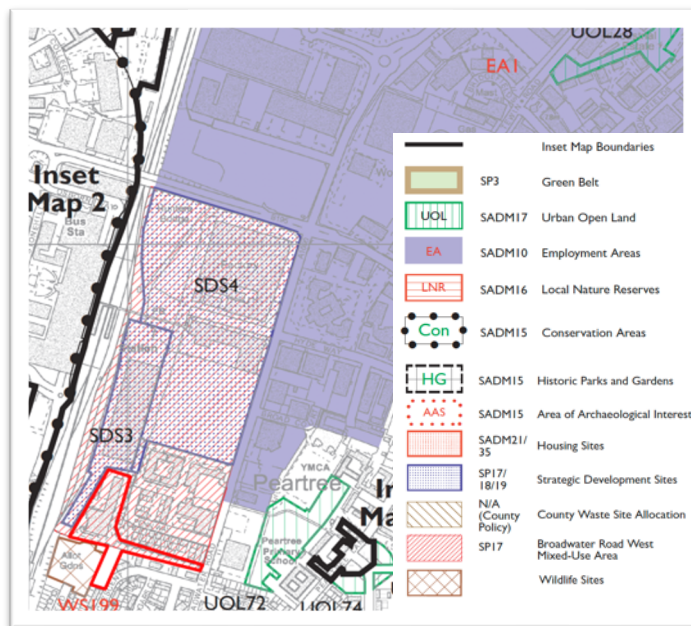


Figure 3: Extract from the draft Proposals Map

- 2.8 There are no listed buildings within the appeal site (Figure 4), nor is the appeal site within a Conservation Area. An office block associated with the former Roche Products Factory to the east is Grade II Listed. The former Shredded Wheat Factory is to the north east of the site; the Production Hall and silos are Grade II Listed. Welwyn Garden City town centre Conservation Area lies to the west on the opposite side of the railway line.

2.9 The entire appeal site is within Flood Zone 1, meaning it has a low probability of flooding (Figure 5).

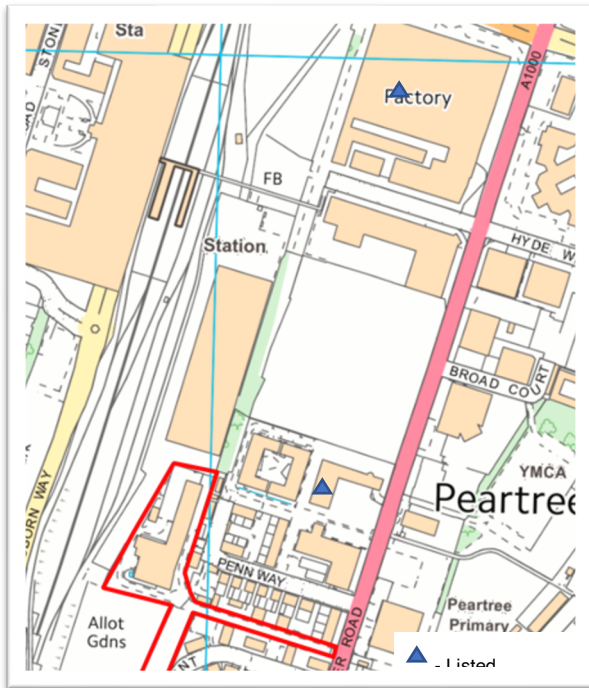


Figure 4: Extract from Historic England Listed Buildings map



Figure 5: Extract from the Environment Agency Flood Map for Planning

3.0 Planning History

Appeal Site Planning History

Application ref: 6/2020/3420/MAJ

3.1 This application is the subject of the current appeal. A full planning application was submitted on 18th December 2020 for the:

“Demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.”

3.2 The application was subject to extensive pre-application consultation (x3 pre-application meetings and on design workshop) with WHBC officers, supplemented by engagement with several statutory consultees, which informed the final scheme submitted for determination. Engagement with WHBC officers continued while the application was under determination.

3.3 As outlined by the Committee Report (Paragraph 8.2), with the exception of The Gardens Trust and Heritage Garden Trust, there were no objections to the scheme from statutory consultees, including:

- Place Services Urban Design Officer;
- WHBC Landscape Officer;
- WHBC Public Health and Protection;
- WHBC Parking Services;
- Hertfordshire County Council (“HCC”) Growth Infrastructure;
- HCC Minerals and Waste Team;
- HCC Historic Environment Advisor;
- HCC Public Health Department;
- Natural England;
- Herts & Middlesex Wildlife Trust;
- National Health Service;
- Network Rail;

- Thames Water;
- Affinity Water;
- HCC Rights of Way;
- Environment Agency;
- Sport England;
- Hertfordshire Constabulary;
- Highways England;
- Cadent Gas;
- HFRS Fire Protection; and
- HCC Ecology.

3.4 Some consultees are absent from the list at Paragraph 8.2 of the Committee Report. Comments were also received from each consultee listed below, and none raised a formal objection to the scheme.

- HCC as Highway Authority;
- HCC as Lead Local Flood Authority (“LLFA”);
- Historic England; and
- Place Services Heritage Officer.

3.5 The application was supported by three cycles of pre-application engagement with the Council. This included three pre-application meetings and a design workshop. The application was considered by the Council’s Development Management Committee on 9th September 2021. Members of the Committee voted 10 to 3 for a motion to refuse planning permission against the officer’s recommendation for approval. The Decision Notice was published on 16th September 2021.

[Environmental Impact Assessment Screening relating to Application ref: 6/2020/3420/MAJ](#)

3.6 The entries in the table below relate to the EIA screening of the proposed development. WHBC’s original decision that an EIA was required was overturned by a Secretary of State screening direction (**Appendix 3**) while the application was under determination.

Reference	Description	Decision (Date)
PCU/EIASCR/C1950/3263775 (Secretary of State reference)	Screening Direction	An Environmental Statement is not required (4 th February 2021)
6/2020/2354/EIA	Request for a Screening Opinion to determine whether an Environmental Statement is required for a proposed redevelopment of BioPark, Broadwater Road, Welwyn Garden City, AL7 3AX	EIA Required (18 th November 2020)

Other Appeal Site Planning History

- 3.7 From a desktop review of WHBC's online planning database, further planning history associated with the appeal site relates to the former Research and Development operation of the site, and telecoms operations on the existing building. These records are not relevant to the current appeal proposal:

Reference	Description of Development	Decision (Date)
N6/664/2001/FP	Erection of two storey building for employment (B1) use.	Approved (July 2001)
N6/665/2001/FP	Erection of fencing and gates at south east entrance to 2 of 4 Broadwater Road site, plus movement of existing turnstile and installation of second turnstile at same entrance.	Approved (July 2001)
N6/666/2001/FP	Installation of personnel turnstile and additional fencing at north east entrance to Broadwater Road site.	Approved (July 2001)
N6/2006/0700/FP	Internal and external alterations	Approved July 2006
6/2017/1243/FULL	Retention of 3 and erection of 1 further antenna on lift shaft roof of BioPark.	Approved (August 2017)

Broadwater Road West Opportunity Area

3.8 The following planning history records relate to other nearby sites within the Broadwater Road West Opportunity Area:

Site	Reference	Description of Development	Decision (Date)
Former Shredded Wheat Factory	2015/0293	Part demolition, repair, restoration, extension and conversion of the former Shredded Wheat factory complex to include demolition of all buildings and structures except the original 1920's silos, production hall, grain store and boiler house. Refurbishment and change of use of the retained listed buildings to provide 2 Class C3 residential units, a Class C1 boutique/budget hotel, Class B1(a) offices, a class Class A4 pub/bar, a class Class D1 crèche and a Class D2 gym/dance/exercise.	Approved (March 2017)
	N6/2015/0294/PP	Outline application for the part demolition, repair, extension of conversion of the former Shredded Wheat factory. Refurbishment and change of use of the retained listed buildings. Erection of up to 805 units and c. 14,000sqm of commercial and community floorspace.	Approved (November 2017)
	6/2018/0171/MAJ	Creation of a mixed-use quarter comprising the erection of up to 1,340 residential dwellings including 414 (31%) affordable dwellings (Use Class C3); 114 extra care homes (Use Class C2); the erection of a civic building comprising 497 m ² of health (Use Class D1), 497 m ² of community use (Use Class D1), 883 m ² of office (Use Class B1) and 590 m ² of retail (Class A1/A2/A3/A4/A5); alterations, additions and change of use of Grade II Listed Building and retained Silos to provide 5,279 m ² of flexible business floorspace (Use Class B1), 270 m ² Combined Heat and Power (Sui Generis), 2,057 m ² International Art Centre (Use Class D1), 1,235 m ² Gymnasium (Use Class D2), 1,683 m ² of restaurant/coffee shop/bar (Use Class A1/A3/A4/A5), Creche/Day Nursery (Use Class D1) of 671 m ² as well as a Network Rail TOC Building (Use Class B1) of 360 m ² ; plus associated	Approved (February 2019)

		car parking, access, landscaping, public art and other supporting infrastructure.	
	6/2019/1330/FUL	Erection of a 5-storey Community Bridge Building (1,257m ²) for flexible use (B1/D1/D2 Use Classes)	Refused (December 2019) Appeal Dismissed (August 2020)
Former Roche Products Site	N6/2010/1776/MA	Erection of 209 dwellings and the retention and alteration of the existing listed building for community uses, together with associated open space, landscaping, car parking and new access arrangements	Approved (March 2011)
	N6/2016/1882/FUL	Conversion of the listed Roche building to provide 34 residential units.	Approved (October 2018)

3.10 The planning history shows that the Council has allowed five residential-led applications in the Broadwater West Opportunity Area since 2010.

Other Surrounding Sites

3.11 The following recent planning history records relate to sites beyond the Opportunity Area but in close proximity to the site:

Site	Reference	Description of Development	Decision (Date)
73 Bridge Road East	6/2020/2268/MAJ	Erection of two new buildings comprising 111 residential apartments	Pending decision
29 Broadwater Road	6/2019/3024/MAJ	Demolition of office building and erection of 128 flats with associated car parking, landscaping, amenity space, bin and cycle storage, with alterations to existing and formation of new access on Broadwater Road and alterations to the existing access on Broad Court.	Approved (July 2020)
37 Broadwater Road	6/2018/2387/MAJ	Construction of new build of 22 x 2 Bedroom and 2 x 3 Bedroom residential apartments with balconies and a roof garden. Layout of 26 car parking spaces, cycle parking, refuse store, internal access routes, landscaping and supporting infrastructure.	Approved (July 2019)

Accord House, 28 Bridge Road East	6/2018/2472/MAJ	Removal of roof and addition of three new floors of residential accommodation comprising 24 x 1 bed flats and 1 x 2 bed flat, alterations to external appearance, provision of cycle parking and bin storage areas and amendments to car parking to provide disabled spaces	Approved (October 2018)
Mercury House 1 Broadwater Road	6/2016/2624/FULL	Change of use from B1(a) office to C3 residential, construction of roof and side extensions, creation of 43 residential apartments and cycle storage compound	Approved (September 2017)

3.12 These recently approved applications show that the Council has allowed four residential planning applications beyond the Broadwater Road West Opportunity Area since 2017.

4.0 Appeal Proposal

4.1 The proposed development that is the subject of this appeal is:

“Demolition of existing buildings and construction of 289 residential units (Use Class C3) and community hub (Use Class E/F.2), with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.”

4.2 Details of the appeal scheme are set out below as well as within the application Planning Statement and Design and Access Statement submitted with the appeal.

4.3 It is proposed to demolish all existing buildings and redevelop the appeal site to provide a high-quality residential development of 289 units with a community hub providing a gym and café. The development is proposed with public realm and open space, landscaping, access, associated car and cycle parking, refuse and recycling storage and supporting infrastructure.

4.4 A summary of the key characteristics of the proposals is provided below:

Quantum

- 289 units;
- 129 x 1-bed (44%); 126 x 2-bed (44%); 26 x 3-bed (9%); and 8 x 4-bed (3%);
- 29% M4(3) dwellings (10%) and the remainder M4(2) dwellings;

Scale and Height

- Transition in building heights upwards from south to north of the site;
- The maximum height of the proposed buildings is less than the highest part of the existing building;
- The maximum spot height of the proposed building is 29.45 metres at the top of the roof parapet of Block A. This is 1.06 metres below the existing main building’s stair core roof and 5.3 metres below the maximum height of the chimney flues;
- Blocks A&B - 6 to 9 storeys; Blocks C&D - 5 to 8 storeys; Block E - 4 to 7 storeys; Block F - 2 to 4 storeys; townhouses - 2 to 3 storeys;

Design and Layout

- 3 flatted blocks (Blocks A&B, C&D and E) in the northern part of the site arranged around landscaped courtyards;
- A smaller corner flatted block (Block F) which links the southern and northern parts of the site;
- 8 townhouses in the southern part of the site;

Amenity, Landscaping and Biodiversity

- 3,023 sqm of public open space;
- 800 sqm of communal amenity space for residents provided in roof terraces;
- Extensive landscaping including community lawn area, orchard hideaway, outdoor dining area, amphitheatre feature with dual attenuation drainage basin use; three doorstep play spaces, communal roof terraces, and green and brown roofs;
- Significant wildlife enhancements including new native and insect-friendly planting, resulting in a biodiversity net gain of over 700% compared to existing site conditions;
- 260 sqm of formal play areas;
- Each proposed unit has access to private amenity space, with 3,947 sqm of private amenity space distributed between the proposed units in the form of balconies, terraces and gardens;
- An average of 16.4 sqm of amenity space (communal and private) per unit;

Parking and Servicing

- A residential parking ratio of 0.76 spaces per unit;
- 226 parking spaces (including 219 residential spaces and 7 community hub spaces);
- 30 blue badge spaces across the site (29 residential and 1 community hub);
- Over 20% electric vehicle charging provision;
- 1 car club bay with active electric vehicle charging;
- 2 car parking spaces for each townhouse;
- 12 motorcycle spaces in the basement;
- A secure, covered long term cycle space for each unit (289 total);

- 10 long term and 8 short term visitor cycle parking spaces at surface level;
- 1 community hub long term cycle space within the unit;
- Refuse and recycling stores located within each core;
- Refuse collection by lorry from designated areas that are integrated into the public realm;
- Concierge in the community hub area;

Access

- Vehicular access via the existing access road (BioPark Drive) which is to be improved and will have a 4.8m wide carriageway and 3.1m wide footpath/ cycleway;
- No alterations proposed to the existing road junction between BioPark Drive and Broadwater Road;
- BioPark Drive splits within the site to access the northern and southern parts of the site; and
- The opportunity for enhanced connectivity through pedestrian and cycle links connecting northwards to the Wheat Quarter and surrounding residential development to the west and south.

5.0 Planning Policy Context

The Development Plan

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) and Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) require that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise
- 5.2 The adopted Development Plan comprises the Welwyn Hatfield District Plan (2005) - Saved Policies (2008).

Other Material Planning Considerations

- 5.3 The following are also material planning considerations:
- National Planning Policy Framework (2021) (“NPPF”);
 - Town and Country Planning Association (“TCPA”) Garden City Principles (2020);
 - Broadwater Road West Supplementary Planning Document (“SPD”) (2008);
 - Supplementary Design Guidance (2005);
 - Parking Standards Supplementary Planning Guidance (“SPG”) (2004);
 - Interim Policy for Car Parking Standards and Garage Sizes (2014);
 - Planning Obligations SPD (2012);
 - Draft Local Plan Proposed Submission Document (2016); and
 - Wheat Quarter planning permissions (references 2015/0293, N6/2015/0294/PP, and 6/2018/0171/MAJ).

Relevant Policies

- 5.4 The policies cited in the reasons for refusal (“RfR”) are as follows:

Development Plan

Welwyn Hatfield District Plan (2005) – Saved Policies (2008)

- Policy D1 (Quality of Design) (RfR 3);
- Policy D2 (Character and Context) (RfR 3); and

- Policy H2 (Location of Windfall Residential Development) (RfR 2).

Other Material Planning Considerations

NPPF (2021)

- Paragraph 130 (RfR 3); and
- Paragraph 134 (RfR 3).

Draft Local Plan Proposed Submission Document (2016)

- Policy SP4 (Transport and Travel) (RfR 2);
- Policy SADM2 (Highway Network and Safety) (RfR 2);
- Policy SADM3 (Sustainable Travel for All) (RfR 2);
- Policy SP7 (Type and Mix of Housing) (RfR 1); and
- Policy SP9 (Place Making and High Quality Design) (RfR 3).

- 5.5 RfR 2 references WHBC's Parking Standards SPG (2004) and the Interim Policy for Car Parking Standards and Garage Sizes (2014).
- 5.6 RfR 3 references the Broadwater Road West SPD (2008).

6.0 Other Areas of Agreement

- 6.1 This section sets out other areas that are considered to be agreed by the Appellant and the Council in relation to the planning appeal.
- 6.2 The Committee Report confirms the following matters are considered acceptable to the Council and are not matters of dispute:
- Principle of development (loss of existing employment use and proposed residential use);
 - Heritage;
 - Residential amenity (including noise and air quality);
 - Highways access and servicing (subject to appropriate mitigation measures to be secured through S106 and S278 agreements) Landscaping, trees and biodiversity;
 - Flood risk and drainage;
 - Sustainability and renewable energy;
 - Contaminated land;
 - Waste management;
 - Archaeology; and
 - Environmental Impact Assessment;
- 6.3 The planning conditions (Section 11 of Committee Report, **Appendix 1**) are agreed by WHBC and the Appellant subject to any revisions or alterations considered necessary or appropriate during the inquiry. There may also be a need for additional conditions to be applied or amendments to the conditions set out in the Committee Report if the need for this becomes evident during the appeal proceedings.

6.4 The Officer's Report states:

"The proposed development comprising 281 flats, 8 townhouses and community gym/café with associated car parking, landscaping and amenity space is considered to be acceptable subject to the imposition of conditions and a planning obligation. Accordingly, for the reasons given, the proposal is recommended for approval."
(Paragraph 10.1)

6.5 The planning committee disagreed with officers' recommendation that the application should be approved, and refused the application on the grounds set out on the Decision Notice (Appendix 2). These areas of disagreement are addressed in Section 7.0.

6.6 The following sections summarise the areas of agreement.

Principle of Development

Loss of existing employment use

6.7 The existing land and buildings are no longer required to meet existing or future employment requirements and business needs. This unsustainability and unsuitability of the existing facility for E(g)(ii) (formerly B1b) use is evidenced by the Marketing Report produced by Savills and submitted in support of the application. As noted at Paragraph 9.31 of the Committee Report, the proposal satisfies Policy EMP2 of the District Plan and is an acceptable use in a designated employment area. Criteria (i) to (iv) are met. Criteria (v) is not relevant.

Proposed residential use

6.8 Footnote 8 to Paragraph 11 of the NPPF says that, for applications involving the provision of housing, policies will be considered out-of-date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

6.9 WHBC is not currently able to demonstrate a 5 year land supply. The January 2021 Annual Monitoring Report sets out that the borough's housing land supply is significantly less than the 5 year requirement, at 2.46 years. Furthermore, the 2021 Housing Delivery Test results show the delivery rate from 2018/19 to 2020-21 was 66%. This is agreed between the Council and the Appellant.

- 6.10 The site is within Welwyn Garden City, one of the two towns in the Borough that Policy GPSP2 of the District Plan prioritises for new development. The redevelopment of the site would be consistent with Paragraphs 120c) and 120d) of the NPPF as it would use suitable under-utilised brownfield land in an established settlement to deliver homes.
- 6.11 The site is located within Employment Area EA1 (Welwyn Garden City Industrial Area) in the adopted Local Plan. This is identified as an opportunity area of planned regeneration for mixed use development comprising primarily employment, housing, leisure and rail-related uses. It is the subject of the Broadwater Road West SPD (2008). A number of residential developments have now been approved and completed within the area covered by the SPD. The proposed residential use would be consistent with that of these recent developments.
- 6.12 The majority of the appeal site falls within a Mixed Use designation in the emerging Local Plan. The Proposed Main Modifications Schedule to the emerging Local Plan submitted during the examination in January 2021 identifies the site as a potential additional residential allocation (site reference Pea102 under Policy SP17). In response to Local Plan consultation responses from the promoter of the site on potential additional sites, WHBC reviewed the housing capacity assessment of the site in the Housing and Economic Land Availability Assessment Addendum December 2020 and increased its estimate from 189 to 250 dwellings. The development of the appeal site for housing has been found sound by the Examining Inspector of the draft Local Plan, as confirmed by his note of the Stage 9 Hearing Sessions (Paragraph 8, Appendix 5). As such, in January 2022, WHBC carried forward the proposed allocation and the Appeal site is included on the list of sites to be introduced as Main Modifications to the draft Plan (Page 13, Appendix 6; and Table 2 of Appendix 7). This is a material consideration.
- 6.13 There is a supportive policy context in the NPPF, adopted and emerging Local Plans for the proposed residential use. Paragraph 9.33 of the Committee Report says the principle of redevelopment of the appeal site as a windfall site for residential uses is accepted by the Council and is not disputed. The Committee Report adds that the appeal site meets the criteria of Policy H2 of the District Plan, in that it is a previously developed site in a main town, with sustainable modes of transport within walking distance, as well as town centre services and amenities. The proposal meets the criteria of draft Policy SADM1.

Affordable Housing

- 6.14 The conclusion of the Appellant's Financial Viability Appraisal - that the proposed development could not viably provide affordable housing - is agreed by the Council. The affordable housing provision is agreed to be acceptable and the proposal complies with Policy H7.

Heritage

- 6.15 As set out at Paragraph 9.44 of the Committee Report, it is agreed that the heritage assets potentially affected by the proposal are limited to:
- Welwyn Garden City Conservation Area;
 - Grade II listed former Roche office building (list entry no: 1348142);
 - Grade II listed former Shredded Wheat factory (list entry no: 1101084); and
 - Grade I listed Hatfield House and its associated parkland (Hatfield Park Registered Park and Garden, registered at Grade I) which are located approximately 4km to the south of the site.
- 6.16 There will be no harmful impact on the setting or significance of the former Roche Building, the Shredded Wheat factory or Welwyn Garden Conservation Area associated with the proposed development (Paragraphs 9.51-9.53, Committee Report).
- 6.17 The proposal therefore complies with Chapter 16 of the NPPF (Conserving and enhancing the historic environment), local Policy R28 and emerging local policies SADM15, SP15, and SP9 (insofar as Policy SP9 relates to heritage assets).

Residential Amenity

- 6.18 With reference to Paragraph 9.101 of the Committee Report, in terms of existing residential amenity, is agreed that the proposed development would not result in unacceptable levels of overlooking or loss of privacy to existing surrounding properties. In addition, all nearby residential properties would retain acceptable levels of outlook.
- 6.19 Living conditions for future occupiers are addressed at Paragraphs 9.103-9.105 of the Committee Report. The report confirms that all proposed units would meet the government's National Described Space Standards. All units would have acceptable outlook and privacy (subject to the proposed condition relating to boundary treatment of Plots A008 and B006, which is agreed by the Appellant).

- 6.20 Sufficient and high quality public, communal and private amenity space is provided for the proposed development, as the Committee Report notes:

Public open space: *“The amount and use of the open space on the site is positive and is considered to create a public realm with a strong sense of place, which creates social, recreational and edible spaces for the future and existing community, which is supported.”* (Paragraph 9.84)

Communal and private amenity space: *“The Principal Urban Designer commented that the communal amenity is 27.4sqm per unit, which is above and beyond what would be considered reasonable when combined with each unit having private amenity in excess of 5sqm (in many cases considerably more)... this is another triumph of the scheme. The approach to communal and private amenity, along with the treatment of the public realm is therefore considered to be a very strong element of this scheme.”* (Paragraph 9.86)

- 6.21 As noted at Paragraphs 9.99-9.100 of the Committee Report, two Daylight and Sunlight Reports, produced by Anstey Horne, were submitted in support of the application. The reports assess the potential changes to daylight and sunlight levels in the neighbouring properties, as well as daylight and sunlight levels likely to be achieved in the proposed units and amenity spaces. Greengage Consultancy were instructed by WHBC to assess the Daylight and Sunlight Reports submitted by the Appellant. Greengage Consultancy confirmed that the Reports and calculations therein have been carried out in accordance with industry best practice, with accurate modelling, and overall compliance with relevant criteria is very high. The proposal will therefore not give rise to a detrimental impact upon the amenity of existing or future neighbours by way of loss of daylight and sunlight.
- 6.22 As set out at Paragraph 9.106 of the Committee Report, whilst the application is no longer considered EIA development, HCC Public Health confirmed that the submitted Air Quality chapter of Environmental Statement (ES) was carried out as per industry standard guidelines and practice, with the National Air Quality Objectives (NAQOS) and their Limit Values forming the basis of the air quality assessment of the proposed development. Within the ES, assessments were undertaken of the residual effect (dust; NOx and PM emissions from construction traffic and from NRMM) upon existing and proposed residential properties. Within the construction environment management plan (CEMP) a package of mitigation measures are proposed. The CEMP is to be secured by planning condition, which is agreed by the Appellant. Subject to the CEMP mitigation measures being conditioned, the assessment concluded that in both the construction and operational phase the development would

not have a significant residual effect upon existing or future occupiers close to the site. WHBC Public Health and Protection Officer raised no objection in this regard.

6.23 The application was supported by a Health and Wellbeing Statement which demonstrates the proposal promotes healthy and safe communities, including crime prevention. The application was supported by Hertfordshire Constabulary (Paragraph 9.107, Committee Report).

6.24 There are specific conditions to secure mitigation against noise which are accepted by the Appellant. Subject to these conditions, there would be no unacceptable noise impacts associated with the proposed development on existing neighbouring residents, and acceptable noise levels would be achieved within the development (both internal and amenity spaces) (Paragraph 9.109, Committee Report). No objection was raised by WHBC Public Health and Protection on noise grounds.

6.25 The proposal therefore complies with local Policy R19 and emerging policies SADM11 and SADM18.

Highways and servicing

6.26 RfR2 cites draft Policy SADM2. RfR2 states that:

“The application, including the Transport Assessment, fails to provide sufficient evidence that the transport impact, car parking and proposed transport mitigation strategy shall achieve sustainable transport objectives and shall not result in any unacceptable impact. As such, the application is contrary to Policy H2 of the District Plan, the Council's Parking Guidance SPG and interim Policy for Car Parking Standards and Policies SP 4, SADM 2 and SADM 3 of the emerging local plan.

6.27 The wording of RfR2 implies this is a broad area of disagreement. However, its scope is narrowed by the draft minutes of the Development Management Committee, which state:

“The proposal is contrary to Policy H2 of the District Plan and the Council's Parking Guidance SPG in that the parking provision is lower than the number of residents and local public transport is not good enough to justify deviating from this guidance. In addition, the proposed transport mitigation proposed through the section 106 agreement shall not achieve sustainable transport objectives.”

6.27 On this basis, the relevant part of draft Policy SADM 2 is understood to be criteria iv); the provision of satisfactory and suitable levels of parking.

- 6.28 The application was supported by a Transport Assessment, produced by i-Transport. Adopting a worst-case scenario, the Transport Assessment sets out that the net impact of the development proposal shows a reduction in overall vehicle trips compared to the E(g)(ii) (formerly B1b) use of the site. The Highway Authority have commented that the impact of this development on the local highway network has been assessed and is shown to be acceptable with improvements to active travel and sustainable transport networks that will encourage a mode share shift from private vehicle use. This is to be secured via s106 contributions and Travel Plan. (Paragraph 9.113, Committee Report).
- 6.29 The proposed vehicle, cyclist and pedestrian access arrangements are acceptable, subject to a Section 278 agreement to secure access works to Broadwater Road, and any other off-site works (Paragraph 9.114, Committee Report). The Appellant agrees to the recommended condition to secure a pedestrian and cycle route to the north of the to connect with the Wheat Quarter and provide a more direct and convenient route towards the town centre (Paragraph 9.115, Committee Report).
- 6.30 Cycle parking provision, electric vehicle charging provision, motorcycle parking provision, car club provision, and blue badge parking provision are all acceptable.
- 6.31 The proposed fire and servicing strategy is acceptable. There was no objection raised in relation to this by HCC. The Appellant agrees to a condition for hydrant provision.
- 6.32 A draft Construction Transport Management Plan (“CTMP”), produced by HG Construction, was submitted in support of the application and welcomed by the Highway Authority. The development of the draft CTMP into a full CTMP has been recommended by condition, which is agreed by the Appellant.

Landscaping, Trees and Biodiversity

- 6.33 Existing landscaping within the appeal site is limited to trees along the boundaries.
- 6.34 As set out at Paragraph 9.79 of the Committee Report, the Appellant undertook a survey of the trees on the site in accordance with BS:5837:2012 to support the application. The Council consider this to be a fair appraisal of the existing trees. As per the application Arboricultural Impact Assessment (DCCLA), the proposal would retain most of the trees with the loss of one high quality tree and several lower quality trees. The loss of these trees would be mitigated through the proposed landscaping of the site. The tree protection methods set in the Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP) (DDCLA) are considered sufficient to retain the trees successfully through the development. A condition is recommended, and agreed by the Appellant, to ensure the AMS and TPP are adhered to fully.

- 6.35 The Landscape Strategy (Section 5 of the application Design and Access Statement) and Landscaping Plans (produced by BMD) establish the landscaping principles of the scheme, which draw upon Garden City principles by creating a public realm that: creates a strong sense of place; increases biodiversity and sustainability; provides connected and integrated routes; and provides social, recreational and edible spaces for the community. In order to achieve this, the entrance to the site will be improved, with the introduction of hedgerows and climbers, which would create a greener entrance and better sense of arrival. The scheme also proposes raised planters, edible landscapes surrounding outdoor seating, and an area for an orchard and communal roof gardens on the site. This landscaping strategy is supported by the Council, as the Committee Report states, “*the proposed landscaping scheme is therefore considered to enhance the soft landscaping on the site and create a more attractive and pleasing residential environment for future occupiers.*” The Places Services Principal Urban Designer similarly supported the landscape strategy as a “triumph” of the scheme.
- 6.36 The application was supported by an Ecological Impact Assessment (including biodiversity net gain calculation), produced by Green Environmental Consultants. The Assessment confirms that the existing site has low ecological value, there are no significant constraints to the redevelopment of the site in terms of biodiversity, and no further ecological surveys are required. Subject to conditions, the development will result in no unacceptable ecological impact and will achieve a significant biodiversity net gain of over 700% (Paragraph 1.50, Committee Report), significantly exceeding the 10% net gain sought by the Environment Act 2021.
- 6.37 The proposal therefore complies with local Policies R11 and R16, and draft local Policy SADM16.

Flood risk and drainage

- 6.38 There is no objection to the proposal from the LLFA (Paragraph 9.153, Committee Report). Through the submission of additional information via condition, the development will manage surface water and not increase flood risk at the site or elsewhere.
- 6.39 The proposal therefore complies with NPPF Paragraphs 167 and 169, local Policies R8 and R10, and emerging local Policy SADM14.

Sustainability and renewable energy

- 6.40 As outlined at Paragraph 9.158 of the Committee Report, an Energy Strategy by Stroma BE Ltd. was submitted in support of the application. The report details a fabric first approach to limit the total energy demand for the scheme, throughout its operational life. The net result is that the scheme is predicted to save 12.86% from the residential element and 13.86% from the commercial unit, of the predicted carbon emissions with reference to the current building regulations. The proposal would therefore exceed the requirements defined within the current and future planning policies, including the 10% emissions saving target within the Broadwater Road SPD (2008).
- 6.41 Paragraph 9.159 of the Committee Report notes that Affinity Water identified that the application site is located within a Government designated 'water stressed area'. Accordingly, a condition to improve water efficiency is applied and agreed by the Appellant.
- 6.42 The proposal therefore complies with local Policies SD1 and R3, emerging local policies SP10 and SADM13, and the Broadwater Road West SPD energy policy.

Contaminated land

- 6.43 A Phase I and II Geoenvironmental Assessment, produced by Symbiotic Solutions, was submitted in support of the application. The report identifies no significant risks in contamination terms which require specific remediation or mitigation actions. The report concludes that, from a geoenvironmental perspective, the site is suitable for the proposed residential development in its current conditions.
- 6.44 A condition to address any unexpected contamination finds during the construction phase is agreed by the Appellant. A further condition to prevent the direct infiltration of surface water into the ground is agreed by the Appellant.
- 6.45 The proposal therefore complies with and local Policies R2 and R7.

Waste management

- 6.46 Waste and recycling provision and collection arrangements are agreed to be acceptable. The proposed waste management strategy for construction, operation, occupation and demolition phases is acceptable. The Appellant accepts the financial contributions set out in the draft Section 106 for waste and recycling provision.
- 6.47 The proposal therefore complies with local Policy R5.

Archaeology

- 6.48 HCC's Historic Environment Advisor has confirmed that the development is strongly unlikely to impact upon heritage assets of archaeological interest. No further archaeological surveys or monitoring are required (Paragraphs 9.168-9.171, Committee Report).
- 6.49 The proposal therefore complies with the NPPF and local Policy R29.

Environmental Impact Assessment

- 6.50 The development does not constitute EIA development.

7.0 Areas of Disagreement

7.1 The current areas of disagreement between the Appellant and WHBC relate to the three RfR, heritage and planning obligations. As the application received an officer recommendation for approval, the Committee Report does not provide reasoning behind each of the RfR. In the following sections, the RfR are explained with reference to the Decision Notice and printed minutes of the Development Management Committee (**Appendix 8**). The Appellant awaits the WHBC's Statement of Case to fully understand, and respond to, the Council's justification for each of the RfR.

Reason for Refusal 1

7.2 RfR1 relates to the proposed housing tenure and mix (including affordable housing). It states the proposal would fail to meet the objectively assessed need ("OAN") for housing in the borough, and would not contribute to creating a sustainable, inclusive and mixed community, contrary to Policy SP 7 (Type and Mix of Housing) of the submitted draft Local Plan (2016).

7.3 The Appellant disagrees with WHBC that the refusal of the application on the basis of the proposed mix of dwelling types and sizes is justified.

7.4 The Appellant disagrees with the Council that the proposed development would conflict with draft Policy SP 7.

7.5 The Appellant disagrees with the Council that there is conflict with Paragraph 130f) of the NPPF due to the proposed housing mix. The disagreement relates only to Paragraph 130f)'s criteria for new development to be inclusive.

7.6 The Appellant disagrees with the Council that there is conflict with Paragraphs 120c) and 120d) of the NPPF, relating only to whether the proposed new homes would meet identified needs for housing.

Reason for Refusal 2

7.7 RfR2 concerns transport impacts, stating there is insufficient evidence that the transport impact, car parking and proposed transport mitigation strategy will achieve sustainable transport objectives and not result in any unacceptable impact. The wording of RfR2 implies this is a broad area of disagreement, however, its scope is narrowed by the draft minutes of the Development Management Committee, which state:

"The proposal is contrary to Policy H2 of the District Plan and the Council's Parking Guidance SPG in that the parking provision is lower than the number of residents and local public transport is not good enough to justify deviating from this guidance. In

addition, the proposed transport mitigation proposed through the section 106 agreement shall not achieve sustainable transport objectives.”

- 7.8 The Appellant disagrees with the Council that the level of residential parking provided in the Appeal scheme is insufficient, having regard to the scheme’s proposed improvements to active travel and sustainable transport networks. The Appellant and the Council disagree in relation to the impact of the development on residential parking provision, and specifically whether there would be adverse impacts on the area as a result of the additional pressure that would be created on the availability of parking in the area.
- 7.9 The Council disagrees with the Appellant’s conclusion that the proposals comply with NPPF Paragraphs 110 and 112.
- 7.10 As noted previously, the Appellant reserves the ability to respond further upon receipt of WHBC’s Statement of Case and a fuller understanding of WHBC’s justification for RfR2.

Reason for Refusal 3

- 7.11 RfR3 questions the quality of the design in terms of its form, height, bulk, scale and massing and whether the proposed design respects the character and context of the local area.
- 7.12 The Council disagrees with the Appellant’s view that the appeal proposal is of high quality design which relates to the context of the Garden City and respects the immediate context of the site through appropriate form, height, bulk, scale and massing.
- 7.13 The Council and the Appellant disagree that RfR3 is justified with reference to Policies D1 and D2 of the District Plan, the Broadwater Road West SPD, Paragraphs 130 and 134 of the NPPF or Policy SP 9 of the emerging Local Plan.

Heritage

- 7.14 As noted in Paragraphs 9.45 to 9.50 of the Committee Report, the degree of impact on the setting of Hatfield House and its associated Park and Garden is disputed between Historic England and WHBC’s Heritage Advisors (Place Services). Historic England identified ‘less than substantial’ harm whereas Place Services identified a neutral impact. The Appellant considers there will be no impact, thus constituting no harm, to the significance of Hatfield House, Park and Garden. The Council and the Appellant disagree on whether any harm would be caused, but agree that if any harm were caused, it would be no greater than less than substantial harm in accordance with Paragraph 202 of the NPPF, outweighed by the public benefits of the proposal.

Planning Obligations

- 7.15 The draft Section 106 obligations (Appendix 4) had been agreed prior to the Development Management Committee (Paragraphs 9.179-9.193 and 11.1 of the Committee Report, Appendix 1). The obligations have since become an area of disagreement following Hertfordshire County Council's statement to the appeal regarding the (non-highways) planning obligations sought by the County Council.

8.0 Signatures

8.1 Ahead of the Inquiry, the Appellant will liaise with the Council with the intention of agreeing the contents of this Statement of Common Ground, and will issue a final, signed version, as per the below.

8.2 The parties agree that this Statement is an accurate reflection of the common ground between them:

Signed on behalf of the Appellant [HG Group]:

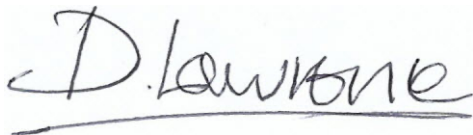
A handwritten signature in black ink that reads 'Bridget Miller'.

Name: Bridget Miller

Date: 31.05.22

Position: Associate, hgh Consulting

Signed on behalf of Welwyn Hatfield Borough Council:

A handwritten signature in black ink that reads 'D. Lawrence'.

Name: Derek Lawrence

Date: 31.05.2022

Position: Development Management Service Manager



APPENDIX 1 - COMMITTEE REPORT



APPENDIX 2 - DECISION NOTICE



APPENDIX 3 - SECRETARY OF STATE EIA SCREENING DIRECTION



APPENDIX 4 - DRAFT SECTION 106 AGREEMENT



APPENDIX 5 - INSPECTOR'S ROUND UP NOTES FROM THE STAGE 9 HEARING SESSIONS



**APPENDIX 6 - PAPERS FOR JANUARY 2022 COUNCIL MEETING
INCLUDING LIST OF PROPOSED SITES**



APPENDIX 7 - WHBC'S RESPONSE TO THE INSPECTOR 31.01.22



APPENDIX 8 - MINUTES OF THE SEPTEMBER 2021 DEVELOPMENT MANAGEMENT COMMITTEE



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