

WHBC Appeal Ref: APP/C1950/W/20/3265926
SADC Appeal Ref: APP/B1930/W/20/3265925

APPEAL BY CANTON LTD AGAINST THE REFUSAL OF OUTLINE PLANNING APPLICATION BY WELWYN HATFIELD BOROUGH COUNCIL AND THE NON-DETERMINATION OF AN IDENTICAL OUTLINE PLANNING APPLICATION, THIS BEING A CROSS-BOUNDARY SITE, BY ST ALBANS CITY & DISTRICT COUNCIL FOR A RESIDENTIAL DEVELOPMENT OF UP TO 100 DWELLINGS, INCLUDING 45% AFFORDABLE AND 10% SELF-BUILD OR CUSTOM BUILD, TOGETHER WITH ALL ANCILLARY WORKS (ALL MATTERS RESERVED EXCEPT ACCESS)

AT LAND OFF BULLENS GREEN LANE, COLNEY HEATH

SCHEDULE OF PLANNING CONDITIONS FOR CONSIDERATION

No.	Conditions agreed between the Appellant and Welwyn Hatfield Borough Council and St Albans City & District Council
1	<p>Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.</p> <p>REASON: Matters not particularised in the application are reserved for subsequent approval by the local planning authority. To comply with Section 92(1) of the Town and Country Planning Act 1990.</p>
2	<p>Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.</p> <p>REASON: To comply with the requirements of Section 92(2) of the Town and Country Planning Act 1990.</p>
3	<p>The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 17981 1002 (Site Location Plan), drawing no. 18770-FELL-5-500 Rev B (Revised Site Access) and drawing no. 18770-FELL-5-501 Rev A (Proposed Footpath Connection).</p> <p>REASON: To ensure that the development is carried out in accordance with the approved plans and details.</p>
4	<p>The reserved matters submitted pursuant to conditions 1 and 2 shall be carried out in accordance with the following plans: [TO ADD WHICHEVER LIST OF PARAMETER PLANS THE INSPECTOR CONFIRMS ARE THE ONES TO BE CONSIDERED IN THE APPEAL]</p> <p>REASON: For the avoidance of doubt and in the interests of proper planning</p>
5	<p>The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.</p> <p>REASON: To comply with the requirements of Section 92 (2) of the Town and Country Planning Act 1990.</p>

6	<p><u>Part 1</u></p> <p>No development of the site shall commence until:</p> <p>a) A scheme to reduce speeds (to support the access proposals designed to 30mph) on Bullens Green Lane, Colney Heath, is provided to and approved in writing by the Local Planning Authority. Any scheme is required to be designed in line with the requirements of Hertfordshire County Council's (HCC) Speed Management Strategy (SMS); and</p> <p>b) Any necessary Traffic Regulation Order (TRO) is made in respect of part a) to this condition. 'Made' means that the TRO has been approved and can be implemented.</p> <p><u>Part 2</u></p> <p>No occupancy of the site can occur until the Traffic Regulation Order referred to in Part 1 to this condition is implemented and brought into force. Evidence of the implemented scheme, in the form of a Certificate of Completion of the Section 278 of the Highways Act 1980, must be submitted to and approved in writing by the local planning authority.</p> <p>REASON: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 and Policy 15 of Hertfordshire's Local Transport Plan (adopted 2018) and National Planning Policy Framework's Paragraphs 108 and 109.</p>
7	<p><u>Part 1</u></p> <p>No development of the site shall commence until a scheme for the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane, Colney Heath, in line with drawing number 18770-FELL-5-501 Rev A in principle, is provided and approved in writing by the Local Planning Authority and is designed in line with the requirements as set out in Hertfordshire County Council's Roads in Hertfordshire: Highway Design Guide (3rd edition).</p> <p><u>Part 2</u></p> <p>No occupation of any part of the development may occur before implementation of the approved scheme referred to in Part 1 of the condition.</p>

	<p>Reason: To ensure construction of a satisfactory access and in the interests of highway safety and amenity in accordance with Policies 1, and 5 of Hertfordshire's Local Transport Plan (adopted 2018) and the National Planning Policy Framework's Paragraphs 108 and 109.</p>
8	<p>No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority.</p> <ul style="list-style-type: none"> a) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth b) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity. c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement. <p>All works shall be carried out in accordance with approved reports listed above.</p> <p>The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.</p> <p>REASON: To protect and prevent the pollution of controlled waters from mobilised contaminants in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policies 84 and 84A of the St Albans Local Plan Review 1994 and the National Planning Policy Framework.</p>
9	<p>Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions; and:</p> <ul style="list-style-type: none"> a) The programme and methodology of site investigation and recording; b) The programme and methodology of site investigation and recording as required by the evaluation; c) The programme for post investigation assessment;

	<p>d) Provision to be made for analysis of the site investigation and recording;</p> <p>e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;</p> <p>f) Provision to be made for archive deposition of the analysis and records of the site investigation;</p> <p>g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.</p> <p>The development must not take place other than in accordance with the approved programme of archaeological works set out in the Written Scheme of Investigation.</p> <p>REASON: To ensure adequate opportunity is provided for archaeological research on this historically important site. To enable the inspection of the site by qualified persons for the investigation of archaeological remains in accordance with a written scheme of investigation in accordance with Policy R29 of the Welwyn Hatfield District Plan 2005 and the National Planning Policy Framework. To ensure the appropriate identification, recording and publication of archaeological and historic remains affected by the development.</p>
10	<p>In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.</p> <p>An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved.</p> <p>The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.</p> <p><u>Investigation and risk assessment</u></p> <p>The investigation and risk assessment must assess the nature and extent of any contamination on the site, whether or not it originates on the site and must be undertaken by competent persons. A written report of the findings must be produced and the findings must include:</p> <p>(i) a survey of the extent, scale and nature of contamination;</p>

	<p>(ii) an assessment of the potential risks to:</p> <ul style="list-style-type: none"> - human health; - property (existing or proposed) including buildings; - crops; - livestock; - pets; - woodland and service lines and pipes; - adjoining land; - groundwaters and surface waters; - ecological systems; - archeological sites and ancient monuments. <p>(iii) an appraisal of remedial options, and proposal of the preferred option(s). The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency’s ‘Model Procedures for the Management of Land Contamination, CLR 11’.</p> <p><u>Remediation Scheme</u></p> <p>Following completion of measures identified in the approved remediation scheme, a verification report which demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.</p>
11	<p>Development must not commence until the final design of the drainage scheme is completed and sent to the local planning authority for approval. The surface water drainage system should be based on the submitted the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020). The scheme must also include:</p> <p>a) Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change;</p>

	<p>b) A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points. If areas are to be designated for informal flooding these should also be shown on a detailed site plan;</p> <p>c) Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance;</p> <p>d) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the connection into the existing Thames Water surface water sewer;</p> <p>e) The drainage scheme shall also confirm use of an oil/water interceptor; and</p> <p>f) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.</p> <p>The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.</p> <p>REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site; and to reduce the risk of flooding to the proposed development and future users in accordance with the St Albans Local Plan review Policies 84 and 84A and the National Planning Policy Framework. With regard to part (e), to provide confirmation that an oil/water interceptor will be used in order to prevent oil and hydrocarbons from particular areas of the development being discharged into surface water and/or groundwater in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policies 84 and 84 A of the St Albans Local Plan Review 1994 and the National Planning Policy Framework.</p>
12	<p>Development must not commence until details of all substance containers are submitted to and approved in writing by the local planning authority. These details must include:</p> <p>a) Confirmation of bunding of 110% capacity; and</p> <p>b) Confirmation of the presence of a leak detection system and methodology that includes immediate notification to Affinity Water</p>

	<p>REASON: To prevent contaminants being discharged into the surface and groundwater network in the event of a spill; and to enable Affinity Water and the Environment Agency to immediately assess the impact on public water supply and implement protection measures if necessary, in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policies 84 and 84 A of the St Albans Local Plan Review 1994 and the National Planning Policy Framework.</p>
13	<p>Development must not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development must only be carried out in accordance with the approved Plan. The Construction Management Plan must include details of:</p> <ul style="list-style-type: none"> a) Construction vehicle numbers, type, routing; b) Access arrangements to the site; c) Traffic management requirements d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas); e) Siting and details of wheel washing facilities; f) Cleaning of site entrances, site tracks and the adjacent public highway; g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times; h) Provision of sufficient on-site parking prior to commencement of construction activities; i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements. <p>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), Policy SADM2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policy 34 of the St Albans Local Plan Review 1994, and the National Planning Policy Framework.</p>
14	<p>No development above ground level shall take place until a scheme to protect the development from noise due to transport sources is submitted to and approved in writing by the local planning authority.</p>

	<p>The scheme must ensure that:</p> <ul style="list-style-type: none"> a) The indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms unless it can be demonstrated that good acoustic design practices have been followed and the implementation of acoustic barriers/bunds to lower façade noise levels as much as reasonably practicable, have been implemented. Internal L_{Amax} levels should not exceed 45dB more than ten times a night in bedrooms; b) If opening windows raises the internal noise levels above those within BS8233, the mechanical ventilation will need to be installed, with ventilation rates required to meet those found within The Noise Insulation Regulations 1975. Alternative methods (such as passive systems) and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment; and c) Outdoor amenity areas must meet the 55dB WHO Community Noise Guideline Level <p>The approved scheme must be implemented prior to first occupation, unless the Local Planning Authority otherwise agrees in writing.</p> <p>REASON: To protect future occupiers and development from noise disturbance in accordance with Policies D1 and R19 of the Welwyn Hatfield District Plan 2005, Policy SADM18 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.</p>
15	<p>No development above ground level shall take place until a scheme setting out the arrangements for the delivery of accessible housing will be supplied to the council in accordance with the following requirements:</p> <ul style="list-style-type: none"> a) A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for ‘accessible and adaptable dwellings’;

	<p>b) All units specified as M4(2) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;</p> <p>c) The person carrying out the building work must inform the Building Control body which requirements apply; and</p> <p>d) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].</p> <p>REASON: To ensure that suitable housing is provided for households in need of accessible or wheelchair housing in accordance with Policies D1, and H10 of the Welwyn Hatfield District Plan 2005; and Policy SP7 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016 and the National Planning Policy Framework.</p>
16	<p>Prior to the first occupation of the development hereby permitted the vehicular access must be provided and thereafter retained at the position shown on drawing no. 18770-FELL-5-500 Rev B in accordance with the highway specification (Insert) attached. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.</p> <p>REASON: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018), Policy SADM2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policy 34 of the St Albans Local Plan Review 1994, and the National Planning Policy Framework.</p>
17	<p>Prior to the first occupation of the development hereby permitted a visibility splay must be provided in full accordance with the details indicated on drawing no. 18770-FELL-5-500 Rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.</p> <p>REASON: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018), Policy SADM2 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, Policy 34 of the St Albans Local Plan Review 1994, and the National Planning Policy Framework.</p>

18	<p>Prior to first occupation of the development hereby permitted, a minimum provision of 20% of the car parking spaces must be designated for plug-in Electric Vehicles (EV) and served by EV ready [domestic and/or fast] charging points.</p> <p>REASON: To promote sustainable transport in accordance with Policies 5, 19 and 20 of Hertfordshire’s Local Transport Plan (adopted 2018), Policy SADM12 of the Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016, and the National Planning Policy Framework.</p>
19	<p>The development permitted by this planning permission must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020) and the following mitigation measures:</p> <ul style="list-style-type: none"> a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 9.3 l/s during the 1 in 100 year event plus 40% of climate change event; b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a total storage volume in two attenuation basins; c) Discharge of surface water from the private drainage network into the Thames Water surface water sewer system located in Bullens Green Lane. <p>The mitigation measures shall be fully implemented prior to first occupation of the development hereby approved.</p> <p>REASON: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site; and to reduce the risk of flooding to the proposed development and future occupants, to comply with Policies 84 and 84A of the St Albans Local Plan Review 1994 the National Planning Policy Framework.</p>
20	<p>Surface water must not be disposed of via direct infiltration into the ground via a soakaway.</p> <p>REASON: To ensure that direct infiltration via soakaways will not be used due to the potential presence of contaminated land and the risk of groundwater pollution in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan, Policy SADM18 of the Welwyn Hatfield Borough</p>

	Council Draft Local Plan Proposed Submission August 2016, Policies 84 and 84 A of the St Albans Local Plan Review 1994 and the National Planning Policy Framework.
21	<p>Notwithstanding the submitted 'Updated Arboricultural Assessment - Version 2 (by FPCR Environment and Design Ltd, July 2020), a detailed tree protection plan and method statement should be submitted as part of application(s) for reserved matters approval as required by Condition 1.</p> <p>REASON: The submitted tree protection measures are insufficient. To ensure that retained trees and hedgerow and protected during the course of construction works in accordance with Policy R17 of the Welwyn Hatfield District Plan, Policy 74 of the St Albans Local Plan Review 1994 and the National Planning Policy Framework.</p>
22	<p>Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:</p> <ul style="list-style-type: none"> a) existing and proposed finished levels and contours b) trees and hedgerow to be retained; c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing; d) hard surfacing; e) means of enclosure and boundary treatments; f) Details of toddler play area including play equipment; and g) Any other structures (such as furniture, refuse or other storage units, signs, lighting) <p>REASON: To ensure satisfactory landscape treatment of the site in the interests of visual amenity in accordance with Policies D1, D2 and D8 of the Welwyn Hatfield District Plan 2005; Policies 70 and 74 of the St. Albans District Local Plan Review 1994 and; the National Planning Policy Framework.</p>
23	A landscape and ecological management plan (LEMP) should be submitted as part of application(s) for reserved matters approval as required by Condition 1 and include:

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- a) A description of the objectives;
 - b) Habitat/feature creation measures proposed
 - c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
 - d) Lighting strategy (aim to ensure that illumination of the existing hedgerows does not exceed 0.5 lux); and
 - e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met.

The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens.

REASON: To mitigate the biodiversity impacts of the development.