

**PLANNING AND DEVELOPMENT COMMITTEE
MINUTES**

Date: Thursday, 8 December 2022

Time: 6.30pm

Place: Council Chamber

Present: Councillors: Michael Downing (Chair) (Chair), Adrian Brown (Vice-Chair) (Vice Chair), Maureen McKay, Sandra Barr, Teresa Callaghan, Chris Howells, Graham Lawrence CC, Mrs Joan Lloyd, Adam Mitchell CC, Claire Parris, Graham Snell and Julie Ashley-Wren

Start / End Start Time: 6.30pm
Time: End Time: 8.00pm

1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for absence were submitted on behalf of Councillor Anne Wells.

There were no declarations of interest.

2 MINUTES - 1 NOVEMBER 2022

It was **RESOLVED** that the Minutes of the meeting of the Executive held on 1 November 2022 are approved for signature by the Chair.

3 21/01283/FPM NORTH CAR PARK, SIX HILLS HOUSE, SIX HILLS WAY, STEVENAGE

The Committee considered an application for the erection of a 10 storey building comprising of 94 no. flats consisting of 11 no. studios, 36 no. 1 bedroom and 47 no. 2 bedroom units, associated parking, access and ancillary works.

The application was before the Committee for determination as it was a major residential development. The application provided an uplift of 30 units above the previously approved 2016 application which sought to provide 64 units. The 2016 application which was previously approved, had been legally implemented and was therefore a material consideration in the determination of this application. The uplift of 30 units over the previously approved scheme would strengthen the Council's position with regards to 5 year land supply.

An addendum report was circulated with information relating to updated guidance from the Building Research Establishment (BRE) and comments made by the Council's drainage consultant who had advised that subject to revised conditions they would be satisfied with the scheme.

The Senior Planning Officer gave an introduction to the Committee. She advised that the main issues for consideration in the determination of the application were the acceptability of the proposal in land use policy terms, affordable housing and developer contributions, impact on the appearance of the area, impact upon residential amenities, means of access and traffic issues, parking, development and flood risk, trees, and landscaping, ecological impacts, impact on the environment and the impact on the Scheduled Ancient Monument.

The Committee was advised that the site was not allocated in the Local Plan and would therefore be classed as windfall. The proposed development would support the Council's aim of delivering homes within the Town.

In terms of location, the application site was considered to have excellent access to local facilities and alternative forms of travel to the private car and, therefore, deemed to be within a highly sustainable location.

In relation to affordable housing, the applicant had provided a detailed financial viability assessment demonstrating that the development proposal was unable to provide 25% affordable housing. The appraisal had been independently assessed by the Council's viability consultants who had confirmed that if the applicant was to provide the full quota of affordable housing, they would be left with a deficit of £5.4m. Further, the assessment also concluded that the scheme would be left with a £4.1m deficit if contributions were provided instead and would therefore result in the scheme generating no developers profit in real terms. However, the Council's Developer Contributions SPD (2021) allowed for the incorporation of a clawback mechanism in the S106 which allowed the future viability of the scheme to be reassessed and any increase or uplift in market conditions results in additional monies being provided. The Committee was advised that the applicant had agreed to this.

The Committee was also advised that the proposed development would comprise a high quality design and would help to improve the visual amenities of the area. Also, the siting of the current application was the same as the previously approved scheme which was deemed to be acceptable in terms of separation distances and outlook.

In terms of car parking, the proposal would result in the loss of 42 car parking spaces. However, there would still be, following the implementation of the development, 114 car parking spaces to serve the Six Hills House which would exceed the requirement of a maximum of 90 spaces to serve the existing development in line with the Council's Car Parking Standards. With regards to the basement car parks, these would be accessed via car lifts on the northern side of the building.

In relation to tall buildings and fire safety, following initial concerns raised by the HSE, the internal layout, staircases and fire escape routes had been amended in line with the HSE's recommendations.

In response to a number of questions from members, the following answers were given:

- Although Members were unhappy with the lack of affordable/social housing, officers advised that in this regard there was no material change to the permission granted previously;
- The previous permission included a number of 3no bed properties and the current evidence from market testing showed a need for 1 and 2 bedroom flats;
- In relation to clawback of funding, it was noted that if the scheme became more valuable and the market improved, there was a mechanism to ensure this;
- Access to the site was via a keycode. It was noted that unless the resident was in you could not access the site which could be an issue for delivery drivers as there was no parking immediately outside of the site. Officers advised that it was the Management Company's responsibility to manage the site in this regard;
- Solar panels were not part of the application due to the 'blue roof' installed to ensure rainwater harvesting;
- Members were disappointed to note that no comments had been received from the NHS despite them being a statutory consultee;
- There were an additional 48 parking spaces including 30 in the basement of the building which was accessible via a car lift.

It was **RESOLVED:**

That planning permission be granted subject to the following conditions, including the new conditions 15 – 17 provided by the Council's drainage consultant:

That planning permission be GRANTED subject to the applicant having first entered into a S106 legal agreement to secure/provide contributions towards:-

- A clawback mechanism to secure financial contributions in lieu towards affordable housing;
- Apprenticeships and construction jobs;
- Monitoring of Travel Plans
- Parking Restrictions Monitoring
- Proportionate financial contributions towards the delivery of a 2FE Primary School (including nursery) at Stevenage Town Centre;
- Associated Section 278 Highway Works;
- SBC Section 106 Monitoring Fee – 2.5% of total financial obligations (capped at £25,000); and
- HCC Monitoring Fee of £340 per trigger relating to HCC obligations.

The detail of which would be delegated to the Assistant Director of Planning and Regulation in liaison with the Council's appointed solicitor, as well as the imposition of suitable safeguarding conditions, with authority given to the Assistant Director of Planning and Regulation in consultation with the Chair of Planning Committee, to amend or add to the suggested draft conditions set out in this report, prior to the decision notice being issued, where such amendments or additions would be legally sound and most effectively deliver the development that the Planning Committee has

resolved to approve. These suggested conditions are as follows:-

- 1 The development hereby permitted shall be carried out in accordance with the approved plans:
119-3EX-00; 119-3GA-00C; 119-3GA-01D; 119-3GA-02D; 119-3GA-03D;
119-3GA-04D; 119-3GA-05D; 119-3GA-06A; 119-3GA-09D; 119-3GA-10B;
119-3GA-11D; 119-3GA-12E; 119-3GA-07C; 119-3GA-08B.
- 2 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 3 No development shall take place until samples of the materials to be used in the construction of the external surfaces development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 4 In line with the Desk Study and Ground Investigation by Hydrock dated 22 September 2022 (reference SHW-HYD-XX-XX-RP-GE-S2), a watching brief should be adopted during the initial preparation works to identify any potentially contaminated materials e.g. hydrocarbon staining due to the previous use of the site of the car park. Where identified, materials should be segregated, sampled, analysed, categorised and disposed of off-site in accordance with current legislative requirements.
- 5 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 4 which is subject to the approval of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 5.
- 6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 7 In the event that contamination is found at any time when carrying out the approved development that was not previously identified, as required under

condition 3, the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.

- 8 At least 50% of the residential units are to meet Category 2: Accessible and Adaptable dwellings.
- 9 All areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird nesting season cannot be reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.
- 10 The noise mitigation measures as detailed in the Noise Impact Assessment prepared by KP Acoustics Ltd, dated 26/01/2022 shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 11 No development shall take place above slab level until the proposed ventilation scheme for the development has been submitted to and approved in writing by the local planning authority. The detailed measures that will be implemented shall ensure that the specifications at Table 6.1 of the Noise Impact Assessment Report (Report reference 13395.NIA.02, prepared by KP Acoustics Ltd, dated 26/01/2022) can be achieved. The ventilation scheme shall be installed in accordance with the approved scheme and shall be retained for the lifetime of the approved development
- 12 No development shall take place (including demolition and site clearance) until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the highway authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include the following additional matters;
 - 1) Construction vehicle numbers, type, routing;
 - 2) Access arrangements to the site;
 - 3) Traffic management requirements;
 - 4) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
 - 5) Siting and details of wheel washing facilities;
 - 6) Cleaning of site entrances, site tracks and the adjacent public highway;
 - 7) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - 8) Provision of sufficient on-site parking prior to commencement of

- construction activities;
 - 9) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - 10) where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
 - 11) Demolition and construction works between the hours of 0730 and 1800 on Mondays to Fridays and between the hours of 0800 and 1300 on Saturdays only (These times relate to works which are audible at the boundary);
 - 12) hours of construction operations including times of deliveries and removal of waste;
 - 13) The proposed methods of construction (including details of any excavation/buildings/piling/scaffolding which are located within 10m of the railway line and/or in close proximity to Thames Water assets);
 - 14) Risk assessment in relation to the railway;
 - 15) Details on the screening or enclosure of plant and machinery;
 - 16) Details of dust control measures;
 - 17) Details of any vibro-compaction machinery which is to be used in development;
 - 18) Details of mitigation measures to protect the Common Land, Wildlife Site and Six Hills Barrows to the east of the site during the construction phase of the development.
 - 19) Details of how the safety of existing public highway users and existing public right of way users will be maintained;
 - 20) The provision for addressing any abnormal wear and tear to the highway;
 - 21) The details of consultation with local businesses or neighbours;
 - 22) The details of any other Construction Sites in the local area;
 - 23) Signage.
- 13 Prior to the commencement of development (including demolition and site clearance works) a detailed Ecological Management Plan and Heritage Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority which will detail mitigation measures to protect the adjacent Wildlife Site and Scheduled Ancient Monument known as Six Hills Barrows and any remediation and improvement works required following completion of construction works.
- 14 Prior to commencement of development, (including any demolition and site clearance) the developer shall comply fully with the requirements of the Department for Transport's DMRB Standard CG 300: Technical Approval of Highway Structures. The Approval in Principle and Design and Check Certification, accompanied by full structural details, shall be submitted and approved in writing by the Local Planning Authority in conjunction with the Highway Authority. All works shall proceed in accordance with the details submitted and Construction Compliance certification and documentation submitted to the Highway Authority.
- 15 No development shall take place until a final design of the drainage scheme for the site has been submitted to and approved in writing by the Local

Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is occupied. The scheme shall include:

- Updated surface water drainage calculations and modelling for all rainfall events up to and including the 1 in 100 year plus climate change event, including infiltration options.
- Updated full detailed surface water drainage plan showing the proposed discharge point, the location of the proposed SuDS features, any pipe runs and size.
- Detailed engineered drawings of the proposed SuDS features including their, size, volume, depth and any inlet and outlet features including any connecting pipe runs along with all corresponding detailed calculations/modelling.
- Exceedance flow paths for surface water for events greater than the 1 in 100 year plus climate change.

16 Upon completion of the drainage works, a management and maintenance plan for the SuDS features and drainage network must be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- Provision of complete set of as built drawings including the final drainage layout for site drainage network.
- Maintenance and operational activities for the lifetime of the development.
- Arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime.

17 No development shall take place before a scheme of landscaping which shall include details of both hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building(s) or the completion of the development whichever is the sooner. In regards to hard surfacing, this shall be carried out in accordance with any approved details within three months of the first occupation of the building or the completion of the development, whichever is the sooner. Soft landscaping details will need to take into consideration Network Rail's acceptable and unacceptable planting (see Informative No.8).

18 Any trees or plants comprised within the scheme of landscaping, which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

19 The development hereby approved shall be constructed in accordance with the measures to address adaptation to climate change as laid out in the Sustainability and Energy Statement by Icen Projects Ltd dated January 2022 unless otherwise agreed in writing by the Local Planning Authority.

20 Prior to first occupation of the development hereby permitted details of

external lighting to the site shall be submitted to the Local Planning Authority and approved in writing in conjunction with Network Rail. The external lighting system shall be installed in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. There shall be no other sources of external illumination.

- 21 Prior to the first occupation of the dwellings hereby permitted the approved secure cycle parking area shall be constructed in accordance with the details identified on drawing 1233-P-13 A and shall be permanently retained in that form.
- 22 The dwellings hereby permitted shall not be occupied until the general waste and recycle stores and plant areas associated with the development hereby permitted have been implemented in accordance with the details shown on approved plan 119-3GA-01D and retained and maintained accordingly for the lifetime of the development.
- 23 Prior to the first occupation of the development hereby permitted, the parking spaces shown on approved plans 119-3GA-01D and 119-3GA-00C shall be constructed, hardsurfaced and made ready for use taking into account the following:
 - a) The underlying infrastructure for connection to the electricity network to enable them to be served by electric vehicle charging points shall be provided;
 - b) They shall be constructed in a porous material or provision made for a sustainable urban drainage system (SuDS) to be built into the hardsurfaced areas;
 - c) A minimum of six (6) disabled parking spaces shall be provided.

Once provided, the parking facilities shall be retained in that form and thereafter be used for the parking of motor vehicles only.

- 24 No development shall take place above slab level until there has been submitted to and approved in writing by the Local Planning Authority in conjunction with Network Rail, details of the treatment of all boundaries including details of any walls, fences, gates or other means of enclosure. The approved boundary treatments shall be completed before the dwellings are occupied.
- 25 An Armco or similar barrier should be located in positions where vehicles may be in a position to drive into or roll onto the railway or damage the lineside fencing. Network Rail's existing fencing/wall must not be removed or damaged. The barrier would need to be installed at each turning area, roadway and car parking area which is located adjacent to the railway.
- 26 No waste materials generated as a result of the proposed demolition and /or construction operations shall be burned on site. All such refuse shall be disposed of by alternative methods.
- 27 No development shall take place until a detailed Site Waste Management

Plan (SWMP) to detail how waste materials generated as a result of the proposed demolition and/or construction methods shall be disposed of, and detail the level and type of soil to be imported to site as part of the development has been submitted to and approved in writing by the Local Planning Authority.

- 28 No development shall commence above slab level until details of 10 integrated swift boxes (including model and location) marked on a plan, have been submitted to and approved in writing by the Local Planning Authority. These devices shall be fully installed prior to occupation and retained as such thereafter.
- 29 Development shall not commence until a construction methodology statement has been submitted to and approved in writing by the Local Authority. The construction methodology shall demonstrate consultation with the Asset Protection Project Manager at Network Rail. The development shall thereafter be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the Local Planning Authority.
- 30 Prior to beneficial occupation of the development, details of an interpretation panel in a suitable, publicly accessible location to improve public perception and understanding of the adjacent scheduled monument of 'The Six Hills Roman barrows' shall be submitted to and approved in writing by the Local Planning Authority. The interpretation panel shall be installed prior to first occupation of the development hereby permitted.
- 31 No development shall take place until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions and:
1. The programme and methodology of site investigation and recording
 2. The programme and methodology of site investigation and recording as suggested by the evaluation
 3. The programme for post investigation assessment
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation www.hertfordshire.gov.uk
 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
- 32 The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis and publication where appropriate.
- 33 Prior to commencement of development above slab level, a scheme for the provision of fire hydrants shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full

prior to beneficial occupation of the development and permanently retained as such thereafter unless otherwise agreed in writing by the local planning authority.

INFORMATIVE

1 Public Information on Planning Applications

Warning: all information provided on your planning application is now publicly available. Individuals and organisations offering their services may contact you. The Council does not endorse or approve any builders, surveyors, trades persons or other supplier, and advises householders to obtain quotes/references, and check the legitimacy of any contractor who contacts them before making payment.

2 Community Infrastructure Levy

Stevenage Borough Council adopted a Community Infrastructure Levy (CIL) Charging Schedule at Full Council on 27 January 2020 and started implementing CIL on 01 April 2020.

This application may be liable for CIL payments and you are advised to contact the CIL Team for clarification with regard to this. If your development is CIL liable, even if you are granted an exemption from the levy, please be advised that it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (as amended) that CIL Form 6 (Commencement Notice) must be completed, returned and acknowledged by Stevenage Borough Council before building works start. Failure to do so will mean you risk losing the right to payment by instalments and a surcharge will be imposed. NB, please note that a Commencement Notice is not required for residential extensions if relief has been granted.

Stevenage's adopted CIL Charging Schedule and further details of CIL can be found on the Council's webpages at www.stevenage.gov.uk/CIL or by contacting the Council's CIL Team at CIL@Stevenage.gov.uk.

3 Building Regulations

To obtain advice regarding current Building Regulations please contact Hertfordshire Building Control Ltd. by emailing us at building.control@hertfordshirebc.co.uk or phoning us on 01438 879990.

To make a building regulations application please apply through our website portal at <https://www.hertfordshirebc.co.uk/contact-us/> payment can be made online or by phoning the above number after the application has been uploaded. Please phone Hertfordshire Building Control for fees guidance on 01438 879990.

Hertfordshire Building Control can also be contacted by post at Hertfordshire Building Control Ltd, 4th Floor, Campus West, Welwyn Garden City, Hertfordshire, AL8 6BX.

Once a building regulations application has been deposited with relevant

drawings and fee building work may commence. You will be advised in their acknowledgement letter of the work stages we need to inspect but in most instances these are usually:

- Excavation for foundations
- Damp proof course
- Concrete oversite
- Insulation
- Drains (when laid or tested)
- Floor and Roof construction
- Work relating to fire safety
- Work affecting access and facilities for disabled people
- Completion

Please phone Hertfordshire Building Control on 01438 879990 before 10.00am to ensure a same day inspection (Mon - Fri).

4 Party Wall etc. Act 1996

Any work that affects a party wall, including foundations dug within 3.0m of a neighbouring building, may be controllable under the Act and may require approval from the adjoining owner(s). Party Wall Act matters are always civil matters and it is neither Stevenage Borough Council's nor Hertfordshire Building Control Ltd's remit to control or enforce Party Wall act matters. Please refer to the Government's explanatory booklet The Party Wall etc. Act 1996, a copy of which is available online at <https://www.gov.uk/government/publications/the-party-wall-etc-act-1996-revised-explanatory-booklet>

5 Police Crime Prevention

The proposed development should achieve Secured By Design (SBD) accreditation in order for it to comply with current Building Regulations. The Police Crime Prevention Design Advisor by telephone on 01707 355227 or email mark.montgomery@herts.pnn.police.uk

6 Thames Water

Groundwater Risk Management Permit from Thames Water will be required for discharging groundwater into a public sewer. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991. We would expect the developer to demonstrate what measures he will undertake to minimise groundwater discharges into the public sewer. Permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 02035779483 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Through the centre of the proposed development there are easements and wayleaves. These are Thames Water Assets. The company will seek assurances that it will not be affected by the proposed development.

7 Network Rail

Fail Safe Use of Crane and Plant

All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.

With a development of a certain height that may/will require use of a crane, the developer must bear in mind the following. Crane usage adjacent to railway infrastructure is subject to stipulations on size, capacity etc. which needs to be agreed by the Asset Protection Project Manager prior to implementation.

Excavations/Earthworks

All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the Local Planning Authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

Security of Mutual Boundary

Security of the railway boundary will need to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Asset Protection Project Manager.

Demolition

Any demolition or refurbishment works must not be carried out on the development site that may endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures.

The demolition of buildings or other structures near to the operational railway infrastructure must be carried out in accordance with an agreed method statement. Approval of the method statement must be obtained from Network Rail's Asset Protection Project Manager before the development can commence.

Vibro-impact Machinery

Where vibro-compaction machinery is to be used in development, details of the use of such machinery and a method statement should be submitted for the approval of the Local Planning Authority acting in consultation with the

railway undertaker prior to the commencement of works and the works shall only be carried out in accordance with the approved method statement.

Scaffolding

Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed.

Bridge Strikes

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Project Manager is necessary to understand if there is a problem. If required there may be a need to fit bridge protection barriers which may be at the developer's expense.

Abnormal Loads

From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges and level crossings). We would have serious reservations if during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contact our Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect our asset(s) from any potential damage caused by abnormal loads. I would also like to advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

Two Metre Boundary

Consideration should be given to ensure that the construction and subsequent maintenance can be carried out to any proposed buildings or structures without adversely affecting the safety of, or encroaching upon Network Rail's adjacent land, and therefore all/any building should be situated at least 2 metres from Network Rail's boundary. This will allow construction and future maintenance to be carried out from the applicant's land, thus reducing the probability of provision and costs of railway look-out protection, supervision and other facilities necessary when working from or on railway land.

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail and its infrastructure or undermine or damage or adversely affect any railway land and structures. There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail airspace and no encroachment of foundations onto Network Rail land and soil.

There must be no physical encroachment of any foundations onto Network

Rail land. Any future maintenance must be conducted solely within the applicant's land ownership. Should the applicant require access to Network Rail land then must seek approval from the Network Rail Asset Protection Team. Any unauthorised access to Network Rail land or airspace is an act of trespass and we would remind the council that this is a criminal offence (s55 British Transport Commission Act 1949). Should the applicant be granted access to Network Rail land then they will be liable for all costs incurred in facilitating the proposal.

Access to the Railway

All roads, paths or ways providing access to any part of the railway undertaker's land shall be kept open at all times during and after the development.

8 **Network Rail Trees/Shrubs/Landscaping**

Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway. Where landscaping is proposed as part of an application adjacent to the railway it will be necessary for details of the landscaping to be known and approved to ensure it does not impact upon the railway infrastructure.

Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing. Lists of trees that are permitted and those that are not permitted are provided below and these should be added to any tree planting conditions:

Acceptable:-

Birch (Betula), Crab Apple (Malus Sylvestris), Field Maple (Acer Campestre), Bird Cherry (Prunus Padus), Wild Pear (Pyrus Communis), Fir Trees - Pines (Pinus), Hawthorne (Cretaegus), Mountain Ash - Whitebeams (Sorbus), False Acacia (Robinia), Willow Shrubs (Shrubby Salix), Thuja Plicatata "Zebрина"

Not Acceptable:-

Acer (Acer pseudoplatanus), Aspen - Poplar (Populus), Small-leaved Lime (Tilia Cordata), Sycamore - Norway Maple (Acer), Horse Chestnut (Aesculus Hippocastanum), Sweet Chestnut (Castanea Sativa), Ash (Fraxinus excelsior), Black poplar (Populus nigra var, betulifolia), Lombardy Poplar (Populus nigra var, italica), Large-leaved lime (Tilia platyphyllos), Common lime (Tilia x europea)

A comprehensive list of permitted tree species is available upon request to Network Rail.

9 **Hertfordshire County Council as Highways Authority**

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the

Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/businessanddeveloper-information/development-management/highways-developmentmanagement.aspx> or by telephoning 0300 1234047.

10 Hertfordshire County Council as Highways Authority

Parking and Storage of materials: The applicant is advised that all areas for parking, storage, and delivery of materials associated with the construction of this development should be provided within the site on land which is not public highway, and the use of such areas must not interfere with the public highway. If this is not possible, authorisation should be sought from the Highway Authority before construction works commence. Further information is available via the website: <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> or by telephoning 0300 1234047.

11 Hertfordshire County Council as Highways Authority

Obstruction of public highway land: It is an offence under section 137 of the Highways Act 1980 for any person, without lawful authority or excuse, in any way to wilfully obstruct the free passage along a highway or public right of way. If this development is likely to result in the public highway or public right of way network becoming routinely blocked (fully or partly) the applicant must contact the Highway Authority to obtain their permission and requirements before construction works commence. Further information is available via the website: <http://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

12 Hertfordshire County Council as Highways Authority

Debris and deposits on the highway: It is an offence under section 148 of the Highways Act 1980 to deposit compost, dung or other material for dressing land, or any rubbish on a made up carriageway, or any or other debris on a highway to the interruption of any highway user. Section 149 of the same Act gives the Highway Authority powers to remove such material at the expense of the party responsible. Therefore, best practical means shall be taken at all times to ensure that all vehicles leaving the site during construction of the development and use thereafter are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. Further information is available by telephoning 0300 1234047.

The Committee considered a report in respect of application 22/00764/S106 seeking a deed of variation to S106 Agreement dated 11.08.2016 approved under planning permission reference 15/00253/OPM to delete clause 12.5 and insert new clause 19 which incorporated a mortgage exclusion clause.

The application had been previously considered by the Committee on 1 November 2022 where it was resolved to agree the variation subject to a period of 6 months rather than 3 months as proposed. The Development Manager advised that the applicant had responded that they were unable to accept the amendment to 6 months as this would not be accepted by the Lenders.

Officers advised that the proposed amendment was not considered to weaken the position of the Council and would enable the Housing Association to receive full value from the lender and can therefore be accepted.

It was **RESOLVED** that the deletion of clause 12.5 from schedule 2 and the insertion of clause 19, which incorporates a mortgage exclusion clause of the S106 agreement dated 11 August 2016 and delegate authority to the Assistant Director of Planning and Regulation in conjunction with an appointed Solicitor on behalf of the Council to agree the precise wording of the variations to the original S106 agreement be approved.

5 **INFORMATION REPORT - DELEGATED DECISIONS**

Noted.

6 **INFORMATION REPORT - APPEALS/CALLED IN APPLICATIONS**

Noted.

7 **URGENT PART I BUSINESS**

None.

8 **EXCLUSION OF THE PRESS AND PUBLIC**

Not required.

9 **URGENT PART II BUSINESS**

None.

CHAIR