

**Meeting:** Planning and Development Committee

**Agenda Item:**

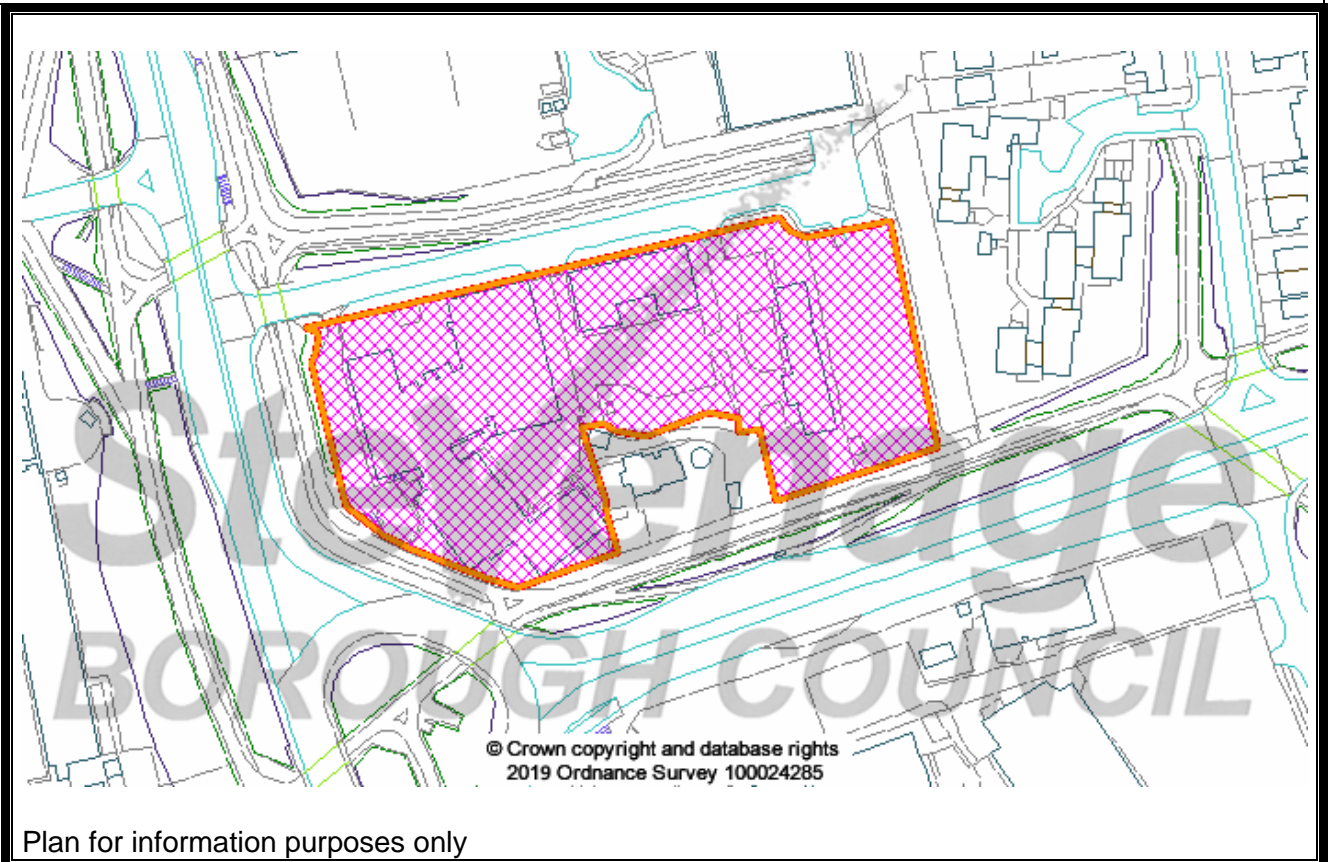
**Date:** 3 December 2024

**Author:** Ailsa Davis

**Lead Officer:** Zayd Al-Jawad

**Contact Officer:** Ailsa Davis

Application No:	23/00313/FP
Location:	Land at Maxwell Road, Stevenage.
Proposal:	Retrospective application for the change of use of FIRA Building from research and development (Class E(g)) to storage (Class B8) and surface car park (sui generis) to storage (Class B8). Erection of 2.4m high fence around the perimeter of the surface car park.
Drawing Nos.:	J0008735-23-01 (Site Location Plan); J0008735-23-01 (Security Fence Location Plan);
Applicant:	TTL Chiltern Property Limited
Date Valid:	21 April 2023
Recommendation:	GRANT PLANNING PERMISSION.



## 1. SITE DESCRIPTION

- 1.1 The site extends to approximately 7,250m<sup>2</sup> and is located at the junction of Gunnels Wood Road and Fairlands Way. It comprises two areas, eastern and western, divided in the middle by an office block which is not part of the site but is within the same ownership.
- 1.2 The western part of the site, referred to in this report as the FIRA Building, is made up of one and two storey buildings which formerly acted as research laboratories, offices and parking for the Furniture Industry Research Association. It benefits from two accesses, both from Maxwell Road, with one leading to a surface car park adjacent to Gunnels Wood Road and the other leading to a central yard with further surface parking and loading facilities. Mature trees located just beyond the northern, western and southern boundaries provide a limited degree of screening.
- 1.3 The eastern part of the site, referred to in this report as the Vets Compound, is a surface car park associated with a now vacant veterinary surgery. Access to this is also taken solely from Maxwell Road and is controlled by an arm barrier. Historically it was also enclosed by a chain link fence, but this has now been added to by a taller weldmesh fence as part of the proposals put forward in this retrospective application. As with the FIRA Building, mature trees located just beyond the site boundaries provide a limited degree of screening for this part of the site.
- 1.4 The site falls entirely within the Gunnels Wood Employment Area, but surrounding development is nonetheless mixed. Most notably, a grade II listed residential property, known as Broomin Green Farm, lies between the FIRA Building and the Vets Compound, just to the south of the aforementioned office block. Access to this property is gained from Maxwell Road, crossing over land within the ownership of the applicant. To the north-west of the Vets Compound is a further dwelling which also takes its access from Maxwell Road. To the south of this, west of the Compound, are retirement properties which are accessed from Fairview Road. In other directions, the site is surrounded by the array of industrial and commercial premises one would typically expect from an employment area.
- 1.5 Aside from those already mentioned, the site is not subject to any relevant Local Plan designations or notable environmental constraints.

## 2. RELEVANT PLANNING HISTORY

- 2.1 The planning history of the site is set out below.

Reference	Description	Decision
50/0166	Industrial Area Development – Part 1	Granted 17/07/1950
62/0096*	Site for Furniture Industry Research laboratory	Granted 13/06/1962
63/0238	Illuminated sign	Refused 16/01/1964
68/0147*	Two temporary buildings	Granted 20/11/1968
70/0221*	Extension to provide research and ancillary space, and additional parking area	Granted 04/12/1970
71/0189**	Non-illuminated name sign	Granted 28/09/1971
74/0167	Single storey extension to form laboratories and offices	Granted 16/08/1974
77/0024A**	Two flagpoles	Granted 08/11/1977
77/0283	Car park and new access	Granted

		22/12/1977
78/0019	Single storey training centre	Granted 27/02/1978
78/0020	Multi-purpose building for research	Granted 27/02/1978
78/0122	Multi-purpose two storey building for research (phase 1)	Granted 25/05/1978
78/0263	Two storey multi-purpose building for research purposes	Granted 31/07/1979
81/0238	Change of use from warehouse to light industry	Granted 22/10/1981
85/0432	Multi-purpose two storey building for research (phase 2)	Granted 10/02/1986
01/00488/FP**	Change of use of premises from factory to veterinary hospital	Granted 30/10/2001
17/00318/CPA	Prior approval for the change of use of office building (use class B1(a)) to residential dwellings (use class C3), comprising of 12no one bedroom flats and 4no two bedroom flats	Refused 05/07/2017
17/00303/OPM	Outline planning application for demolition of existing buildings and replacement with 64no. two bed flats and 64no. one bed flats; two storey extension to retained "Serviceline" building to facilitate conversion to 8no. two bed flats and 24no. one bed flats; erection of 3no. 4 bed houses; and associated access arrangements	Withdrawn 10/07/2018
19/00062/OPM	Outline application (with all matters reserved except access) for the demolition of existing buildings and replacement with buildings to accommodate new office and residential floorspace (class E and class C3), with associated landscaping, car parking and ancillary works	Refused 15/08/2022
23/00313/FP	Retrospective application for the change of use of FIRA Building from research and development (Class E(g)) to storage (Class B8) and surface car park (sui generis) to storage (Class B8). Erection of 2.4m high fence around the perimeter of the surface car park.	Granted 09/02/2024 Decision quashed by Court Order 03/10/2024

\* Relates to the FIRA Building only

\*\* Relates to the Vets Compound only

2.2 Retrospective planning permission was granted in February 2024 under delegated authority for use of the site for storage and distribution and the enclosure of the Vets Compound with a 2.4m high weldmesh fence. However, the decision was quashed in October 2024 following a successful legal challenge by the owners of Broomin Green Farm, the grade II listed house adjacent to the site. The Council's decision was found to have erred in law for the following reasons:

- (1) The Council failed to have regard to a material consideration that it was required by the statute to have regard to, namely that the planning application was for a use with unrestricted operating hours.
- (2) The Council misinterpreted the Local Plan policies, failed to have regard or irrationally applied them:
  - a) In concluding that a harmful impact on the living conditions of neighbouring occupiers would accord with the plan if it was 'acceptable';

- b) Given the Council's conclusions that the forklift vehicles are 'inherently noisy, particularly due to reversing alarms' the Council failed to comply with policy to minimise such noise by imposing suitable conditions.

- 2.3 The Court granted permission for judicial review on both grounds. The Council accepted that its Decision was unlawful on the basis that it should have considered in more detail the imposition of a condition or conditions controlling the hours of use of the proposed development. The parties agreed that, in light of the above, the Decision should be quashed and remitted back to the Council, who shall redetermine the retrospective planning application.
- 2.4 The application is therefore back with the Council as Local Planning Authority for redetermination. All consultees and neighbours have been re-consulted and the application is now before the Planning and Development Committee for its decision.

### **3. THE CURRENT APPLICATION**

- 3.1 The application seeks retrospective full planning permission for the change of use of the site to storage and distribution purposes and the enclosure of the Vets Compound with a 2.4m high weldmesh fence.
- 3.2 The site is occupied by Sky Plastics Limited (SPL) for the storage of drainage products. SPL occupy around 64% of the FIRA Building primarily for the storage of the drainage products, with a small administrative element. The service area to the rear of the building is also in use for the storage of drainage products. The vehicular / pedestrian access to the building is taken from the existing western access off Maxwell Road. The eastern access is used solely for accessing the storage element of the site. The surface car park to the east of the site is used for open storage, mostly accommodating large coils of piping, arranged in 2m high stacks. A green 2.4m high powder coated security fence has been erected around the perimeter of the site.
- 3.3 The site operates Monday – Friday 8am to 6pm and Sunday 9am to 1pm. There is no forklift operation on Sunday, mainly working inside the building making up orders. It is understood that the business has up to five HGV deliveries per week, along with one HGV collection per day, along with occasional smaller deliveries which are made by LGVs. Outgoing vehicle movements are Monday to Friday with a DX delivery lorry between 11.30am and 1pm and a smaller transit size van later in the day. Forklift trucks are used to unload deliveries and distribute items to the eastern car park at the end of Maxwell Road and within the former FIRA building yard.
- 3.4 Previously, delivery vehicles parked in Maxwell Road and goods were unloaded on the highway and delivered by forklift into the eastern car park used for storage at the end of Maxwell Road. Complaints from adjoining residents to HCC Highway Authority stopped this and deliveries are now made within the curtilage of the former Fira Building site.
- 3.5 The company occupying the site has been visited by an Environmental Health Officer and Planning Officer from the Council, as well as the adjoining neighbour at Broomin Green Farm to understand the business operation and to assess the impact on the living environment for the owners of Broomin Green Farm particularly in relation to noise.
- 3.6 The application was amended during the determination period by way of the following:

- The submission of a plan showing the location of the proposed fencing
- The submission of a data sheet for the proposed fencing
- The submission of a transport statement
- The submission of, and multiple revisions to, a delivery and servicing management plan
- The submission of an Operational Management Plan
- The submission of swept path analysis drawing for a 12m rigid vehicle

## 4. PUBLIC REPRESENTATIONS

### Consultation(s) April 2023 to February 2024

4.1 The application was initially publicised by way of a site notice and letters to neighbouring occupiers. Further letters were sent to neighbouring occupiers upon receipt of the various amendments, resulting in a total of three separate consultation periods. In total, residents of three separate properties objected to the application, submitting approximately 200 letters of objection in total. The grounds of objection may be summarised as follows:

- Harm to the character and appearance as a result of the nature of the proposed use and its operation, the maintenance of the site, and litter.
- Harm to the amenities of neighbouring occupiers as a result of noise and light pollution.
- Unacceptable impact on highway safety as a result of inconsiderate parking, inappropriate delivery and servicing procedures, and the lack of sufficient space to manoeuvre vehicles.
- Increased crime and fear of crime as a result of the nature of the proposed use, its operation, and the maintenance of the site.
- Increased risk of fire as a result of the maintenance of the site.

4.2 Representations in favour of the application were received from two properties, one being the site itself (from the current tenant) and the other being the adjacent office building, which does not form part of the site but is within the same ownership. Approximately 50 letters of support were received in total, which sought to refute the matters raised in the letters of objection and therefore concerned the same issues.

### Re-consultation following Judicial Review November 2024

4.3 The application was publicised by way of a site notice and letters to neighbouring occupiers. The owners of Broomin Green Farm objected to the application, submitting approximately 21 emails of objection in total including photographs, sound recordings and videos. The solicitor representing the owners of Broomin Green Farm also submitted a formal objection on their behalf dated 18 November 2024, which was accompanied by a Noise Assessment by Sharps Acoustics LLP and photographs. The owner of Philbeck House, Maxwell Road has also submitted two objections. The grounds of objection may be summarised as follows:

- Detrimental visual impact from the external storage of products.
- Unacceptable impact on highway safety as a result of inappropriate delivery and servicing procedures.
- Significant adverse effect on health and well-being of owners of Broomin Green Farm because of noise, mainly from tonal reversing alarms, unloading of deliveries from HGVs and lorries, and the dragging of metal racks.
- Operating hours are not restricted.

4.4 The business owner has also submitted a representation in support of the application which can be summarised as follows:

- Business has been operating in full compliance with the Operational Management Plan provided to, and agreed by, the Council since April 2024.
- Regularly completing two key logs – Deliveries/Collections Log records all incoming and outgoing deliveries and collections, ensuring goods are tracked and properly managed. Cleaning Log documents ongoing efforts to maintain a tidy and safe environment, including daily cleaning activities.
- Majority of delivery vehicles reverse, with banksman assistance, into the rear roadway of the FIRA Building, ensuring that all deliveries occur off Maxwell Road.
- Actively responded to concerns raised by residential neighbours, as evidenced by changes to the delivery procedures.
- Reduced volume of the forklift's reversing sounder. While the sounder cannot be turned off for health and safety reasons, we are exploring the possibility of installing a white noise attachment to further reduce any potential disturbance.
- This is an employment site but for more than a year we have been made to feel unwelcome by the neighbours. There have been continual incidents – trespass, blocking of access, harassment and photography.
- While we are a national distributor of construction materials, we are proud to be a local business, employing local staff and contributing to the community in Stevenage.

4.5 Please note that the aforementioned is not a verbatim of the comments which have been received. A full copy of the comments can be viewed on the Council's website.

## 5. CONSULTATIONS

### April 2023 to February 2024

5.1 The outcome of third-party consultations is shown below. Please note that where responses have not been received, the Council is under a duty not to delay determination of the application, as set out in the Planning Practice Guidance.

#### **5.2 Herts Fire and Rescue Service**

5.2.1 No response received.

#### **5.3 Herts Constabulary Crime Prevention Design Service**

5.3.1 No response received.

#### **5.4 HCC Highways (Local Highway Authority)**

5.4.1 No objection, subject to a condition requiring compliance with the submitted delivery and service management plan and a condition requiring the submission of a swept path analysis of the largest vehicles using the compound in the eastern part of the site.

#### **5.5 SBC Environmental Health**

5.5.1 No response received.

### November 2024

#### **5.6 Herts Fire and Rescue Service**

5.6.1 No response received.

## **5.7 Herts Constabulary Crime Prevention Design Service**

5.7.1 No response received.

## **5.8 HCC Highways (Local Highway Authority)**

5.8.1 The Highway Authority is being consulted on the above application following a judicial review of the decision of the 9 February 2024 to grant. The two grounds for judicial review that the decision was unlawful:

(1) The Council failed to have regard to a material consideration that it was required by the statute to have regard to, namely that the planning application was for a use with unrestricted operating hours.

(2) The Council misinterpreted the Local Plan policies, failed to have regard or irrationally applied them:

a) In concluding that a harmful impact on the living conditions of neighbouring occupiers would accord with the plan if it was 'acceptable';

b) Given the Council's conclusions that the forklift vehicles are 'inherently noisy, particularly due to reversing alarms' the Council failed to comply with policy to minimise such noise by imposing suitable conditions.

(3) The Court granted permission for judicial review on both grounds.

5.8.2 The Highway Authority has reviewed the judgement reasons for quashing, and unless advised otherwise, both points raised appear to be planning related, therefore the Highway Authority would reiterate its previous comments. The Highway Authority does not wish to restrict the grant of permission subject to the listed conditions and advisory notes.

5.8.3 In relation to the requested condition seeking details of swept path track drawings of the maximum size of service vehicle that can enter and leave the surface car park in forward gear, the applicant submitted a tracking drawing ref. 8230496/6205 for a 12m rigid vehicle. The Highway Authority has confirmed this is acceptable and agreed the condition can be amended to limit vehicles no larger than 12m to service the eastern carpark.

## **5.9 SBC Environmental Health**

5.9.1 Environmental Health officers are currently investigating a noise complaint from the owners of Broomin Green Farm connected with the operation of the business and the use of HGVs and forklift trucks. The investigation is being undertaken under separate Environmental Health legislation covered by the Environmental Protection Act 1990. Officers are working with the business owner to find ways to reduce the noise impact of the business, including the use of white noise reversing alarms on the forklift trucks to mitigate the impact. The business owner has confirmed they are exploring the possibility of installing a white noise attachment to the forklifts to further reduce any disturbance.

# **6. RELEVANT PLANNING POLICIES**

## **6.1 National Planning Policy Framework**

6.1.1 A revised National Planning Policy Framework (NPPF) was published in December 2023. This made significant changes to the September 2023 version and revised policy with respect to the following:

- maintaining supply and delivery of housing.
- making effective use of land with the allowance of mansard roof extensions to suitable properties.

- significant uplift in the average density of residential development can be seen as being inappropriate if the built form is out of character.
- strengthening policies around achieving well-designed and beautiful places.
- requirement for councils to prepare Local Design Codes.
- no longer a requirement to review or change Green Belt boundaries when plans are being prepared or updated.
- local planning authorities should now give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic.
- change to policies on Biodiversity.

6.1.2 The NPPF provides that proposals which accord with an up-to-date development plan should be approved without delay (para.11) and that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted (para.12). This indicates the weight which should be given to an up-to-date development plan, reflecting the requirements of section 38(6) of the 2004 Act.

## **6.2 Planning Practice Guidance**

6.2.1 The Planning Practice Guidance (“PPG”) is an online resource containing guidance supplementing the NPPF. The PPG is a material consideration which should be taken into account in determining planning applications.

## **6.3 National Design Guide**

6.3.1 The National Design Guide 2021 is Government guidance on the characteristics of well-designed places and demonstrates what good design means in practice. It has the same status as the PPG and should similarly be taken into account when determining planning applications.

## **6.4 The Development Plan**

6.4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For Stevenage, the statutory development plan comprises the following documents:

- The Stevenage Borough Council Local Plan 2011-2031 (adopted 2019)
- The Hertfordshire Waste Core Strategy & Development Management Policies Development Plan Document 2011-2026 (adopted 2012)
- The Hertfordshire Waste Site Allocations Development Plan Document 2011-2026 (adopted 2014)
- The Hertfordshire Minerals Local Plan Review 2002-2016 (adopted 2007)

6.4.2 In order for a Local Plan to be effective, they need to be kept up-up-date. The NPPF states policies in local plans should be reviewed to assess whether they need updating at least once every 5 years. This is reflected under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) which sets out local planning authorities must review local plans every 5 years from their adoption to ensure that policies remain relevant and effectively address the needs of the local community.

6.4.3 The Stevenage Borough Local Plan (2011 – 2031) was formally adopted by the Council on the 22 May 2019. As of the 22 May 2024, the adopted Local Plan is 5 years old and as such, is deemed to be out-of-date. This means that the policies contained in the Local Plan are deemed to have limited weight with greater weight applied to the framework of policies in the NPPF and associated PPG.



6.4.4 The Council is currently carrying out a partial review and update of the Local Plan. On 21 November 2024, a schedule of proposed changes was published for the second stage of public consultation under regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). Paragraph 48 of the NPPF 2023 states that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

6.4.5 Where there are emerging policies which are relevant to the application, these will be highlighted in the main body of this report. The policies set out below are most relevant in the determination of this application:

Policy SP1: Presumption in favour of sustainable development

Policy SP2: Sustainable development in Stevenage

Policy SP3: A strong, competitive economy

Policy SP6: Sustainable transport

Policy SP8: Good design

Policy SP13: The historic environment

Policy EC2a: Gunnels Wood Road Employment Area

Policy EC4: Remainder of Gunnels Wood

Policy EC5: Active frontages and gateways

Policy IT3: Infrastructure

Policy IT4: Transport assessments and travel plans

Policy IT5: Parking and access

Policy GD1: High quality design

Policy FP7: Pollution

Policy FP8: Pollution sensitive uses

Policy NH09: Areas of Archaeological Significance

## **6.5 Supplementary Planning Documents**

6.5.1 The following supplementary planning documents are relevant to determining the application:

Parking Provision and Sustainable Transport SPD (2020)

Stevenage Design Guide SPD (2023)

## **6.6 Community Infrastructure Levy Charging Schedule**

6.6.1 Stevenage Borough Council adopted a Community Infrastructure Levy Charging Schedule in 2020. This allows the Council to collect a levy to fund infrastructure projects based on the type, location and floorspace of a development. This proposal would be CIL liable at £0/m<sup>2</sup>.

## **7. APPRAISAL**

7.1 The main issues for consideration in the determination of this application are the principle of the development in land use policy terms, the impact on the character and appearance of the area, the impact on heritage assets, the impact on the amenities of neighbouring occupiers, the provision of parking and the impact on highway safety.

## 7.2 Land Use Policy Considerations

### Impact on the designated employment area

- 7.2.1 The NPPF states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 7.2.2 It also encourages an effective use of land whereby planning decisions promote and support the development of underutilised land and buildings. It directs that substantial weight should be given to the value of using suitable brownfield land within settlements for identified needs. Balanced against this is the need to safeguard and improve the environment, and to ensure safe and healthy living conditions.
- 7.2.3 Policy SP3 of the Local Plan is the Council's strategic policy for economic development. It states the Council's intention to continue to remodel Gunnels Wood to meet modern requirements and provide a high quality and attractive business destination.
- 7.2.4 Policy EC2a defines the spatial extent of the Gunnels Wood Employment Area. Policy EC4 then sets out criteria for development in parts of the Employment Area not covered by the "Edge-of-Centre Zone" or "Industrial Zone" sub-areas established by Policies EC2b and EC3 respectively. This includes the application site, which falls entirely within the Employment Area but not within either of these two zones.
- 7.2.5 Policy EC4 states that outside of the Edge-of-Centre and Industrial Zones, planning permission will be granted where:
- (a) development, including changes of use, is for research and development, light industry, general industry and/or storage and distribution;
  - (b) development or redevelopment of the site would not prejudice the provision of an appropriate number and range of jobs across the Employment Area as a whole; and
  - (c) on sites of over two hectares in size, any proposals for storage and distribution development are either part of a mixed-use scheme providing a range of acceptable uses or essential to the continued operation of an existing use.
- 7.2.6 The existing lawful use of the FIRA Building is for research and development purposes, which now falls within class E(g)(ii) of Schedule 2 to the Use Classes Order. The lawful use of the Vets Compound is sui generis, being incidental to the use of the adjacent building as a veterinary surgery (also sui generis). Both parts of the site constitute previously developed land and together they cover an area of approximately 0.65 hectares.
- 7.2.7 The application seeks to change the use of the site to storage and distribution purposes, which falls within class B8 of Schedule 1 to the Use Classes Order. This is in accordance with the site's Local Plan designation.
- 7.2.8 It is noted that the proposal would deprive the former veterinary surgery building, which has now been vacant for some time, of the majority of its car parking, potentially limiting its attractiveness to prospective occupiers. It is also noted that although the application relates to the entirety of the FIRA Building, the current occupier only utilises approximately two thirds of its floor space and supports only a limited number of jobs.
- 7.2.9 However, it is considered that sufficient parking would be retained so as not to preclude future occupation of the former veterinary surgery building entirely. In any event, both it and the FIRA Building are ageing and in poor condition, which would limit their attractiveness to prospective occupiers irrespective of the current proposal. It is also recognised that B8 uses tend to be less employment intensive (as defined in the Homes and Community Agency (now

Homes England) Employment Density Guidelines) than the other uses encouraged by Policy EC4 and that this will have been taken into account in the designation. Having regard to these considerations, the proposed use is considered to be an effective use of land.

7.2.10 With the above in mind, there is no evidence before officers to suggest that the proposal would limit the number or range of jobs across the Employment Area. The size of the site, the nature of the use, and the limited degree of operational development are such that the impact of the proposal on the area as a whole would be negligible in this respect.

7.2.11 Having regard to the above, the proposal is considered to accord in land use terms with Policies SP3, EC2a and EC4 of the Local Plan, as well as relevant sections of the NPPF. It follows that the principle of the development is acceptable in land use policy terms.

### **7.3 Character and Appearance**

7.3.1 Policy SP8 of the Local Plan requires new development to achieve the highest standards of design and sustainability. Policy GD1 generally requires all forms of development to meet a high standard of design, which includes the form of built development, elevational treatment and materials, along with how the development would integrate with surrounding urban fabric, its relationship between buildings, landscape design and relevant aspects of sustainable design.

7.3.2 The National Design Guide 2019, which was published by the Government, is a material consideration in the determination of planning applications. It states that buildings are an important component of places and proposals for built development are a focus of the development management system. However, good design involves careful attention to other important components of places. These include:

- the context for places and buildings;
- hard and soft landscape;
- technical infrastructure – transport, utilities, services such as drainage; and
- social infrastructure – social, commercial, leisure uses and activities.

7.3.3 A well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. It comes about through making the right choices at all levels, including:

- the layout
- the form and scale of buildings
- their appearance
- landscape
- materials; and
- their detailing

7.3.4 The Guide goes on to state that all developments are made up of these components put together in a particular way. As such, the choices made in the design process contribute towards achieving the ten characteristics and shape the character of a place. For reference, these ten characteristics are as follows:

- Context – enhances the surroundings
- Identity – attractive and distinctive
- Built form – a coherent pattern of built form
- Movement – accessible and easy to move around
- Nature – enhanced and optimised

- Public spaces – safe, social and inclusive
- Uses – mixed and integrated
- Homes and buildings – functional, healthy and sustainable
- Resources – efficient and resilient
- Lifespan – made to last

- 7.3.5 The Council's Design Guide SPD (2023) sets out that a high-quality environment is essential for providing a good quality of life. A well-designed and managed space not only provides a visually attractive environment but can also help to ensure that a place is easy to move around and within, is safe and secure, and is useful for all members of the community.
- 7.3.6 The existing buildings on the site are in poor condition and this was the case prior to the current tenant occupying the site and carrying out the change of use. This did and still does have a negative impact on the character of the area, causing it to appear neglected. Efforts by the tenant to remedy the situation since moving in have had little effect.
- 7.3.7 The only proposed operational development is the erection of the weldmesh fence and gate to enclose the Vets Compound, which sits in addition to the existing chain link fence and arm barrier. The new fence is taller, at 2.4m in height, and is also powder coated in green. These characteristics cause it to appear more prominently in views from surrounding roads and properties.
- 7.3.8 Nevertheless, the visual impact of the new enclosure is limited. Notwithstanding the fact that it is the sort of structure one might ordinarily expect to see in an industrial location, it is mostly see-through and its physical presence is therefore much more limited compared to, for example, a close boarded fence. Whilst it may have been possible to enclose the site in a way which would have had an even more limited impact, the enclosure as it is, which is what has been put forward for permission, is not harmful.
- 7.3.9 Another relevant consideration in terms of impact on character and appearance is the nature of the use itself, insofar as it involves open air storage which is very much visible from surrounding roads and properties. The storage of the products is in keeping with the predominantly industrial character of the location. Although open air storage is somewhat unusual, with most of the Gunnels Wood Employment Area being taken up by uses carried out indoors, it is neither unexpected nor incongruous. The builders' merchant a short distance to the north on Cockerell Close is a good example of this.
- 7.3.10 Whilst the storage of the products is not harmful, the display of other associated paraphernalia, residual packaging, commercial waste and litter is another matter. This has had an adverse impact on the character and appearance of the area by further contributing to its neglected and untidy appearance. However, whilst this is to some degree inevitable (it would not be reasonable to expect the site to remain in pristine condition at all times), the impact here has largely been the result of the practices of the current occupier, as evidenced by brief periods of marked improvement when waste is disposed of promptly and residual packaging and tools are tidied and organised. For this reason, it is considered that the impact could be suitably mitigated by the imposition of a condition to secure compliance with the approved Operational Management Plan for residual packaging, commercial waste and litter.
- 7.3.11 The business owner has confirmed that since April 2024, the business has been operating in full compliance with the Operational Management Plan. There was no evidence of residual packaging, commercial waste and litter during recent site visits and therefore it is considered this matter has been successfully dealt with and would continue to be so through the condition requiring ongoing compliance with the Operational Management Plan.

- 7.3.12 Whilst it is accepted that the use would still have some impact on the character and appearance of the area, that impact, subject to the imposition of the operational management plan condition, would be no greater than one might ordinarily expect from a storage use. Within a predominantly industrial area, this is considered to be acceptable.
- 7.3.13 Having regard to the above, it is considered that the proposed development would have an acceptable impact on the character and appearance of the area, in accordance with Policies SP8 and GD1 of the Local Plan.

#### **7.4 Heritage Assets**

- 7.4.1 Broomin Green Farm is grade II listed. The proposed development, by reason of its proximity, has the potential to affect the setting of this designated heritage asset.
- 7.4.2 Paragraph 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 7.4.3 The NPPF requires that great weight is given to the conservation of a designated heritage asset (and the more important the asset, the greater the weight should be), when considering the impact of a proposed development on its significance. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 7.4.4 Local Plan Policy SP13 requires proposals affecting heritage assets to be assessed against national policies. The significance of Broomin Green Farm is primarily derived from its architectural significance as a 17<sup>th</sup> century timber framed property. It clearly reads as a historic building and has an attractive appearance by virtue of the way in which the property was built and subsequently altered with the use of traditional materials and craftsmanship. It is also of significance as the former farmhouse of a farm set in a once rural location to the south-west of the historic part of Stevenage on one of several greens which surrounded the town (such as Norton Green, Symonds Green and Shephall Green).
- 7.4.5 However, as the New Town was developed in the middle of the 20<sup>th</sup> century, the outbuildings associated with the farmhouse were demolished and the surrounding fields were rapidly developed for new roads and factories. As a consequence, the farmhouse is now isolated from its historic context and its immediate setting is confined to its garden.
- 7.4.6 Broomin Green Farm is almost entirely hidden in views from Maxwell Road and whilst somewhat more visible from Fairlands Way, it is still obscured by dense vegetation, especially during the summer months. Nonetheless, the application site is considered to form part of its wider setting and the Vets Compound, along with the open-air storage and enclosure, can be seen alongside it.
- 7.4.7 The visual impact of the development in general terms is considered above and many of the same principles apply in respect of the impact on the significance of the listed building. The green weldmesh fence to the eastern carpark, whilst slightly more prominent in views than the existing, remains a relatively minor feature in the street scene and appears no more nor less modern or historically unsympathetic.

- 7.4.8 The open-air storage set behind the fence has a greater visual impact but appears in keeping for the character of the area which is commercial in nature. The buildings on the opposite side of Fairlands Way, which can also be seen alongside the listed farmhouse, also have a distinctly modern and commercial appearance but in these views, the area as a whole clearly reads as a commercial location whereby they do not appear out of place or detract from the listed building's setting.
- 7.4.9 It is considered that the introduction of the storage and distribution use and development of the sort currently occupying the site does not have an adverse impact on the setting of the farmhouse. It follows that whilst the use does not enhance the listed building or its setting, it would preserve them and would have no impact on the significance of the asset. Consequently, it is not necessary to weigh any harm against the public benefits of the use, which is considered to accord with Policy SP13 of the Local Plan.

## **7.5 Neighbouring Amenities**

- 7.5.1 Policy FP7 of the Local Plan requires all development proposals to minimise, and where possible, reduce air, water, light, and noise pollution. Planning permission will be granted when it can be demonstrated that the development will not have unacceptable impacts on general amenity and the tranquillity of the wider area. Policy GD1 also requires that developments do not have an adverse impact on neighbouring uses or the surrounding area. In the emerging Local Plan partial review and update, criterion (e) of policy GD1 is updated to refer to "unacceptable" adverse impacts. The intention behind the change is to make clear that in some circumstances, an adverse impact might still fall within acceptable bounds and that this is a matter of judgement for the decision maker.
- 7.5.2 The existing use does not have any material impact on the living conditions of neighbouring occupiers by way of overbearing appearance or loss of natural light. It is recognised that some views into Broomin Green Farm are possible from the site, but the proposal does not introduce any new vantage points and therefore has no adverse impact either. It is possible that neighbouring properties, particularly Broomin Green Farm, could suffer from light pollution in the event that external lighting is installed. However, the impact could be suitably mitigated by a condition requiring permission to be sought for any such lighting.
- 7.5.3 The main source of potential impact on neighbours' living conditions is noise pollution, both from vehicular traffic and loading activity. Collections and deliveries are made by HGV, but these are infrequent, and any movement is short in duration. Forklifts also operate at the site, both within and between the FIRA Building and eastern carpark storage area and this activity is far more frequent and prolonged.
- 7.5.4 Both of these vehicles are inherently noisy, particularly due to reversing alarms. The movement of goods across the site and the general activity of staff also generates noise. However, the infrequency of the HGV manoeuvres and the fact that all this activity takes place during normal business hours means that any impact on neighbouring living conditions would be broadly consistent with the existing lawful use of the site under class E(g)(ii), which is unrestricted and within the bounds of what one might ordinarily expect from a site in commercial use.
- 7.5.5 Furthermore, this activity takes place against the background of an already noisy environment. Gunnels Wood Road and Fairlands Way are both main roads which attract significant amounts of traffic, including HGVs, and there are many other businesses in the vicinity which generate noise in a similar way to the proposed development. The site is also under the flight path into Luton Airport and aircraft noise also contributes to the existing external noise environment.

- 7.5.6 Officers are also mindful of the fact that environmental health legislation provides specific protections in respect of noise which is considered to amount to nuisance. Since the proposed use would be the noise generating rather than the noise sensitive use, the agent of change principle does not present any material issues in this respect.
- 7.5.7 The previous planning permission was quashed following a successful Judicial Review on the basis the Council failed to have regard to a material consideration that it was required by the statute to have regard to, namely that the planning application was for a use with unrestricted operating hours and the Council misinterpreted the Local Plan policies, failed to have regard or irrationally applied them:
- a) In concluding that a harmful impact on the living conditions of neighbouring occupiers would accord with the plan if it was 'acceptable';
  - b) Given the Council's conclusions that the forklift vehicles are 'inherently noisy, particularly due to reversing alarms' the Council failed to comply with policy to minimise such noise by imposing suitable conditions.
- 7.5.8 The conclusions of the Noise Assessment by Sharps Acoustics prepared on behalf of the owners of Broomin Green Farm are noted, namely;
- "Overall, the sounds from the activities in the yard of the Fira Building at the time of my survey were intrusive in both external and internal amenity areas. These sounds comprised occasional rattles and bangs from items being moved or dropped but the principal source of annoyance was the noise from tonal reversing alarms, which were present for much of the time through each working day".*
- 7.5.9 However, the Assessment goes on to note that the application seeks 24/7 unrestricted B8 use, which it concludes is almost certain to result in a significant noise problem at Broomin Green Farm due to the close proximity of the two sites. The criticism appears to relate to the fact the use is unrestricted. On this basis and following site visits to both the application site and Broomin Green Farm, it is considered the impact could be mitigated through the use of conditions.
- 7.5.10 The first condition would limit the hours in which servicing and deliveries can take place to 8am to 6pm Monday to Friday. Currently the use of the site is unrestricted, as is the existing lawful use as research and development (use class E(g)(ii) / sui generis). The second condition would prevent the use of forklift trucks during Sunday operating hours and before 8am and after 6pm on weekdays, with the business operating inside the FIRA building making up orders on Sundays. This would prevent any noise from forklift reversing alarms and HGV deliveries during the weekend and anti-social weekday hours.
- 7.5.11 Through restricting the hours in which servicing or deliveries can occur, planning control would be introduced whereby at present there is none giving greater certainty to neighbours that there would be no noisy activity during antisocial hours. This would represent an improvement on the existing unrestricted use of the site, and indeed the previous lawful use of the site whereby HGVs and forklifts could operate without requiring planning permission as part of a business within the E(g) use class.
- 7.5.12 Having regard to the above, it is considered that whilst the existing use has some noise impact on the living conditions of neighbouring occupiers, the impact can be mitigated through the use of planning conditions discussed above. It is considered these conditions would meet the relevant tests within paragraph 56 of the NPPF and would make an otherwise unacceptable development, acceptable. In this respect, the proposal is considered to accord with Policies FP7 and GD1 of the Local Plan.

## **7.6 Parking**

- 7.6.1 Policy IT5 of the Local Plan requires development proposals to comply with the parking standards set out in the Stevenage Borough Council Parking Provision and Sustainable Transport SPD 2020. According to the standard, a B8 use should provide 1 car parking space for every 75m<sup>2</sup> of gross floor area (“GFA”). The FIRA Building has a GFA of 2,589m<sup>2</sup> and the Vets Compound has a GFA of 1,700m<sup>2</sup>. The baseline parking requirement is therefore approximately 57 spaces.
- 7.6.2 However, the site is located within Non-Residential Parking Accessibility Zone 1, wherein parking can be reduced to between 0% to 25% of the baseline figure. This means that between zero and 15 spaces should be provided. The existing use benefits from 14 spaces i.e. one short of the maximum level of provision.
- 7.6.3 The level of disabled parking and parking for powered two-wheelers is unknown. However, it is noted that the requirements are the same for the existing lawful use and the proposed use at 5% of the total number of spaces. Given that the level of parking across the site has been reduced and the only spaces which have been lost are standard spaces, the proposal does not have any adverse impact in this respect.
- 7.6.4 Parking for HGVs is to be assessed against the benchmark standards, which is a range between 1 space per 200m<sup>2</sup> GFA and 1 space plus 1 additional space per 500m<sup>2</sup> GFA. However, the SPD also says that proposals will be assessed on a case-by-case basis. In this case, the development would not provide any parking for HGVs save for the loading area within the FIRA Building. Given that the delivery and service management plan would act to restrict the number of HGVs on site at any one time to one, this level of provision is considered to be acceptable.
- 7.6.5 Having regard to the above, the proposal is considered to be contrary to Policy IT5 because the applicant has failed to demonstrate compliance with powered two-wheeler and disabled parking standards. However, for the reasons given above, the impact of this would be no worse than the existing lawful use of the site. Accordingly, the conflict with Policy IT5 is afforded limited weight.

## **7.7 Highway Safety**

- 7.7.1 Policy IT4 of the Local Plan 2019 states that planning permission will be granted where development will not have an adverse impact on highway safety. The primary consideration in terms of highway safety is the movement of HGVs associated with collections and deliveries at the site. HCC Highways, as local highway authority for the surrounding road network, requested a stage 1 road safety audit and traffic generation assessment, which was duly provided by the applicant and assessed as being acceptable. However, the arrangements for deliveries and servicing remained an issue due to the limited available space for turning on Maxwell Road.
- 7.7.2 When the change of use was first carried out, deliveries and servicing were carried out within the carriageway of Maxwell Road in front of the FIRA Building. This arrangement was deemed to be unacceptable by the highway authority and so it was then proposed that HGVs would reverse into the Vets Compound, but this proved to be unworkable because the absence of parking restrictions within the turning head at the end of the road results in insufficient space to manoeuvre.
- 7.7.3 HGVs now reverse into the FIRA Building for deliveries before exiting the site in a forward gear. This proposal is supported by swept path drawings which demonstrate that there is sufficient space for the manoeuvre to safely take place. The applicant has also produced a delivery and servicing management plan in consultation with the highway authority. This sets out a number of measures to ensure that the site is serviced safely, including limiting the



number of deliveries to the site, the number of delivery vehicles on site at any one time, and having staff guide vehicles in and out of the site.

7.7.4 The highway authority is now satisfied that the proposed delivery and servicing arrangements are acceptable. It has recommended a condition to ensure that the submitted management plan is complied with and a condition to restrict the size of the largest vehicle which can access the eastern carpark end of the site.

7.7.5 It is noted that the issue of forklifts manoeuvring in the road has been raised by objectors to the scheme. However, the highway authority was made aware of these complaints and has not raised any objections in terms of impact on highway safety or the operation of the road network.

7.7.6 Having regard to the above, and subject to the recommended conditions, it is considered that the proposed development would have an acceptable impact on highway safety, in accordance with Policy IT4 of the Local Plan.

## **7.8 Biodiversity Net Gain**

7.8.1 The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

7.8.2 The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Stevenage Borough Council. There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not apply. Based on the information available, this application is one which will not require the approval of a biodiversity gain plan because the following statutory exemption or transitional arrangement is considered to apply.

7.8.3 Development below the de minimis threshold, meaning development which:

- a) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
- b) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

## **7.9 Other Matters**

7.9.1 Other matters which were raised in representations and/or are material planning considerations but are not considered to be main issues are considered below.

### *Crime*

7.9.2 Policies SP2 and GD1 of the Local Plan seek to create safe environments that reduce crime and the fear of crime. Objectors to the scheme have raised concerns in respect of the proposed development attracting crime. This is due to the poor condition of the site, in particular gaps in fencing, and the open display of goods.

7.9.3 Officers accept that the open display of goods has the potential to entice thieves. However, officers are also satisfied that the compound where the goods are stored is appropriately

secured. The current occupier of the site has also provided evidence of CCTV surveillance and stated that regular security patrols take place.

- 7.9.4 Hertfordshire Constabulary was consulted on the application but did not respond. In the absence of their advice, the measures set out by the current occupier are considered to be proportionate and sufficient to mitigate the likely risk of crime to a level which might ordinarily be expected from an open-air B8 use. In this respect, the proposal is considered to accord with Policies SP2 and GD1 of the Local Plan.

#### *Fire Safety*

- 7.9.5 Fire safety is a material planning consideration, albeit there are no specific policies relating to it in either the Local Plan or NPPF.
- 7.9.6 Objectors to the scheme have raised the issue of the impact of the development on fire safety. This is due to the nature of the products being stored as well as the manner in which they are stored. One incidence of a discarded gas canister being found was also reported.
- 7.9.7 Hertfordshire Fire and Rescue was consulted on the application but did not respond. In the absence of their advice, officers accept that the proposed development would be at some risk of fire. However, there is no evidence to suggest that the risk would be materially greater than for any other open-air storage use. Furthermore, the development is not of a category that would require a fire safety statement to be submitted and the layout of the site and surrounding area is such that officers are confident that the fire and rescue service would be able to respond to any incidents effectively.
- 7.9.8 Having regard to the above, it is considered that the proposed development would have an acceptable impact on fire risk.

#### *Equality and Human Rights Considerations*

- 7.9.9 Consideration has been given to Articles 1 and 8 of the First Protocol of the European Convention on Human Rights. It is not considered that the decision would result in a violation of any person's rights under the Convention.
- 7.9.10 When considering proposals placed before the Council as Local Planning Authority, it is important that it is fully aware of and has themselves rigorously considered the equalities implications of the decision that they are taking. Therefore, rigorous consideration has been undertaken by the Council as the Local Planning Authority to ensure that proper appreciation of any potential impact of the proposed development on the Council's obligations under the Public Sector Equalities Duty.
- 7.9.11 The Equalities Act 2010 requires the Council when exercising its functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and other conduct prohibited under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and (c) foster good relations between persons who share protected characteristics under the Equality Act and persons who do not share it. The protected characteristics under the Equality Act are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex and sexual orientation.
- 7.9.12 It is considered that the decision has had regard to this duty. The development would not conflict with either Stevenage Borough Council's Equality Policy or the commitments set out in our Equality Objectives, and would support the Council in meeting its statutory equality responsibilities.

## 8. CONCLUSION

- 8.1 The development has resulted in a change of the use of the site to storage and distribution purposes. This has provided employment opportunities, which is a benefit to the proposal. However, the number of job opportunities provided is limited and accordingly, it only carries limited weight in favour of the proposal.
- 8.2 The proposal is considered to be contrary to Policy IT5 because the applicant has failed to demonstrate compliance with powered two-wheeler and disabled parking standards. However, as the impact would be no greater than the existing lawful use of the site, this carries only limited weight against the proposal.
- 8.3 In all other respects and subject to the recommended conditions, the proposal is considered to be acceptable. In reaching this view, great weight has been given to the preservation of the nearby Broomin Green Farm and its setting, which is a designated heritage asset. These are neutral matters. Having regard to the above, the proposal is considered to be in accordance with the development plan when read as a whole. In the absence of any other material considerations indicating that permission should be refused, it is recommended that retrospective planning permission be granted.
- 8.4 Should Members decide that retrospective planning permission should be refused, a draft enforcement notice has been appended to this report. The refusal reason(s), what the applicant is required to do to remedy the breach in planning control and timescales for compliance will need to be agreed.

## 9. RECOMMENDATIONS

- 9.1 That planning permission be GRANTED subject to the following conditions, the detail of which would be delegated to the Assistant Director of Planning and Regulation in liaison with the Council's appointed solicitor:

- 1 The development hereby permitted shall be carried out in accordance with the following plans unless otherwise agreed in writing by the local planning authority:

J0008735-23-01 (Site Location Plan);  
J0008735-23-01 (Security Fence Location Plan);

**REASON:-** For the avoidance of doubt and in the interests of proper planning.

- 2 No new external lighting shall be installed at the site.

**REASON:-** In the interests of the living conditions of neighbouring occupiers.

- 3 The use hereby permitted shall be carried out in accordance with the Delivery and Service Management Plan dated 5 January 2024.

**REASON:-** In the interests of the safety and operation of the highway network.

- 4 Only LGVs or service vehicles no larger than 12m as identified on the approved swept path track drawing ref. 8230496/6205 shall enter the surface car park for the lifetime of the development.

**REASON:-** In the interests of the safety and operation of the highway network.

- 5 The recommended measures for the management of commercial waste, retained packaging and litter, including storage and collection as set out within the Operational Management Plan dated March 2024 shall be implemented and permanently maintained in accordance with the approved details.

**REASON:-** To ensure the site is maintained in a tidy condition in the interests of the character and appearance of the area.

- 6 No servicing or deliveries shall be taken at or despatched from the site outside the hours of 08.00 and 18.00 Monday to Friday, nor at any time on Saturday and Sunday, Bank or Public Holidays.

**REASON:-** To protect the amenity of the occupiers of adjoining properties.

- 7 There shall be no use of forklift trucks outside the hours of 08.00 and 18.00 Monday to Friday, 09.00 to 13.00 Sunday, nor at any time on Saturday, Bank or Public Holidays.

**REASON:-** To protect the amenity of the occupiers of adjoining properties.

## **INFORMATIVES**

### **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 Applications where Biodiversity Net Gain is not required as development is considered De Minimis**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Stevenage Borough Council.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not apply.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because the following statutory exemption or transitional arrangement is considered to apply.

1. Development below the de minimis threshold, meaning development which:
  - a) does not impact an onsite priority habitat (a habitat specified in a list published under section 41 of the Natural Environment and Rural Communities Act 2006); and
  - b) impacts less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat (as defined in the statutory metric).

Where the local planning authority considers that the permission falls within paragraph 19 of Schedule 7A to the Town and Country Planning Act 1990, the permission which has been granted has the effect of requiring or permitting the development to proceed in phases. The modifications in respect of the biodiversity gain condition which are set out in Part 2 of the Biodiversity Gain (Town and Country Planning) (Modifications and Amendments) (England) Regulations 2024 apply.

Biodiversity gain plans are required to be submitted to, and approved by, the planning authority before development may be begun, and, if subject to phased development, before each phase of development may be begun.

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans. The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat. The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

More information can be found in the Planning Practice Guidance online at <https://www.gov.uk/guidance/biodiversity-net-gain>

## **PROACTIVE STATEMENT**

- 1 Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

## **10. BACKGROUND DOCUMENTS**

1. The application file, forms, plans and supporting documents having the reference number relating to this item.
2. Stevenage Borough Council Supplementary Planning Documents – Parking Provision SPD adopted 2020 and Stevenage Design Guide adopted 2023.
3. Stevenage Borough Local Plan 2011-2031 adopted 2019.
4. Hertfordshire County Council's Local Transport Plan 4 adopted May 2018.
5. Responses to consultations with statutory undertakers and other interested parties referred to in this report.
6. Central Government advice contained in the National Planning Policy Framework December 2023 and Planning Policy Guidance March 2014.

**IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990  
(as amended by Planning and Compensation Act 1991)**

**ENFORCEMENT NOTICE**

**ISSUED BY: STEVENAGE BOROUGH COUNCIL**

**To: TTL CHILTERN PROPERTY LIMITED  
STOCKING LANE  
HUGHENDEN VALLEY  
HIGH WYCOMBE  
HP14 4ND**

**EASTERN POWER NETWORKS PLC  
237 SOUTHWARK BRIDGE ROAD  
LONDON  
SE1 6NP**

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (b) of Section 171A (1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES**

Land and premises known as **Land At Maxwell Road, SG1 2EW** shown edged red on the attached plan, hereafter called 'the Land'.

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL**

Use of the former FIRA Building and eastern surface car park for storage and distribution under use class B8 of the Town and County Planning (Use Classes) Order 1987 (as amended). Erection of 2.4m high fence around the perimeter of the surface car park.

4. **REASONS FOR ISSUING THIS NOTICE**

To be completed

5. **WHAT YOU ARE REQUIRED TO DO**

(i) To be completed

6. **TIME FOR COMPLIANCE**

**The periods for compliance with the steps set out in paragraph 5 are:**

(i) To be completed

**7. WHEN THIS NOTICE TAKES EFFECT**

This notice takes effect on [ ] unless an appeal is made against it beforehand.

Dated: To be completed

Signed:

A handwritten signature in black ink, appearing to read 'Zayd Al-Jawad', with a long horizontal stroke extending to the right.

Zayd Al-Jawad  
Assistant Director of Planning and Regulation

On behalf of: Stevenage Borough Council  
Daneshill House  
Danestrete  
Stevenage  
Hertfordshire  
SG1 1HN

Nominated officer: Ailsa Davis

Telephone 07702 874529

## ANNEX

Stevenage Borough Council has issued an enforcement notice relating to **Land at Maxwell Road, SG1 2EW** and you are served with a copy of that notice as you have an interest in the Land. Copies of the notice have also been served on the parties listed at the end of this Annex.

### YOUR RIGHT OF APPEAL

You can appeal against this enforcement notice, but any appeal must be received by the Planning Inspectorate (or be posted or electronically communicated at such time that, in the ordinary course of post or transmission, it would be received by the Planning Inspectorate) before the date specified in paragraph 7 of the notice.

The enclosed information sheet published by the Planning Inspectorate gives details of how to make an appeal <https://www.gov.uk/appeal-enforcement-notice>.

### GROUND OF APPEAL

The grounds of appeal are set out in section 174 of the TCPA 1990. You may appeal on one or more of the following grounds that:

- In respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged (ground a).
- Those matters have not occurred (ground b).
- Those matters (if they have occurred) do not constitute a breach of planning control (ground c).
- At the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters (ground d).
- Copies of the enforcement notice were not served as required by section 172 of the TCPA 1990 (ground e).
- The steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by such breach (ground f).
- Any period specified in the notice in accordance with section 173(9) of the TCPA 1990 falls short of what should reasonably be allowed (ground g).

Not all of these grounds may be relevant to you.

### PLANNING APPLICATION FEE

If you wish to appeal on ground a of section 174(2) of the TCPA 1990 this is the equivalent of applying for planning permission for the development alleged in the notice and you will have to pay a fee of £578. You should pay the fee to Stevenage Borough Council. If the fee is not paid then that ground of appeal will not be valid.

### STATEMENT ON GROUNDS OF APPEAL

If you decide to appeal, you should state in writing the ground(s) on which you are appealing against the enforcement notice and you should state briefly the facts on which you intend to rely in support of each of those grounds. If you do not do this when you make your appeal the Secretary of State will send you a notice requiring you to do so within 14 days.



## STATUTORY PROVISIONS

A copy of sections 171A, 171B and 172 to 177 of the TCPA 1990 is attached for your information.

## WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

## RECIPIENTS OF THE ENFORCEMENT NOTICE:

The names and addresses of all persons who were served with the notice:

**TTL CHILTERN PROPERTY LIMITED  
STOCKING LANE  
HUGHENDEN VALLEY  
HIGH WYCOMBE  
HP14 4ND**

**EASTERN POWER NETWORKS PLC  
237 SOUTHWARK BRIDGE ROAD  
LONDON  
SE1 6NP**

## STATUTORY PROVISIONS

### 171A.— Expressions used in connection with enforcement.

- (1) For the purposes of this Act—
  - (a) carrying out development without the required planning permission; or
  - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
- (2) For the purposes of this Act—
  - (a) the issue of an enforcement notice (defined in section 172); or
  - (aa) the issue of an enforcement warning notice (defined in section 173ZA);
  - (b) the service of a breach of condition notice (defined in section 187A),constitutes taking enforcement action.
- (3) In this Part "*planning permission*" includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

### 171B.— Time limits.

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwelling house, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (2A) There is no restriction on when enforcement action may be taken in relation to a breach of planning control in respect of relevant demolition (within the meaning of section 196D).
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
  - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
  - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

### 172.— Issue of enforcement notice.

- (1) The local planning authority may issue a notice (in this Act referred to as an "*enforcement notice*") where it appears to them—
  - (a) that there has been a breach of planning control; and
  - (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.
- (2) A copy of an enforcement notice shall be served—
  - (a) on the owner and on the occupier of the land to which it relates; and
  - (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.
- (3) The service of the notice shall take place—
  - (a) not more than twenty-eight days after its date of issue; and
  - (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

### 172A Assurance as regards prosecution for person served with notice

- (1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—
  - (a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,
  - (b) giving the person one of the following assurances—
    - (i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or
    - (ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,
  - (c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and
  - (d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179.

### **173.— Contents and effect of notice.**

(1) An enforcement notice shall state—

- (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
- (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
- (b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

- (a) the alteration or removal of any buildings or works;
- (b) the carrying out of any building or other operations;
- (c) any activity on the land not to be carried on except to the extent specified in the notice; or
- (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a "*replacement building*") which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
- (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
- (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

- (a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and
- (b) all the requirements of the notice have been complied with, then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

- (a) an enforcement notice requires the construction of a replacement building; and
- (b) all the requirements of the notice with respect to that construction have been complied with, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

**173A.— Variation and withdrawal of enforcement notices.**

- (1) The local planning authority may—
  - (a) withdraw an enforcement notice issued by them; or
  - (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).
- (2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.
- (3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were reissued, be served with a copy of it.
- (4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

**174.— Appeal against enforcement notice.**

- (1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.
- (2) An appeal may be brought on any of the following grounds—
  - (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
  - (b) that those matters have not occurred;
  - (c) that those matters (if they occurred) do not constitute a breach of planning control;
  - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
  - (e) that copies of the enforcement notice were not served as required by section 172;
  - (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
  - (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- (2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—
  - (a) the land to which the enforcement notice relates is in England, and
  - (b) the enforcement notice was issued at a time—
    - (i) after the making of a related application for planning permission, but
    - (ii) before the end of the period applicable under section 78(2) in the case of that application.
- (2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control.
- (2C) Where any breach of planning control constituted by the matters stated in the notice relates to relevant demolition (within the meaning of section 196D), an appeal may also be brought on the grounds that—
  - (a) the relevant demolition was urgently necessary in the interests of safety or health;
  - (b) it was not practicable to secure safety or health by works of repair or works for affording temporary support or shelter; and
  - (c) the relevant demolition was the minimum measure necessary.
- (2D) An appeal against an enforcement notice may not be brought on the ground that planning permission ought to be granted in respect of a breach of planning control constituted by a matter stated in the notice, as specified in subsection (2)(a), if—
  - (a) the land to which the enforcement notice relates is in Wales, and
  - (b) the enforcement notice was issued after a decision to refuse planning permission for a related development was upheld on an appeal under section 78 (and for this purpose development is “related” if granting planning permission for it would involve granting planning permission in respect of the matter concerned).
- (2E) An appeal may not be brought on the ground that a condition or limitation ought to be discharged, as specified in subsection (2)(a), if—
  - (a) the land to which the enforcement notice relates is in Wales, and
  - (b) the enforcement notice was issued after a decision to grant planning permission subject to the condition or limitation was upheld on an appeal under section 78.

(2F) For the purposes of subsections (2D) and (2E), references to a decision that has been upheld on an appeal include references to a decision in respect of which—  
(a) the Welsh Ministers have, under section 79(6), declined to determine an appeal or to proceed with the determination of an appeal;  
(b) an appeal has been dismissed under section 79(6A).

(3) An appeal under this section shall be made —  
(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or  
(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date;  
(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date.

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—  
(a) specifying the grounds on which he is appealing against the enforcement notice; and  
(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section "*relevant occupier*" means a person who—  
(a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and  
(b) continues so to occupy the land when the appeal is brought.

#### **175.— Appeals: supplementary provisions.**

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—  
(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;  
(b) specify the matters to be included in such a statement;  
(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;  
(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.

(3B) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in Wales.

(4) Where an appeal is brought under section 174 the enforcement notice shall subject to any order under section 289(4A) be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

#### **176.— General provisions relating to determination of appeals.**

(1) On an appeal under section 174 the Secretary of State may—  
(a) correct any defect, error or misdescription in the enforcement notice; or  
(b) vary the terms of the enforcement notice,  
if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If section 175(3) would otherwise apply and the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) of this section or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

### **177.— Grant or modification of planning permission on appeals against enforcement notices.**

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194.

(1C) [Subsection]4 (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a).

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(4A) Section 100ZA (which makes provision about restrictions on the power to impose conditions or limitations on a grant of planning permission in relation to land in England) applies in relation to conditions substituted under subsection (4) as it applies in relation to conditions imposed on a grant of planning permission to develop land which is granted on an application made under Part 3.

(5) Where—

(a) an appeal against an enforcement notice is brought under section 174, and

(b) the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant shall be deemed to have made an application for planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.