

DELEGATED FILE NOTE

CASE OFFICER: ...Thomas Howe.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
26/01614/S73	Removal of Condition 1 of planning permission 22/02871/FP (list of approved plan numbers to be changed: drawing 12E omitted and replaced with drawing 12G; drawing 25 omitted and replaced with drawing 25A; drawing 26 omitted and replaced with drawing 26A) granted on 04/12/2023 for: Erection of six dwellings comprising of two pairs of semi-detached dwellings (2 x 2-bed and 2 x 3-bed) and two detached 3-bed dwellings with detached double garages (plots 3 and 4) including parking, landscaping and creation of vehicular access off Lower Road.	Land On The West Side Of Lower Road Breachwood Green Hertfordshire SG4 8NS

Submitted Plan Nos

3660 01 3660 12J 3660 25A 3660 26A

D1	Sustainable design
D2	House exts, replcmnt dwellings outbuild
D3	Protecting living conditions
T2	Parking
T1	Assessment of transport matters
SECN12	Achieving well-designed places
SECN14	Meeting climate change,coastal,flooding
SECN16	Conserve + enhance historic environment

2.0 **Site History**

- 2.1 22/02871/FP - Erection of six dwellings comprising of two pairs of semi-detached dwellings (2 x 2-bed and 2 x 3-bed) and two detached 3-bed dwellings with detached double garages (plots 3 and 4) including parking, landscaping and creation of vehicular access off Lower Road. – Conditional Permission on 5 December 2023

3.0 **Representations**

3.1 **Neighbour Consultation – 5x Objections:**

- Concerns with regards traffic generation.
- Challenges red line and ownership.
- Retaining wall would extend beyond red line extent.
- Unlawful alterations to a private right of way.
- Overhang onto right of way from Plot 1.
- Security concerns relating to right of way being ungated or unsecured.

- Potential oversubscription of drainage and sewer systems.
- Vehicular access and egress would pose highway safety concerns and would contribute noise and fume generation concerns.
- No refuse vehicle tracking shown on plans to show site egress in a forward gear.
- Development outside of ownership area.
- Unsafe access to the site and wider road network as a result of vehicle generation.
- Seeks Highways consultation and input on safety of access.
- Questions safety and feasibility of turning arrangements for parking serving Plot 1.
- Seeks a fresh Highway Assessment notwithstanding previous submission.
- Concerns with regards private right of way, including drainage and building over or diverting a private sewer.
- Seeks clarification of requirements for consultation with Thames Water and if necessary, a consultation be undertaken.
- No GP surgery in the area, and nearby service is oversubscribed.
- Lack of water pressure within area exacerbated by development.
- Construction disturbance will be significant.

3.2 **Environmental Health – No Objection.**

"I have no objections to the application, subject to any undischarged conditions being attached to any new decision notice.

Additionally, as discussed, the 22/02871/FP decision notice does not include a separate condition in relation to noise mitigation (from the submitted noise information). Although condition 1 appears to cover this with the ‘..in accordance with the details specified in the application and supporting approved documents...’ would it be possible to add in a specific noise condition to ensure that the development is built in accordance with this specific document and its recommendations?"

3.3 **Ecology –**

"This application is exempt from Mandatory Biodiversity Net Gain. The Ecology Service (LEADS) has not undertaken any scrutiny of the validity of the claimed exemption, however taking it at face value in this instance, the requirement for mandatory 10% biodiversity gain does not apply.

We have previously responded to this application/ or another associated with it, and as there are no changes that would warrant amended comments in this case, our previous advice still stands."

3.4 **Highways** - Does not wish to restrict the grant of permission and any highway-related conditions attached to permission 22/02871/FP should continue to be imposed.

"The Highway Authority considers the proposed amendments acceptable from a highway and transportation perspective and raises no objection to the application."

3.5 **Parish Council – No response received.**

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

- 4.1.1 The application site comprises a parcel of land to the north of Lower Road. The site is on the fringe of Breachwood Green and is within the settlement boundary. The site is not within a Conservation Area and is outside of the Green Belt.

4.2 **Proposal**

- 4.2.1 This application seeks to vary Condition 1 of the previous planning permission 22/02871/FP granted 5 December 2023

- 4.2.2 Condition 1 relates to the approved plans of the development. This Planning Statement indicates that the following amendments are proposed:

The approved site plan identifies a private vehicular right of way along the southern boundary of the site, benefitting an adjoining landowner. In order to accommodate this right of way satisfactorily, the following adjustments to the approved layout are proposed:

- Plots 1 and 2 are repositioned by just under 2.4 metres to provide the necessary corridor for the right of way along the southern boundary. All other dwellings (plots 3 to 6) are unaffected and remain exactly as approved.*
- A shared private drive, 12 feet in width, is provided along the southern boundary. This will form part of the curtilage of plot 1 and accommodates the right of way.*
- Parking for plot 1, previously provided within the shared parking court, is relocated to serve the dwelling directly off this access. This allows the shared parking court to be reduced in size.*
- The internal road layout has been adjusted to suit the above. The vehicular access (bellmouth) where it meets Lower Road is unchanged from the approved scheme.*

4.3 **Key Issues**

- 4.3.1 The principle of the development has been established given the extant planning permission. Relevant material considerations relating to the current application are design and impact to neighbour amenity.

Design and Appearance:

- 4.3.2 Policy D1 of the Local Plan states that development will be granted provided the design of the development appropriately and positively responds to the site's local context together with other criteria to encourage a positive and sustainable form of development. These policies are broadly consistent with Chapter 12 of the National Planning Policy Framework.
- 4.3.3 The appearance of the dwellings would remain consistent with the approved scheme, and the variation between this and the approved plans relates to layout. The proposal would result in a substantial increase in the swathe of hardstanding within the site, as a result of the provision of the right of way, the alterations to driveways. Broadly, this is considered to be acceptable, and given this would provide some degree of enablement for the site to be constructed for housing, I do not consider that the increase in hardstanding would warrant an objection or refusal.
- 4.3.4 The proposed development is therefore considered to be in compliance with Policies D1 and D2 of the Local Plan and the core principles set out within Chapter 12 of the

National Planning Policy Framework. The design and appearance are therefore acceptable.

Impact on Neighbouring Properties:

- 4.3.5 Policy D3 of the Local Plan permits development that does not result in unacceptable to harm to the amenity of neighbouring occupiers and where necessary encourages the use of mitigation measures to reduce these impacts. This is generally reflected by the provisions within the National Planning Policy Framework.
- 4.3.6 The proposed alterations seek to reposition Plots 1 & 2 away from No. 2 Lower Road but would seek to locate the parking spaces and vehicular access for these two dwellings and the right of way to No. 2 Lower Road along the shared boundary with this neighbour. Given the relatively infrequent nature of the vehicular movements and therefore, its low noise generation and intensity, this arrangement is not considered to amount to an unacceptable level of harm for the amenity of occupants with this dwelling. The repositioned location of these and the other dwellings is not considered to occasion unacceptable harm in the form of dominance and losses of light for this and other neighbouring dwellings. It is acknowledged that plots 5 & 6 would be located closer to Lower Road, and therefore, the dwellings opposite the site, however, given the distance and boundary treatments intersecting the dwellings and neighbours, this would not be unacceptable. Outlook from the dwellings would remain consistent and is not considered to allow for overlooking into these neighbouring plots when compared to the existing arrangement or the approved layout.
- 4.3.7 Given the above, it is considered that the proposed development would result in no unacceptable detrimental impact upon neighbouring occupiers and is therefore compliant with Policy D3 of the local plan and the aims of the National Planning Policy Framework.

Standard of Amenity for Future Occupiers:

- 4.3.8 The alterations would result in a variation in the site layout and would put vehicle access down the side of Plot 1. Given the infrequent nature of this access to the neighbour at No. 2 and given that Plot 1's parking would be accessed from this new track, I do not consider that significant noise generation would arise. Furthermore, other site layout changes are not considered to result in harm from overlooking or dominance.

Impact upon Highways:

- 4.3.9 Highways were consulted and have not objected. Their comments relate to the submitted information and consider that the provision of the strip along the boundary with Plot 1 would be acceptable and note there would be no changes to approved access onto Lower Road. Traffic generation is not considered to arise or be unacceptable to local highway safety. Parking levels would remain compliant with standards set by the Parking at New Developments SPD, and the alteration would therefore not detract from local parking levels. A swept path drawing has been submitted to demonstrate vehicle turning, access and egress to the parking spaces for Plot 1.

Environmental Matters:

- 4.3.10 The development is exempt from delivering 10% BNG. The altered layout would retain the separation/buffer to the ancient woodland surrounding the site. It is noted that

neighbour representations query the proposed impacts to sewers. The redirection of a sewer would be sought, or a build over agreement would be sought with Anglian Water if existing assets are left in situ. This is considered to fall within the scope of building regulations control and is not material to this decision. The EHO has recommended a particular noise condition to ensure compliance.

Other Matters:

- 4.3.11 The application agent has provided clarification on concerns raised by neighbour representations. They confirm that the proposed retaining wall would be within the land owned by the applicant. An updated site plan showing a swept path to the parking spots serving plot 1 has been provided to demonstrate vehicle manoeuvrability. They confirm that all development is within the ownership of the applicant, with no objection raised by Highways with regards the front of the site and ownership.

4.4 **Conclusion**

- 4.4.1 The proposed development is considered acceptable and is considered to comply with the necessary provisions of the Local Plan policies and the National Planning Policy Framework. Grant conditional permission. No conditions have been discharged, and so all conditions as per previous permission ref 22/02871/FP except for condition 1 in relation to the plans and the addition of the noise condition.

4.5 **Alternative Options**

- 4.5.1 None applicable.

5.0 **Recommendation**

- 5.1 That planning permission be **GRANTED** subject to the following conditions:

1. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

2. The development hereby permitted shall be begun before the expiration of 3 years from the date of the original planning permission (ref: 22/02871/FP).

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Details and/or samples of materials to be used on all external elevations and the roof of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area and to comply with Policy D1 of the North Hertfordshire Local Plan 2011 to 2031.

4. Before the occupation of any of the dwellings hereby permitted, the car parking facilities shown on the approved plan shall be marked out and made available, and shall thereafter be kept available solely for the parking of motor vehicles.

Reason: To ensure the provision of satisfactory car parking facilities clear of the public highway to meet the needs of the development and to comply with Policy T2 of the North Hertfordshire Local Plan 2011 to 2031.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 as amended no development as set out in Classes A, AA, B, C and E of Part 1 (and any further new class that may be introduced by way of an update) of Schedule 2 to the Order, (or any subsequent Statutory Instrument which revokes, amends and/or replaces those provisions) shall be carried out without first obtaining a specific planning permission from the Local Planning Authority.

Reason: Given the nature of this development, the Local Planning Authority considers that development which would normally be "permitted development" should be retained within planning control in the interests of the character and amenities of the area and to comply with Policy D1 and/or Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

6. Prior to the commencement of development, a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority and the approved details shall be implemented on site. The landscape scheme shall include:

- a) which, if any, of the existing vegetation is to be removed and which is to be retained, including how it will be protected during the construction works;
- b) what new trees, shrubs, hedges are to be planted and areas grassed, together with the species proposed and the size and density of planting, this includes planting within the car park to provide shade, structure and ameliorate the expanse of hard surfacing;
- c) the location and type of any new walls, fences or other means of enclosure, and details of any hard surfacing proposed;
- d) details of any earthworks proposed.
- e) the location of retained ecological features and location and type of any habitat boxes / structures to be installed
- f) the areas to be sown or planted with specific seed mixes or specific species for biodiversity value

Reason: To ensure the submitted details are sufficiently comprehensive to enable proper consideration to be given to the appearance of the completed development.

7. (a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of written information allowing a preliminary environmental risk assessment to be undertaken, which allows the creation of a Conceptual Site Model which indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites), with a view to determining the presence of contamination likely to be harmful to human health, and the built and natural environment.
- (b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
- (ii) The results from the application of an appropriate risk assessment methodology
- (c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.
- (d) This site shall not be occupied, or brought into use, until:
- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.
- (e) Any contamination, other than that reported by virtue of condition (a) and (b), encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters.

8. Prior to occupation, each dwelling shall incorporate one Electric Vehicle (EV) ready domestic charging point and it shall thereafter be retained.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality and to comply with Policy D4 of the North Hertfordshire Local Plan 2011 to 2031.

9. Prior to commencement of the development (including ground works, vegetation clearance), a Landscape and Ecological Management Plan (LEMP) shall be prepared, detailing how biodiversity will be incorporated within the development scheme to achieve net gain. The plan shall refer to the two ecological reports dated November 2022 and prepared by Kenneth Coyne and include details of native species tree and hedgerow planting, wildflower seed mixes, and the location of any habitat boxes / structures for protected species to be installed. The plan shall be Creating a cleaner, greener, healthier Hertfordshire submitted to the LPA for written approval and the development shall be carried out in accordance with the approved plan unless otherwise agreed in writing with the LPA.

Reason: to demonstrate the expectations of NPPF and the Environment Act in enhancing the site and achieving overall net gains for biodiversity have been met in accordance with national and local policies.

10. None of the trees to be retained on the application site shall be felled, lopped, topped, uprooted, removed or otherwise destroyed or killed without the prior written agreement of the Local Planning Authority.

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

11. Before the commencement of any other works on the site, trees to be retained shall be protected by the erection of temporary chestnut paling fencing of a minimum height of 1.2 metres on a scaffolding framework, located at the appropriate minimum distance from the tree trunk in accordance with Section 4.6 of BS5837:2012 'Trees in relation to design, demolition and construction - Recommendations, unless in any particular case the Local Planning Authority agrees to dispense with this requirement. The fencing shall be maintained intact for the duration of all engineering and building works. No building materials shall be stacked or mixed within 10 metres of the tree. No fires shall be lit where flames could extend to within 5 metres of the foliage, and no notices shall be attached to trees.

Reason: To prevent damage to or destruction of trees to be retained on the site in the interests of the appearance of the completed development and the visual amenity of the locality, and to comply with Policy NE2 of the North Hertfordshire Local Plan 2011 to 2031.

12. Prior to occupation of the development hereby approved, full details of the on-site storage facilities for waste including waste for recycling shall be submitted to and approved in writing by the local planning authority. Such details shall identify the specific positions of where wheeled bins, will be stationed and walk distances for residents including the specific arrangements to enable collection from the kerbside of the adopted highway / refuse collection vehicle access point [or within 15 metres]. The approved facilities shall be provided prior to the commencement of the use hereby permitted and shall be retained thereafter unless alternative arrangements are agreed in writing by the local planning authority.

Reason: To protect the amenities of nearby residents / occupiers and in the interests

of visual amenity.

13. No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority, including elements of the CLOCS standards as set out in the Highway Authority's Construction Management template. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Management Statement shall include details of:

Access arrangements to the site.

Traffic management requirements.

Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas).

Siting and details of wheel washing facilities.

Cleaning of site entrances, site tracks and the adjacent public highway.

Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times.

Provision of sufficient on-site parking prior to commencement of construction activities.

Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding which must be kept within the site boundary, pedestrian routes and remaining road width for vehicle movements.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

14. Details of the foundation layout, type and depth for 'Plot 4 Garage' of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

Reason: To ensure that the development will not have an unacceptable impact upon the adjacent woodland and to comply with Policy NE4 of the North Hertfordshire Local Plan 2011 to 2031.

15. The development shall be implemented in accordance with the Noise Assessment reference 21092-002 and prepared by Philip Acoustics Ltd, and submitted with application 22/02871/FP, unless otherwise agreed in writing.

Reason: To ensure a suitable standard of amenity for occupiers, to comply with Policy D3 of the North Herts Local Plan 2011-2031.

Biodiversity Net Gain

1. This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Sarah Kasparian Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Date: 20 August 2026	