

The Planning Inspectorate

ENFORCEMENT NOTICE APPEAL FORM (Online Version)

WARNING: The appeal **must** be received by the Inspectorate **before** the effective date of the local planning authority's enforcement notice.

Appeal Reference: APP/B1930/C/22/3311314

A. APPELLANT DETAILS

Name	Mr Eddy Cowen
Company/Group Name	Bud Rescue and Recovery Ltd
Address	Bud Recovery Noke Lane ST. ALBANS AL2 3NY
Phone number	01727850907
Email	appeals@dlatownplanning.com
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

A(i). ADDITIONAL APPELLANTS

Do you want to use this form to submit appeals by more than one person (e.g. Mr and Mrs Smith), with the same address, against the same Enforcement notice? Yes No

B. AGENT DETAILS

Do you have an Agent acting on your behalf?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Name	Mr David Lane
Company/Group Name	DLA Town Planning Ltd
Address	5 The Gavel Centre Porters Wood St Albans AL3 6PQ
Phone number	01727850907
Email	appeals@dlatownplanning.com
Preferred contact method	Email <input checked="" type="checkbox"/> Post <input type="checkbox"/>

C. LOCAL PLANNING AUTHORITY (LPA) DETAILS

Name of the Local Planning Authority

St Albans City Council

LPA reference number (if applicable)

Legal/016656/DJE

Date of issue of enforcement notice

21/10/2022

Effective date of enforcement notice

02/12/2022

D. APPEAL SITE ADDRESS

Is the address of the affected land the same as the appellant's address?

Yes

No

Address

Bud Recovery
Noke Lane
ST. ALBANS
AL2 3NY

Are there any health and safety issues at, or near, the site which the Inspector would need to take into account when visiting the site?

Yes

No

What is your/the appellant's interest in the land/building?

Owner

Tenant

Mortgagee

None of the above

E. GROUNDS AND FACTS

Do you intend to submit a planning obligation (a section 106 agreement or a unilateral undertaking) with this appeal?

Yes

No

(a) That planning permission should be granted for what is alleged in the notice.

The facts are set out in

see 'Appeal Documents' section

(b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.

(c) That there has not been a breach of planning control (for example because permission has already been granted, or it is "permitted development").

(d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

(e) The notice was not properly served on everyone with an interest in the land.

The facts are set out in

the box below

The PCN was dated the 19th March 2021 and the EN was dated the 21st October 2022. In the intervening period the company with an option to purchase and the right to let the appeal site, Convene Construction Ltd, let a yard to a tenant who was noted served with the EN.

(f) The steps required to comply with the requirements of the notice are excessive, and lesser steps

would overcome the objections.

(g) The time given to comply with the notice is too short. Please state what you consider to be a reasonable compliance period, and why.

The facts are set out in

the box below

The appeal site is occupied by a number of commercial uses who would find it very difficult to find alternative premises in the 6 months noted at Q6 of the EN. A period of 12 months is therefore requested.

F. CHOICE OF PROCEDURE

There are three different procedures that the appeal could follow. Please select one.

1. Written Representations

(a) Could the Inspector see the relevant parts of the appeal site sufficiently to judge the proposal from public land? Yes No

(b) Is it essential for the Inspector to enter the site to check measurements or other relevant facts? Yes No

Please explain.

The appeal site is not visible from public land and given its size and the number of uses on the site a visit is essential.

2. Hearing

3. Inquiry

G. FEE FOR THE DEEMED PLANNING APPLICATION

1. Has the appellant applied for planning permission and paid the appropriate fee for the same development as in the enforcement notice? Yes No

2. Are there any planning reasons why a fee should not be paid for this appeal? Yes No

If no, and you have pleaded ground (a) to have the deemed planning application considered as part of your appeal, you must pay the fee shown in the explanatory note accompanying your Enforcement Notice.

H. OTHER APPEALS

Have you sent other appeals for this or nearby sites to us which have not yet been decided? Yes No

Please give details, including our reference number(s), if known.

APP/B1930/C/22/3311308 Appeal by Bud Rescue and Recovery in respect of a Breach of Condition EN on the Appeal Site

I. SUPPORTING DOCUMENTS

01. Enforcement Notice:

see 'Appeal Documents' section

02. Plan (if applicable and not already attached)

see 'Appeal Documents' section

J. CHECK SIGN AND DATE

I confirm that all sections have been fully completed and that the details are correct to the best of my knowledge.

I confirm that I will send a copy of this appeal form and supporting documents (including the full grounds of appeal) to the LPA today.

Signature

Mr David Lane

Date

17/11/2022 10:07:58

Name

Mr David Lane

On behalf of

Mr Eddy Cowen

The gathering and subsequent processing of the personal data supplied by you in this form, is in accordance with the terms of our registration under the Data Protection Act 2018.

The Planning Inspectorate takes its data protection responsibilities for the information you provide us with very seriously. To find out more about how we use and manage your personal data, please go to our [privacy notice](#).

K. NOW SEND

Send a copy to the LPA

Send a copy of the completed appeal form and any supporting documents (including the full grounds of the appeal) to the LPA.

To do this by email:

- open and save a copy of your appeal form
- locating your local planning authority's email address:
<https://www.gov.uk/government/publications/sending-a-copy-of-the-appeal-form-to-the-council>
- attaching the saved appeal form including any supporting documents

To send them by post, send them to the address from which the enforcement notice was sent (or to the address shown on any letters received from the LPA).

When we receive your appeal form, we will write to you letting you know if your appeal is valid, who is dealing with it and what happens next.

You may wish to keep a copy of the completed form for your records.

L. APPEAL DOCUMENTS

We will not be able to validate the appeal until all the necessary supporting documents are received.

Please remember that all supporting documentation needs to be received by us within the appropriate deadline for the case type. If forwarding the documents by email, please send to **appeals@planninginspectorate.gov.uk**. If posting, please enclose the section of the form that lists the supporting documents and send it to Initial Appeals, Temple Quay House, 2 The Square, Temple Quay, BRISTOL, BS1 6PN.

You will not be sent any further reminders.

Please ensure that anything you do send by post or email is clearly marked with the reference number.

The documents listed below were uploaded with this form:

Relates to Section: GROUNDS AND FACTS
Document Description: Facts to support that planning permission should be granted for what is alleged in the notice.
File name: Grounds of appeal.pdf

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 01. The Enforcement Notice.
File name: EN 21.10.22.pdf

Relates to Section: SUPPORTING DOCUMENTS
Document Description: 02. The Plan.
File name: EN 21.10.22 Plan.pdf

Completed by MR DAVID LANE

Date 17/11/2022 10:07:58

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE MATERIAL CHANGE OF USE

Issued by: St Albans District Council

1. This Notice is issued by the council because it appears to them that there has been a breach of planning control, within paragraph (a) 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 at former Butterfly World, Miriam Lane, St.Albans, Hertfordshire
Shown edged red on the attached plan.

3. The Matters Which Appear To Constitute The Breach Of Planning Control

It appears to the Council that the following breach of planning control has occurred within the last 10 years.

Without planning permission change of use from visitor attraction to use for stationing of caravans/shipping containers, vehicle sales and maintenance, storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Change of use of entrance building (Building B as shown on the attached plan) to business reception and offices. The uses are not in association with the approved visitor attraction. The following operational development is part and parcel of the unauthorized change of use being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2 metres in height.

4. Reasons For Issuing This Notice

The unauthorized uses and associated operational development constitutes inappropriate development in the Metropolitan Green Belt. It is an encroachment which fails to preserve the openness of the Metropolitan Green Belt in this location. The unauthorized uses and identified associated operational development is inappropriate development in the Metropolitan Green Belt and no very special circumstances are apparent to outweigh the in principle harm to openness. The uses and associated operational development also results in other harm including visual harm to the rural character of the area to the detriment of local amenity. The unauthorized development is contrary to Policy 1 of the St.Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

5. What You Are Required To Do

Cease the use of the land for the stationing of caravans/shipping containers, vehicle sales and maintenance, storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Cease the use of the entrance building for business reception and offices. Remove all associated operational development being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2 metres in height.

6. Time For Compliance

Six months after this notice takes effect.

7. When This Notice Takes Effect

This notice takes effect on 2 December 2022 unless an appeal is made against it beforehand.

Dated: 21 October 2022

Signed:



Charles Turner

Solicitor to the Council

St.Albans District Council

On behalf of:

District Council Offices, Civic Centre,

St.Peter's Street, St.Albans, Herts. AL1 3JE

ANNEX

Your Right of Appeal

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet and information in the letter give details of your rights of appeal.

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 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.



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE BREACH OF CONDITION

Issued by: St Albans District Council

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 at former Butterfly World Miriam Lane St.Albans Hertfordshire
Shown edged red on the attached plan.

3. The Matters Which Appear To Constitute The Breach Of Planning Control

It appears to the Council that the following breach of planning control has occurred within the last 10 years.

Breach of condition 1 of planning permission 5/2014/3465 dated 10 April 2015 for the erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow retention of buildings until 16 June 2019. Condition 1 stated as follows:

“This permission shall be for a limited period only expiring 2 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority.”

4. Reasons For Issuing This Notice

The continued retention of the structures granted temporary planning permission results in harm to the openness of the Green Belt in this location by reason of inappropriateness. The retention of the toilet block is therefore contrary to Policy 1 of the St.Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

5. What You Are Required To Do

Permanently remove the toilet blocks shown hatched blue H on the attached plan from the site.

Remove from the land all materials and waste in compliance with the above.

6. Time For Compliance

6 months after this notice takes effect.

7. When This Notice Takes Effect

This notice takes effect on 2 December 2022 unless an appeal is made against it beforehand.

Dated: 21 October 2022

Signed:



Charles Turner
Solicitor to the Council
St.Albans District Council
District Council Offices, Civic Centre,
St.Peter's Street, St.Albans, Herts. AL1 3JE

On behalf of:

ANNEX

Your Right of Appeal

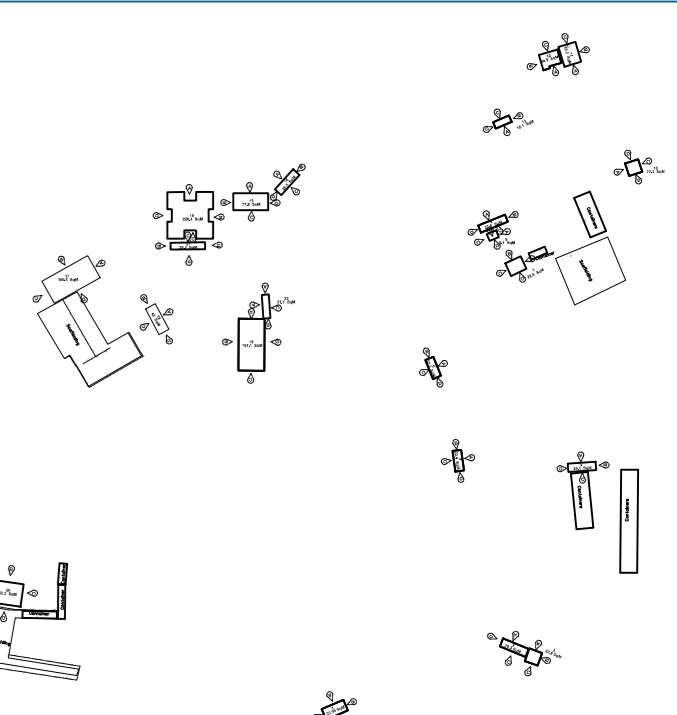
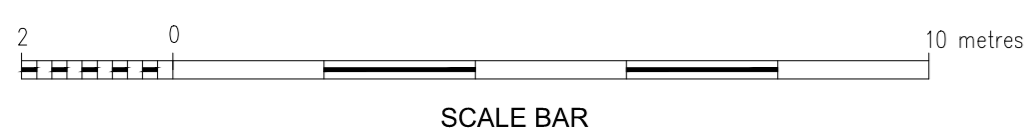
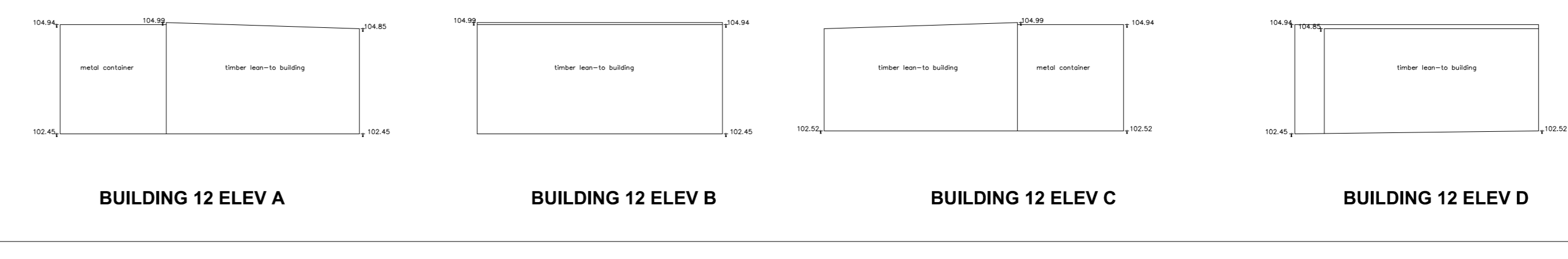
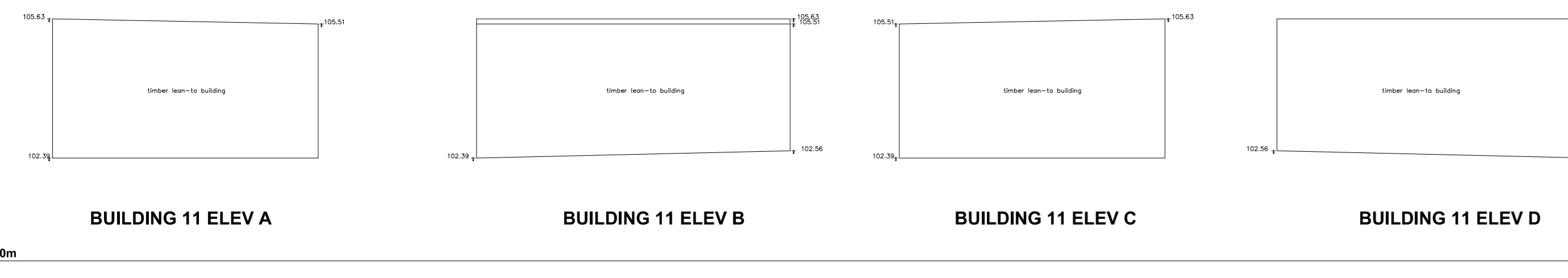
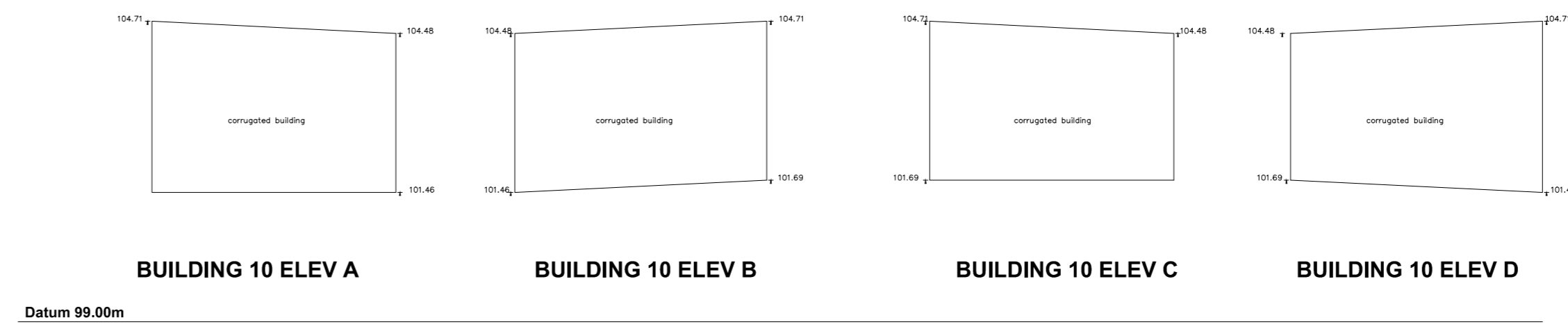
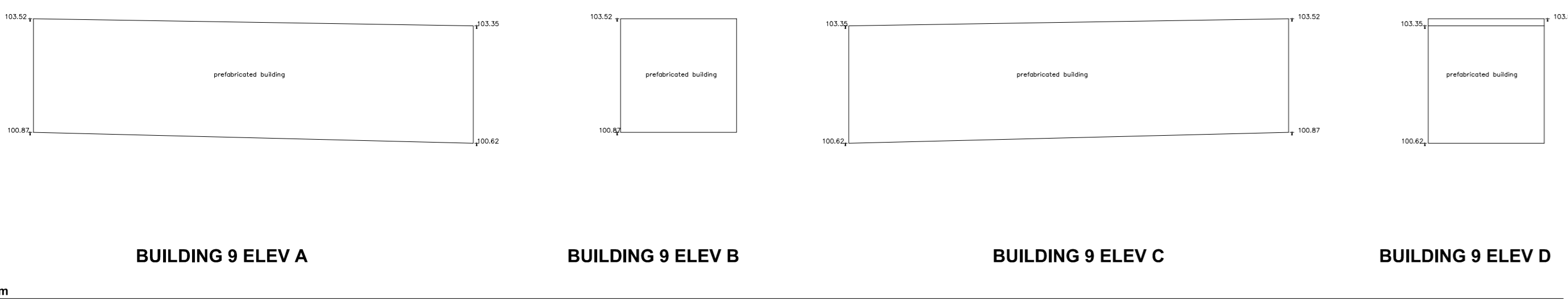
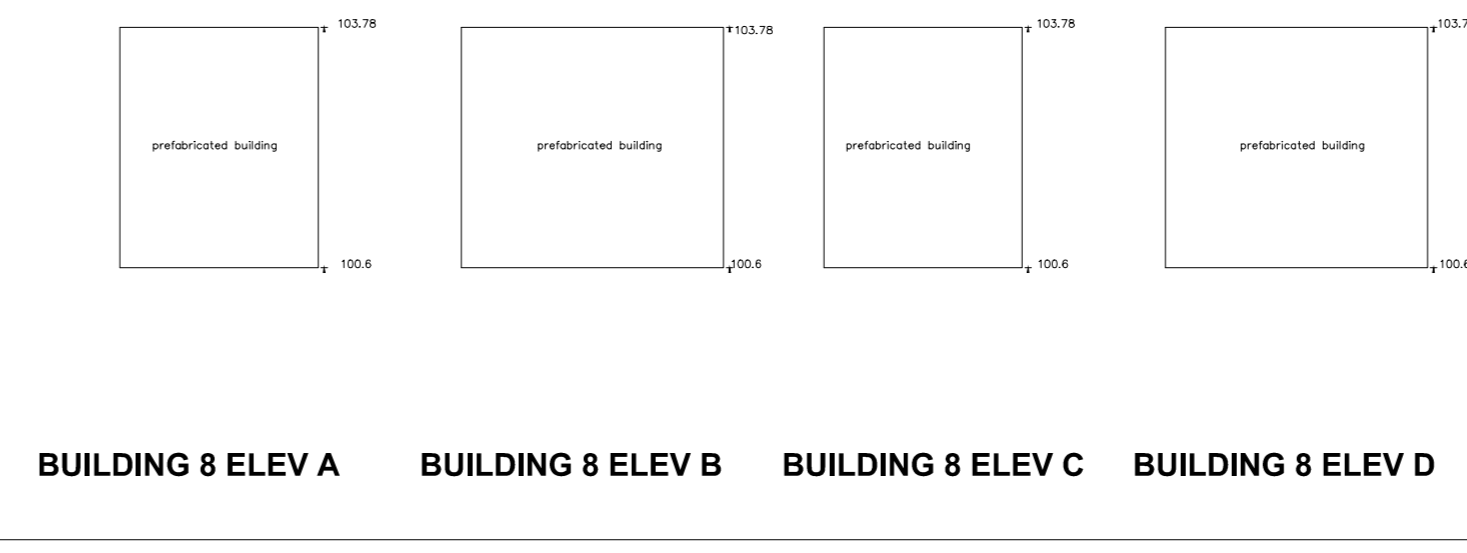
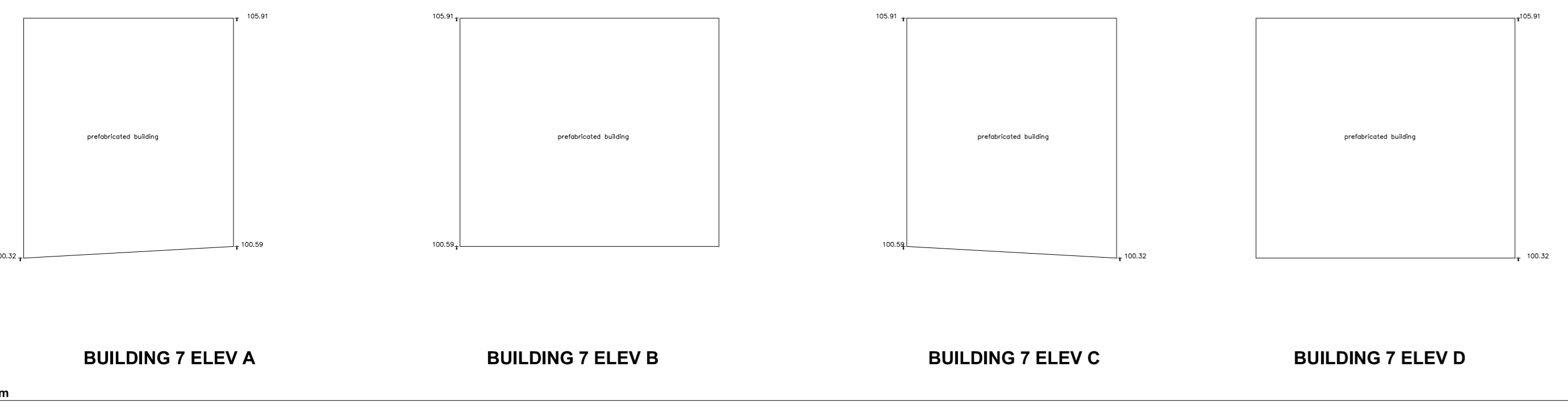
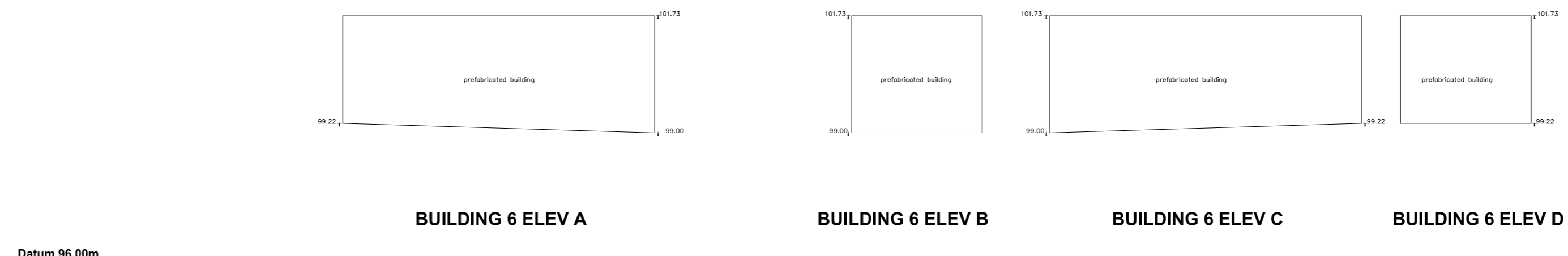
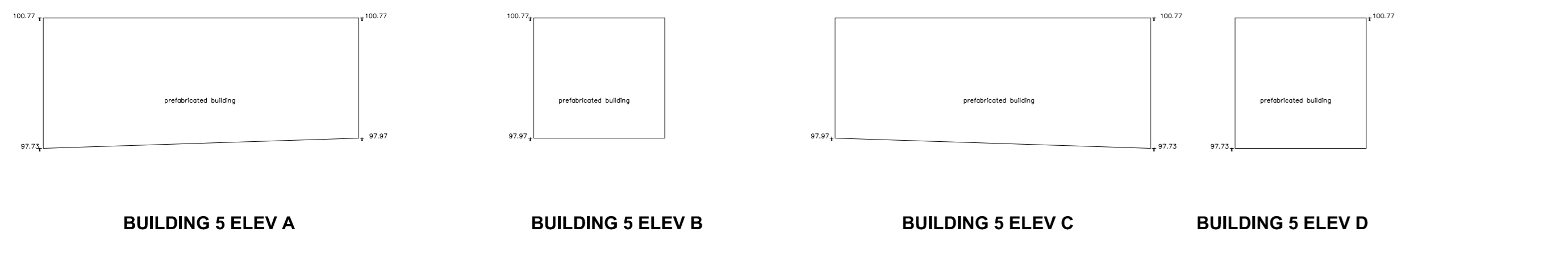
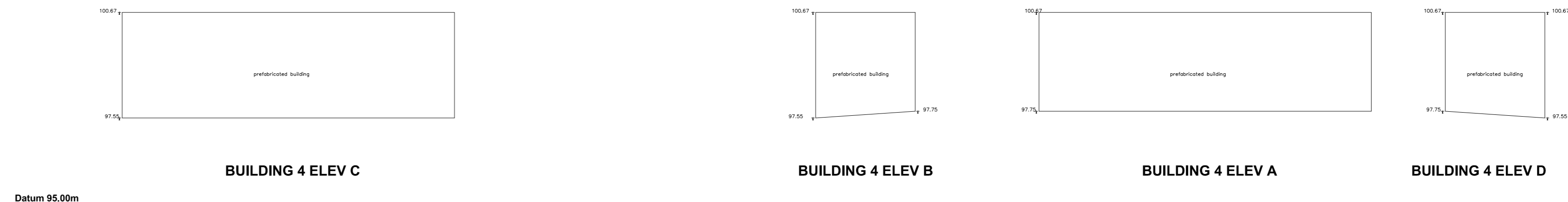
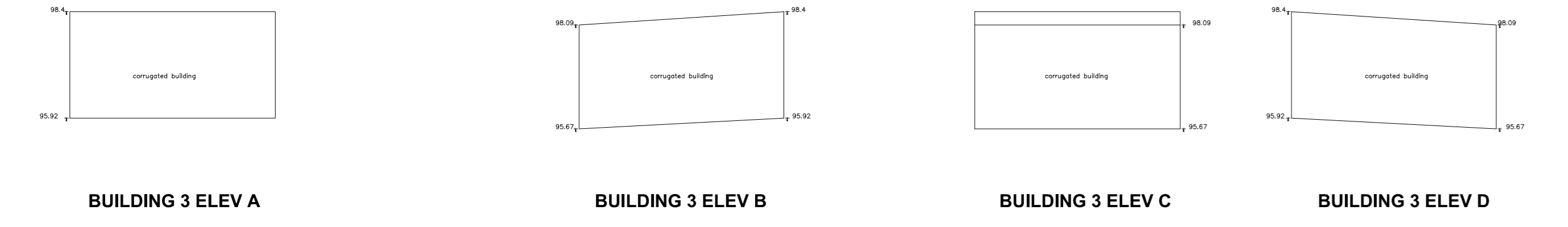
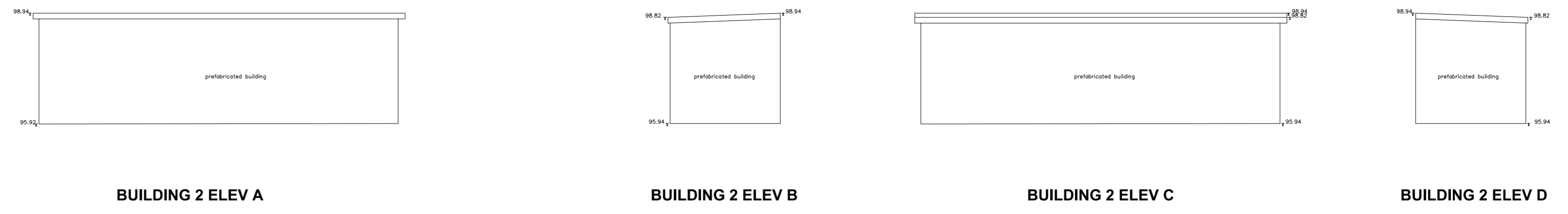
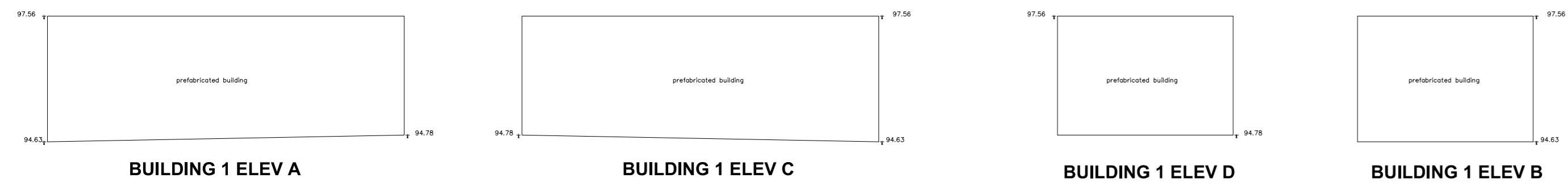
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KEY

	Elevation/Section Line		Fit Mark
	Box partition		Radiator
	Step/Ramp up		Stair cut line
	Overhead Feature		Approximate/Assumed Position

ABBREVIATIONS

p = Plinth Height	RL = Ridge Level
q = Sill Height	EL = Eaves Level
h = Head Height	RFL = Roof Level
c = Ceiling Height	SFL = Soffit Level
b = Beam Height	TFL = Through Level
sp = Spring Point Height	FFL = Finished Floor Level
fc = False Ceiling Height	PWL = Partset Wall Level
sc = Structural Ceiling Height	+35.20 = Levels
sl = Soffit Height	+52.76 = Elevation level
AB = Air Brick	JB = Junction Box
AHU = Air Handling Unit	RSJ = Rolled Steel Joist
AV = Air Vent	WT = Worktop
CB = Cupboard	

Client
EDDY COWEN

Project
**FORMER BUTTERFLY WORLD
ST ALBANS
AL2 3NY**

Title
ELEVATIONS

Drawing Number
TS22-601-2

Revision	Description	Rev. By	Date

Scale: 1:100@A0 Sheet 1 of 2
 Drawn by: AJB Checked by: PG Date of Survey: DEC 2022

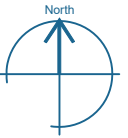




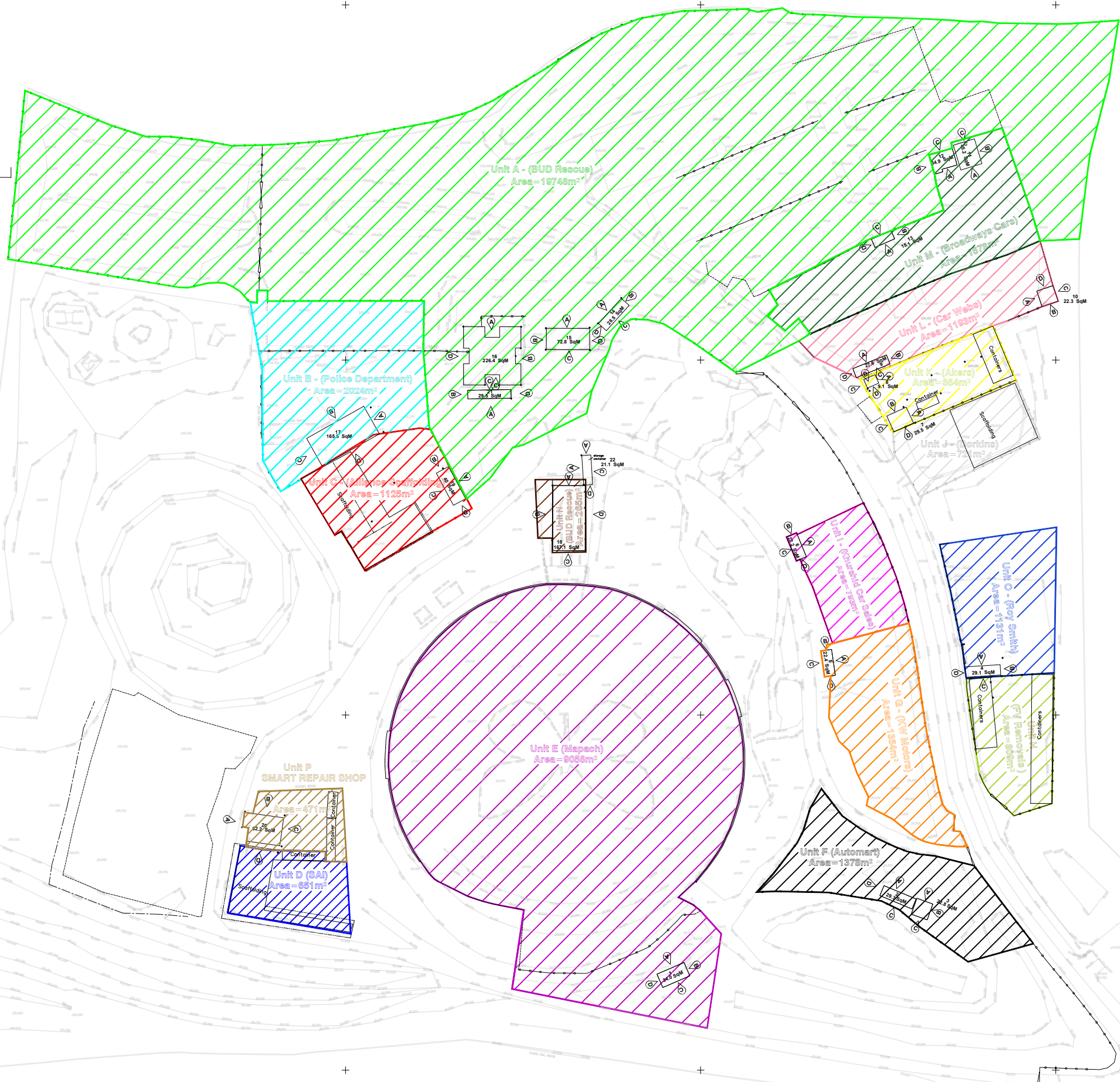
NOTE:
INFORMATION ADDED TO ORIGINAL SURVEY TS22-556

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This survey is related to OSGB36(15) coordinate system by GPS 'rapid static' methods. No scale factor has been applied to the survey information. All horizontal distances taken from this drawing are ground distances.



UNIT	AREA (m ²)
A	19748
B	2024
C	1125
D	651
E	9056
F	1378
G	1354
H	809
I	721
J	664
K	1193
L	1678
M	265
N	1131
O	471
P	

KEY

	UNIT A
	UNIT B
	UNIT C
	UNIT D
	UNIT E
	UNIT F
	UNIT G
	UNIT H
	UNIT I
	UNIT J
	UNIT L
	UNIT K
	UNIT M
	UNIT N
	UNIT O
	UNIT P

Client
EDDY COWEN

Project
FORMER BUTTERFLY WORLD SITE, ST ALBANS, AL2 3NY

Title
TOPGRAPHICAL

Drawing Number
TS22-601-1-RevA

Revision	Description	Rev. By	Date
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B	Area schedule amended.	NEM	16.01.23

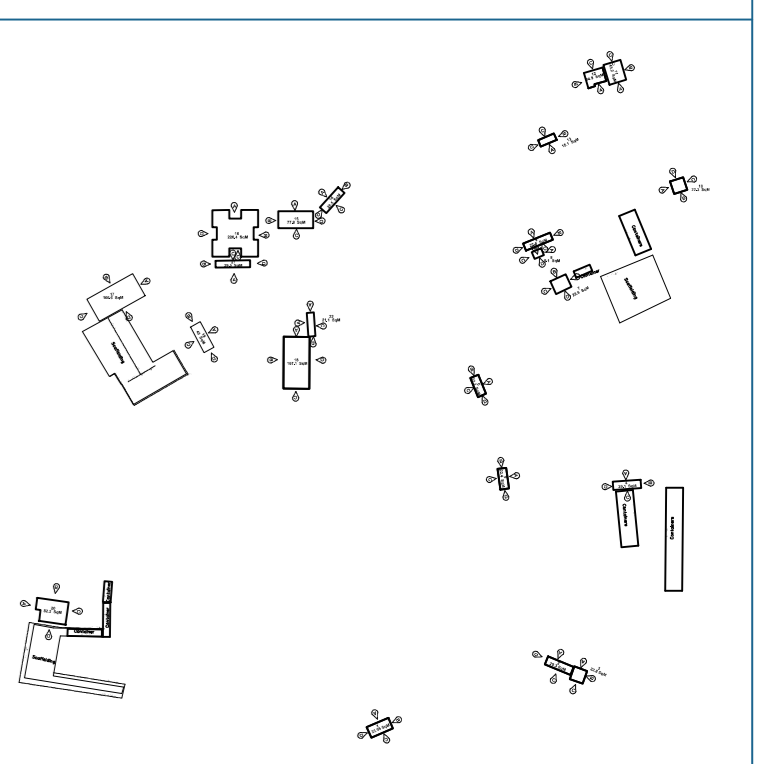
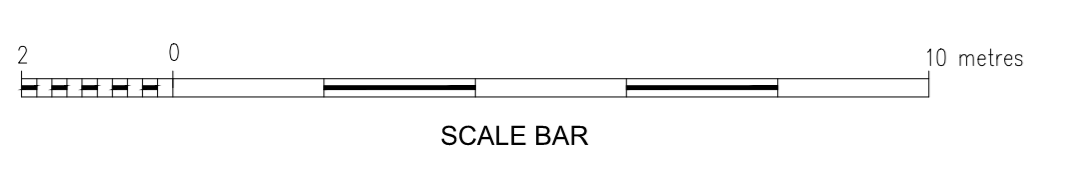
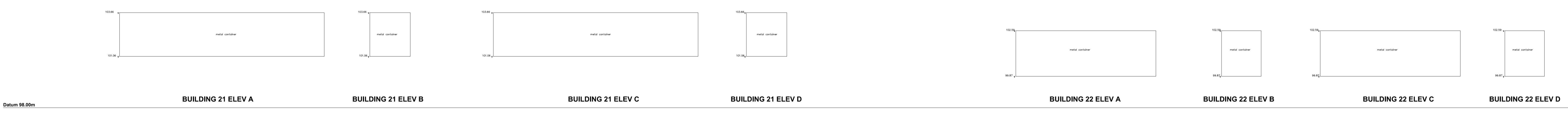
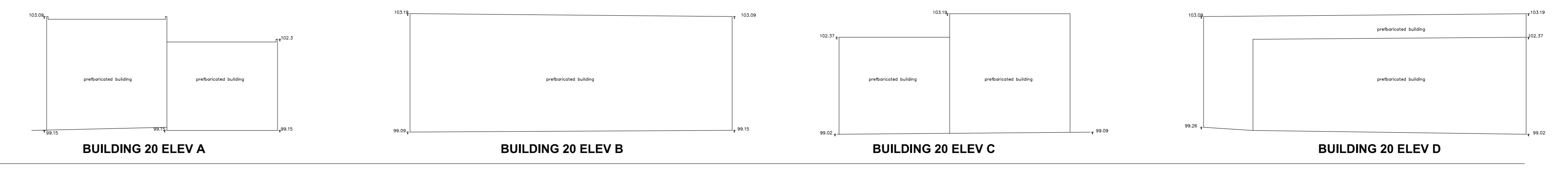
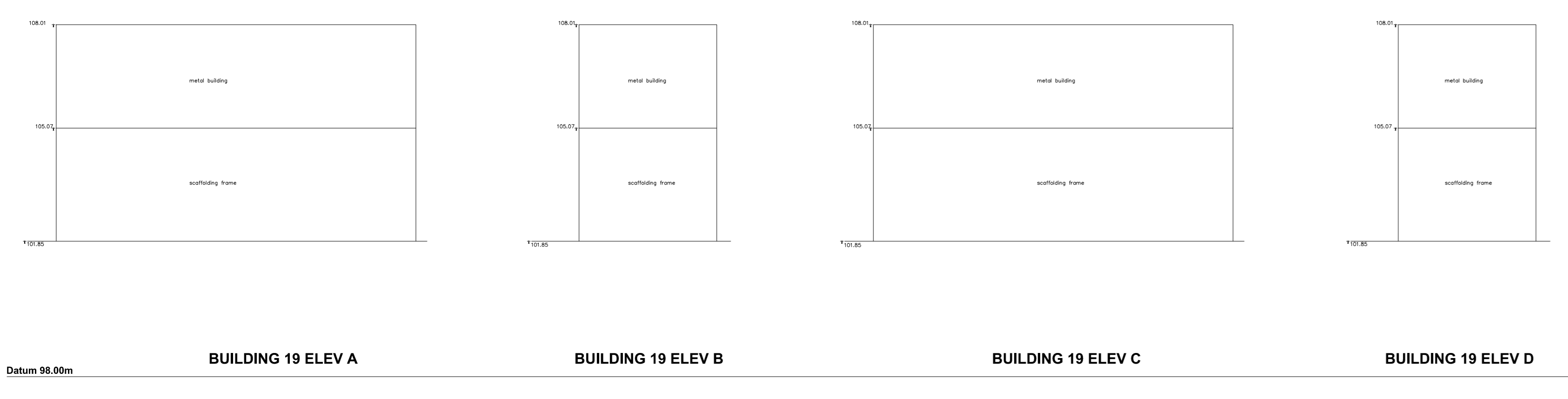
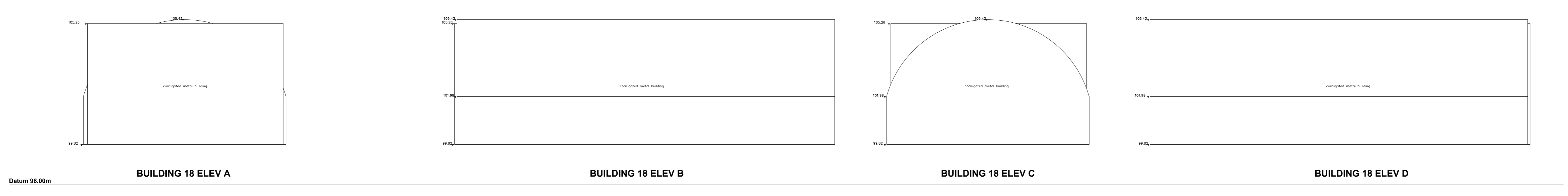
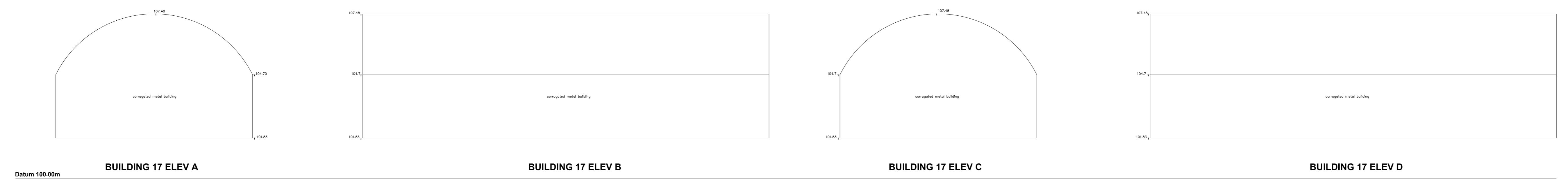
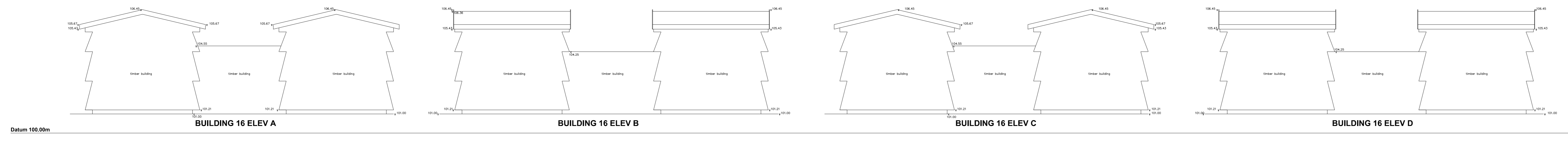
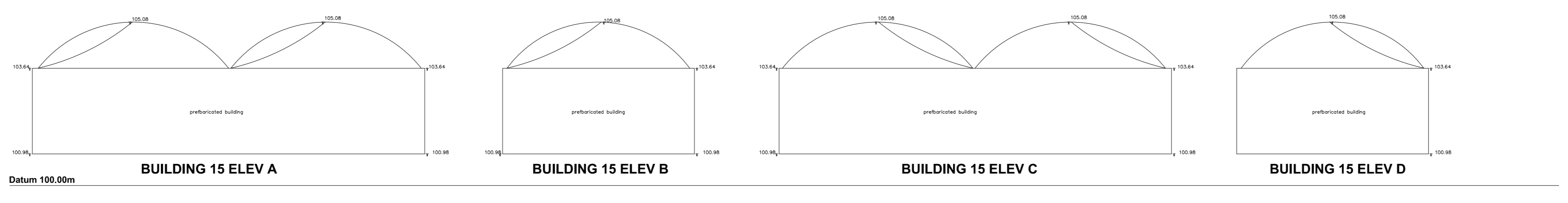
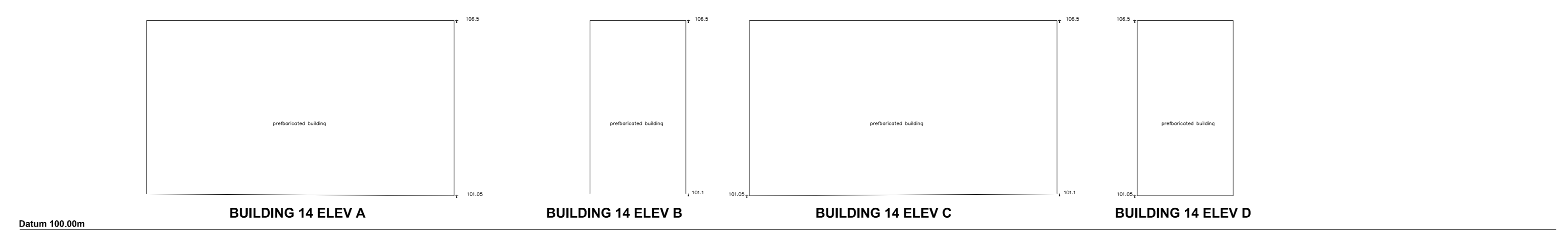
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Drawn by	Checked by	Date of Survey
AJB	JS	NOV 2022



Tel: 01438 841300
www.terrain-surveys.co.uk
enquiries@terrain-surveys.co.uk





KEY

	Elevation/Section Line		Fit Mark
	Box partition		Radiator
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AHU = Air Handling Unit	RSJ = Rolled Steel Joist
AV = Air Vent	WT = Worktop
CB = Cupboard	

Client
EDDY COWEN

Project
**FORMER BUTTERFLY WORLD
ST ALBANS
AL2 3NY**

Title
ELEVATIONS

Drawing Number
TS22-601-3

Revision	Description	Rev. By	Date

Scale 1:100@A0 Sheet 2 of 2
Drawn by AJB Checked by PG Date of Survey DEC 2022



David Clarke Chartered Landscape Architect and Consultant Arboriculturist Limited

David Clarke BSc (Hons) CMLI PD Arb (RFS) M Arbor A

Landscape and Visual Assessment

in relation to an Enforcement Notice and
Breach of Conditions Notice

at:

Former Butterfly World, Miriam Lane, Chiswell
Green, St Albans, Hertfordshire, AL2 3NY

Compiled by:

David Clarke

BSc (Hons) Land Man, PD Arb (RFS) CMLI, M Arbor A

January 2023

Head Office:

Willowbrook House

Church Lane

Fillongley

CV7 8EW

Telephone: (07775) 650 835 or (01676) 541 833

e:mail: info@dccla.co.uk

Contents

- 1.0 Introduction:
 - 2.0 Scope of Study:
 - 3.0 Current Planning Approval
 - 4.0 Site Context and Description
 - 5.0 Current Site Operation and Comparison to Approved Development
 - 6.0 Landscape Assessment
 - 7.0 Visual Assessment
 - 8.0 Conclusion
- Appendix A – Photo Viewpoints 1-7

1.0 Introduction

1.1 This Landscape and Visual Assessment (LVA) has been carried out in relation to:

- An Enforcement Notice – A Material Change of Use. This is from a visitor attraction to various uses including car sales and storage and scaffolding yards
- A Breach of Condition. This relates to a Toilet Block which the Local Planning Authority state should have been demolished.

at `Former Butterfly World, Miriam Lane, Chiswell Green, St Albans, Hertfordshire, AL2 3NY. These notices were served by the Local Planning Authority (LPA) – St Albans City and District Council. Part of the LPAs case is that the current use of the site (including associated structures) and the toilet block causes visual harm to the detriment of the rural character of the area.

1.2 The purpose of this LVA study is to provide an assessment of the existing site and the likely landscape and visual aspects arising and the potential impacts to the local area of the site (see Aerial Context Plan). It is within the context of an implemented Planning Approval (Plan Ref: 5/2003/1343) for *`Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive`*. This report has been prepared on behalf of my Client – Convene Construction Ltd – in relation to the Enforcement Notice and Breach of Condition Notice.

1.3 I am David Clarke, I have a Bachelor of Science Honours Degree in Landscape Management from Reading University and I am a Chartered Landscape Architect and Chartered Member of the Chartered Landscape Institute. I hold the Professional Diploma in Arboriculture (RFS) and I am a Professional Member of the Arboricultural Association. I have 31 years experience of working in both the private and public sector in relation to arboricultural and landscape issues.



Aerial Context Plan and Locations of Photo Viewpoints

2.0 Scope of Study

2.1 This study sets out the context, existing landscape character and visual prominence of the existing site from public vantage points such as roads and footpaths. The current use of the site is assessed within the ability of the existing and proposed landscaping, built form and topography to mitigate for these changes. It is noted that changes arising from the current use may not necessarily be significant and they may be able to be integrated within the current setting. Development can offer the opportunity to enhance and improve both the landscape setting and biodiversity of a site. The assessment was undertaken in January 2023.

2.2 All reports, plans, drawings or photographs used within this report may not be reproduced without written consent. All copyrights are reserved. In relation to this assessment all measurements are taken from the nearest site boundary. The visibility of the site and relevant viewpoints are assessed below in relation to the existing and approved site layouts. The effect of potential seasonal changes in the landscape have been taken into account when analysing the visual effects on these views and potential receptors.

3.0 Current Planning Approval

3.1 Planning permission was granted in February 2005 for the erection of a building for the exhibition of butterflies and plants in association with the adjacent Gardens of the Rose Site under Planning Approval Ref: 5/2003/1343. This is both a Visitor Attraction and Educational Facility. The application included associated infrastructure - such as ancillary buildings and the provision for parking - and landscaping. The approved buildings had a floorspace of nearly 10,000m², to include a rainforest biome with a diameter of 100m and a height of approximately 23 m which would have provided a habitat for butterflies and tropical plants. The biome was to be excavated to 8.0 m into the existing site and included a public walkway, caves and watercourses and ancillary visitor and education facilities, such as a shop, coffee shop, restaurant and lecture theatre provided over 2-storeys. It would have a translucent shell structure. A total of 405 car parking spaces and a 12-space coach park were proposed. A new access was provided from Noke Lane to the south, via Miriam Lane, with that from Chiswell Green Lane, comprising the emergency site access. The site was to operate between 09.00-22.30 with no vehicles (other than those used by staff) to leave the site after 23.00. Butterfly World opened in 2008 and closed in 2015.

3.2 The excavation for the Biome and its base, a permanent building, hardstanding for the access and car and coach parking, boundary fencing and a significant quantity (if not all) of the landscaping which formed the basis of the approval has been implemented. The landscaping element also included substantial mounds or bunding within the site. A temporary Toilet Block is located centrally within the site. There is an existing gated access to Miriam Lane.



Photograph A – Showing the footprint of the Biodome which is partially constructed.



Photograph B – Showing tree planting and mound to the southern site boundary.



Photograph C – Showing a mound and vegetation within the site.

4.0 Site Context and Description

4.1 The Appeal Site is located to the west of Chiswell Green and is accessed from Miriam Lane which runs to the south down to Noke Lane. There is an access point to Chiswell Green Lane to the north though this is currently closed. The area subject to the Enforcement Notices is approximately 11 ha in size. The site is currently used by several operators for a variety of uses including car recovery, car sales, police services and scaffold yards.

4.2 Green Belt

The site is located within the Green belt. A `Green Belt Review Purposes Assessment` was prepared for St Albans City and District Council in 2013 and a Green Belt Review Sites and Boundaries Study was prepared in 2014. These informed the (now withdrawn) replacement Local Plan. It is assumed that these assessments (albeit updated) will form the basis of any new replacement Local Plan. The assessments placed the appeal site within GB25 `Land to the west of Chiswell Green`. They state that *`While much of land within the sub-area is in agricultural use, the strength of character has been eroded by the loss of field boundaries, poor condition and*

introduction of new features, e.g. Butterfly World'. It also confirmed that 'The bunding surrounding Butterfly World creates considerable local enclosure; in time, the young planting on these landforms will reinforce this'. Assessed in isolation the land makes a limited or no contribution towards all Green Belt purposes

4.3 Site Description

The site is currently used as an industrial site by several operators for a variety of uses. These include vehicle recovery and storage, car sales, police services and scaffold yards. These operators are reliant on areas of open storage. It includes a range of isolated structures and buildings and areas of surfacing. The buildings are set back within the site by over 40.0 m The surfacing is generally within the areas agreed under the current Planning Approval. There is a building which was contained within the current Planning Approval and the Toilet Block which were included under a temporary permission. The Toilet Block has a 'Bee Hive' Design as part of its inclusion within the Planning Approval. They have been built to a high standard. The structures associated with the current use include scaffold yards, single or stacked containers and metal buildings. Some of these are relatively light in colour or include transitory materials such as plastic sheeting. The buildings range from 2.5 m – 10.0 m in height. They are typical of this type of industrial operation.



Photograph D – Showing the building which formed part of the current Planning Approval.



Photograph E – Showing the Toilet Block on the site.



Photograph F – Showing some of the current structures on the site.



Photograph G – Showing the existing scaffold yard to the south of the Appeal Site.

- 4.4 There are significant areas of mounding and landscaping to the site boundaries and through the site. These were either already present or were introduced as part of the Butterfly World development and subsequent operation between 2008 and 2015. These form substantial screening and help to screen and set the existing buildings and structures within the site and in longer range views. They break up the areas of development and provide a good ecological resource within the site. This vegetation is more effective when this is in leaf. However, the operation of the site is beginning to spread and encroach into these areas of landscaping. Additionally, the long-term management of these areas is unknown. It is recommended that – should the current use be allowed – that these blocks of landscaping are protected and managed to ensure their long-term retention. Protection measures could include the use of knee-rail or bollards. These would also define the operational footprint of the site from the landscaping which is integral to integrating this site successfully into the landscape.



Photograph H – Looking from the western boundary towards the existing development. Showing establishing trees and mounds within the wider site landscape



Photograph I – Showing established landscaping within the Appeal Site.

4.5 Noise

Environmental sound levels were measured from 3 location over a week in May 2021. This was to assess the potential effects of sound from commercial activity on the site on residents living nearby. The conclusion reached from the data is that the impact of commercial activity on nearby houses is negligible. Currently the site operates between 09.00-17.00 except for emergencies which compares to the longer approved operating hours of Butterfly World.

4.6 Surrounding Land Use

To the north of the site is Chiswell Green Lane. A narrow, winding lane. Beyond this is an open field that was previously used as a Polo Field. An Outline application here (5/2021/3194) for 'Demolition of existing buildings, and the building of up to 330 discounted affordable homes for Key Workers, including military personnel, the creation of open space and the construction of new accesses and highway' was refused permission on 25th October 2022. It is understood that an appeal has been submitted in relation to this development.

4.7 To the east of the site are areas of pasture and beyond this is the settlement edge of Chiswell Green. This has a linear form and residential properties are clearly visible. The LPAs Green Belt Assessment identified that the pasture land displayed urban fringe characteristics due to its proximity to the settlement edge and Butterfly World along Miriam Road to the west. The Site is located in the Green Belt and was identified in the withdrawn Local Plan 2020-36 Publication draft (2018) as the 'West of Chiswell Green Broad Location' to provide a significant urban expansion. There was a recent Outline Application (Planning Ref: 5/2022/0927) relating to the adjacent parcel of land between Chiswell Green and the Appeal Site. This was for the erection of 391 dwellings, the provision of land for a new 2 form entry Primary School, open space provision and associated landscaping. Despite an Officer recommendation for approval, the application was refused planning permission on 16th December 2022, primarily on the basis that it constituted inappropriate development. It is understood that an appeal has been lodged against this decision.

4.8 Directly to the south are open fields which are used for pasture – such as sheep grazing. The land falls down to Noke Lane. To the south east is Noke Lane Business Park and an existing residential development, a Haulage Yard and Showmans Guild Storage. The Business Park has a current Planning Approval for residential

development. To the south and west are farm buildings, paddocks and associated ancillary structures. Hedgerows and trees within the general landscape block and screen views towards the Appeal Site from Noke Lane.

- 4.9 The Gardens of the Rose are located to the north and west with open countryside and agricultural fields beyond this.
- 4.10 It can be seen that there is development pressure around the Appeal Site. Should these developments be progressed (including those currently under Appeal) then there would be significant changes to the built form and character around the Appeal Site. There would subsequently be a degradation of the openness and effectiveness of the green belt in this location.

5.0 Current Site Operation and Comparison to Approved Development

- 5.1 The current site includes a range of buildings and structures to heights of between 2.5-10.0 m. The approved Biodome had a height of approximately 23.0 – though this was excavated into the existing landform by 8.0 m – and a width of 100 m. The Biodome would be readily visible in the landscape to the south but would be softened and set in the landscape by the existing and establishing vegetation. This would have become more effective as it reached maturity. The existing buildings are much lower in height and some also benefit from sitting within the excavated area or adjacent to mounding. They also benefit from the presence of the establishing vegetation and the strong structure provided by the mature boundary vegetation. The existing buildings are scattered though the site whilst the Biome would have formed a single structure to 100 m diameter.
- 5.2 The Biodome would have had a translucent shell structure. The buildings and structures of the current site use are formed of a range of materials. Some of these are light in colour and some have translucent coverings and some are constructed of subdued materials. Lighter coloured, reflective and translucent materials are more visible in the landscape than those from subdued palettes.
- 5.3 There are large areas of hardstanding within the site which are associated with car and coach parking for Butterfly World. These have subsequently been used for the storage or parking of vehicles which would replicate the proposed use as part of the Planning Approval. These areas are only generally visible from Chiswell Green Lane. There will

similarities of this use and its visibility within the landscape between the Planning Approval and its current use. There will be seasonal differences and the current use may have more permanency, but the visibility of these areas is well contained.

- 5.4 A transport assessment was submitted as part of the current Planning Approval. This estimated that peak numbers for Butterfly World would have been 3250 visitors with a typical weekday being 525 visitors. Observations of the current use would suggest that usage of the site is lower than these figures but this would need to be confirmed by further studies. It is assumed that use of Butterfly World may have had peaks and troughs – both during the day and over the year – but that use of the current site is more evenly spread through the day and year.

6.0 **Landscape Assessment**

- 6.1 The Appeal Site forming the Enforcement Notices is to approximately 11 hectares and consists of a range of buildings, structures and hardstanding associated with its current use. There are mounds, trees, hedging and other vegetation through the site and to the boundaries. There are areas of mature and established vegetation as well as trees which were planted as part of the current Planning Approval from 2005.
- 6.2 Hertfordshire's Landscape Character Assessment (LCA) describes the variations in character between different types of landscape in the county. The LCA identifies that The Site lies within Area 10 – St Stephens Plateau. This assessment was produced in 2003 prior to the opening of Butterfly World. Area 10 is located between St Albans, Watford and Hemel Hempstead. It is dissected by the M1 and M25 motorways. The Site is located to the south eastern edge of the LCA which is described as *'A working farmed landscape of predominantly open arable fields which slopes from north-west to south-east. To the north several large mixed woodlands create a local sense of enclosure. Elsewhere hedgerows are sparse with few individual field trees. The settlement pattern is dispersed, connected by a series of narrow winding lanes. The historic land-use pattern is overlaid by a strong network of motorways and junctions. Wooded horizons are common to the north, west and south, whilst to the east the built edge of St Albans and Chiswell Green is prominent'*.
- 6.3 It is a relatively small site in relation to the overall size of the LCA and does not influence the setting or character of the LCA in its own right. The LCA is relatively common and the Appeal Site has limited relevance to the Key Characteristics of the

LCA due to its developed form. However, there are some visual connections including the prominence of the settlement edge of Chiswell Green to the east and the presence of the M1 and M25. The recommendations for the LCA are 'Improve and Reinforce'. This has already been achieved in part by the significant areas of landscaping and mounding introduced for the current Planning Approval.

6.4 The impact on the landscape was considered as part of the granting of Planning Permission for Butterfly World in 2005. The Officers Report states that '*The visual impact, although different (to a previously approved scheme) is not considered to be any more harmful to the rural character of the area or the Metropolitan Green Belt than the three large buildings allowed by the Secretary of State*'. This demonstrates that alternative uses of the site can be acceptable in both landscape and Green Belt terms as long as they are adequately incorporated within the landscape.

6.5 The Appeal Site is well screened to its boundaries by both mounding and tree and hedge planting. There is further scope to plant trees to the top of some of these mounds as part of an approval for the current site operation. These would include native species such as Pedunculate Oak (*Quercus robur*), Holly (*Ilex aquifolium*), Field Maple (*Acer campestre*) and Hawthorn (*Crataegus monogyna*). The depth, position and height of the planting through the development creates a layered effect which integrates and sets the existing buildings and structures into the landscape. The effectiveness of this will increase as the vegetation matures. There is scope to introduce further planting where this is required.

7.0 **Visual Assessment**

7.1 Fieldwork has been conducted to establish the role of the Appeal Site in views from the surrounding area and to identify key representative views. It has identified the site's general visibility within the surrounding landscape (the visual envelope). There are Public Rights of Way within the general area but these are generally located at some distance from the Appeal Site.

- To the North: Footpath 21 is located at over 80 m from the site boundary. Chiswell Green Lane runs along the northern site boundary. The footpath is well screened by existing developing vegetation. The northern site boundary is also screened by boundary vegetation though there are some gaps here;

- To the East: Footpath 82 is located 150 m from the site boundary. The built form of the adjacent stables and vegetation within the landscape blocks views of the Appeal Site;
- To the South: Footpath 28 runs from The Gardens of the Rose down to Noke Lane. Footpaths 1, 2, 22 and 23 run within the general landscape. They rise up to the higher ground on the opposite side of the valley from the Appeal Site. The localised topography and intervening vegetation mean that at lower levels there are no realistic views of the Appeal Site. As the footpaths rise up to the higher ground there are views of the Appeal Site. Some of these are blocked or screened by localised vegetation.
- To the West: Footpath 44 runs up to the site boundary. There is intervening vegetation along this boundary and mounding which together block and contain views towards the site.

7.2 The only reasonable or realistic views of the site are from limited areas on Chiswell Green Lane and Footpaths 2, 22 and 28. This includes road users and users of the footpath. Photographs of 7 no. representative views in the direction of the site have been included below to demonstrate the visibility of the site. These are discussed below. The location of the viewpoints and the site context are shown on the Aerial Context Plan.

7.3 **(1) On Chiswell Green Lane (see Photo Viewpoint 1)**

7.4 This is taken from the north-east corner of the Appeal Site. The boundary fencing which was erected as part of the current Planning Approval forms a defined boundary here. There is no footpath along the lane and it is assumed that the predominate use here will be by vehicles using the lane. This is a narrow and winding road and most users will be concentrating on their direction of travel. The vegetation at this point includes mature Cypress but the understorey vegetation is thinner or more sporadic than further along the road. There are filtered views of vehicles within the site though these would be less prominent when the vegetation is in leaf. These areas were specified as parking as part of the Planning Approval. The introduction of additional planting could be used to further screen this boundary.

7.5 (2) On Chiswell Green Lane (see Photo Viewpoint 2).

7.6 This is taken from the lane looking east. It shows the established vegetation along the lane which provides a good screen to the site. This vegetation would be denser and provide more screening when in leaf.

7.7 (3) From Footpath 28 (see Photo Viewpoint 3).

7.8 This is taken looking south along Footpath 28. This is a natural view for those travelling south along the footpath. The boundary fencing which was erected as part of the current Planning Approval forms a defined boundary here. It shows the established vegetation along the site boundary which provides a good screen to the site. This vegetation would be denser and provide more screening when in leaf. There are mounds and further planting within the site itself. The current development within the site is not visible from this point.

7.9 (4) From Footpath 28 (see Photo Viewpoint 4).

7.10 This is taken from Footpath 28 towards the top of the ridge adjacent to the Appeal Site. The view is looking east along the ridge. It shows the established vegetation to the site boundary and the screening it provides – together with the mounding and vegetation within the site – in this viewpoint.

7.11 (5) From Footpath 28 (see Photo Viewpoint 5).

7.12 This is taken from Footpath 28 looking north towards the Appeal Site. Part of this footpath is open and part is screened by vegetation. It is not necessarily a natural view as most users climbing to the ridge will be concentrating on their direction of travel and will be aware of the uneven ground conditions. However, it does form part of general views from this footpath. This photograph was undertaken when the vegetation was not in leaf. The built form of the scaffold yard (set back 40,0 m within the site) is seen within the existing vegetation along the site boundary. It is not readily visible or dominant in this view and the majority of users would not notice its presence or apply any significance to its presence. There are several scattered ancillary structures within this landscape which form part of the current equine use. There are glimpsed views of the Alliance Building which sits back within the site by approximately 140.0 m. There are similar views along the footpath where these are allowed by boundary vegetation. When vegetation is in leaf the structures will be almost completely obscured and blended into the vegetation screening.

7.13 **(6) From Footpath 22 (see Photo Viewpoint 6).**

7.14 This is taken from Footpath 22 looking north over the valley towards the Appeal Site. This is a relatively natural view for users travelling along this footpath as they look over the valley and the existing developments are a point of reference or interest here. This footpath passes through agricultural fields but the range of development and activity in front of the viewer form the context of this view. This includes the Appeal Site, Noke Lane Business Park and the adjacent residential development and Haulage Yard, the noise and movement along the A405, Noke Hotel, the Shell garage on the A405/B4360 roundabout and the edge of settlement. The noise associated with the M1/M25 to the south of this view is a significant part of the experience of the users of this footpath. There are similar views from other parts of Footpaths 2 and 22 though some views are screened and softened by existing vegetation within the landscape.

The Appeal Site is located on the ridge. The existing buildings and structures are visible as a narrow strip of scattered development along the ridge. They sit below the height of the Cypress trees on Chiswell Green Lane. The Toilet Block and permanent building are also located here but are indistinct to the naked eye. Existing vegetation sets and screens this development in the landscape but the development is readily discernible in this viewpoint though it forms a comparatively small part of this view. The visibility is increased by the light or reflective materials of which the buildings are constructed. The Biodome would also be visible in this view and would form a larger block on the ridge. The Site would be more screened when vegetation is in full leaf and as the existing vegetation develops. The buildings are set back at least 40.0 m from the southern boundary. This allows for further vegetation to be introduced to assimilate the Appeal Site into the landscape.

7.15 **(7) From Miriam Lane (see Photo Viewpoint 7).**

7.16 This is existing gated access to the site. It does not form part of the Enforcement Notices. The Appeal Site is not visible from this location due to localised topography and vegetation present within the area.

8.0 Conclusion

8.1 This LVA provides an assessment of the existing site and the likely landscape and visual aspects arising from the current use. It provides a comparison to the current Planning Approval on the site (Butterfly World). The Appeal Site is to approximately 11.0 hectares and consists of a range of buildings, structures and hardstanding. There are level changes associated with the approved development and mounding which has been introduced. The site is well screened to its boundaries by mature vegetation and additional planting introduced as part of the Planning Approval.

8.2 Owing to the location of Public Rights of Way, existing vegetation screening, local topography and built form the only reasonable public views towards the site are from the south in specific locations from Footpath 28 and Footpaths 2 and 22. All other views are obscured or filtered. There may be brief or transitory views of vehicles within the site from Chiswell Green Lane. These areas would have formed the car parking for Butterfly World and the impact on users would therefore be similar. There is the potential to introduce additional planting to this boundary to strengthen the screening here.

8.3 Footpath 28

Views of the Appeal Site are heavily screened, softened or obscured by boundary vegetation and local topography. The Biodome would have been more visible in these viewpoints. It is considered that the existing site does not cause visual harm in these viewpoints.

8.4 Footpaths 2 and 22

As users climb the ridge to be opposite the Appeal Site the building and structures here become visible along the ridge. These are within the context of the existing development within the area and the background noise and movement arising from the use of the significant road network in the area. The approved Biodome would also be visible in these viewpoints. Due to its size – height and width – it would have been more prominent than the existing buildings and structures. The Toilet Block and approved permanent building are also visible. Due to the position of the development within the site there are significant opportunities to plant further vegetation to soften and screen the existing site in these views.

- 8.5 The Site affords excellent access to the M25 and M1 motorways, precluding the need for vehicles to travel through St Albans and residential areas. The Grounds of Appeal state that there are a lack of alternative employment sites of this type in the district. It is understood that no new industrial sites have been allocated (and developed as such) by the LPA since the 1970s. In a District largely constrained by the Green Belt, with a chronic undersupply of housing land, there is very limited potential for suitable sites of this type. The use of the existing developed site with its existing substantial landscaping and ability to add further landscaping is an opportunity to fill this lack of supply.
- 8.5 It has been demonstrated that there are development pressures within this landscape. These arise from approved development and those subject of planning appeals. The area exhibits urban fringe characteristics due to the existing development and vehicular use in the area. The Butterfly World development would have contributed to this. Overall, the present use of the site does not create any additional visual harm than that arising from the existing Butterfly World development. However, the layout and operation of the site should be controlled and defined. This would ensure that the significant landscape resource is protected and managed for its long-term retention. The building heights should be restricted (i.e. to 10.0 m) and materials used should be subdued and non-reflective where these are (relatively) prominent in the landscape. Some of these measures could be applied retrospectively to the existing buildings and structures.

Appendix A
Photo Viewpoints 1-7
(to be viewed @ A3)



Photo Viewpoint 1 – On Chiswell Green Lane adjacent to the site. Looking west along the lane.



Photo Viewpoint 2 – From Chiswell Green Lane looking along the northern site boundary.



Photo Viewpoint 3 – From Footpath 28 looking south along the western site boundary.



Photo Viewpoint 4 – From Footpath 28 looking east along the southern site boundary. The larger tree on the boundary is to the south of the Scaffold Yard shown in Photograph G.

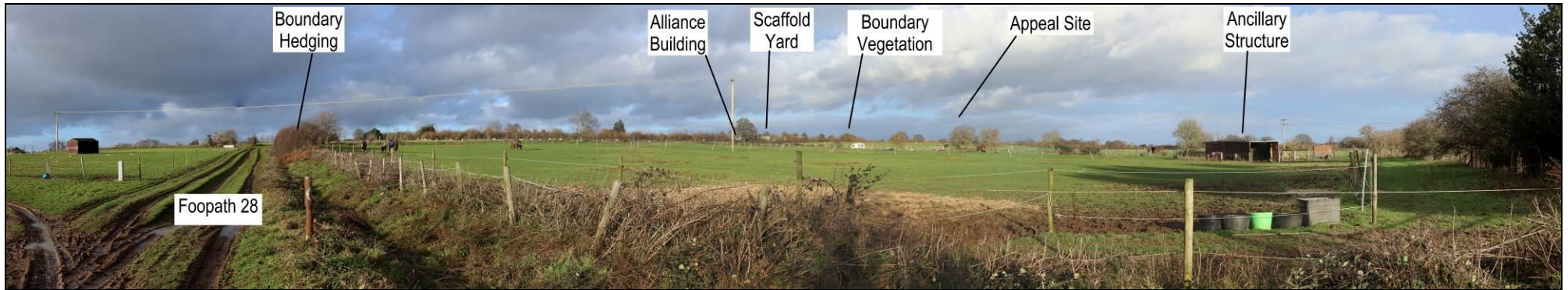


Photo Viewpoint 5 – From Footpath 28 looking north towards the Appeal Site.



Photo Viewpoint 6 – From Footpath 22 looking north towards the Appeal Site.



Photo Viewpoint 7 – From Miriam Lane looking north towards the existing gated access to the Appeal Site.

- 1.0 **Ground 1: The Proposal Constitutes Not Inappropriate Green Belt Development**
- 1.1 The Enforcement Notice relates to a Site of around 11ha. The Proposals Map of the District Local Plan Review 1994 shows the Site within the Metropolitan Green Belt, to the west of the Specified Settlement of Chiswell Green.
- 1.2 Planning permission was granted in February 2005 for the erection of a building for the exhibition of butterflies and plants in association with the adjacent Gardens of the Rose Site to the west under LPA Ref: 5/2003/1343. A copy of the application and decision notice is attached as Appendix A. With reference to the application forms, the approved buildings had a floorspace of nearly 10,000m², to include a rainforest biome with a diameter of 100m, which would have provided a habitat for butterflies and tropical plants. The biome included a public walkway, caves and watercourses and ancillary visitor and education facilities, such as a shop, coffee shop, restaurant and lecture theatre provided over 2-storeys. A total of 405 car parking spaces and a 12-space coach park were proposed. A new access was provided from Noke Lane to the south, via Miriam Lane, with that from Chiswell Green Lane, comprising the emergency site access.
- 1.3 The permission was implemented in 2008 and the Butterfly World attraction opened in 2009. The foundations for the biome were constructed at a cost of circa £6 million, but it has not been completed due to funding issues. The use ceased operation at the end of 2015.
- 1.4 Notwithstanding the above, it is clear that the 2005 planning permission has been implemented, such that the biome could still be completed. As such the Site constitutes Previously Developed Land (PDL) as defined in Annex 2 of NPPF. In addition to the partially constructed biome, there are also other structures relating to the attraction, such as large plant pots, walls housing bug homes, plus significant ground works and areas of hardstanding for footpaths. Account must also be taken of the two large areas of hardstanding within the northern part of the site accommodating car parking and bus stop areas. The Site access was also completed. The extent of the completed works is readily apparent from the aerial view dating from 24th March 2020 included as Appendix B.
- 1.5 NPPF paragraph 149 states that the erection of new buildings in the Green Belt constitutes inappropriate development, other than a limited number of exceptions, which includes: *“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development;”*
- 1.6 If account is taken of the potential volume and visual impact of the approved biome, it is considered that the various uses the subject of the Enforcement Notice would better

preserve the openness and purposes of the Green Belt than the extant Butterfly World use, so as to fall within the above exception. Additional evidence to support this notion will be submitted.

2.0 **Ground 2: In the event that the proposal is regarded as inappropriate development, there are Very Special Circumstances that outweigh the harm by reason of inappropriateness and any other harm.**

2.1 **Additional Harm** Even if no account is taken of the extant biome structure, the additional harm caused beyond the definitional harm would be relatively modest. From a Green Belt perspective, in addition to the completed structures and parking areas associated with the Butterfly World use, the Site is contained to the north by The Mansion House and the surrounding Gardens of the Rose, whilst to the east it is well related to the defined Specified Settlement of Chiswell Green and the ribbon development along Chiswell Green Lane. It is noted that the adjoining parcel of land to the east was promoted in the withdrawn Local Plan 2020-36 Publication draft (2018) to deliver at least 365 dwellings and, inter alia, a site for and appropriate contributions towards a two form entry primary school. Moreover, this site is currently the subject of an outline planning application (LPA Ref 5/2022/0927) for the construction of up to 391 dwellings; provision of land for a new 2FE primary school, open space provision and associated landscaping. There are no other apparent barriers to development as will be demonstrated under separate cover.

2.2 **Very Special Circumstances** In accordance with paragraphs 147 and 148 of the NPPF the following Very Special Circumstances (VSCs) would clearly outweigh the definitional harm and other harm:

VSC1: Fallback Position Given the extent and costs of the works undertaken in relation to the biome structure, in the event that this appeal is dismissed, the extant Butterfly World planning permission represents a potential fallback position. Accordingly the aforementioned comparative benefits to the openness and purposes of the Green Belt that the various uses the subject of the Enforcement Notice would deliver are again pertinent considerations.

VSC2: Accessibility The Site is occupied by a number of uses considered to fall within Class B8 use, including scaffolding companies. The Site affords excellent access to the M25 and M1 motorways, precluding the need for vehicles to travel through St Albans and residential areas.

VSC3: Lack of Alternative Employment Sites in the District It is understood that no new industrial sites have been allocated (And developed as such) by the LPA since the 1970s, whilst the data in their most recent Annual Monitoring Report (December 2021) demonstrates that in the 16 year period 2004/05 to 2020/21 there has been a net loss of 134,396m² of employment floorspace. In a District largely constrained by the Green Belt, with a chronic undersupply of housing land, there is very limited potential for suitable

industrial sites within the urban area to come forward to meet the needs of the existing users of the Site, which are reliant on areas of open storage. The occupancy of the site by local firms is in itself evidence of the lack of alternative, suitable sites. The utilisation of a well related and accessible brownfield site such as this surely represents the best available option.

Appendix A: Planning Application and Permission LPA Ref: 5/2003/1343

PLANNING APPLICATION FORM

Hertfordshire District & Borough Councils

This form may be used throughout Hertfordshire. Please complete ALL questions in BLOCK CAPITALS.
6 copies of forms / plans must be submitted. Photocopies of forms will be acceptable.

5/03/1343

PART 1 (to be completed in all cases)

1. Declaration (We apply for planning permission and declare that to the best of my/our knowledge all the information contained in this application and on the submitted plans is correct.)

Signed _____ In behalf of THE APPLICANT Date 23 JUNE 2003

2a. Name and Address of Applicant	2b. Name and Address of Agent (if any) (To whom correspondence will be sent)
THE ROYAL NATIONAL ROSE SOCIETY & THE BUTTERFLY WORLD TRUST THE GARDENS OF THE ROSE, CHISWELL GREEN, ST ALBANS HERTFORDSHIRE Postcode AL2 3NR	RPS PLANNING TRANSPORT & ENVIRONMENT 3 THE MEADOW, MEADOW LANE, ST IVES CAMBRIDGESHIRE Postcode PE27 4LG
Tel. No. 01727 850461	Tel. No. 01480 496966
Fax No. _____	Fax No. 01480 494292
E-mail Address _____	E-mail Address rawlingsj@rpsplc.co.uk

3. Full Postal Address of Application Site
(Edged in red on site plan)
THE GARDENS OF THE ROSE, CHISWELL GREEN, ST ALBANS, HERTFORDSHIRE
AL2 3NR

4. Brief Description of Proposed Development ERECTION OF BUILDING FOR THE EXHIBITION OF BUTTERFLIES AND ASSOCIATED PLANTS WITH RELATED HORTICULTURAL TRAINING AND RESEARCH COMPLEX, VISITOR CENTRE, CAFETERIA, COACH/CAR PARKING AND ACCESS DRIVE
(For development other than residential please also complete Part 2 of this form)

5. Fee (Please state fee submitted with application) £11,000

6. Plans (Please list all drawings and plans submitted) PLEASE SEE ATTACHED DRAWING SCHEDULE

7. State Whether the Applicant Owns or Controls any Adjoining Land (If Yes, edge in blue on site plan)

Yes No

23 JUN 2003

8. Present or Previous Use of Land/Buildings

a) Present use of land/buildings HORTICULTURE/AGRICULTURE

b) If vacant, the previous use and date when last used (if known)

9a. Site Area (hectares)	9b. Floorspace (Sq. m. gross)				Resultant total
	Current	Demolished n/a	Retained	New	
25.26	1179	n/a	1179	9680	10859

10. Trees

Does the proposed development involve the felling of any trees?

Yes No



WELWYN HATFIELD COUNCIL



Watford Council



BOROUGH OF BROXBORNE



THREE RIVERS DISTRICT COUNCIL



Stevenage

11. Type of Planning Application (Please tick the appropriate boxes)

- a) Full planning application for **new building works** and/or **engineering works** and/or **other operations**
- b) Full planning application for a **change of use**
- c) **Outline** planning application
- d) **Reserved matters** application

Date of outline permission and application no.

Please indicate which of the following matters you wish to be considered as part of your outline or reserved matters application:

Siting Design External appearance Means of access Landscaping

- e) Application for **removal/variation of a condition**

Condition no. Previous application no.

- f) Application for **renewal of temporary planning permission**

Previous application no.

12. Contamination

To your knowledge is the site contaminated?

Yes No

If Yes, what measures are proposed to decontaminate the land?

13. Garaging/Car Parking (including parking for employees) (Please indicate the number of garaging and/or car parking spaces available or to be provided)

Existing 303 Retained 303 Proposed 102 Total 405

14. Transportation

- a) What measures are proposed to encourage cycling as an alternative mode of transport to and from the site?

CYCLE PARKING FACILITIES

- b) How is the development served by passenger transport? Please state the approximate walking distance to the nearest bus stop and train station

800 METRES (APPROX) TO BUS STOP. 3km TO RAIL STATION. 12 COACH PARKING BAYS ON SITE

15. Access to Roads and Other Public Rights of Way (Please tick the appropriate boxes)

- a) Will there be a new access to a highway?
- | | | |
|------------|---|-----------------------------|
| Vehicular | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| Pedestrian | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
- b) Will any existing access to a highway be altered?
- | | | |
|------------|---|-----------------------------|
| Vehicular | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| Pedestrian | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

If any new or altered access is proposed, state name(s) of highway(s) affected NOKE LANE
(Please show details of works involved on the submitted plans)

- c) Is there a public right of way crossing or abutting the site? Yes No
(If Yes, please show on the submitted plans)

16. Drainage

- a) How will surface water be disposed of? (e.g. public sewers, watercourses, soakaways, etc) SOAKAWAYS
- b) How will foul water be disposed of? (e.g. public sewers, cesspits, septic tanks, etc) MAIN SEWER

17. Materials (Please state the type and colour of materials to be used (if known)) PLEASE REFER TO THE ATTACHED

- a) Exterior walls b) Roof DESIGN STATEMENT
- c) Windows d) Boundary treatment

18. Are You a Member or Officer of the Council to Which the Application is Being Made?

Yes No

11. Type of Planning Application (Please tick the appropriate boxes)

- a) Full planning application for **new building works** and/or **engineering works** and/or **other operations**
- b) Full planning application for a **change of use**
- c) **Outline** planning application
- d) **Reserved matters** application

Date of outline permission and application no.

Please indicate which of the following matters you wish to be considered as part of your outline or reserved matters application:

Siting Design External appearance Means of access Landscaping

- e) Application for **removal/variation of a condition**

Condition no. Previous application no.

- f) Application for **renewal of temporary planning permission**

Previous application no.

12. Contamination

To your knowledge is the site contaminated?

Yes No

If Yes, what measures are proposed to decontaminate the land?

13. Garaging/Car Parking (including parking for employees) (Please indicate the number of garaging and/or car parking spaces available or to be provided)

Existing 303 Retained 303 Proposed 102 Total 405

14. Transportation

- a) What measures are proposed to encourage cycling as an alternative mode of transport to and from the site?

CYCLE PARKING FACILITIES

- b) How is the development served by passenger transport? Please state the approximate walking distance to the nearest bus stop and train station

800 METRES (APPROX) TO BUS STOP. 3km TO RAIL STATION. 12 COACH PARKING BAYS ON SITE

15. Access to Roads and Other Public Rights of Way (Please tick the appropriate boxes)

- a) Will there be a new access to a highway? Vehicular Yes No

Pedestrian Yes No

- b) Will any existing access to a highway be altered? Vehicular Yes No

Pedestrian Yes No

If any new or altered access is proposed, state name(s) of highway(s) affected
(Please show details of works involved on the submitted plans)

NOKE LANE

- c) Is there a public right of way crossing or abutting the site? (if Yes, please show on the submitted plans) Yes No

16. Drainage

- a) How will surface water be disposed of? (e.g. public sewers, watercourses, soakaways, etc) SOAKAWAYS

- b) How will foul water be disposed of? (e.g. public sewers, cesspits, septic tanks, etc) MAIN SEWER

17. Materials (Please state the type and colour of materials to be used (if known)) PLEASE REFER TO THE ATTACHED

- a) Exterior walls b) Roof DESIGN STATEMENT

- c) Windows d) Boundary treatment

18. Are You a Member or Officer of the Council to Which the Application is Being Made?

Yes No

18. Development Involving Residential Use (Including Conversion)

(Please give the number of **existing** residential units on the site)

Single family dwellings Self-contained flats and maisonettes Other (e.g. non-self-contained accommodation)
 Number vacant Number vacant Number vacant

(Please give the number and size (by number of bedrooms) of **proposed** residential units on the site. Do not include any non-self-contained units)

	Single family dwellings	Self-contained flats and maisonettes
1 bedroom	5	0
2 bedrooms	0	1
3 bedrooms	0	3
4+ bedrooms	0	0
TOTAL	5	4

Are you proposing any non-self-contained units? Yes No If Yes, how many?

PART 2 (to be completed for development other than residential)

1. Please Give Details of the Existing and Proposed Floorspace (Sq. m. gross)

USE	EXISTING FLOORSPACE	PROPOSED FLOORSPACE			
		Floorspace to be demolished	Floorspace to be retained	New floorspace	Resultant total floorspace
Retail (Use Class A1)					
Financial & Professional Services (Use Class A2)					
Food & Drink (Use Class A3)					
Business (Use Class B1)					
General Industrial (Use Class B2)					
Storage or Distribution (Use Class B8)					
Other (Please specify) HORTICULTURE & RELATED USE	1179	0	1179	9680	10859

2. Employment

How many people are currently employed on the site?
 How many people in total will be employed on the site?

	FULL TIME	PART TIME
How many people are currently employed on the site?	15	0
How many people in total will be employed on the site?	40 (30 permanent full time - 10 Seasonal full time)	15

3. Hazardous Materials

Will the proposal involve the use or storage of hazardous materials?

Yes No

If Yes, please give details including quantities

23 JUN 2003

4a. Transport

What provision has been made for the parking, loading, unloading and manoeuvring of service and goods vehicles within the site? (Please show the intended provision on the plans)

PLEASE REFER TO PLAN: 0203PL/AL101010

4b. How Many Vehicles are Likely to Visit the Site During a Normal Working Day? PLEASE REFER TO ACCOMPANYING TRANSPORT ASSESSMENT

Cars	No. a.m.		No. p.m.		Commercial vehicles	No. a.m.		No. p.m.	

(Please include all vehicles except those used by individual employees driving to work)

NOTE: Either Certificate A or Certificate B must be completed. *Delete where appropriate

CERTIFICATE A

I certify that:

1. On the day 21 days before the date of the accompanying application nobody, except the applicant, was the owner* of any part of the land to which the application relates.
2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed Date

*On behalf of

CERTIFICATE B

(If completing this Certificate you must complete the notice below and serve that notice on all owners*)

I certify that:

1. *I have ~~XXXXXXXXXX~~ given the required notice to everyone else who, on the day 21 days before the date of the accompanying application, was an owner* of any part of the land to which the application relates.

Owner's name SEE ATTACHED LIST

Address at which notice was served SEE ATTACHED LIST

Date on which notice was served 23 JUNE 2003

2. None of the land to which the application relates is, or is part of, an agricultural holding.

Signed Date 23 JUNE 2003

*On behalf of THE ROYAL NATIONAL ROSE SOCIETY & THE BUTTERFLY WORLD TRUST

Please photocopy this notice and complete and send it to the owner(s) of the application site

NOTICE OF APPLICATION FOR PLANNING PERMISSION UNDER THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995 ARTICLE 6

Proposed development at (insert address or location of the proposed development) THE GARDENS OF THE ROSE,
CHISWELL GREEN, ST ALBANS, HERTFORDSHIRE

I give notice that (insert the applicant's name) THE ROYAL NATIONAL ROSE SOCIETY & THE BUTTERFLY WORLD TRUST

is applying for planning permission to (insert name of Council) ST ALBANS CITY & DISTRICT COUNCIL

to (insert description of the proposed development) ERECTION OF BUILDING FOR THE EXHIBITION OF BUTTERFLIES AND ASSOCIATED PLANTS WITH RELATED 'HORTICULTURAL TRAINING' AND RESEARCH COMPLEX, VISITOR CENTRE, CAFETERIA, COACH/CAR PARKING & ACCESS DRIVE

Any owner* of the land who wishes to make representations about this application should write to the Council by (insert the date 21 days after the date of service of this notice) 14 JULY 2003

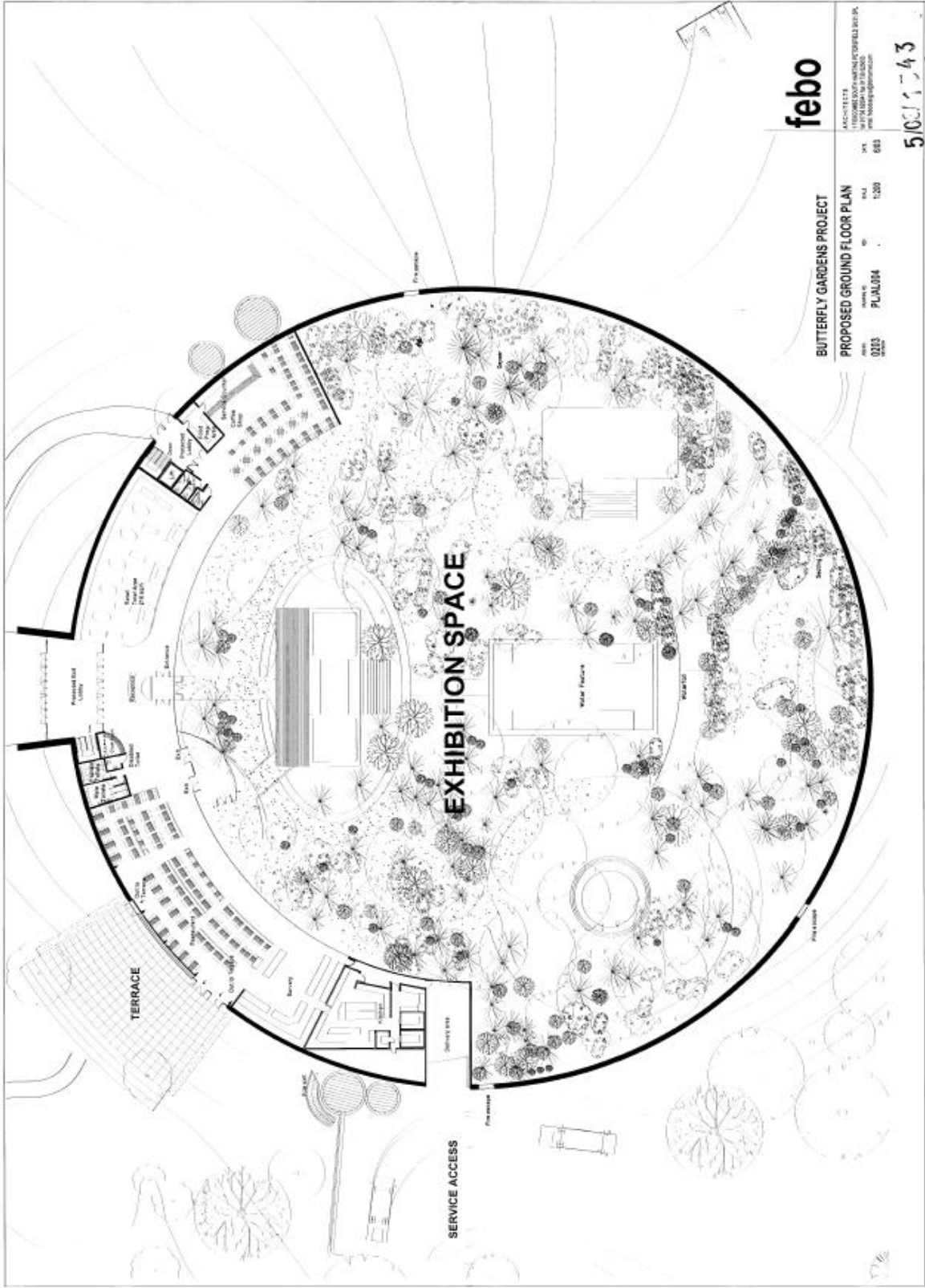
Signed Date 23 JUNE 2003

Statement of owners' rights: The grant of planning permission does not affect owners' rights to retain or dispose of their property, unless there is some provision to the contrary in an agreement or lease.

Statement of agricultural tenants' rights: The grant of planning permission for non-agricultural development may affect agricultural tenants' security of tenure.

* **Owner** means a person having a freehold interest or a leasehold interest the unexpired term of which is not less than 7 years. Only the SOLE owner may complete Certificate A. If you are a leasehold owner you must always complete Certificate B and serve notice on the freehold owner. If you are a freehold owner with tenants whose unexpired lease is not less than 7 years you must serve notice on those tenants.

If you are unable to complete either Certificate A or Certificate B, please seek advice from the Council to which the application is being made.



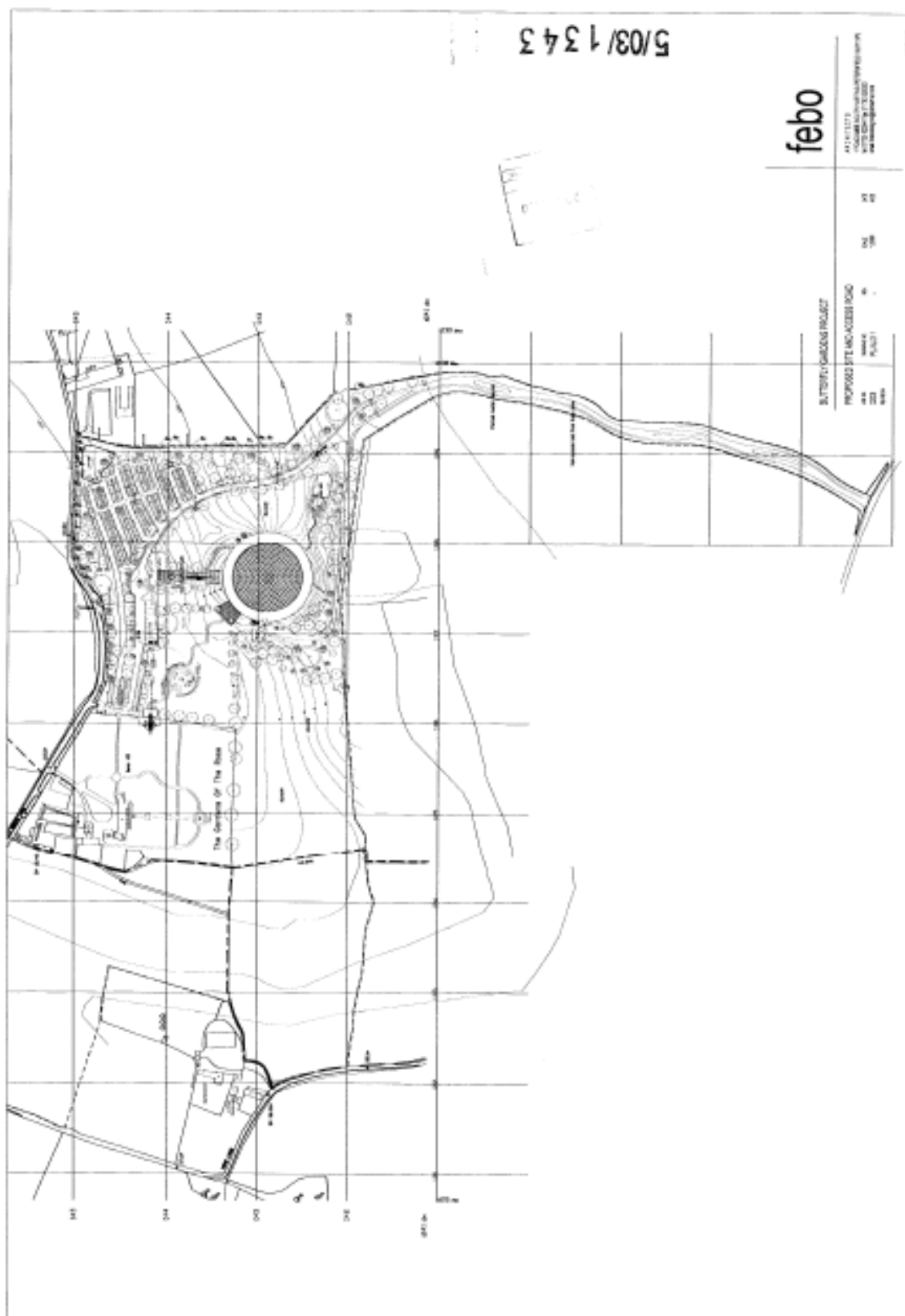
febo

**BUTTERFLY GARDENS PROJECT
PROPOSED GROUND FLOOR PLAN**

ARCHITECTS
 febo architects
 1001 15th St. N. #100
 Minneapolis, MN 55412
 (612) 338-8888
 www.feboarchitects.com

DATE: 08/11/11
 SCALE: 1/8" = 1'-0"
 SHEET: PL1A/014
 TOTAL SHEETS: 683

50111-43



5/03/1343

febo

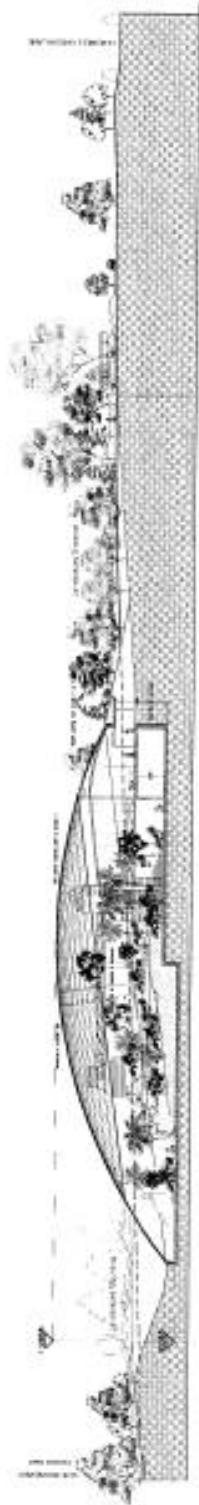
ARCHITECT
Landscape Architecture
and Planning

BATTERY GARDENS PROJECT

PROPOSED SITE AND ACCESS ROAD

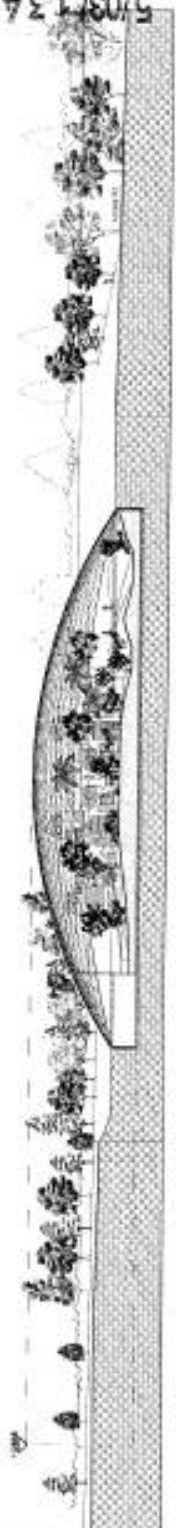
NO.	DATE	BY	FOR
01	01/01/13	PL/ST/1	...
02	01/01/13	PL/ST/1	...
03	01/01/13	PL/ST/1	...

SCALE



PROPOSED SITE SECTION CASTING 12730

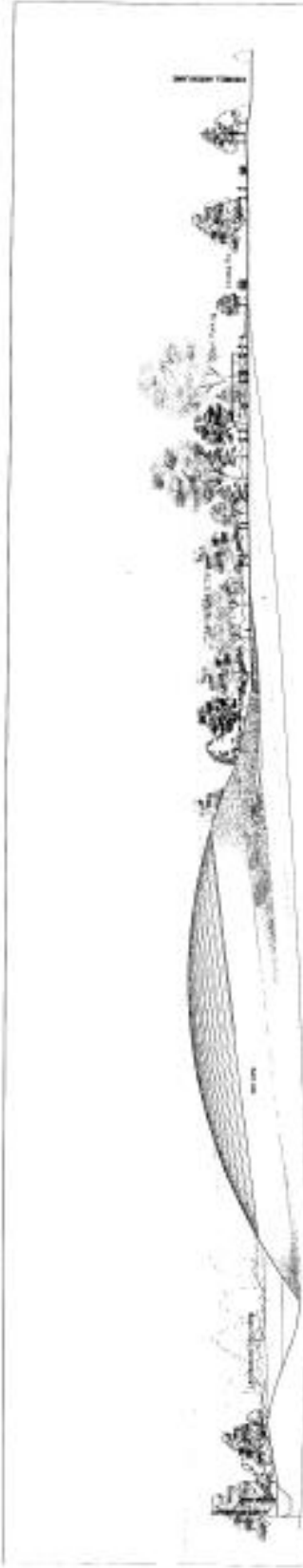
5/03/1343



PROPOSED SITE SECTION 12730



BATTERY JARVIS PROJECT		febo	
DATE	NO.	DATE	NO.
03/11/13	1	03/11/13	1
DRAWN BY: J. JONES		CHECKED BY: J. JONES	
SCALE: 1:100		SCALE: 1:100	
PROJECT NO: 12730		PROJECT NO: 12730	
SHEET NO: 1		SHEET NO: 1	
SHEET TOTAL: 1		SHEET TOTAL: 1	



PROPOSED EAST ELEVATION

5/03/1343



PROPOSED NORTH-EAST ELEVATION

febo

BUTTERY SUCCESS PROJECT		febo	
PROPOSED NORTH-EAST ELEVATION		11/11/13	
NO	DATE	NO	DATE
01	11/11/13	01	11/11/13



Ref No. 5/03/1343
DC.3

TOWN AND COUNTRY PLANNING ACT 1990

AGENT

James Rawlings
Pegasus Planning Goup
Trinity House
Cambridge Business Park
Cowley Road
Cambridge
Cambridgeshire
CB4 0WZ

APPLICANT

The Royal National Rose Society & Butterfly
World Trust
The Gardens Of The Rose
Chiswell Green Lane
St. Albans
Hertfordshire
AL2 3NR

PLANNING PERMISSION

Erection of building for the exhibition of butterflies and plants in association with the Gardens of the Rose, related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive

The Gardens of the Rose Chiswell Green Lane St Albans

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby **permit** the development proposed by you in your application dated 23/06/2003 and received with sufficient particulars on 23/06/2003 and shown on the attached plan(s) subject to the following conditions and reasons:-

Condition

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

Condition:

2. Notification shall be given in writing to the Local Planning Authority on commencement of the development hereby approved.

Reason:

2. To enable the Local Planning Authority to verify compliance with conditions in accordance with Policy 69 of the St. Albans District Local Plan Review 1994.

Condition:

3. Prior to the commencement of the development hereby permitted, details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking area shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the details so approved.

Reason:

3. To ensure that the development does not detract from the appearance of the locality. To comply with Policies 69, 70 and 85 of the St. Albans District Local Plan Review 1994.

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Peter Lerner
Head of Paid Service

Strategic Director Enterprise & Civic Environment

Steve Welch
Strategic Director Community Services

Patricia Adley
Strategic Director Corporate Services



Condition:

4. No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

4. To ensure that the finished appearance of the development is satisfactory. To comply with Policies 69 and 85 of the St. Albans Local Plan Review 1994.

Condition:

5. Details of the proposed finished floor levels of all buildings and the finished ground levels of surrounding property, shall be submitted to and approved in writing by the Local Planning Authority before any work commences.

Reason:

5. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring occupiers, in compliance with Policy 69 of the St. Albans District Local Plan Review 1994.

Condition:

6. The development hereby permitted shall not be commenced until drawings showing existing levels and proposed slab levels have been submitted to and approved in writing by the Local Planning Authority.

Reason:

6. To enable the Local Planning Authority to exercise proper and considered control over the development as a whole, in compliance with Policy 69 of the S. Albans District Local Plan Review 1994.

Condition:

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), before any demolition, clearance, building or other works commence on site, details shall be submitted to and approved in writing by the Local Planning Authority, specifying the parts of the site to be used for the stationing of site huts, storage of materials, and plant and parking of employees cars during the construction period, and any proposal for fencing of a site compound. The compound and any fencing shall remain until building and clearance work have been completed.

Reason:

7. To ensure satisfactory provision in relation to adjoining property and circulation within the site. To comply with Policies 34 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

8. On site parking shall be provided for the use of all contractors, sub-contractors and delivery vehicles engaged on or having business on the site in accordance with details to be agreed in writing

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DC.3

with the Local Planning Authority before the commencement of site works. The parking area shall remain until building and clearance work have been completed.

Reason:

8. To ensure that no obstructions to the public highway occur during the construction period. To comply with Policy 34 of the St. Albans District Local Plan Review 1994.

Condition:

9. No demolition or construction works relating to this permission shall be carried out on any Sunday or Bank Holiday nor before 07.30 hours or after 18.00 hours on any days nor on any Saturday before 08.00 hours or after 13.00 hours.

Reason:

9. In the interests of residential amenity. To comply with Policy 70 of the St. Albans District Local Plan Review 1994.

Condition:

10. Prior to the commencement of development, details of the method of washing of vehicle wheels exiting the site shall be agreed in writing with the Local Planning Authority, and the agreed method shall be operated at all times during the period of site works.

Reason:

10. In the interests of highway safety and visual amenity. To comply with Policies 34 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

11. No external loudspeaker systems shall be installed without the prior approval in writing of the Local Planning Authority.

Reason:

11. In the interests of the amenity of nearby properties. To comply with Policy 9 of the St. Albans District Local Plan Review 1994.

Condition:

12. This permission does not extend to the installation of external lighting. A scheme for such works shall be submitted to and approved in writing by the Local Planning Authority, before the development hereby approved is commenced.

Reason:

12. In the interests of amenity and highway safety. To comply with Policies 9, 34 and 80 of the St. Albans District Local Plan Review 1994.

Condition:

13. A methodology for the screening or enclosure of plant and machinery to be used during the construction period shall be submitted to and approved in writing by the Local Planning Authority before works are commenced.

The siting of plant and machinery shall be away from noise sensitive areas wherever possible.

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Vehicles and machines in intermittent use shall be shut down in the intervening periods between work, or throttled down to a minimum.

The contractor shall take all steps necessary to limit vibration caused by plant and machinery used on the site. In particular, no machine which uses a system of dropping a heavy weight, whether power assisted or by gravity, on the surface of paving or foundation, will be permitted for breaking up.

Reason:

13. To safeguard the amenities of nearby residential properties. To comply with Policy 62 of the St. Albans District Local Plan Review 1994.

Condition:

14. Airborne particulates from operations on the site shall be minimised by spraying with or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring for dust is to be carried out continuously.

Reason:

14. To protect the health and amenity of people in the vicinity. To comply with Policies 9 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

15. No detriment to the amenity of nearby residents shall be caused by noise or other disturbance arising out of the use of the land and/or buildings and for purpose(s) hereby authorised.

Reason:

15. To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties. To comply with Policies 9, 82, 69 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

16. Before the development hereby permitted is commenced, a scheme indicating the provision to be made for disabled people to gain access to the 'biome' shall have been submitted to and approved by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason:

16. To safeguard the interest of disabled persons. To comply with Policies 50, 69 and 81 of the St. Albans District Local Plan Review 1994.

Condition:

17. The use hereby permitted shall not be open to customers outside the following times: 0800 hours and 2300 hours on Mondays to Saturdays inclusive and 0900 hours and 2230 hours on Sundays and Public Holidays. Any customers remaining on the premises after those hours shall leave the premises not later than 23.30 hours on Mondays to Saturdays inclusive and not later than 2300 hours on Sundays.

Reason:

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17. To safeguard the amenities of the locality and residential occupiers. To comply with Policies 9 & 57 of the St. Albans District Local Plan Review 1994.

Condition:

18. The development shall not be occupied until the car parking and turning areas shown on the approved plan have been constructed, surfaced and permanently marked out. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time.

Reason:

18. To ensure adequate parking provision at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highway, or the amenities and convenience of existing local residents. To comply with Policies 34 and 39 of the St. Albans District Local Plan Review 1994.

Condition:

19. All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards (BS 5837:1991). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

Reason:

19. To ensure the continuity of amenity afforded by existing hedges or hedgerows. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

20. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include (a) proposed finished levels and contours; (b) means of enclosure; (c) car parking layouts; (d) other vehicles and pedestrian access and circulation areas; (e) hard surfacing materials; (f) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); (g) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines manholes, supports etc.); (h) retained historic landscape features and proposals for restoration where relevant; (i) existing trees to be retained; (j) existing hedgerows to be retained.

Reason:

20. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

21. Soft landscape works required to be submitted under Condition 20 shall include planting plans; written specifications (including cultivation and other operations associated with the plant and grass establishments); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme should be submitted.

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Reason:

21. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

22. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

Reason:

~~22. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.~~

Condition:

23. No development shall take place until details of earth works have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

Reason:

23. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

24. A landscape management plan indicating long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development whichever is the sooner for its permitted use. The landscape management plan shall be carried out as approved.

Reason:

24. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply Policy 74 of the St. Albans Local Plan Review 1994.

Condition:

25. If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement for it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless otherwise the Local Planning Authority gives its written consent to any variation. The tree or plant shall be planted within 3 months of felling/dying or if this period does not fall within the planting season by 31 January next.

Reason:

25. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

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DC.3

Condition:

26. Prior to the commencement of development, a detailed schedule of works to the public footpaths, including surfacing, and tunnel structures and other clay works, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

26. To comply with Policy 97 of the St Albans District Local Plan Review 1994.

Condition:

27. The proposed access road and widening of Noke Lane between the new access road and the A405 shall be constructed and laid out in accordance with further details to be submitted and approved in writing by the Local Planning Authority and shall be satisfactorily constructed prior to the commencement of any other part of the development hereby permitted.

Reason:

27. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

28. The widening of Noke Lane between the new access road and the A405 shall include provision for cyclists.

Reason:

28. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

29. Covered secure cycle parking provision for 30 bicycles shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason:

29. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

30. A detailed routing programme for all vehicles relating to the construction of the site shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Details of all intended signs shall be as agreed by the Local Planning Authority prior to installation.

Reason:

30. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

31. No motor vehicles shall access the site via Chiswell Green Lane except for emergency or management purposes.

Reason:

31. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

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Ref No. 5/03/1343
DC.3

Condition:

32. Details of the surfacing material to the emergency access drive and method of preventing visitor access to Chiswell Green Lane shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of site works.

Reason:

32. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

33. Prior to the commencement of development the following should be submitted and approved in writing by the Local Planning Authority.

- a full land survey including indicative contours.
- a full landscape survey
- a habitat survey
- a soil survey
- a vegetation survey
- detailed landscape and earthwork proposals
- land drainage assessment.

Reason:

33. To comply with Policies 69, 74 and 106 of the St Albans District Local Plan Review 1994.

Condition:

34. No importation of earth, or other land fill or material to the site or exportation of earth or excavated material from the site shall occur without the prior written approval of the Local Planning Authority.

Reason:

34. To comply with Policies 69 and 34 of the St Albans District Local Plan Review 1994.

Condition:

35. Sales of food or drink to customers shall only take place on the premises between 09.00 hours and 22.30 hours and prior to 23.00 hours on any day all customer and visitor vehicles shall leave the premises.

Reason:

35. To comply with Policy 69 of the St Albans District Local Plan Review 1994.

Condition:

36. The development hereby permitted shall be used only for purposes directly related to the use of the site for horticulture, horticultural training, research, butterfly keeping and for visits by the public to the Gardens and Butterfly World and for no other purpose without the prior approval in writing of the Local Planning Authority.

Reason:

36. To comply with Policies 1 and 69 of the St Albans District Local Plan Review 1994.

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Ref No. 5/03/1343
DC.3

Condition:

37. A detailed programme of rose displays garden arrangements and associated works together with any garden layout changes shall be submitted in writing to the Local Planning Authority before 31st January each year.

Reason:

37. To comply with Policy 1 of the St Albans District Local Plan Review 1994.

Condition:

38. Prior to the commencement of development a bat survey shall be carried out and the details and any associated works carried out agreed in writing by the Local Planning Authority.

Reason:

38. To comply with Policy 106 of the St Albans District Local Plan Review 1994.

Justification for the grant of planning permission

In conclusion the proposal is inappropriate development in the Metropolitan Green Belt. There are however very special circumstances to justify the proposal and outweigh the harm caused. These include the importance of maintaining the tourist attraction, improved amenity for residents in Chiswell Green Lane and the highway improvements. The proposal provides opportunity for landscaping and provides adequate parking. There is no change to highway safety subject to improvements that will be sought. It is considered the proposal, subject to conditions and a Section 106 Agreement will comply with Policies in the Hertfordshire County Structure Plan Review 1991-2011 and Alterations 2001-2016 (1, 2, 5, 20, 22, 25, 27, 29, 38 and 48) and the St Albans District Local Plan Review 1994 (Policies 1, 34, 39, 69, 74, 97, 104 and 143A).

Signed


Dean Goodman
Head of Planning & Building Control

Dated 16th February 2005

SEE ATTACHED SHEET FOR NOTES

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.

The attention of the applicant is drawn to the requirement for all food businesses to be registered with the Council. Application forms can be obtained from the Council's Head of Environmental Health.

The attention of the applicant is drawn to the advisory notes on extraction and filtration systems for food premises available from the Council's Environment and Health Department.

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Appendix B: Aerial View of the Appeal Site – Google Earth 24th March 2020



Ms Corrina Clements
The Planning Inspectorate
3b
Temple Quay House
2 The Square
Bristol
BS1 6PN

30th January 2023

My Ref: 2021/144
Your Refs: APP/B1930/C/22/3311308 & 3311314
LPA Refs: 5/20022/2771ENF & 2772ENF

Dear Ms Clements

**Town and Country Planning Act 1990
Appeal by Bud Rescue and Recovery
Land at Former Butterfly World, Miriam Lane, St Albans, Herts, AL2 3NY**

I write in response to your letters of 18th January 2023 enclosing the Council's statement relating to the above appeals.

Response to the Council's Statement

My response to the Council's Statement as set out below is referenced to the paragraph numbers contained therein.

- 4.1 The LPA refer to a history of complaints at the Appeal Site. Despite this, it is noted that no third-party objections have been received to these appeals, suggesting that local residents / businesses are satisfied that there are no undue impacts arising from the existing use of the Site, to include any undue visual impact. In considering this point, I note as context that the recent planning application relating to the adjacent parcel of land to the east on the southern side of Chiswell Green Lane for the erection of up to 391 dwellings, (LPA Ref 5/2022/0927 – see section 3.2.0 of my statement) attracted over 800 representations, the vast majority of which objected to the proposal.
- 4.5 As a matter of clarification, the unsuccessful attempts to gain access to the Appeal Site referred to by the LPA, all took place prior to the management of the Site by the current operator. The current operator has been fully cooperative with the LPA.
- 4.13 By way of further clarification, the LPA imposed the date of the 21/10/2022 to serve the Enforcement Notices. There were no protracted negotiations or cancelled meetings, such that the timescale for the serving of the notice was solely down to the LPA.
- 6.5.5 to 6.5.10 The LPA seemingly accept that the Site constitutes Previously Developed Land, however their analysis, in comparing the impact of the extant and existing uses on openness ignores the considerably greater scale and mass of the approved 100m wide/ 23m high biome. This is a salient point from both a spatial and visual perspective as detailed in Section 6.2.2.0. In particular I would note:

- the significantly reduced built footprint of the existing uses;
- the greater visual prominence of the extant biome relative to the existing buildings and structures, in the limited public views of the Site, as concluded by the submitted Landscape and Visual Impact Assessment (LVA); and
- the potential for additional landscaping measures to further mitigate any impact in these views detailed in the LVA, thus representing a planning gain.

6.5.21 I refer to my comments immediately above.

6.5.24 It is noted that the LPA acknowledged the locational benefits of the Site with regard to the proximity of the Site to the M25 and M1. The difficulties associated with finding alternative sites are set out in the testimonies from the individual users of the Site – see paragraphs 6.2.3.14 and 6.2.3.34 of my Statement. The LPA fail to identify any such suitable alternative sites.

6.5.26 At no point do the LPA challenge the assertion that they have failed to allocate any new industrial sites since the 1970s.

6.5.27 For the reasons set out at paragraphs 6.2.3.31 to 6.2.3.32, the SRFI is not considered to provide viable alternative accommodation for the existing uses located at the Appeal Site.

6.5.28 With reference to the loss of sites in allocated employment areas only, the AMR 2021 demonstrates that there has been a loss of 15,384m² of floorspace in the period 2004/05 to 2020/21. This loss has accelerated in recent years with a net loss of 17,346m² in the period 2016/17 to 2020/21, with many of the losses in this period (10,852m²) relating to Class B8 floorspace. This data is thus at odds with the LPA's assertion that the 1994 Local Plan Review '*continues*' to protect allocated employment areas. The relevant extract from the AMR is attached to this letter as Appendix 1. As previously noted there has been an overall net loss of 134,396m² of employment floor space in the District, during the period from 2004/05 to 2020/21.

6.5.29 It is accepted that there is likely to be some vacant employment land in the District at any given time. The uses at the Appeal Site require yards for open storage however and there is a lack of such land available locally, (see paragraphs 6.2.3.31 to 6.2.3.35 of my Statement) which is unlikely to be resolved in the short to medium term due to the extent of the Green Belt in the District and the severe and chronic under supply of housing land. The proposals recently approved on Green Belt land in Wigan and St Helens by the Secretary of State referred to in Section 3.3.0 of my Statement were allowed in part because of a specific shortage of well related, readily available sites for logistics operators. Whilst the nature of the users and their requirements is different in this case, the shortage of a particular type of employment land similarly carries substantial positive weight.

With reference to the 3 employment areas identified by the August 2021 survey referenced by the LPA, with '*high recorded vacancy rates*', I note as follows:

1. **Southdown Industrial Estate** This comprises an estate of small industrial units, with no yards and which is heavily parked. Unit 1 is currently advertised as to let but no

others have signs up, albeit Units 7, 8 and 9 appear to be vacant. Notwithstanding this, all of these units are the subject of planning permission LPA Ref 5/21/2376 dated 8th July 2022, which grants permission for the redevelopment of this part of the estate with eight new units totalling 5,947m² for use within Class E (formerly Class B1), B2 and B8 of the Use Classes Order; builders merchant, trade counter (Sui Generis). A copy of the permission and the existing and approved layouts is included as Appendix 2 and from which it is clear that the scheme would not include any yard accommodation, whilst the likely redevelopment of the Site explains the current vacancies. It is also noted that Victoria, Alexandra, Littleport and Collingham House which are currently partly in use as a gym/Pilates studio, were granted permission to be redeveloped with a 3-storey, mixed- use building comprising Class B1(a)(office) floor space and eight, two bedroom flats on 23rd February 2021 (LPA Ref 5/2020/2762). This permission, included as Appendix 3, again demonstrates the lack of available, suitable alternative accommodation and the competition with alternative uses -including residential use - on industrial estates within urban areas.

2. **Batford Mill Industrial Estate, Harpenden** This comprises an estate of light industrial units with no vacancies. It does include one yard, but this is in use for car sales. The site is heavily over parked.
3. **Rebourn Industrial Park** This is entirely small industrial sheds with no yards and currently no vacancies. It is heavily parked with overspill cars on the main road.

It is noted that all these sites are within the urban area and do not have the locational advantages with regard to easy access to the motorway network without passing through residential areas and / or town centres.

The over parking issues noted at all 3 sites, preclude easy lorry access, such that the removal and car transporter lorries used by operators at the Appeal Site would have great difficulty readily accessing the sites. Indeed there are signs present at the Batford Mill Estate identifying locations where cars should not be parked, as they could be hit by lorries trying to pass.

It is again noted that whilst the LPA have demonstrated that there is likely to be some vacant employment land in the District at any given time, they have failed to identify a suitable alternative site to meet the particular needs of the occupiers of the Appeal Site.

6.5.30 In the event that a new AMR is provided by the LPA, it is assumed that the Appellant will be given the opportunity to comment on the contents of this document.

6.5.31 I refer to comments above in respect of paragraphs 6.5.2.4, 6.5.29 and 6.5.30 of the LPA's statement. In addition, it is noted that businesses generally like certainty and their continued presence at the Appeal Site, which does not have the benefit of planning permission for the existing range of uses, is in itself strong evidence of the lack of suitable alternative accommodation.

6.5.40 No such notice was attached to the premises of Irfan Khushid Car Sales.

6.5.41 to 6.5.43 It is surely the sole responsibility of the LPA to ensure that the notices were correctly served.

6.5.46 to 6.5.48 In addition to the difficulties described elsewhere with regard to finding alternative accommodation, the Appellant is strongly of the view that there is an overwhelming case in favour of the appeal proposal. As noted elsewhere, in the event that the uses are forced to vacate the Site, the likelihood is that many will not be able to continue to operate.

Yours sincerely

David Lane

David Lane



Appendix 1: Extract from the AMR 2021

1



St Albans City and District

Authority's Monitoring Report 2021

(1 April 2020 to 31 March 2021)

Monitoring the 'saved' policies in the City and District of St Albans
District Local Plan Review 1994 (Adopted 30 November 1994)

December 2021

(Base Date 31/03/2021)



Table 20: Historic Floor Space Gains and Losses for Employment (B Use Classes) in Employment/Regeneration Areas Designated in the District Local Plan Review 1994 (2004/05 – 2020/21)

Year	Floor Space	Employment Use Class Floor Space (m2)							Total
		B0 Mixed Employment	B1 Business	B1(a) Offices	B1(b) Research & Development	B1(c) Light Industry	B2 General Industry	B8 Storage & Distribution	
Total 2004/05 to 2009/10	Gain	34,556	835	13,782	3,035	594	0	6,635	59,437
	Loss	10,238	86	1,577	362	1,909	20,822	12,290	47,284
	Net	24,318	749	12,205	2,673	-1,315	-20,822	-5,655	12,153
Total 2010/11 to 2014/15	Gain	0	0	555	1,081	2,074	1,094	2,222	7,026
	Loss	0	286	4,176	1,346	4,175	1,470	5,791	17,244
	Net	0	-286	-3,621	-265	-2,101	-376	-3,569	-10,218
2015/16	Gain	0	0	0	0	0	0	1,870	1,870
	Loss	0	0	0	0	0	0	1,843	1,843
	Net	0	0	0	0	0	0	27	27
2016/17	Gain	0	0	0	0	58	58	0	116
	Loss	0	2,074	1,811	3,489	219	1,722	5,109	14,424
	Net	0	-2,074	-1,811	-3,489	-161	-1,664	-5,109	-14,308
2017/18	Gain	0	1,430	2,089	0	0	2,920	3,987	10,426
	Loss	0	1,710	1,106	0	776	2,380	3,416	9,388
	Net	0	-280	983	0	-776	540	571	1,038
2018/19	Gain	0	0	0	0	546	502	0	1,048
	Loss	0	682	284	0	0	681	404	2,051
	Net	0	-682	-284	0	546	-179	-404	-1,003
2019/20	Gain	0	0	0	0	0	0	0	0
	Loss	0	54	0	0	0	0	0	54
	Net	0	-54	0	0	0	0	0	-54
2020/21	Gain	0	0	0	0	0	0	207	207
	Loss	0	0	1,303	0	0	0	1,923	3,226
	Net	0	0	-1,303	0	0	0	-1,716	-3,019
Total 2004/05 to 2020/21	Gain	34,556	2,265	16,426	4,116	3,272	4,574	14,921	80,130
	Loss	10,238	4,892	10,257	5,197	7,079	27,075	30,776	95,514
	Net	24,318	-2,627	6,169	-1,081	-3,807	-22,501	-15,855	-15,384

N.B. B0 is used where mixed B1, B2 & B8 uses are proposed but no floor space split has been allocated.

Sources: SADC and Hertfordshire County Council

Appendix 2: Southdown Industrial Estate - LPA Ref 5/21/2376



Ref No 5/21/2376
DC.3**TOWN AND COUNTRY PLANNING ACT 1990****AGENT**Martyn Stutchbury
Rowhills
Claverton Drive Bath
Somerset
BA2 7AJ**APPLICANT**Coal Pension Properties Limited
C/o LaSalle Investment Management
1 Curzon Street
London
W1J 5HD**PLANNING PERMISSION**

Demolition of existing buildings and the construction of eight new units totalling 5947 sq m for use within Class E (formerly Class B1), B2 and B8 of the Use Classes Order; builders merchant, trade counter (Sui Generis); together with car and HGV parking, landscaping and hard surfacing and associated engineering works and facilities and services (resubmission following withdrawal of 5/2020/1928)

Southdown Industrial Estate Southdown Road Harpenden Hertfordshire

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 16/08/2021 and received with sufficient particulars on 17/08/2021 and shown on the plan(s) listed below subject to the following conditions and reasons:-

Condition

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

Condition

2. The development hereby permitted shall be carried out in accordance with the following approved plans: DNG No.'s 31070/PL/200 A, 31070/PL/202 B, 31070/PL/203 D, 31070/PL/204 D, 31070/PL/205 B, 31070/PL/206 A, 31070/PL/207 A, 31070/PL/208 B, 31070/PL/209 B, 31070/PL/210 B, 31070/PL/211 A, 31070/PL/212 A, 31070/PL/213 A, 31070/PL/214 A, 31070/PL/215 A, 31070/PL/216 B, 31070/PL/217 B, 31070/PL/222 B, 798.29.05 B, 798.10.06 C, 798.19.05 C.

Reason

2. For the avoidance of doubt and in the interests of proper planning.

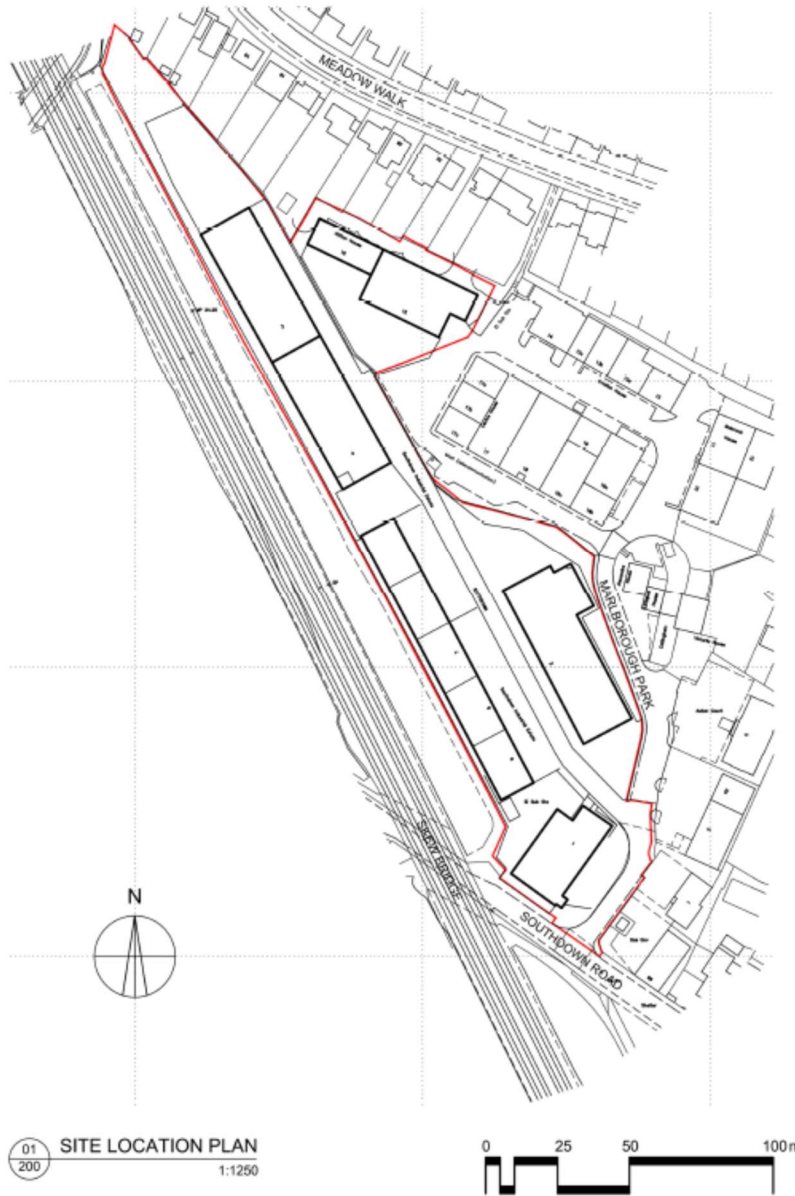
Condition

3. Prior to above ground construction works samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be approved in writing by the Local Planning Authority. Sample materials should be made available on site when discharging this condition. Development shall be carried out in accordance with the approved details.

Reason

3. To ensure that the finished appearance of the development is satisfactory. To comply with Policies 69 and 85 of the St. Albans District Local Plan Review 1994.

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01
200 SITE LOCATION PLAN
1:1250

Appendix 3: Southdown Industrial Estate – LPA Ref 5/2020/2762



Ref No. 5/20/2762
DC.3**TOWN AND COUNTRY PLANNING ACT 1990****AGENT**
Mr Cheten Chauhan
RDT Architects Limited
1 Harrier Court Woodside Road
Lower Woodside
Bedfordshire
LU1 4DQ**APPLICANT**
C & J Marriott
C/o Agent**PLANNING PERMISSION**

Outline application (access, layout and scale sought) for mixed use 3-storey commercial office and residential development to provide Offices and 8 dwellings (resubmission following refusal of 5/2020/0556)

Victoria, Alexandra, Littleport and Collingham House Marlborough Park Southdown Road
Harpenden Hertfordshire

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 18/11/2020 and received with sufficient particulars on 19/11/2020 and shown on the plan(s) listed below subject to the following conditions and reasons:-

Condition

1. 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.

The development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or 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.

Reason

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Condition

2. Plans and particulars of the reserved matters referred to in Condition 1 above, relating to the design and external appearance of any buildings to be erected and the landscaping of the site, shall be submitted in writing to the Local Planning Authority and shall be carried out as approved.

Reason

2. To comply with the provisions of Section 91 (i) of the Town and Country Planning Act 1990.

Condition

3. The development hereby permitted shall be carried out in accordance with the following approved plans, insofar as they relate to access, layout and scale only: DNG No.'s 1158SPL-RDT-ZZ-XX-DR-A-001 PL1, TPP/LMPH/010 B, 1158SPL-RDT-ZZ-XX-DR-A-1110 PL1, 1158SPL-RDT-ZZ-XX-DR-A-1100 PL1, 1158SPL-RDT-ZZ-02-DR-A-2300 PL1, 1158SPL-RDT-ZZ-01-DR-A-2200 PL1, 1158SPL-RDT-ZZ-00-DR-A-2100 PL1, 1158SPL-RDT-ZZ-ZZ-DR-A-3002 PL1, 1158SPL-RDT-ZZ-ZZ-DR-A-3001 PL1, 1158SPL-RDT-ZZ-ZZ-DR-A-3000 PL1 received 18/11/2020.

Reason

3. For the avoidance of doubt and in the interests of proper planning.

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Community & Place Delivery
Christine Traill – Strategic Director

Our Ref: 5/2022/2771ENF & 5/2022/2772ENF
Your Ref: APP/B1930/C/22/3311308 &
APP/B1930/C/22/3311314
E-mail: planning@stalbans.gov.uk
Date: 17 January 2023

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sir/ Madam

Appeal by Mr Eddy Cowen, Bud Rescue and Recovery Ltd
Site at Bud Recovery, Noke Lane, St Albans AL2 3NY

I refer to the above appeal, which is being dealt with by means of written representations.

Please find attached a copy of the council's appeal statement.

Yours faithfully,

A handwritten signature in black ink that reads "Chris Traill" with a stylized flourish underneath.

Christine Traill Strategic Director

Community and Place Delivery

1.0 INTRODUCTION

1.1 This statement relates to two Enforcement Notices issued by St Albans City and District Council (the "Council") on 21/10/2022 (LPA references 5/2022/2771 and 5/2022/2772). A copy of the notices and plan are at Appendix 1.

1.2 **Enforcement Notice 1** alleged the following breach of planning control has occurred within the last 10 years:

Breach of Condition 1 of planning permission 5/2014/3465 dated 10 April 2015 for the erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow retention of buildings until 16 June 2019. Condition 1 stated as follows:

"This permission shall be for a limited period only expiring 2 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority."

1.3 The requirements of the Notice are:

Permanently remove the toilet blocks shown hatched blue H on the attached plan from the site.

Remove from the land all materials and waste in compliance with the above.

1.4 The Enforcement Notice gave the following reasons for the issuing of the Notice:

The continued retention of the structures granted temporary planning permission results in harm to the openness of the Green Belt in this location by reason of inappropriateness. The retention of the toilet block is therefore contrary to Policy 1 of the St Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

1.5 The notice requires the steps to be completed in a period of 6 months from the effective date of the notice.

1.6 **Enforcement Notice 2** alleged the following breach of planning control has occurred within the last 10 years:

Without planning permission change of use from visitor attraction to use for stationing of caravans/shipping containers, vehicle sales and maintenance,

storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Change of use of entrance building (Building B as shown on the attached plan) to business reception and offices. The uses are not in association with the approved visitor attraction. The following operational development is part and parcel of the unauthorised change of use being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2m in height.

1.7 The requirements of the Notice are:

Cease the use of the land for the stationing of caravans/shipping containers, vehicle sales and maintenance, storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Cease the use of the entrance building for business reception and offices. Remove all associated operational development being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2m in height.

1.8 The Enforcement Notice gave the following reasons for the issuing of the Notice:

The unauthorised uses and associated operational development constitutes inappropriate development in the Metropolitan Green Belt. It is an encroachment which fails to preserve the openness of the Metropolitan Green Belt in this location. The unauthorised uses and identified associated operational development is inappropriate development in the Metropolitan Green Belt and no very special circumstances are apparent to outweigh the in principle harm to openness. The uses and associated operational development also results in other harm including visual harm to the rural character of the area to the detriment of local amenity. The unauthorised development is contrary to Policy 1 of the St. Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

1.9 The notice requires the steps to be completed in a period of 6 months from the effective date of the notice.

1.10 The appellant has appealed both Enforcement Notices on grounds (a), (e) and (g).

2.0 THE APPEAL SITE AND SURROUNDING AREA

- 2.1 The approximately 10.9ha site comprises the entire former Butterfly World visitor attraction located to the south of Chiswell Green Lane. The site is secured by fencing at its perimeter and all vehicular and pedestrian access is provided via Miriam Lane, which links with Noke Lane and the A405 North Orbital Road to the south.
- 2.2 The site is located within the Metropolitan Green Belt.
- 2.3 The surrounding area is predominantly rural, with open fields to the north, east, south and west. To the north-west lies the former Gardens of the Rose visitor attraction. The Butterfly World site is located on land that was formerly part of the Gardens of the Rose (owned by the Royal National Rose Society).

3.0 PLANNING HISTORY

- 3.1 The most relevant planning history is outlined below:

<i>Reference</i>	<i>Description</i>	<i>Decision & Date</i>
APP/B1930/21/3272537	Appeal against 5/2020/1265: Temporary use of car/coach park for 12 months for car/van collection, delivery and storage.	Appeal Lodged 06/04/2021 Appeal dismissed 15/10/2021 A copy of the appeal decision is attached at Appendix 2
5/2020/1265	Temporary use of car/coach park for 12 months for car/van collection, delivery and storage.	Refused 18/02/2021 A copy of relevant plans and the decision notice are attached at Appendix 3 and a copy of the Committee report is at Appendix 4.
5/2014/3467	Variation of Condition 1 (time limit) of planning permission 5/2010/0872 dated 16/06/2010 for the Temporary replacement of cafe and shop with study centre and breeding house to allow the retention of the buildings until 16/06/2019 and the retention of minor changes to buildings-	Approved 10/04/2015. Expired 10/04/2017

	retrospective (retention to 16/06/2019).	
5/2014/3465	Variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019	Approved 10/04/2015. Expired 10/04/2017 A copy of the Decision Notice is attached at Appendix 5
5/2010/0872	Temporary replacement of cafe and shop with study centre and breeding house. (5 year limited period to 16/06/2015).	Approved 16/06/2010.
5/2008/2878	Erection of twelve temporary buildings to provide catering and retail facilities and butterfly exhibition (3 year limited period to 06/03/2012).	Approved 06/03/2009.
5/2008/2877	Toilet block, display space and services buildings. (3 year limited period to 06/02/2012).	Approved 06/02/2009.
5/2003/1343	Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive.	Conditional Permission 16/02/2005 The decision notice for this application is attached at Appendix 6 and the officer's committee report is attached at Appendix 7
5/1999/0055	Erection of horticultural training and research complex, visitor centre, cafeteria, ancillary buildings and new access drive.	Allowed on appeal dated 25/10/2000 in relation to the adjacent site: Gardens of The Rose

4.0 PLANNING ENFORCEMENT HISTORY AND COMPLAINTS

4.1 There is a history of complaints and investigations at the former Butterfly World site. Concerns have been raised over a number of years following the cessation of the visitor attraction use in 2015. The site has since undergone a number of changes and in 2018 under planning investigations reference

CMP/2018/00356, the Council sought to engage with the owners of the site to remove the former Butterfly World temporary structures located within the site. On 24/10/2018 planning enforcement officers wrote to the owners care of Wilson Solicitors LLP, Steynings House, Summerlock Approach, Salisbury, Wiltshire. SP2 7RJ to advise that the Council were aware of the expiration of planning permissions, 5/2008/2877 (3 year limited period to 06/02/2012). 5/2008/2878 (3 year limited period to 06/03/2012); 5/2010/0872 (5 year limited period to 16/06/2015); 5/2014/3465 (expired 10/04/2017) and 5/2014/3467 (expired 10/04/2017). The solicitors contacted the Council on 27/11/2018 to advise that they no longer acted on behalf of the owners and could not assist with the Council's request.

- 4.2 On 09/01/2019 Council officers conducted an additional site visit and attached 2 laminated letters, 1 at the entrance on Chiswell Green Lane and 1 at the entrance on Miriam Lane requesting the removal of the temporary structures as no owner had been identified or had come forward at this time (see Appendix 8). No response was received and no further action was taken at the time.
- 4.3 As of 09/01/2019 the toilet block granted temporary permission under application reference 5/2014/3465 had not been removed and was identified as being in breach of planning control. The relevant temporary planning permission for the toilet block is:
- 4.4 5/2014/3465 Planning application for the variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019 was approved on 10/04/2015 for a period of two years and the permission expired on 10/04/2017.
- 4.5 On a number of occasions Council officers sought to gain entry to the site without success. Each time the site was visited, there were concrete barriers in front of the padlocked gates. In April 2020, reports were made by residents of the commencement of a business operating a vehicle rescue & recovery operation and a retrospective planning application reference 5/2020/1265 for temporary use was submitted to the Council for the temporary use of car / coach park for 12 months for car / van collection, delivery and storage. The application was refused on 18/02/2021. The application site for planning application reference: 5/2020/1265 identified a smaller defined area within the whole Butterfly World site. It is the whole site as identified at Appendix 1 that is the subject of the Enforcement Notices recommended within this report. No formal enforcement action was taken whilst the planning application was

under consideration. Planning application reference: 5/2020/1265 was refused on 18/02/2021 for the following reasons:

“1. The application site is located in the Metropolitan Green Belt wherein there is strict control over new development. The proposed development would represent an inappropriate form of development in the Metropolitan Green Belt, which would be harmful in principle, and also adversely impact upon the openness of the Metropolitan Green Belt. No very special circumstances have been demonstrated in this case which would outweigh the harm identified. Accordingly, the proposed development would fail to comply with the requirements of Policy 1 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019.” (See Appendix 3: Decision Notice). (See Appendix 4: Officer’s committee report).

4.6 The agent for the applicant appealed the decision on 06/04/2021 and appeal reference: APP/B1930/W/21/3272537 was dismissed 15 October 2021. (See Appendix 2 – Appeal decision notice).

4.7 The Inspector considered that there were no very special circumstances (VSC) to justify the proposed development and that the proposal would be inappropriate development, which is by definition harmful to the Green Belt. The reasons stated were:

Whether Inappropriate Development

5. Paragraph 150 of the Framework provides that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Although certain aspects of Policy 1 of the Local Plan¹ are consistent with the Framework, the exceptions to inappropriate development in the Green Belt listed within it are not. Accordingly, Policy 1 has been given limited weight. These policies assist in safeguarding the five purposes of the Green Belt. Of particular relevance is the Green Belt’s purpose in relation to its assistance in safeguarding the countryside from encroachment.

6. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. ‘Open’ can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.

7. Comparisons have been made between the proposal and the former Butterfly World visitor attraction, with respect to car storage, vehicle turnover, times of operation, and visual impact. In these respects, the appeal site would previously have been used as a car park serving Butterfly World, and

accordingly its use would have been limited to those times when the attractions were open. In contrast, the proposal would entail the storage of vehicles at all times of the day throughout the week.

8. Hence, the proposal would result in an intensification of the use of the site, with a more permanent impact on the openness of the Green Belt, in both visual and spatial terms. Thus, the openness of the Green Belt would not be preserved by the proposal. For the same reasons, the proposal would conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.

9. The proposal would therefore constitute inappropriate development in the Green Belt for the purposes of the Framework. Inappropriate development is, by definition, harmful to the Green Belt.

Other Considerations

10. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

11. A temporary planning permission is required as the appeal site has been put forward as a suggested allocation in a future plan. The temporary nature of the development would still give rise to the same level of harm to the Green Belt, albeit for a shorter period of time. I would afford this matter moderate weight, taking into account there is limited justification, having regard to the Planning Practice Guidance, for the granting of a temporary planning permission in this case. In addition, there is no indication that the appeal site would be positively considered for future development and the plan is at an early stage. I would therefore afford this matter limited weight.

12. The proposal could provide security to the site and employment for up to 40 people. Considering that these factors appear not to be intrinsically reliant on the particular scheme before me, I have given these matters moderate weight.

Conclusion

13. The proposal would be inappropriate development in the Green Belt. This matter carries substantial weight. Whilst a temporary permission has been sought in the plan-making context described above, and the proposal would provide moderate positive benefits with respect to security and employment, for the reasons given, they would not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with the Green Belt aims of both Policy 1 of the Local Plan, or the Framework, and

consequently would be unacceptable. The appeal should therefore be dismissed.

- 4.8 Further to the planning application's refusal a subsequent site visit was undertaken on 05/03/2021 which identified numerous occupiers on the land and breaches of planning control that included multiple changes of use and associated operational development. A Planning Contravention Notice (PCN) was drafted and served on 19/03/2021. (See Appendix 9: Planning Contravention Notice).
- 4.9 The PCN response was received on 08/04/2021. This information was cross referenced with the evidence gathered by council officers and another site visit was conducted on 05/05/2021 to verify the PCN response and clarify potential issues (See Appendix 10: site visit photographs 05/05/2021).
- 4.10 Further information was sent to officers and it became clear that the uses of the site were subject to changes of occupiers and compound configurations. These were monitored by officers and a site visit was conducted on 07/09/2021 that verified the remaining temporary structure (the toilet block) still on the site and the use of the payment booth by the current occupiers in breach of the original permission. Other forms of incidental operational development were observed in the form of means of enclosures over 2 metres in height. (See Appendix 11 - Site visit photos of 07/09/2021).
- 4.11 A further site visit was carried out by appointment by officers on 22/06/2022. At that time 13 no. current occupants were identified and the Toilet block and entrance building remained in situ. An additional maintenance workshop and additional paintbooth were witnessed.
- 4.12 Additional research was undertaken by officers in relation to the tenants on the site with Companies House searches.
- 4.13 Following discussion with the appellant's agent to agree a date/time when the appellant would be present to provide access to the site, to enable the Notices to be served, the Enforcement Notices were served on 21/10/2022.
- 4.14 Certificate of Service of both Enforcement Notices and associated photos, as provided by the Bailiff employed to serve the notices on site on behalf of St Albans District Council, are attached at Appendix 12.

5.0 RELEVANT PLANNING POLICY

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.
- 5.2 The St. Albans District Local Plan Review 1994 (LPR) is the development plan covering the appeal site. The National Planning Policy Framework (NPPF) is clearly an important material consideration too and relevant policies from the NPPF have been identified in this statement.
- 5.3 Paragraph 11 of the NPPF states that there is a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 5.4 National Planning Policy Framework
S2 Achieving sustainable development
S12 Achieving well-designed places
S13 Protecting Green Belt land
- 5.5 St Albans District Local Plan Review 1994
Policy 1 – Metropolitan Green Belt
Policy 19 – Overall Employment Strategy
Policy 24 – Unallocated Employment Sites
Policy 34 – Highways Considerations in Development Control
Policy 39 – Parking Standards, General Requirements
Policy 74 – Landscaping and Tree Preservation

- 5.6 The NPPF does not change the statutory status of the Development Plan. Paragraph 2 confirms that decisions should continue to be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.7 The foundation of Government policy is securing sustainable development. In achieving this, paragraph 8 identifies three dimensions to sustainable development; economic, social and environmental.
- 5.8 Paragraph 11 sets out the presumption in favour of sustainable development as the central aspect of planning policy. In terms of determining development proposals this means approving schemes which accord with the Development Plan without delay. In circumstances where the Development Plan contains no relevant policies or relevant policies are out of date, permission should be granted unless the adverse impacts significantly outweigh the benefits or where policies within the Framework indicate that development should be restricted. Footnote 7 indicates that land designated as Green Belt is one such restriction to this last clause.
- 5.9 Great importance is attached to Green Belts. The NPPF sets out that the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence (paragraph 137).
- 5.10 Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 5.11 Paragraph 148 goes on to state that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 5.12 Paragraph 218 of the NPPF sets out that the policies in the Framework are material considerations which should be taken into account in decision making.

6.0 THE CASE FOR THE LOCAL PLANNING AUTHORITY and RESPONSE TO APPELLANT'S CASE

6.1 This appeal Statement addresses the Council's position in respect of the two enforcement appeals. The unauthorised operational development, the unauthorised change of use of the land and the retention of the toilet block in breach of a planning condition, require formal planning permission. The identified breaches of planning control constitute inappropriate development in the Green Belt, and results in encroachment and harm to the character and appearance of the Metropolitan Green Belt and wider setting.

6.2 The unauthorised developments have resulted in encroachment and harm to the character and appearance of the Metropolitan Green Belt, its openness and affects the wider setting.

6.3 It is noted that the documents submitted by the appellant (Facts to Support Ground A) for both appeals state that additional evidence will be submitted to support notions set out in those documents. This additional information is not therefore before the Council at the time of writing this statement. The Council therefore reserves the right to submit further documents to respond to that additional evidence, if provided.

6.4 Enforcement Notice 1 – Breach of Condition

Ground A

6.4.1 The appellant's submitted document 'Facts to Support Ground A – BOC – Grounds of Appeal' sets out similar arguments in support of their appeal to those put forward in relation to the second Enforcement Notice relating to the change of use of the land and the associated operational development.

6.4.2 Those arguments will be addressed in more detail below, in response to the Ground A Appeal relating to the Enforcement Notice against the change of use of the land and the associated operational development and change of use of the entrance building. The reasons for the issuing of the first Enforcement Notice in relation to the Breach of Condition on the site will be addressed here.

6.4.3 Conditional planning permission was granted for the erection of a building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive on 16/02/2005 under local authority reference 5/2003/1343.

- 6.4.4 Subsequent temporary planning permissions were granted and implemented on the site for additional structures until Butterfly World closed in 2015 (see Planning History). These temporary permissions were granted to provide facilities that would otherwise have been contained in the main structure (large biome) that had originally been granted planning permission to be constructed on the site. However that main structure was never built on site, it is understood from the various applications for temporary buildings that this was due to a lack of funding at the time, however the intention remained to build the biome.
- 6.4.5 As such, the site was never fully developed in line with the original planning permission granted. A number of temporary planning permissions were granted for these additional structures (see Planning History at section 3 above). These temporary structures were granted with conditions requiring the removal of the structures within a specified period of time. The large toilet block (with the appearance of beehives) currently on site was granted temporary permission under application 5/2014/3465. That temporary permission has since expired without the condition relating to the date by which the removal of the temporary structure needed to be removed by, being complied with.
- 6.4.6 The wording of the condition and the reason given for the condition on the decision notice for application 5/2014/3465, for the temporary period approved were as follows (copy at Appendix 5):

Condition

1. This permission shall be for a limited period only expiring 2 years after the date of this notice. On or before that date the building hereby permitted shall be removed, the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason

1. To comply with Policy 1 of the St Albans District Local Plan Review 1994.

- 6.4.7 The justification for the grant of this planning permission, as set out in the decision notice, is as follows:

The temporary buildings represent inappropriate development in the Green Belt and therefore very special circumstances need to be demonstrated to justify the development. It is considered that, collectively, there exist very special circumstances to justify inappropriate development in the Green Belt for a temporary period of an additional two years. The proposal accords with the provisions of Policy 1 of the Local Plan and the National Planning Policy Framework.

6.4.8 The officer's report (attached at Appendix 5) for this application gave the following assessment of the proposed temporary structure.

The key planning issue with this application is the principle of a further temporary planning permission. In 2005 planning permission was granted for the erection of a building for the exhibition of butterflies and plants in association with the Gardens of the Rose with a related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive (planning permission reference 5/2003/1343).

The permission has been implemented, but not completed and the biome element of the development is yet to be constructed because, as noted in the accompanying Planning Statement, it has been difficult to secure funding for this part of the development.

Over time, planning permission has been granted for various temporary buildings to house the facilities that will eventually be located in the biome, to allow the visitor attraction to open to the public. The permissions gave temporary planning permission because, when the biome is completed, there will be no need for the additional buildings and they represent inappropriate development in the Green Belt.

The Planning Statement notes that the buildings at the site (which are the subject of the current planning applications) are crucial to enable Butterfly World to continue to trade and the applicants have requested further temporary planning permissions, to expire on 16/06/2019.

Ordinarily, it would not be appropriate to allow a further temporary planning permission because this would lend the development a degree of permanence that is inappropriate in the Green Belt. However, the special circumstances of the case need to be carefully considered to determine whether 'Very Special Circumstances' exist to justify the inappropriate development in the Green Belt.

The National Planning Policy Framework (NPPF) notes that the planning system should not act as an impediment to sustainable growth and investment in business should not be over burdened by planning policy expectations. Furthermore, the NPPF supports a prosperous rural economy and Chapter 3 of the NPPF notes that planning policies should do the following (paragraph 28):

Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;

□ *Promote the development and diversification of agricultural and other land-based rural businesses;*

□ *Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.*

Allowing a further temporary permission would allow the applicants additional time to implement the original permission (5/2003/1343), which would fulfil the aims of the NPPF referenced above (i.e. supporting a tourism / leisure facility in a rural area). Allowing a further temporary permission would also enable the Local Planning Authority to retain control over the development, rather than certain works becoming immune from planning enforcement action, which would be to the significant detriment of the character and appearance of the wider area. Combined, it is considered that these considerations amount to 'Very Special Circumstances' to justify inappropriate development in the Green Belt and it is considered appropriate to allow a further temporary planning permission.

However, extending the temporary planning permission until 2019 is not considered to be appropriate because, as already highlighted, this would lend the development an unacceptable degree of permanence and the buildings were only originally supposed to be on site for a maximum of three years in total. Such a long additional time period would be excessive and the Local Planning Authority needs to be confident that the applicants are trying to implement the 5/2003/1343 planning permission. As such, an extension of the time period for an additional two years is considered to be appropriate.

6.4.9 The current occupiers use the entire land on this site for multiple unauthorised uses and associated operational development that do not benefit from planning permission, or are in line with the lawful use of the site as a visitor attraction (Butterfly World).

6.4.10 The continued use of the toilet block, which is a structure of significant scale (see Photo A below), in breach of Condition 1 of planning permission 5/2014/3465 represents inappropriate development in the Green Belt. The justification for the grant of permission 5/2014/3465 was on the basis of Very Special Circumstances that were considered to outweigh the identified harm to the Green Belt by reason of inappropriateness in this case. These Very Special Circumstances primarily related to the retention of the tourist/leisure facility.



Photo A: Photo of Beehive toilet block, as seen on site 5 May 2021

6.4.11 These same Very Special Circumstances do not exist in relation to the current, unauthorised, use of the site.

6.4.12 The Council's response to the appellant's grounds of appeal relating to the unauthorised use of the land and associated operational development will be set out in more detail below (see Section 6.5 in relation to Enforcement Notice 2). However, it is relevant here as the appellant has stated that the continued use of the toilet block is necessary to serve the existing uses on the site.

6.4.13 The site is located in the Metropolitan Green Belt, wherein there is strict control over new uses and structures.

6.4.14 The Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. But equally this does not mean that the openness of the Green Belt has no visual dimension. The Framework is clear that openness is one of the key attributes of the Green Belt, and any such reduction, and therefore harm, needs to be apportioned substantial weight in the determination of the acceptability of development. Openness is an essential characteristic of the Green Belt and although it is not defined in national policy or the development plan, in considering the effects on openness, due account of the spatial and visual impacts of the proposal have been considered.

6.4.15 The existing toilet block building, due to its height and scale is a substantial structure in the Green Belt that results in harm to the openness of the Green Belt in this location. If the Inspector is minded to allow the appeal under Ground A relating to the change of the use of the land, it is not considered that this would justify the retention of the existing structure as adequate toilet facilities could be provided in a building of significantly lesser scale, that would therefore have a reduced impact on the openness of the Green Belt in this location.

Ground E

6.4.16 In their appeal form the appellant makes the following statement:

The PCN was dated the 19th March 2021 and the EN was dated the 21st October 2022. In the intervening period the company with an option to purchase and the right to let the appeal site, Convene Construction Ltd, let a yard to a tenant who was noted served with the EN.

6.4.17 It is noted that the appellant has not specified which occupier of the land they are referring to in this statement.

6.4.18 In response, the Council would advise that the Notices were attached to the land in a number of locations and addressed to the occupiers of the land.

6.4.19 Attention is drawn to section 329 of the 1990 Act attached concerning service of Notices. Under section 329(2) where a notice is required to be served on an occupier of the premises the document shall be taken to be duly served if addressed to the occupier and affixed to some object on the premises.

6.4.20 In this case, the Notices were conspicuously attached to the premises in a number of locations across the whole site (see record of service of Notices on site at Appendix 12). The occupier would have been aware of the existence of the Notices.

6.4.21 Under section 174(1) the occupier could have appealed against the Notices whether or not he considered that a copy had been served on him. It might have assisted if the Appellant had advised the Local Planning Authority of the name of the occupier as they were aware that the Enforcement Notices were about to be served (as set out in Section 4 above).

6.4.22 Under section 175(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.

6.4.23 It is assumed that the unnamed occupier has now been advised by the Appellant of the Enforcement Notices that have been served, the appeal procedure and in the event that the Notices take effect and the time for compliance expires of the consequences of non-compliance.

Ground G

6.4.24 The Enforcement Notice gave a period of compliance of 6 months from the date that the Enforcement Notice would have come into effect (2 December 2022).

6.4.25 The appellant has stated that the appeal site is occupied by a number of commercial uses who would find it very difficult to find alternative premises in the 6 months and that a period of 12 months is therefore requested for the retention of the toilet block to provide those facilities on the site.

6.4.26 It is however noted that the PCN was issued in March 2021 (see Appendix 9) and identified the following potential breaches of planning control that do not all appear to have been addressed since that date by the appellant.

- (i) The unauthorised change of use of the land from Butterfly World visitor attraction to mixed uses that include, but are not limited to: car sales, car storage; scaffolding storage; home removals; vehicle recovery and Self-drive van hire.
- (ii) The unauthorised change of use of the land for the purpose of stationing shipping containers.
- (iii) Unauthorised operational development in the form of structures for associated unauthorised uses.
- (iv) Unauthorised retention of temporary structures related to the former Butterfly World
- (v) Erection of fencing within the site higher than 2m
- (vi) Unauthorised display of Advertisements

6.4.27 The appellant has therefore been aware of the alleged breaches for some considerable time and on this basis a period of 6 months is considered reasonable.

6.4.28 It is also considered that temporary alternative, smaller scale, facilities could be provided on site in that time.

6.4.29 However, if the Inspector considers a longer period for compliance to be justified in this case, then the Council would suggest a period of 9 months, given the length of time that the unauthorised uses have been on the site to date.

6.5 Enforcement Notice 2 – Change of Use

Ground A

6.5.1 In summary, the appellant's statement sets out two issues in relation to their Ground A appeal. Firstly (Ground 1), that *The Proposal Constitutes Not Inappropriate Green Belt Development* and Secondly (Ground 2), that *In the event that the proposal is regarded as inappropriate development, there are Very Special Circumstances that outweigh the harm by reason of inappropriateness and any other harm*. These matters will be considered in turn below.

6.5.2 In relation to the appellant's **Ground 1**, whether or not the current use of the site and associated operational development constitutes inappropriate development in the Green Belt, the appellant considers that it falls under exception (g) of para 149 of the NPPF:

limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development;

6.5.3 It is acknowledged by the Council that the permission granted under 5/2003/1343 for the development of Butterfly World was implemented. It should however also be noted that the justification for the grant of planning application 5/2003/1343 for the development of the site for Butterfly World sets out that the development constituted inappropriate development in the Green Belt but was permitted on the basis of a number of Very Special Circumstances, including in relation to the use of the site as a tourist attraction:

In conclusion the proposal is inappropriate development in the Metropolitan Green Belt. There are however very special circumstances to justify the proposal and outweigh the harm caused. These include the importance of maintaining the tourist attraction, improved amenity for residents in Chiswell Green Lane and the highway improvements. The proposal provides opportunity for landscaping and provides adequate parking. There is no

change to highway safety subject to improvements that will be sought. It is considered the proposal, subject to conditions and a Section 106 Agreement will comply with Policies in the Hertfordshire County Structure Plan Review 1991-2011 and Alterations 2001-2016 (1, 2, 5, 20, 22, 25, 27, 29, 38 and 48) and the St Albans District Local Plan Review 1994 (Policies 1, 34, 39, 69, 74, 97, 104 and 143A).

- 6.5.4 A copy of the decision notice is included at Appendix 6 to this statement and at Appendix A to the appellant's statement.
- 6.5.5 To comply with para 149 (g) of the NPPF, the development would need to have no greater impact on the openness of the Green Belt than the existing development (Butterfly World) The appellant's statement sets out that, noting the extent of the car parking area and the potential volume and visual impact of the approved biome, that the various uses the subject of the Enforcement Notice would better preserve the openness of the Green Belt so as to fall into the exception in para 149 of the NPPF.
- 6.5.6 As set out above, the Courts have confirmed that the openness of the Green Belt has a spatial aspect as well as a visual aspect.
- 6.5.7 The appellants have included, at their Appendix B an aerial view of the site as at 24th March 2020. Here the large circular area denotes the position of the approved biome. Other documents included at the appellant's Appendix A show the plans approved for the Butterfly World site. The approved plans for the layout of site, as included in the appellant's Appendix A, shows a significant lack of additional significant structures or hardstanding beyond the main dome (see Diagram A below). In contrast the current, unauthorised, use of the site maintains the engineered structure that would form the basis for the dome but also results in a proliferation of other structures and associated operational development and parking areas that extend into areas shown to be retained for significant landscaping in the Butterfly World approval (see Diagram B below, an extract from Google Earth from 2022). The retention of the existing unauthorised uses would also retain the approved area of car parking associated with Butterfly World and so this would not constitute an improvement to openness.

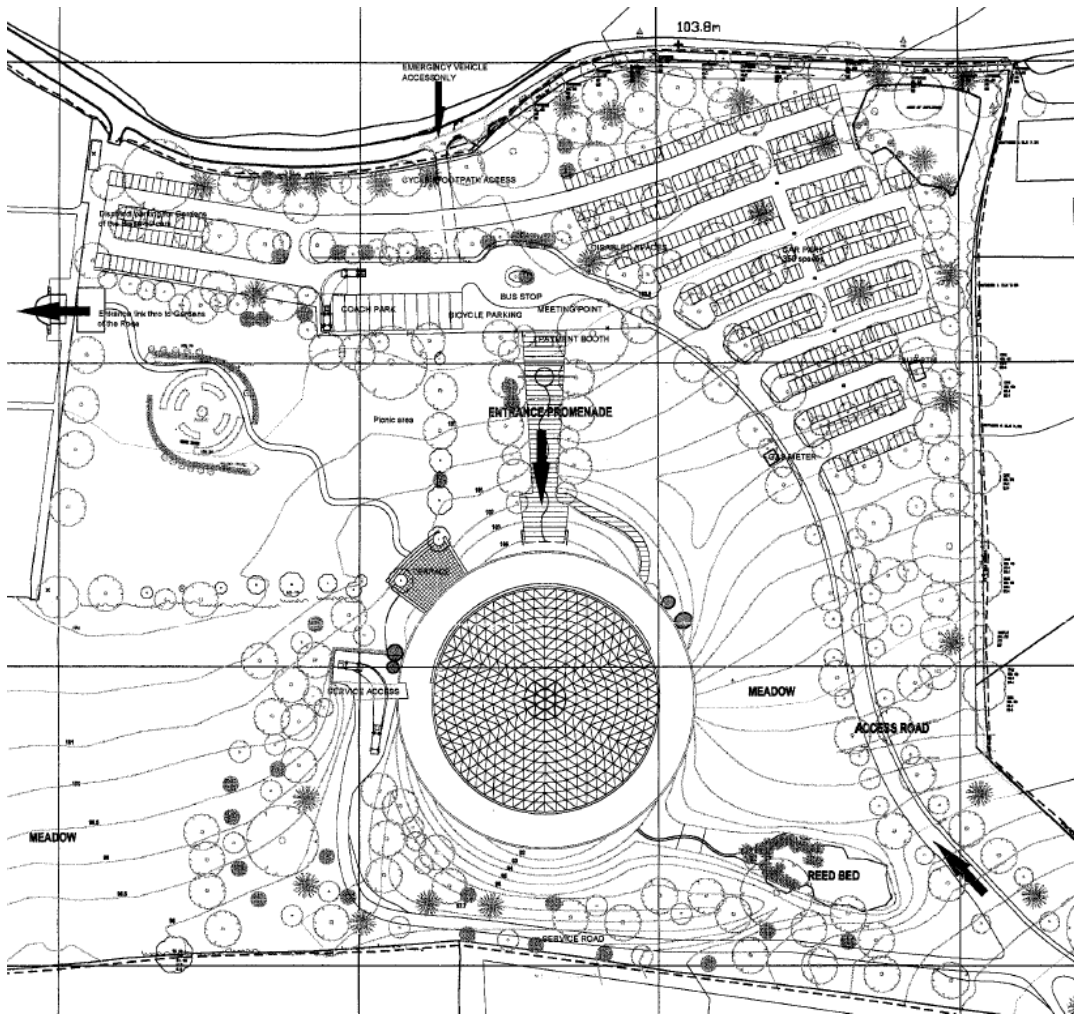


Diagram A: Extract of approved layout for application 5/2003/1343 (not to scale)



Diagram B: Extract from Google Earth 2022
 APP/B1930/C/22/3311308 & APP/B1930/C/22/3311314

6.5.8 It is noted that the previous appeal against the refusal of the Council to grant temporary permission for the use of the car park for the storage of vehicles, the appeal Inspector made the following comments when comparing the approved and proposed uses (full appeal decision attached at Appendix 2):

7. Comparisons have been made between the proposal and the former Butterfly World visitor attraction, with respect to car storage, vehicle turnover, times of operation, and visual impact. In these respects, the appeal site would previously have been used as a car park serving Butterfly World, and accordingly its use would have been limited to those times when the attractions were open. In contrast, the proposal would entail the storage of vehicles at all times of the day throughout the week.

8. Hence, the proposal would result in an intensification of the use of the site, with a more permanent impact on the openness of the Green Belt, in both visual and spatial terms. Thus, the openness of the Green Belt would not be preserved by the proposal. For the same reasons, the proposal would conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.

6.5.9 It is also noted that the planning permission for the Butterfly World site included significant landscaped areas (including stretching to the west of the main dome) that were to be maintained to enhance biodiversity, in keeping with the aims of the development. The retention of the existing unauthorised uses and associated operational development does not and would not maintain a similar level of enhancement and has resulted in a degradation of the site in these previously landscaped areas.

6.5.10 This can clearly be seen in the Google Earth image from 2022 shown at Diagram B above and attached at Appendix 13, when compared with the image from 2020 attached as Appendix B to the appellant's statement. The 2022 image shows the extent of the spread of development, including areas of parking that have spread into areas previously heavily landscaped. For example to the west of the access road and to the south of the dome area. While an area of hardstanding was developed within the site prior to the closure of Butterfly World, this accommodated the temporary buildings that were due to be removed and did not form part of the original permission for the development of the site.

6.5.11 The previous appeal decision against the Council's refusal of the application for temporary car parking clearly identified the harm to the openness of the Green Belt compared with the previous use of that area of the site as parking associated with Butterfly World. The additional extent of car parking witnessed on site and demonstrated in the Google Earth image at Diagram B above further detracts from the openness of the Green Belt in this location.

6.5.12 The change of use and associated operational development, as witnessed on site and as set out in the Enforcement Notice constitutes inappropriate development in the Green Belt and does not fall within exception (g) of para 149 of the NPPF as it results in a greater impact on the openness of the Green Belt than the previously approved use of the site.

6.5.13 In relation to the appellant's **Ground 2**, they set out that any additional harm caused by the existing unauthorised uses and associated operational development would be relatively modest. In support of this they describe the geographical context and location of the site. The Mansion House referred to is set some distance from the boundary of the site and there is a significant area of open space (landscaped gardens in association with the former use of the adjacent site by The Royal National Rose Society (site known as The Gardens of the Rose) between the Mansion House and the Butterfly World site.

6.5.14 The appellant also considers that the site is 'well related to defined specified settlement of Chiswell Green'. The site is physically separated by open fields from the main settlement at Chiswell Green. While there is some ribbon development along Chiswell Green Lane, this is still largely separate from the appeal site.

6.5.15 A recent application on the area of fields to the east of the appeal site was refused planning permission on 06/12/2022:

LPA Reference 5/2022/0927 for Outline application (access sought) - Demolition of existing structures and construction of up to 391 dwellings (Use Class C3), provision of land for a new 2FE primary school, open space provision and associated landscaping. Internal roads, parking, footpaths, cycleways, drainage, utilities and service infrastructure and new access arrangements.

Refused for the following reasons:

1. The proposed development comprises inappropriate development, for which permission can only be granted in very special circumstances, these being if the harm to the Green Belt and any other harm is clearly outweighed by other considerations (paragraph 148 NPPF 2021). We do

not consider that the benefits outweigh the harm caused by this proposed development due to the harm to the Green Belt openness and purposes relating to encroachment to the countryside, urban sprawl and merging of towns. The harm also relates to landscape character and the loss of agricultural land. The proposal is therefore contrary to the National Planning Policy Framework 2021, Policy S1 of the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 1 of the St Albans District Local Plan Review 1994.

2. In the absence of a completed and signed S106 legal agreement or other suitable mechanism to secure the provision of 40% affordable housing provision; 3% self-build dwellings; 10% biodiversity new gain; provision of open space and play space; health contributions (towards ambulance services and GP provision); education contributions (primary, secondary and Special Education Needs and Disabilities); library service contribution; youth service contribution; leisure and cultural centres contribution; provision of highways improvements and sustainable transport measures; and safeguarding of land at the site for a new two form entry primary school, the infrastructure needs of the development and benefits put forward to justify Very Special Circumstances would not be met and the impacts of the proposal would not be sufficiently mitigated. The proposal is therefore contrary to the National Planning Policy Framework 2021, the St Stephen Parish Neighbourhood Plan 2019-2036 and Policy 143B (Implementation) of the St. Albans District Local Plan Review 1994.

An appeal has been submitted against this refusal but has not yet been determined.

6.5.16 The appellant has also referred to the promotion of this area of land in the withdrawn Local Plan 2020-36 Publication draft (2018). This Plan was withdrawn and the site is not part of any current allocation.

6.5.17 The harm to the openness of the Green Belt compared with the approved Butterfly World application, if fully implemented, is addressed above.

6.5.18 Also under their Ground 2, the appellant has put forward matters that they consider to be Very Special Circumstances that would outweigh the definitional harm and other harm.

6.5.19 In summary, it is considered by the Council that the retention of the existing unauthorised uses and associated operational development, as set out in the Enforcement Notice, would result in harm to the openness of the Green Belt in this location.

6.5.20 VSC1 Fallback Position

6.5.21 A comparison between the impact on the openness of the Green Belt of the existing, unauthorised, uses and associated operational development is set out above. The Council maintains that these impacts have a greater impact on the openness of the Green Belt than the impact of the approved use of the site as Butterfly World, taking into account the previous Inspector's assessment of the harm caused by the car parking on the approved car parking area and the further spread and proliferation of structures on the site, together with the harm identified to the landscaped character of the site.

6.5.22 It is therefore not considered that this constitutes very special circumstances to outweigh the identified harm in this case.

6.5.23 VSC2 Accessibility

6.5.24 The proximity of the site to the M25 and M1 motorways is acknowledged, however no information has been submitted to suggest that other sites have been considered for the existing uses at the appeal site.

6.5.25 However, given the level of harm to openness identified, it is not considered that proximity to a motorway network would outweigh the harm identified in this case.

6.5.26 VSC3 Lack of Alternative Employment Sites in the District

6.5.27 As at 1 April 2021 3.069 hectares of new employment development land (B Use Classes and E Use Class) was immediately available in the District, with 353,290 square metres of employment land (B Use Classes and E Use Class) granted permission remaining outstanding. The majority of this is located at the Radlett Strategic Rail Freight Interchange (SRFI) site in Park Street which covers 331,665 square metres, for Storage and Distribution B8 Use Class uses. The SRFI is a major scheme in the Green Belt.

6.5.28 The 1994 Local Plan allocated Employment Areas and continues to protect 19 of these sites; the list is provided in the AMR 2021.

6.5.29 A survey of August 2021 showed an average vacancy rate of 14%. . Employment areas with relatively high recorded vacancy rates included: Southdown Industrial Estate and former Gas Works in Harpenden (vacancy rate of 37%), Batford Mill Industrial Estate in Harpenden (vacancy rate of 33%) and Redbourn Industrial Park in Redbourn (vacancy rate of 33%).

6.5.30 A new AMR (Authorities Monitoring Report) is currently being prepared and will provide updated employment land figures in due course.

6.5.31 The appellant's statement refers to the provision of new industrial sites and loss of existing but with no reference to actual availability of suitability of alternative sites for the occupants of the appeal site or any evidence of those uses having sought alternative accommodation. The Council's most recent position in relation to employment land availability is set out in detail above.

6.5.32 On the basis of the comments made by the appellant and a lack of supporting evidence of justification, the Council is not able to comment further on this point.

6.5.33 The level of harm identified to the openness of the Green Belt in this location is not considered to be outweighed by this matter.

6.5.34 Summary assessment of submitted Very Special Circumstances

6.5.35 For the reasons set out above, the Very Special Circumstances put forward by the appellant are not considered, either individually or cumulatively, to outweigh the harm identified to the openness of the Green Belt and the purposes of including land in the Green Belt in this case.

Ground E

6.5.36 In their appeal form the appellant makes the following statement:

The PCN was dated the 19th March 2021 and the EN was dated the 21st October 2022. In the intervening period the company with an option to purchase and the right to let the appeal site, Convene Construction Ltd, let a yard to a tenant who was noted served with the EN.

6.5.37 It is noted that the appellant has not specified which occupier of the land they are referring to in this statement.

6.5.38 In response, the Council would advise that the Notices were attached to the land in a number of locations and addressed to the occupiers of the land.

6.5.39 Attention is drawn to section 329 of the 1990 Act attached concerning service of Notices. Under section 329(2) where a notice is required to be served on an occupier of the premises the document shall be taken to be duly served if addressed to the occupier and affixed to some object on the premises.

6.5.40 In this case, the Notices were conspicuously attached to the premises in a number of locations across the whole site (see record of service of Notices on the land at Appendix 12). The occupier would have been aware of the existence of the Notices.

6.5.41 Under section 174(1) the occupier could have appealed against the Notices whether or not they considered that a copy had been served on them. It might have assisted if the Appellant had advised the Local Planning Authority of the name of the occupier as they were aware that the Enforcement Notices were about to be served (as set out in Section 4 above).

6.5.42 Under section 175(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.

6.5.43 It is assumed that the unnamed occupier has now been advised by the Appellant of the Enforcement Notices that have been served, the associated appeal procedure and in the event that the Notices take effect and the time for compliance expires of the consequences of non-compliance.

Ground G

6.5.44 The Enforcement Notice gave a period of compliance of 6 months from the date that the Enforcement Notice would have come into effect (2 December 2022).

6.5.45 The appellant has stated that the appeal site is occupied by a number of commercial uses who would find it very difficult to find alternative premises in the 6 months and that a period of 12 months is therefore requested.

6.5.46 It is however noted that the PCN was issued in March 2021 and identified the following potential breaches of planning control that do not appear to have been addressed since that date by the appellant.

6.5.47 The appellant has therefore been aware of the alleged breaches for some considerable time and on this basis a period of 6 months is considered reasonable.

6.5.48 However, if the Inspector considers a longer period for compliance to be justified in this case, then the Council would suggest a period of 9 months, given the length of time that the unauthorised uses have been on the site to date.

7.0 CONCLUSIONS

- 7.1 The two Enforcement Notices have set out that the change of use of the site as set out in the Enforcement Notice relating to the use of the site and the associated operational development set out in that notice, together with the retention of the toilet block results in a change of use to and harm to the openness of the Green Belt in this location.
- 7.2 The change of use and development identified constitutes inappropriate development in the Green Belt and does not fall under the exceptions set out under para 149 of the NPPF.
- 7.3 National policy indicates that inappropriate development in the Green Belt should be resisted unless 'very special circumstances' exist that would outweigh the harm through inappropriateness.
- 7.4 The Very Special Circumstances put forward by the appellant do not outweigh the harm identified to the openness of the Green Belt and the purposes of including land in the Green Belt in this location, contrary to the aims of the National Planning Policy Framework and Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994.
- 7.5 It is therefore considered that the enforcement notices should stand and be complied with.
- 7.6 The Inspector is therefore invited to dismiss the enforcement appeals.

List of Appendices

- Appendix 1 Enforcement notices and plan
- Appendix 2 Copy of appeal decision APP/B1930/21/3272537 (LPA ref 5/2020/1265) for Temporary use of car/coach park for 12 months for car/van collection, delivery and storage
- Appendix 3 Copy of plans and decision notice for planning application 5/2020/1265 for Temporary use of car/coach park for 12 months for car/van collection, delivery and storage
- Appendix 4 Copy of officer's committee report for application 5/2020/1265 for temporary use was submitted to the Council for the temporary use of car / coach park for 12 months for car / van collection, delivery and storage.
- Appendix 5 Copy of Decision notice and officer's report for application 5/2014/3465 for Variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019
- Appendix 6 Copy of decision notice for application 5/2003/1343 for Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive.
- Appendix 7 Copy of officer report for application 5/2003/1343 for Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive.
- Appendix 8 Photo of laminated letters attached to site on 09/01/2019 as part of Enforcement Investigation
- Appendix 9 Copy of Planning Contravention Notice served 19/03/2021
- Appendix 10 Site visit photographs 05/05/2021
- Appendix 11 Site visit photographs of 07/09/2021
- Appendix 12 Certificate of Service of both Enforcement Notices and associated photos
- Appendix 13 Google Earth image taken 2022

APPENDICES to LPA Statement for appeals at Butterfly World, St Albans

APP/B1930/C/22/3311308 & APP/B1930/C/22/3311314

- Appendix 1 Enforcement notices and plan
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Appendix 1 Enforcement notices and plan

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE MATERIAL CHANGE OF USE

Issued by: **St Albans District Council**

1. This Notice is issued by the council because it appears to them that there has been a breach of planning control, within paragraph (a) 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 at former Butterfly World, Miriam Lane, St.Albans, Hertfordshire
Shown edged red on the attached plan.

3. The Matters Which Appear To Constitute The Breach Of Planning Control

It appears to the Council that the following breach of planning control has occurred within the last 10 years.

Without planning permission change of use from visitor attraction to use for stationing of caravans/shipping containers, vehicle sales and maintenance, storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Change of use of entrance building (Building B as shown on the attached plan) to business reception and offices. The uses are not in association with the approved visitor attraction. The following operational development is part and parcel of the unauthorized change of use being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2 metres in height.

4. Reasons For Issuing This Notice

The unauthorized uses and associated operational development constitutes inappropriate development in the Metropolitan Green Belt. It is an encroachment which fails to preserve the openness of the Metropolitan Green Belt in this location. The unauthorized uses and identified associated operational development is inappropriate development in the Metropolitan Green Belt and no very special circumstances are apparent to outweigh the in principle harm to openness. The uses and associated operational development also results in other harm including visual harm to the rural character of the area to the detriment of local amenity. The unauthorized development is contrary to Policy 1 of the St.Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

5. What You Are Required To Do

Cease the use of the land for the stationing of caravans/shipping containers, vehicle sales and maintenance, storage of construction plant, materials and waste, scaffolding equipment, storage of vehicles, vehicle parts, motorcycles, household chattels and business use. Cease the use of the entrance building for business reception and offices. Remove all associated operational development being structures, racking, temporary buildings, hard surfaces, compounds and associated fencing together with means of enclosure that exceed 2 metres in height.

6. Time For Compliance

Six months after this notice takes effect.

7. When This Notice Takes Effect

This notice takes effect on 2 December 2022 unless an appeal is made against it beforehand.

Dated: 21 October 2022

Signed:



Charles Turner
Solicitor to the Council
St.Albans District Council
District Council Offices, Civic Centre,
St.Peter's Street, St.Albans, Herts. AL1 3JE

On behalf of:

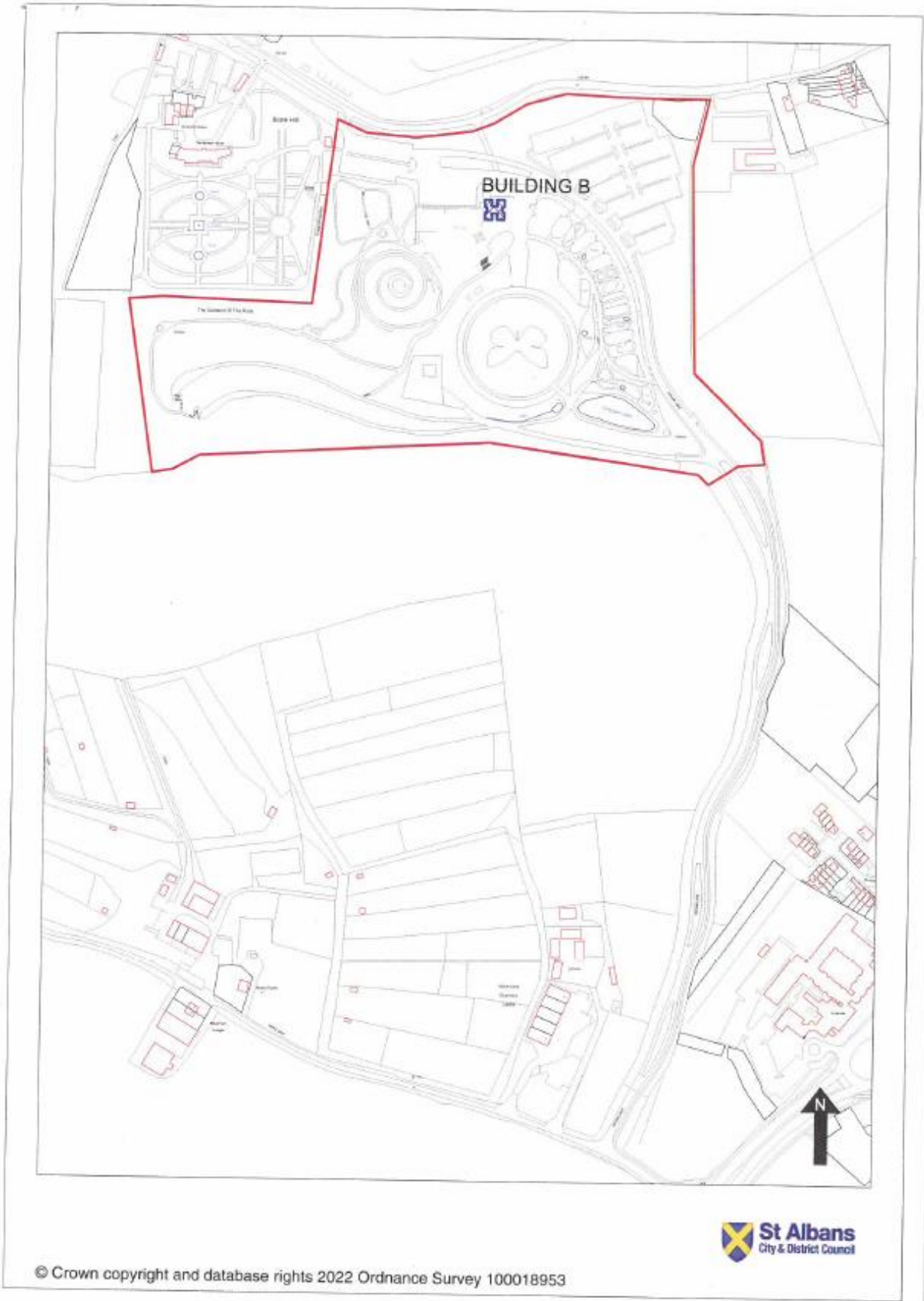
ANNEX

Your Right of Appeal

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice. The enclosed information sheet and information in the letter give details of your rights of appeal.

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 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.



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE BREACH OF CONDITION

Issued by: St Albans District Council

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 at former Butterfly World Miriam Lane St.Albans Hertfordshire
Shown edged red on the attached plan.

3. The Matters Which Appear To Constitute The Breach Of Planning Control

It appears to the Council that the following breach of planning control has occurred within the last 10 years.

Breach of condition 1 of planning permission 5/2014/3465 dated 10 April 2015 for the erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow retention of buildings until 16 June 2019. Condition 1 stated as follows:

"This permission shall be for a limited period only expiring 2 years after the date of this notice. On or before that date the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority."

4. Reasons For Issuing This Notice

The continued retention of the structures granted temporary planning permission results in harm to the openness of the Green Belt in this location by reason of inappropriateness. The retention of the toilet block is therefore contrary to Policy 1 of the St.Albans District Local Plan Review 1994 and the aims of the National Planning Policy Framework July 2021.

5. What You Are Required To Do

Permanently remove the toilet blocks shown hatched blue H on the attached plan from the site.

Remove from the land all materials and waste in compliance with the above.

6. Time For Compliance

6 months after this notice takes effect.

7. When This Notice Takes Effect

This notice takes effect on 2 December 2022 unless an appeal is made against it beforehand.

Dated: 21 October 2022

Signed:



Charles Turner
Solicitor to the Council
St.Albans District Council
District Council Offices, Civic Centre,
St.Peter's Street, St.Albans, Herts. AL1 3JE

On behalf of:

DJE / 016656

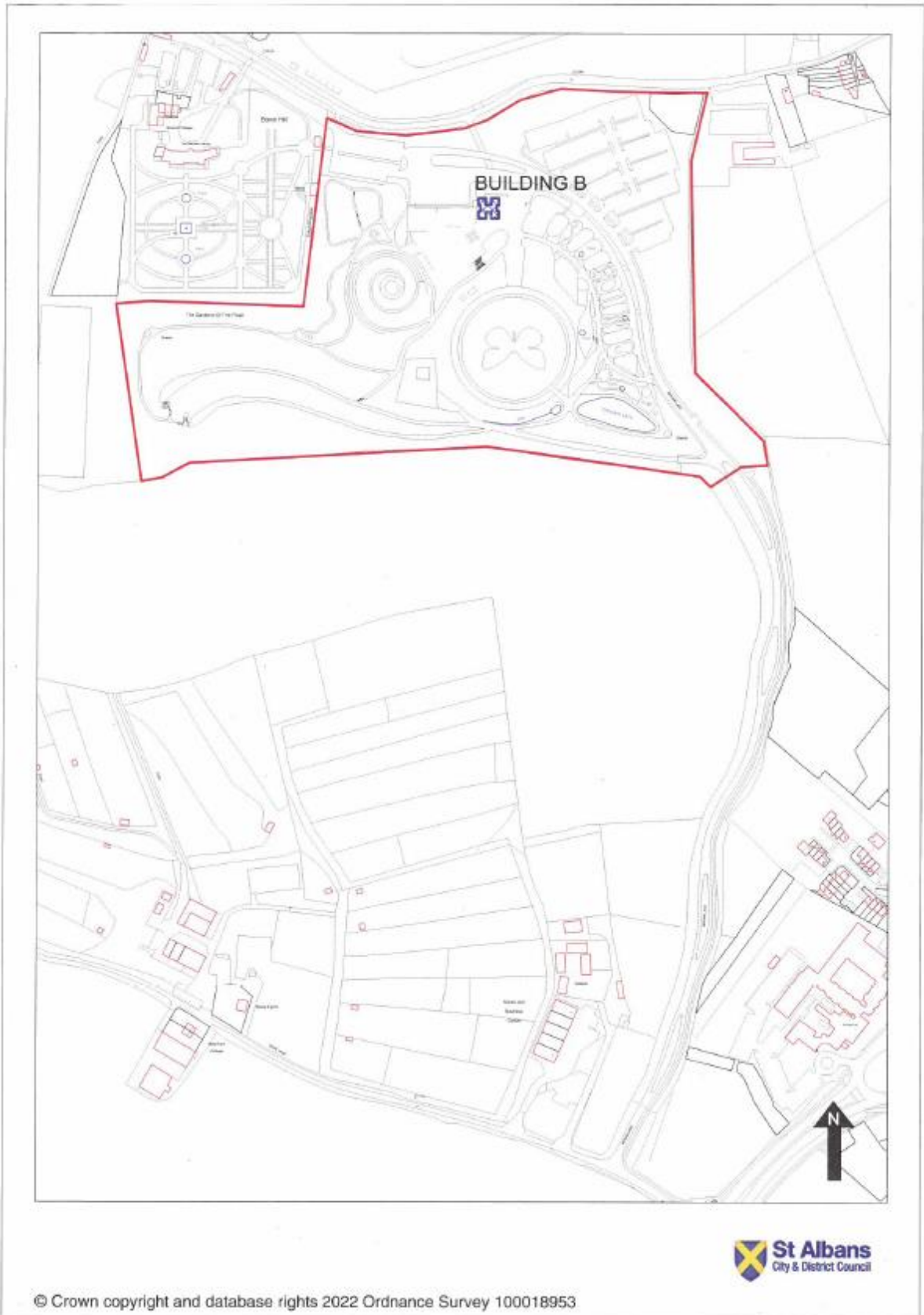
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Appendix 2 Copy of appeal decision APP/B1930/21/3272537 (LPA ref 5/2020/1265) for Temporary use of car/coach park for 12 months for car/van collection, delivery and storage

Appeal Decision

Site Visit made on 13 September 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/B1930/W/21/3272537

Land at Miriam Lane, Noke Lane, Chiswell Green, St Albans AL2 3NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Convene Construction Ltd against the decision of St Albans City Council.
 - The application Ref 5/20/1265, dated 5 June 2020, was refused by notice dated 18 February 2021.
 - The development proposed is described as, "Temporary use of existing car/coach park for 12 months for car/van collection, delivery and storage".
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the site visit, I observed that the appeal site was being used as a car/coach park. Nevertheless, for the avoidance of doubt, this appeal decision only relates to the proposed development as shown on the submitted appeal plans and described above.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt; and
 - if the proposal would be inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether Inappropriate Development

5. Paragraph 150 of the Framework provides that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, including

<https://www.gov.uk/planning-inspectorate>

material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). Although certain aspects of Policy 1 of the Local Plan¹ are consistent with the Framework, the exceptions to inappropriate development in the Green Belt listed within it are not. Accordingly, Policy 1 has been given limited weight. These policies assist in safeguarding the five purposes of the Green Belt. Of particular relevance is the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment.

6. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
7. Comparisons have been made between the proposal and the former Butterfly World visitor attraction, with respect to car storage, vehicle turnover, times of operation, and visual impact. In these respects, the appeal site would previously have been used as a car park serving Butterfly World, and accordingly its use would have been limited to those times when the attractions were open. In contrast, the proposal would entail the storage of vehicles at all times of the day throughout the week.
8. Hence, the proposal would result in an intensification of the use of the site, with a more permanent impact on the openness of the Green Belt, in both visual and spatial terms. Thus, the openness of the Green Belt would not be preserved by the proposal. For the same reasons, the proposal would conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.
9. The proposal would therefore constitute inappropriate development in the Green Belt for the purposes of the Framework. Inappropriate development is, by definition, harmful to the Green Belt.

Other Considerations

10. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
11. A temporary planning permission is required as the appeal site has been put forward as a suggested allocation in a future plan. The temporary nature of the development would still give rise to the same level of harm to the Green Belt, albeit for a shorter period of time. I would afford this matter moderate weight, taking into account there is limited justification, having regard to the Planning Practice Guidance, for the granting of a temporary planning permission in this case. In addition, there is no indication that the appeal site would be positively considered for future development and the plan is at an early stage. I would therefore afford this matter limited weight.

¹ St Albans District Local Plan Review (adopted 1994)

12. The proposal could provide security to the site and employment for up to 40 people. Considering that these factors appear not to be intrinsically reliant on the particular scheme before me, I have given these matters moderate weight.

Conclusion

13. The proposal would be inappropriate development in the Green Belt. This matter carries substantial weight. Whilst a temporary permission has been sought in the plan-making context described above, and the proposal would provide moderate positive benefits with respect to security and employment, for the reasons given, they would not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the proposal do not exist. Therefore, the proposal would not comply with the Green Belt aims of both Policy 1 of the Local Plan, or the Framework, and consequently would be unacceptable. The appeal should therefore be dismissed.

Alexander O'Doherty

INSPECTOR

Appendix 3 Copy of plans (not to scale) and decision notice for planning application 5/2020/1265 for Temporary use of car/coach park for 12 months for car/van collection, delivery and storage

Ref No. 5/20/1265
DC.4

TOWN AND COUNTRY PLANNING ACT 1990

AGENT
DLA Town Planning Ltd
5 The Gavel Centre Porters Wood
St Albans
Hertfordshire
AL3 6PQ

APPLICANT
Convenc Construction Ltd
Land at Miriam Lane Noke Lane
Chiswell Green
Hertfordshire
AL2 3NY

PLANNING REFUSAL

Temporary use of car/coach park for 12 months for car/van collection, delivery and storage

Car Park Off Miriam Lane Chiswell Green Hertfordshire

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby **refuse** the development proposed by you in your application dated 05/06/2020 and received with sufficient particulars on 29/07/2020 and shown on the plan(s) below for the following reasons:-

1. The application site is located in the Metropolitan Green Belt wherein there is strict control over new development. The proposed development would represent an inappropriate form of development in the Metropolitan Green Belt, which would be harmful in principle, and also adversely impact upon the openness of the Metropolitan Green Belt. No very special circumstances have been demonstrated in this case which would outweigh the harm identified. Accordingly, the proposed development would fail to comply with the requirements of Policy 1 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019.

Signed



Tracy Harvey
Head of Planning & Building Control

Dated 18/02/2021

INFORMATIVES:

The Local Planning Authority has been positive and proactive in its consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

This determination was based on the following drawings and information: Design and Access Statement received 26/06/2020; Site Location Plan received 30/06/2020; 2329-CS-100/2 A and 102B received 28/07/2020; Transport Assessment received 15/10/2020; Response to Comments Raised by Hertfordshire County Council received 18/12/2020.

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

This is a decision to refuse planning permission for a Full planning permission. If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.

However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If you have agreed a longer period with the LPA, the time limit runs from that date.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square Temple Quay Bristol BS1 6PN or online at <https://acp.planninginspectorate.gov.uk/>

The Secretary of State may allow a longer period for the giving of notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under a development order.

Purchase Notices

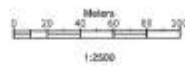
If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part 6 of the Town and Country Planning Act 1990.

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.





Produced 26 Jun 2020 from the Ordnance Survey MasterMap (Topography) Database and incorporating surveyed revision available at this date.
The representation of a road, track or path is no evidence of a right of way.
The representation of features as lines is no evidence of a property boundary.



Lane off Miriam Lane, Chiswell Green
St Albans

Supplied by Stanfords 26 Jun 2020
License: © Crown copyright and database rights 2020 OS 100034046
Stanfords Order Reference: D11484519
Centre coordinates: 512948 294275

Appendix 4 Copy of officer’s committee report for application 5/2020/1265 for temporary use was submitted to the Council for the temporary use of car / coach park for 12 months for car / van collection, delivery and storage.

REGISTERED NUMBER:	5/2020/1265/SMD
APPLICANT:	Convene Construction Ltd
PROPOSAL:	Temporary use of car/coach park for 12 months for car/van collection, delivery and storage
SITE:	Car Park Off Miriam Lane Chiswell Green Hertfordshire
APPLICATION VALID DATE:	29/07/2020
HISTORIC BUILDING GRADE:	N/A
CONSERVATION AREA:	N/A
DISTRICT PLAN REVIEW:	Metropolitan Green Belt
WARD	St Stephen

RECOMMENDATION	REFUSE PLANNING PERMISSION
----------------	----------------------------

1. Reasons for Call in to Committee

- 1.1. This application was called-in by Cllr Gibbard if minded to grant for the following reasons:

The site is within the Metropolitan Green Belt, and in the St Albans District Local Plan Review 1994. Wherein permission will only be given for erection of new buildings or the use of existing buildings or land for agricultural, other essential purposes appropriate to a rural area.

The retrospective proposal is detrimental to the community asset. Butterfly World was deemed an appropriate use within the Green Belt, due to the economic benefits it would bring to the area and the wider district of St Albans, particularly within groups that have learning or other physical or mental disadvantages.

The NPPF requires Very Special Circumstances to outweigh the harm, to be demonstrated for the proposal to be supported in Green Belt terms. The applicant has not put forward comprehensive details to support their application in relation to the future of the business and how this change of use will enhance the community benefits that the development offers.

Given the information provided within the Statement submitted by the applicant, it could be considered that the community benefits proposed by the change of use, in this particular location, would seriously harm the openness of the Metropolitan Green Belt. It could therefore be considered that the application fails to demonstrate Very Special Circumstances that outweigh the harm in Green Belt terms in this case.

The retrospective application for 12 months if taken from the start of the inappropriate use of this land should run from early this year till early 2021, so therefore there have been no proposals that land would be returned by the end of 2020. The applicant has failed to show that this proposal is for 12 months only. I maintain an open mind as to whether planning permission should be granted. I have not predetermined the application.

- 1.2. This application is being reported to the Planning Referrals Committee as the application represents a major form of development in the Metropolitan Green Belt where this type of proposal would have District-wide implications.

2. Relevant Planning History

- 2.1. The application site has an extensive planning history. Of relevance to this application are:
- 2.2. 5/1999/0055 - Erection of horticultural training and research complex, visitor centre, cafeteria, ancillary buildings and new access drive – Allowed on appeal dated 25/10/2000
- 2.3. 5/2003/1343 - Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive – Conditional Permission 16/02/2005

3. Site Description

- 3.1. The application site principally comprises of the car parking area to the north-east of the former Butterfly World attraction, and to the south of Chiswell Green Lane. Access however is provided via Miriam Lane, which links with Noke Lane and the North Orbital Road to the south. It is noted that this application has been made retrospectively, and the site is already being used for the storage of vehicles.

4. The Proposal

- 4.1. Temporary use of car/coach park for 12 months for car/van collection, delivery and storage

5. Representations

5.1. Publicity / Advertisement

	17/09/20		10/10/20
Publicity:	20/08/20	Expiry Date	12/09/20
	07/09/20		10/10/20

5.2. Adjoining Occupiers

- 5.2.1. Notification letters were sent to: 1, 2 Bonehill Cottages, Chiswell Green Lane; Bonehill, Chiswell Green Lane; Butterfly World, Miriam Lane; Livery Yard, Chiswell Green Lane; Mobile Home 3, Mobile Home 4 Noke Nurseries, Chiswell Green Lane; Rose Farm, Chiswell Green Lane; Caravan 1, Caravan 2 Noke Nurseries, Chiswell Green Lane; The Gardens of the Rose, Chiswell Green Lane; The Noke Hotel, Watford Road; 1, 1a, 2, 3, First Floor 4, Ground Floor 4-5 Noke Lane Business Centre; 5, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 Belvedere Gardens, Chiswell Green; 28 Hawthorn Way; 28, 38, 47, 52, 54, 56, 59, 68 Long Fallow; 61, 63, 65, 67, 69, 71, 73 Chiswell Green Lane.
- 5.2.2. Representations were received from 46 Chiswell Green Lane, 38 Long Fallow, 68 Long Fallow, 28 Hawthorn Way, 60 Long Fallow, 56 Long Fallow, 54 Long Fallow,

52 Long Fallow, 5 Belvedere Gardens, 28 Long Fallow, 47 Long Fallow, 11 Carisbrooke Road.

5.2.3. A representation from an unidentified address in Long Fallow was also received.

5.2.4. These representations can be summarised as:

- Little Green Belt in area which needs protecting
- Proposal does not constitute very special circumstances
- Application site is already covered in cars, vans, portacabins, trucks, fairground rides etc.
- Temporary buildings at the Butterfly World site have not gone, but are surrounded by vehicles
- The traffic is excessive, with many large vehicles
- The traffic is using Chiswell Green Lane to the detriment of its other users
- Hard to keep windows open due to traffic
- Site is being turned into a brownfield site
- Application is retrospective and has been occurring for some time
- The proposal continues to be noisy and busy
- Enforcement had to stop because it appears that retrospective planning permission would be granted
- The proposal would be contrary to the ecological development that the site originally had permission for
- It is appalling that the Green Belt has been destroyed in this way
- Lorries should not be permitted here as it is not an industrial site
- This is a residential area
- Is this a back door attempt to re-designate the site for housing development?
- We were told the land would revert to agricultural use after Butterfly World ceased – is there a covenant in this regard? Should be put back to Green Belt land.
- No green credentials associated with the proposal and therefore against the whole ethos of Butterfly World
- Vehicle movements have been occurring throughout the day and night, causing noise and vibration
- Adverts have been placed offering further access into the site
- Impacts on the local community, wildlife, pollution, degradation of the landscape, soil
- Would result in adverse visual impacts and create an urban built environment
- Extra tree planting and crop planting should be encouraged here
- Danger posed by heavy traffic having to go all the way around the Shell / Noke roundabout – traffic in this area is already very busy
- Proposal would inhibit the flow of traffic and cause damage to road surfaces – who is going to pay/liable for remedial work? Who is gaining from this?
- Who is going to enforce what will happen after 12 months is over?
- Appears to be no limit on the numbers/types of vehicles using the site, on vehicle movements or their timings
- No mention of other alterations to the site, such as lighting, security, ground preparations, reverting land to its previous state
- The company using the site is a 24hr breakdown service who should search for premises elsewhere

6. Consultations:

6.1. St Stephens Parish Council

- 6.1.1. Strong Objection – inappropriate development in Green Belt with no Very Special Circumstances.
- 6.2. Environment Agency
- 6.2.1. No representations received.
- 6.3. HCC Growth and Infrastructure Unit
- 6.3.1. Based on the information to date for the above proposal, we do not have any further comments to make.
- 6.4. Herts Ecology
- 6.4.1. According to aerial photos, the site is existing hardstanding with some trees / shrub around the car park bays.
- 6.4.2. Are they proposing lighting? If so, would that be new or does it already exist? There is a woody strip beyond the eastern edge which shouldn't be lit.
- 6.4.3. There are no Wildlife Sites nearby. Bats are known to be in the area but that wouldn't be a problem here (except for avoiding lighting up any woodland).
- 6.4.4. So, there are no known ecological issues as far as I am aware.
- 6.5. HCC Highways
- Initial Response (26/08/2020)*
- 6.5.1. In their initial response, the Highway Authority recommended the application be refused on the basis that insufficient evidence had been provided in support of the application, preventing an assessment on the impact of the development on the local strategic highway network.
- 6.5.2. The Highway Authority recognise that the site in question formerly provided the car parking area associated with the leisure destination Butterfly World. It is understood that such facility was granted by SADC under district reference 5/2003/1343 being the erection of building for the exhibition of butterflies and plants in association with the Gardens of the Rose with related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive.
- 6.5.3. Butterfly World occupied a significant area of land to the south of Chiswell Green Lane, north of the M25 motorway and west of Watford Road. It is understood that Butterfly World closed permanently circa 2015, however recognised that the consent remains valid. The application describes that the car park to Butterfly World provided 283 car parking spaces and 13 Coach Parking spaces, however I note from the Supplementary TA (WSP, 14 Jan 2004) submitted to the original application for the Butterfly World development (district reference 5/2003/1343) that originally a level of 405 spaces were provided.
- 6.5.4. The Highway Authority would disagree with the conclusions presented within the currently submitted Design and Access Statement. The application has failed to provide any evidence that the number of vehicles attending the site may decline to that of the currently consented use, and further noted that there was no modelling

of the local road network during AM peak hours within the original consent – with Butterfly World being consented to operate from 10am.

- 6.5.5. The D&A further suggests that trips will reduce as the site shall accommodate upto 150 vehicles, and 50 recovery vehicles. Such a statement omits the fact that the recovery vehicles shall reasonably be undertaking more than one 2-way trip per day and instead shall constantly be departing / attending the site, whereas as a leisure destination the former use is likely to have represented circa one two way trip per parking space (enabling day visits). Reasonably, Collection of vehicles by customers is described also as occurring between the hours of 9am and 6pm, and are omitted from the D&A calculations. The D&A fails to adequately describe the operation of the site. It is unclear whether broken down vehicles shall be brought to the site, or taken direct to a point of repair (associated with the circa 50 breakdown vehicles) and no detail in terms of new vehicles (receiving / storage / delivery) at the site is presented (i.e. churn / turnaround of vehicles). As a result the Design and Access gives no indication as to number of trips to / from the site, using instead total level of parking provision / number of vehicles on the site as a proxy for trips. This does not represent an acceptable form of assessment.
- 6.5.6. The Highway Authority would consider that for any development with a significant vehicle trip rate generation that a Transport Statement / Transport Assessment be submitted in accordance with the Highway Authorities requirements (Roads in Hertfordshire). Thresholds for such an assessment, presented in Roads in Hertfordshire and having regard to DfT guidance (Guidance on Transport Assessments (withdrawn)), require that any development that may generate 30 or more 2 way vehicle movements per day shall be required to be supported by a Transport Assessment. Further, any development generating significant freight or HGV movements per day shall require a Transport Assessment.
- 6.5.7. Butterfly World consent considered a small number of coach trips to / from the site, however, with the number of recovery vehicles (reasonably considered as Heavy Good Vehicles) the level of HGV movements shall increase significantly.
- 6.5.8. The Highway Authority would note that modelling from the WSP Butterfly World Transport Assessment identifies that the network in the modelled 2020 peak is approaching practical reserve capacity (Ratio Flow Capacity approaching 1). It is not unreasonable to expect that the AM peak is similarly (or more so) congested. It is therefore important to consider the potential impact of this change of use on such junctions.
- 6.5.9. Noke Lane for its' length from North Orbital Road (A405) is approx. 6.5m in width. Mirriam Lane into the site is 5.5m. Access to the site provided with enlarged bellmouth (east) to facilitate turning of vehicles (coaches) into / out of the site respecting Noke Lane to the West as a rural road. However, given the reasonable low level of coach trips per day associated with the former use, the likelihood of large vehicles entering / leaving at the same time was low. The applicant should demonstrate, through the use of swept path that the access arrangements are suitable for two way simultaneous use in order to demonstrate that no verge overrun shall occur at such times that might result in damage to the Highway Authorities asset.
- 6.5.10. The site is appropriately located on the A405 to access the M25 (J21A). Noting the dualled nature of the A405, all vehicles departing shall be directed to the Noke Roundabout, known to experience significant congestion in peak hours. The HA would present that in the absence of predicted trips associated with the proposed

use, and the absence of modelling of the impacts on this junction, it is not possible to confirm acceptance of the proposals.

- 6.5.11. It is not unreasonable, due to the proximity of the site to J21a, and the known congestion issues at this location that Highways England may have cause for comment in respect of the proposals.
- 6.5.12. The planning application provides no information in respect of trips arising from the proposed temporary use, nor any estimations of peak hour (AM) attraction, nor impacts on junctions local to the site (Noke Roundabout). As per NPPF guidance, and as detailed in the Roads in Hertfordshire guidance document, a Transport Assessment (TA) or Transport Statement (TS) will need to be submitted as part of the planning application for specified developments, so the effects of the development can be assessed by the county council. Such information is not provided and therefore contrary to Policy 5 of the County Councils Local Transport Plan.

Further Response of 03/11/2020

- 6.5.13. Decision – other: further evidence required to support TA findings.
- 6.5.14. The development proposals are for the temporary use (for 12 months) of a car park to be used as a car / van collection, delivery and storage. The TA has stated that the general operations are:
- 30 vehicles per day to collect and transport vehicles (breakdown, repossessed etc). Note the operator has a total fleet of 40 vehicles.
 - Staff work on 12-hour shift patterns to ensure 24-hour service.
 - Vehicles stored on site (known as vehicles off-road) are stored in the car parking spaces used formally by Butterfly World Customers (approx. 200 vehicles were stored on-site in October 2020).
- 6.5.15. The vehicular access arrangements are proposed to remain as per existing arrangement via Miriam Lane. Miriam Lane is a single carriageway private road and provides access to the site only. Miriam Lane is subject to an informal 10mph speed limit.
- 6.5.16. A footway is located on the length of its eastern side and joins the wider footway network on Noke Lane.
- 6.5.17. The Highway Authority (HA) recognise that the site in question formerly provided the car parking associated with the leisure destination Butterfly World. It is understood that such facility was granted by SADC under district reference 5/2003/1343 being the erection of building for the exhibition of butterflies and plants in association with the Gardens of the Rose with related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive.
- 6.5.18. It is understood that Butterfly World closed permanently circa 2015, however it is recognised that the consent remains valid.
- 6.5.19. The main vehicular access to the site is via a gated access on Miriam Lane. Miriam Lane is a single carriageway private road and forms the minor arm of a priority junction with Noke Lane. Noke Lane is a Classified C road, is subject to a 30mph speed limit, and is accessed via a left-in left-out arrangement with the A405 North Orbital Road.

- 6.5.20. It is understood an emergency access is on Chriswell Green Lane.
- 6.5.21. The TA has stated that the site includes 283 car parking spaces and 13 coach spaces. It should be noted that the Supplementary TA (WSP, 14 Jan 2004) submitted to the original application for the Butterfly World development (district reference 5/2003/1343) that originally 405 spaces were provided.
- 6.5.22. The TA has calculated the predicted trip generation based on the shift working times. The TA has stated that on a typical day the following staff will arrive on site:
- HGV Day staff – 20 drivers (arrive between 06:00-07:00);
 - HGV Overlap staff – 6 drivers (arrive at 10:00);
 - HGV Overnight staff – 4 drivers (arrive at 18:00);
 - Office Staff – 6 across the day;
 - Yardmen – 3 (07:00 – 17:00);
 - Transport Manager – 1 (midday hours);
 - Deliveries and Serving vehicles – 1-2 per day.
- 6.5.23. Based on the above stated shift profile, the TA states a typical daily traffic would be:
- AM Peak (08:00-09:00) 0 two-way trips;
 - PM Peak (17:00-18:00) 5 two-way trips;
 - Daily 138 two-way trips.
- 6.5.24. It should be noted that the TA mentions the site operator has 40 HGVs and the above assessment has only taken into account 30 HGVs. Therefore, if an additional 10 HGVs were operational, this would result in an additional 40 two-way vehicle trips per day (i.e. 10 drivers arrive by car, then depart in HGV, arrive in HGV, then depart in car). When added to the above trips, this would result in:
- Daily 178 two-way trips.
- 6.5.25. Overall, method used to derive the trip generation via shift working times has not been supported by evidence and therefore the Highway Authority are concerned over its accuracy and the overall impact to a sensitive section of the local highway network in peak times. The TA has stated that HGV Drivers do not return to the site during their shift as they recover broken down vehicles and also transport vehicles across the south east. It is still unclear whether this is the case and whether the shift times actually miss the commuter peak hours. Evidence to support the shift times and resulting arrival and departure times stated above should be provided by the end-client/occupant and validated by an on-site traffic survey at the site access.
- 6.5.26. The HA are mindful that the local highway network has been identified as congested, with the North Orbital Road / Watford Road roundabout (Noke Roundabout) identified as a congestion hotspot. It is understood the roundabout is subject to an improvement scheme for a new fifth-arm to provide access to a hotel development under application 5/2015/0722.
- 6.5.27. If the planning application was for permanent use, capacity assessments would also be requested in order to determine the impact and operation of the local highway network over a 5-year period.
- 6.5.28. The TA has included a review of personal injury collisions over the most recently available three-year period. This review concluded that no clusters of collisions have occurred that suggest there is an issue with the design or maintenance of the highway.

- 6.5.29. The HA usually requires a five-year personal injury review. The HA have looked at the collisions across a five-year period and are satisfied that there have been no clusters or collisions on the Noke Lane / Miriam Lane junction and Noke Lane / A405 junction.
- 6.5.30. Vehicular access arrangements are proposed to remain as per the existing arrangement via Miriam Lane. The previous HA response raised concerns regarding the ability for two vehicles to suitably pass at the access junction. The TA has included swept path analysis Drawing Nos .TK01 and TK02 that demonstrate two 10m length HGVs can turn into and out of the site access junction simultaneously and do not overrun the footway or opposite section of carriageway. The Highway Authority consider these drawings as suitable evidence.
- 6.5.31. It is requested the emergency access on Chriswell Green Lane remains unblocked and ready for use in the case of an emergency. The applicant has provided no details of the refuse strategy nor the servicing / delivery strategy. It is expected a private collection service will be used due to the type of business and the private access road.
- 6.5.32. The TA has stated that 200 spaces are currently occupied by 'Vehicles Off Road' and the site's operations include 40 HGVs and staff car parking (approximately 40 cars). Therefore, of the 268 car parking spaces and 13 Coach spaces, the site is likely to be operating near capacity. On the basis that the site is located on Miriam Lane, approx. 750m length, there is unlikely to be any overspill onto public highway on Noke Lane. The applicant should be minded that any possible parking overspill would be unacceptable to the operation and safety of the public highway.
- 6.5.33. As the application is for a temporary 12-month use a Travel Plan is not required.
- 6.5.34. Overall the Highway Authority recognise the information provided in the TA regarding the trip generation would not result in a severe impact, however the accuracy of this information is questionable and evidence supporting the shift times / arrival and departure profile has not been provided in the Appendix of the TA nor validated via a traffic survey at the site entrance.
- 6.5.35. Therefore, it is requested that evidence of the shift times is provided by the end user / occupier and a daily traffic survey is undertaken at the site entrance to validate the results.
- 6.5.36. Once the above information has been provided and is deemed satisfactory, the Highway Authority will be able to recommend no objection to the proposal on highway grounds.

Further Response 05/01/2021

- 6.5.37. Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

The Site shall be occupied for temporary use and for the time period stated on the application. Any further extension of occupation will require detailed traffic modelling and introduction of sustainable measures. Reason: To protect the

operation of the Highway Network and ensure the impact of the development is suitable assessed and issues mitigated, in-line with Policy 5 of the Hertfordshire.

- 6.5.38. To address the previous comments of the HA, the applicant has submitted a Technical Note (December 2020).
- 6.5.39. The previously submitted TA stated the trip generation of the site to be:
- AM Peak (08:00-09:00) 0 two-way trips;
 - PM Peak (17:00-18:00) 5 two-way trips;
 - Daily 138 two-way trips.
- 6.5.40. The previous Highway Authority response stated that the evidence must be provided of the TA trip generation. The Technical Note has included a supporting statement from BUD Rescue and Recovery which confirms the shift patterns set out in the TA.
- 6.5.41. The previous Highway Authority response stated that the predicted trip generation set out in the TA (based on end-user information) must be validated with the provision of a traffic survey at the site entrance.
- 6.5.42. The Technical Note has included a ATC survey of the site entrance, undertaken from the period 1st – 7th December 2020. It is noted that England was under lockdown until the 2nd December, and therefore the Highway Authority only consider the data from the 3rd-7th December as valid.
- 6.5.43. A review of this data has shown on average weekday:
- AM Peak (08:00-09:00) 9 two-way trips;
 - PM Peak (17:00-18:00) 18 two-way trips;
 - Daily 239 two-way trips.
- 6.5.44. When comparing the trip generation predictions, it can be seen that the proposals are currently generating on average 9 trips in the AM Peak Hour (one trip every 7 minutes), 18 trips in the PM Peak Hour (one trip every 3 minutes) and 239 daily trips. Whilst the impact in the AM and PM peak hours would not be considered as 'severe' based on the level of assessment undertaken, the overall increase in trips is against the against the sustainable principles set out in the NPPF and HCC Local Transport Plan.
- 6.5.45. For now the Highway Authority are satisfied the development can be accommodated in a temporary basis of the application (12 months), however, the use of the site for any further period would require more detail traffic modelling. The Highway Authority are mindful that the local highway network has been identified as congested, with the North Orbital Road / Watford Road roundabout (Noke Roundabout) identified as a congestion hotspot. It is understood the roundabout is subject to an improvement scheme for a new fifth-arm to provide access to a hotel development under application 5/2015/0722. If the planning application was for permanent use, capacity assessments would be requested in order to determine the impact and operation of the local highway network over a 5-year period.
- 6.5.46. The Highway Authority are satisfied the development can be accommodated in a temporary basis of the application (12 months), however, the use of the site for any further period would require more detail traffic modelling and sustainable measures.

6.6. HCC Lead Local Flood Authority

- 6.6.1. Thank you for your consultation in relation to the above planning application for the Temporary use of car/coach park for 12 months for car/van collection, delivery and storage, for the site at Car Park Off Miriam Lane, Chiswell Green, Hertfordshire.
- 6.6.2. We understand that the application is for the temporary use of an existing car/coach park for a 12 month period for car/van collection, delivery and storage.
- 6.6.3. Following a review of the National Risk of Flooding from Surface Water map, the site is predicted to be at very low risk of flooding from Surface Water and we do not hold any records of flooding in the close vicinity.
- 6.6.4. At this point in time, we have no further observations to make in terms of flood risk.

6.7. SADC Environmental Compliance

- 6.7.1. No comments

6.8. Herts Police

Initial Response 02/09/2020

- 6.8.1. Whilst it appears that the existing facility and the proposed new use are very similar, there is in fact a large difference in threat level.
- 6.8.2. The existing car park was to be occupied mostly during the working day, with most if not all vehicles leaving it at the closing time of the attraction.
- 6.8.3. During that working day there would have been large numbers of people walking through the area acting as eyes and ears and preventing casual crime from occurring.
- 6.8.4. What is being proposed is the overnight storage of vehicles, some of which may be insecure and most of which will contain valuable and attractive property.
- 6.8.5. The only security mentioned is a staff member in the car park, but whether this is a manned security company or a casual employee with other duties, is not clear.
- 6.8.6. If this was being built as a new vehicle storage yard, we would be considering fences, gates, lighting and likely CCTV.
- 6.8.7. I see no mention of any of these features, which is of a serious concern to me.
- 6.8.8. Without details of the necessary additional security features that are required for this storage facility to commence operation, I would not be able to support this application.
- 6.8.9. In their further response, dated 30/10/2020, Herts Police sought to repeat the above concerns.

6.9. Highways England

Initial Response 01/09/2020

- 6.9.1. Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and

is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

- 6.9.2. In the case of this proposed development, Highways England is interested in the potential impact that the development might have the SRN, in particular, the M25 at Junction 21a. We are interested as to whether there would be any adverse safety implications or material increase in queues and delays on the SRN as a result of development.
- 6.9.3. Having reviewed the application documents we note this application has not included a Transport Assessment or Transport Statement as part of their planning application. Whilst we note that the planning application is made for a temporary period of 12 months, we would expect to see the transport impacts assessed for a development of this size and scale, particularly given its close proximity to the SRN.
- 6.9.4. Given that the proposed change in use at the site is from a visitor car park for the Former Butterfly Centre to a vehicle recovery and storage facility, it is considered to be likely to have a different arrival and departure profile to its former use. As a result, we would expect the applicant to assess the transport impacts of its proposed use against its previous use. Whilst it is accepted that the quantum of car parking that will be repurposed as part of the application is lower than the existing capacity, the nature of the proposed use may result in additional peak hour trips, which requires further assessment.
- 6.9.5. Therefore, Highways England requests the applicant undertakes an assessment of the likely transport impacts of the proposed change of use. This should, but is not limited to, assessing the proposed trip generation of the site, including at peak hours, the routing of the trips including those using the SRN (operational and staff) and detail on the vehicle types expected to operate at the site. We also would like details on the type of vehicles being stored and the nature of the operation.
- 6.9.6. Based on the above, with limited understanding of the potential impacts of the development, there is insufficient information for us to be satisfied that the proposals will not materially affect the safety, reliability and/or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MCHLG NPPF para 109).
- 6.9.7. Accordingly, we formally request that your authority refrains from determining this application, (other than refusal) until such time as we have received and considered all the requested information. Once we are able to adequately assess the above and its potential impact on the SRN, we will provide you with our final formal response.

Further Response of 06/11/2020

- 6.9.8. In our initial response dated 1 September 2020, we noted the application has not included a Transport Assessment (TA) or Transport Statement (TS) as part of their planning application. Given the sites proximity to the SRN, we commented that we would have expected the transport impacts to be assessed for a development of this size and scale.
- 6.9.9. Following this, we received notification that additional information had been submitted in the application, including a TA. From this it is understood that

operations have commenced on site and it is operated by 'BUD Rescue and Recovery'.

- 6.9.10. It is noted there are 30 staff members based at the operational vehicle recovery centre. However, the TA states the staff shifts at the vehicle recovery centre are predominantly outside the peak hours, with the majority of staff starting at 6am and finishing at 6pm. The impact assessment of the likely trip generation of the vehicle recovery centre indicates that there is no additional AM peak hour movements and +5 trips in the PM peak hour, which accounts for the finishing time of the yardmen and a proportion of the office based staff. Of the peak hour trips outlined, it is not anticipated there will be HGVs arriving to or from the site at these times.
- 6.9.11. After consideration of the submission documents, including the TA, we are content the proposed development is unlikely to materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para's 9 & 10 and MHCLG NPPF para 109). Therefore, Highways England has no objection to the proposed development.
- 6.9.12. The formal response of Highways England on this application therefore is as follows:

Referring to the notification of a planning application dated 14 August 2020 referenced above, in the vicinity of the M25 that forms part of the Strategic Road Network, notice is hereby given that Highways England's formal recommendation is that we:

a) offer no objection*;

*This is on the basis that the proposals will generate minimal additional traffic on the SRN in Peak Hours. We therefore consider that the development will not materially affect the safety, reliability and / or operation of the SRN (the tests set out in DfT C2/13 para 10 and MHCLG NPPF para 109), in this location.

7. Relevant Planning Policy

7.1. National Planning Policy Framework

Section 2 – Achieving Sustainable Development
Section 6 – Building a Strong, Competitive Economy
Section 9 – Promoting Sustainable Transport
Section 11 – Making Effective Use of Land
Section 12 – Achieving Well-Designed Places
Section 13 – Protecting Green Belt Land

7.2. St. Albans District Local Plan Review 1994:

Policy 1 – Metropolitan Green Belt
Policy 19 – Overall Employment Strategy
Policy 24 – Unallocated Employment Sites
Policy 34 – Highways Considerations in Development Control
Policy 39 – Parking Standards, General Requirements

8. Discussion

8.1. Principle of Development in the Metropolitan Green Belt

- 8.1.1. The application site is located within the Metropolitan Green Belt. Policy 1 of the Local Plan explains that except in very special circumstances, planning permission will not be given for development purposes other than that required for:
- a) Mineral extraction
 - b) Agriculture
 - c) Small scale facilities for participatory sport and recreation
 - d) Other uses appropriate to a rural area
 - e) Conversion of existing buildings to appropriate new uses, where this can be achieved without substantial rebuilding works or harm to the character and appearance of the countryside
- 8.1.2. Policy 1 of the Local Plan also explains that within the Green Belt, new development shall integrate with the existing landscape. Siting, design and external appearance are particularly important and additional landscaping will normally be required. Significant harm to the ecological value of the countryside must also be avoided.
- 8.1.3. The NPPF at Paragraph 143 explains that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 144 goes on to state that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
- 8.1.4. Exceptions to inappropriate development in the Green Belt are set out under Paragraphs 145 and 146 of the NPPF. The exceptions under Paragraph 145 however relate to the construction of new buildings, and are therefore not relevant to this application. Of the exceptions under Paragraph 146, the following is considered to be of relevance:
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds) – provided the openness of the Green Belt is preserved and there is no conflict with the purposes of including land within the Green Belt.
- 8.1.5. For reference, the purposes of the Green Belt as set out under Paragraph 134 of the Green Belt are:
- a) to check the unrestricted sprawl of large built-up areas;
 - b) to prevent neighbouring towns merging into one another;
 - c) to assist in safeguarding the countryside from encroachment;
 - d) to preserve the setting and special character of historic towns; and
 - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 8.1.6. In light of the above, it is considered that some weight can be afforded to the requirements of Policy 1 of the local plan in the determination of this application. This is because the policy is in accordance with the provisions of the NPPF in some respects, such as the need to demonstrate very special circumstances where otherwise a proposed development would represent inappropriate

development in the Metropolitan Green Belt. However, the exceptions to inappropriate development in the Green Belt listed under Policy 1 of the Local Plan are not wholly in accordance with those set out within the NPPF, and as such, a reduced amount of weight should be afforded to Policy 1 in this regard accordingly.

8.1.7. As noted above, the application site has an extensive planning history. Application 5/1999/0055 is considered to be of some relevance to this application. It is noted that this application was determined by the Secretary of State, and was determined on the basis of the application providing 317 car parking spaces within the main car park, and an additional 124 in an adjacent overspill area. In determining the application, the Secretary of State agreed with the appointed Inspector that very special circumstances existed to justify the grant of planning permission in the Metropolitan Green Belt in this case.

8.1.8. The Secretary of State considered that the car parking facilities would be substantially greater than those that were existing, albeit it was noted that an increase in visitor numbers was expected pursuant to the development proposed.

8.1.9. Paragraph 169 of the Inspector's Report to the Secretary of State pursuant to 5/1999/0055 is also of relevance; as it sets out that there were no other parking opportunities near to the application site that would not obstruct Chiswell Green Lane or Noke Lane. As such, the development needed to accommodate its own parking requirements. The Inspector commented that the calculation of parking need considered may have been overestimated, but when considering the improved facilities at the site, did not represent an unreasonable overprovision. The overflow area of parking was intended to be of a grass reinforcement material, and so its impact would be less than otherwise would be the case. The permanent car park would be substantially larger than the existing car park but less than the existing car park and overflow area. Condition 3 appended to the Inspector's Report is also noted which states:

"the development hereby permitted shall be used only for the purposes directly related to the use of the site for horticulture, horticultural training and research and for visits by the public to the Gardens and for no other purposes without the prior approval in writing of the Local Planning Authority"

8.1.10. Subsequent to the above, application 5/2003/1343 was granted conditional planning permission on 16/02/2005. This application related to both the Gardens of The Rose and Butterfly World. It would similarly appear from the Officer Report that this proposal was considered to be inappropriate development in the Metropolitan Green Belt. However, very special circumstances were considered to exist in relation to the maintaining of the tourist attractions, improved amenity for residents in Chiswell Green Lane, and highway improvements.

8.1.11. With reference to car parking, the Officer Report for application 5/2003/1343 sets out that the site could satisfactorily accommodate the parking demands of the development. A total of 405 spaces, plus 12 coach parking bays were proposed and considered acceptable to meet the needs of the proposal. Conditions of relevance in this respect include:

Condition 18

The development shall not be occupied until the car parking and turning areas shown on the approved plan have been constructed, surfaced and permanently marked out. The car parking and turning areas so provided shall be maintained as

a permanent ancillary to the development and shall be used for no other purpose at any time.

Reason: To ensure adequate parking provision at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highway, or the amenities and convenience of existing local residents. To comply with Policies 34 and 39 of the St Albans District Local Plan Review 1994.

Condition 36

The development hereby permitted shall be used only for purposes directly related to the use of the site for horticulture, horticultural training, research, butterfly keeping and for visits by the public to the Gardens and Butterfly World and for no other purpose without the prior approval in writing of the Local Planning Authority.

Reason: To comply with Policies 1 and 69 of the St Albans District Local Plan Review 1994.

- 8.1.12. Car parking management clauses were also included within the legal agreement completed pursuant to the decision of application 5/2003/1343.
- 8.1.13. The layout and siting of the car park shown on the plans considered under application 5/2003/1343 is akin to that contained within the red line boundary on this current application.
- 8.1.14. From the above, it is considered that the presence of car parking facilities at the application site historically were to serve the needs of the former visitor attractions at the application site. It is noted that the above applications were granted on the basis of very special circumstances having been demonstrated.
- 8.1.15. Pursuant to this current application, it is understood that Butterfly World has ceased trading and has been unused since. The applicant's submission explains that the site is currently being used to accommodate up to 150 cars/vans, which are received and stored or are new and awaiting delivery. They are delivered and collected to and from the site primarily using breakdown trucks or recovery vehicles. The submitted Design and Access Statement explains that some 50 breakdown vehicles are on site during the day, with up to 6 overnight. Ten office staff are located on site during the day within existing buildings at the site, with another staff member in the car park to ensure site safety. Overnight there are two or three members of staff, one of which is a security guard.
- 8.1.16. The submitted Design and Access Statement goes on to explain that the site is open for the collection of vehicles by third parties only between 0900 and 1800 hours. The delivery of recovered vehicles can however occur around the clock. The Design and Access further suggests that the proposal would re-use an existing car/coach park to store vehicles, and requires no alterations. As such, it is argued that there would not be an impact on openness or Green Belt purposes as a result of this change of use.
- 8.1.17. However, Officers do not consider this to be the case. Firstly, as noted above, the site's car park was previously intended to be used in association with the adjacent visitor attractions. It is therefore considered that the previous use of the car park would have been typically by visitors to those attractions, and therefore using the car park whilst the attractions were open. Whereas this proposal would see the site used for storage at all times, and the submitted Design and Access Statement

would suggest moreover that the party operating from the site would do so at all times as well.

- 8.1.18. It is considered that this current proposal therefore represents an intensification in the use of the site, which would not preserve the openness of the Green Belt. The impact on the openness of the Green Belt with regard to when the car park was being used in association with the visitor attractions would arguably have been more transient therefore than this current application. The use of the car park for the storage of vehicles would result in a greater degree of permanence compared to the car park's previous use. Whilst it is not considered that there would be any significant conflict with the purposes of including land within the Green Belt, given the harm to openness identified, it is not considered that the proposed development would fall within the exception to inappropriate development in the Green Belt set out at Paragraph 146(e) of the NPPF.
- 8.1.19. No information has been provided as to the existence of very special circumstances in this case. It is noted that there may be some employment activity associated with the current use of the site; albeit this would not be in keeping with the previous use of the site as set out in the planning history considerations above. Typically, the onus would be on the applicant to demonstrate that very special circumstances exist. On the basis of the information provided, it is not considered that any such circumstances can be derived in this case.
- 8.1.20. As such, the proposed development would constitute an inappropriate form of development within the Metropolitan Green Belt. In the absence of any very special circumstances in this case, which would outweigh the harm the development would cause in Green Belt terms identified above, the proposed development is considered to fail to comply with the requirements of Policy 1 of the Local Plan and the NPPF.

8.2. Highways and Access

- 8.2.1. Policy 34 of the Local Plan concerns highways considerations in development control, and relates to road safety, capacity, hierarchy and environmental impacts. Policy 39 of the Local Plan sets out general requirements for car parking, and states that where land uses under Policies 40-49 are not covered, sufficient parking should be provided for the long-term needs of the development.
- 8.2.2. Section 9 of the NPPF relates to the promotion of sustainable transport. Amongst other things, Paragraph 102 sets out that the potential impacts of development on transport networks should be addressed, alongside the environmental impacts of traffic and transport infrastructure, and patterns of movement. Paragraph 105 sets out that local parking standards should consider amongst other things the accessibility, type, mix and use of the development and public transport links.
- 8.2.3. It is considered that the relevant local plan policies are broadly in keeping with the NPPF, and weight can be afforded to them accordingly. It is considered that the application site is not in a particularly sustainable location.
- 8.2.4. Initially, both Highways England and HCC Highways objected to this application on the basis of insufficient information having been supplied to enable an assessment as to the implications of the development on the surrounding road network.
- 8.2.5. Following this, a Transport Assessment was supplied by the applicant in October 2020. Of note, this document set out that the likely trip generation of the vehicle

recovery centre indicated there would be no additional AM peak hour movements and five additional trips in the PM peak. This accounted for staff finishing times on site, and it is set out that it is not anticipated that there will be HGVs arriving to or from the site during these times. This information was sufficient to overcome the concerns raised by Highways England, who subsequently offered no objection to the proposed development.

- 8.2.6. The additional information provided by the applicant included swept path analysis drawings which showed that two HGVs can access the site simultaneously, and as such overcame initial concerns raised by HCC Highways in this regard. It should be noted that HCC Highways have not raised concerns that the proposal would be unacceptable in terms of highway safety, and that a Travel Plan would not be required for a temporary use. The emergency access on Chiswell Green Lane should remain clear for use in case of an emergency.
- 8.2.7. However, this additional information did not fully overcome all of the concerns of HCC Highways. HCC Highways had concerns that the trip generation via shift working times was not supported by evidence. It was suggested that such evidence was provided by the applicant and for it to be validated by an on-site traffic survey at the site access.
- 8.2.8. To address this, further information was provided by the applicant in December 2020, to evidence the travel patterns and validate traffic generation. The information supplied satisfied HCC Highways that the proposal can be accommodated on a temporary basis for 12 months. However, HCC Highways note that this part of the North Orbital Road and nearby roundabout is very congested, and as such the use of the site for any further period would require more detailed traffic modelling. HCC Highway's response references potential improvements to the roundabout at North Orbital Road / Watford Road, albeit it is not certain at present if/when these improvements will occur. Nevertheless, the information provided would indicate that for a temporary period, the proposed development would be acceptable to HCC Highways. A condition has been recommended, requiring the proposal to only occur for a temporary period, in the interests of protecting the operation of the highway network.
- 8.2.9. In terms of car parking, HCC Highways note that given the quantum of cars on the site, combined with the HGVs, the car parking spaces on the site are likely to be operating near capacity. However, it is noted that Miriam Lane is approx. 750m in length, and as such there is unlikely to be any car parking encroaching onto the public highway.
- 8.2.10. In light of the above, it is considered that the proposed development would be acceptable in highways terms, subject to a condition limiting the use of the site to 12 months. Accordingly, it is considered that the proposal would comply with the requirements of Policies 34 and 39 of the Local Plan and the NPPF.

8.3. Amenity

- 8.3.1. Paragraph 127 of the NPPF sets out that new development should provide a high standard of amenity for existing and future users.
- 8.3.2. It is noted that the nearest residential dwellings to the principal part of the application are around 110m to the east along Chiswell Green Lane. However, it is also noted that properties along Long Fallow, Belvedere Gardens, Noke Nurseries and the Noke Hotel are also in proximity to the red line boundary along Miriam

Lane. The closest properties at Belvedere Gardens are sited around 60m from Miriam Lane, with the closest properties along Long Fallow being around 110m from Miriam Lane. Noke Nurseries and the Noke Hotel are around 60m from Miriam Lane.

- 8.3.3. There would also appear to be a number of commercial and recreational uses in relatively close proximity to the application site.
- 8.3.4. A number of representations have been received on this application, setting out that the proposed development has resulted in noise and vibration disturbance throughout the day and night. It is noted that the current use of the site, as discussed above, could be considered as more intensive than previously when the car park was used in association with the visitor attractions. This could particularly be the case in respect of hours of operation, with the application site currently being used 24 hours per day.
- 8.3.5. However, no specific objection has been received from the Environmental Compliance team in this regard. It is noted that if minded to grant, it may be possible to potentially restrict hours of operation at the site by way of condition, and noise and vibration nuisance is a matter that is typically investigated by the Council's Environmental Compliance team. Given that the nearest residential properties would appear to be some distance away from the application site, on this basis, it is considered on balance that the proposed development would be acceptable in terms of its amenity impact.

8.4. Other Matters

- 8.4.1. The majority of the comments from consultees received on this application have either raised no objection or been addressed in the above report. It is noted that security concerns have been raised by Herts Police. Officers would comment however that access into the site from Miriam Lane is gated, and that if minded to grant it may potentially have been possible to address some of the concerns through conditions or amendments to the scheme. Given the Green Belt location of the site, new fences, lighting and CCTV may not be appropriate in this case.
- 8.4.2. Regarding the public representations received on this application, it is noted that Green Belt considerations are set out in the above discussion. The application site remains in the Green Belt, and it is not considered very special circumstances are apparent in this case.
- 8.4.3. It is noted that this application has been made retrospectively, however, each application nevertheless needs to be determined on its own merits. Any other potential breaches of planning control at the application site should be reported to the Council's Planning Enforcement Team to be investigated. The determination of this application is separate to any enforcement investigations. Any other form of development, such as residential redevelopment, would require separate planning permission.
- 8.4.4. Highways considerations are considered in the above discussion, and are considered to be acceptable in this case for a temporary period. It is not clear whether the traffic using Chiswell Green Lane is related to this development. Any damage to road surfaces should be reported to the relevant Highways Authority for investigation and repair.

- 8.4.5. In the consultation responses, HCC Highways did not request for limitations as to the numbers/types of vehicles, vehicle movements, timings etc. The application has been determined on this basis.
- 8.4.6. It is acknowledged that the application site is close to a number of residential properties. The impact of the proposed development on residential amenity has been considered in the above discussion. In this case, on balance, it is considered to be acceptable.
- 8.4.7. The planning history of the site, and the relationship between Butterfly World and the car park is considered in the above discussion. However, this application would appear to be separate to Butterfly World and relates solely to the principal car parking area.
- 8.4.8. Should planning permission be forthcoming, then it would be for the applicant to ensure that they comply with any conditions setting out that the proposal would be temporary. Should compliance not occur, then the Planning Enforcement team may be able to investigate.
- 8.4.9. It may potentially have been the case that adverts offering further access into the site have been circulated. However, as noted above, if a breach of planning control does occur, then a complaint should be made to the Planning Enforcement team accordingly.
- 8.4.10. It is noted in the above discussion that the proposal would result in the intensification of the use of the site compared to that previously approved, and that this can be visually perceived. However, it is noted that the site was previously used as a car park. In this context, it is not considered that the proposal would result in any unacceptable impacts in terms of wildlife, pollution, soil or landscape harm. It is noted that objections have not been received from either the Environment Agency, Environmental Compliance or Herts Ecology. Moreover, it is noted that the applicant has only applied for temporary planning permission in this case.
- 8.4.11. Should planning permission be forthcoming, it may be possible to secure additional planting by way of condition. It is noted that Policy 1 of the Local Plan does consider that new development in the Green Belt should integrate with the existing landscape.
- 8.4.12. It would be a matter for the applicant to find alternative premises as required.

8.5. Planning Balance

- 8.5.1. The car park to which this application principally relates was constructed in association with visitor attractions that previously operated in this location. The visitor attractions were granted planning permission on the basis that very special circumstances existed to justify and outweigh the harm that would have been caused to the Metropolitan Green Belt.
- 8.5.2. This current application however represents an inappropriate form of development in the Metropolitan Green Belt. The proposed development represents a more intensive use of the application site than when used in association with the visitor attractions. No very special circumstances have been demonstrated in this case which would justify or outweigh the harm identified.

8.5.3. Whilst no other harm has been identified with the temporary use of the site for a period of 12 months as a car/van collection, delivery and storage facility; the NPPF is clear that substantial weight should be given to any harm to the Green Belt. Accordingly, this application is recommended for refusal on this basis.

9. Comment on Town/Parish Council/District Councillor Concern/s

9.1. The comments of the Parish Council and Cllr Gibbard are considered to be addressed in the above report. The temporary nature of a planning permission, if granted, would typically be secured by way of condition attached to the decision notice. This would in turn specify the period of time for which planning permission would run for.

10. Reasons for Refusal

10.1. The application site is located in the Metropolitan Green Belt wherein there is strict control over new development. The proposed development would represent an inappropriate form of development in the Metropolitan Green Belt, which would be harmful in principle, and also adversely impact upon the openness of the Metropolitan Green Belt. No very special circumstances have been demonstrated in this case which would outweigh the harm identified. Accordingly, the proposed development would fail to comply with the requirements of Policy 1 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019.

RECOMMENDATION:	Refused	Decision Code:	R1
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11. Reasons

1. The application site is located in the Metropolitan Green Belt wherein there is strict control over new development. The proposed development would represent an inappropriate form of development in the Metropolitan Green Belt, which would be harmful in principle, and also adversely impact upon the openness of the Metropolitan Green Belt. No very special circumstances have been demonstrated in this case which would outweigh the harm identified. Accordingly, the proposed development would fail to comply with the requirements of Policy 1 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework 2019.

12. Informatives:

1. The Local Planning Authority has been positive and proactive in its consideration of this planning application. The Local Planning Authority encourages applicants to engage in pre-application discussions as advocated under paragraphs 39-46 of the NPPF. The applicant did not engage in pre-application discussions with the Local Planning Authority and the form of development proposed fails to comply with the requirements of the Development Plan and does not improve the economic, social and environmental conditions of the District.

2. This determination was based on the following drawings and information: Design and Access Statement received 26/06/2020; Site Location Plan received 30/06/2020; 2329-CS-100/2 A and 102B received 28/07/2020; Transport

Assessment received 15/10/2020; Response to Comments Raised by Hertfordshire County Council received 18/12/2020.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Officer	Lee Stannard
Section 65 Parties	BWP Ltd, c/o Breheny, Florden Road, Creeting St Mary, Ipswich, IP6 8NH
Plans on website	https://www.stalbans.gov.uk/view-and-track-planning-applications

Appendix 5 Copy of Decision notice and officer's report for application 5/2014/3465 for Variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019

TOWN AND COUNTRY PLANNING ACT 1990

AGENT

Mrs Julie Robinson
Robert Doughty Consultancy Limited
32 High Street
Helpringham
Lincolnshire
NG34 0RA

APPLICANT

Butterfly World Project Ltd
C/o Agent

PLANNING PERMISSION

Variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019 and the retention of minor changes to buildings

Butterfly World Miriam Lane Chiswell Green St Albans Hertfordshire

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby permit the development proposed by you in your application dated 10/12/2014 and received with sufficient particulars on 14/01/2015 and shown on the plan(s) listed below subject to the following conditions and reasons:-

Condition

1. This permission shall be for a limited period only expiring 2 years after the date of this notice. On or before that date the building hereby permitted shall be removed, the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason

1. To comply with Policy 1 of the St Albans District Local Plan Review 1994.

Condition

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 824-07-SL01 Rev. A and 824-07-BP01 received 10/12/2014.

Reason

2. For the avoidance of doubt and in the interests of proper planning.

Justification for the grant of planning permission

The temporary buildings represent inappropriate development in the Green Belt and therefore very special circumstances need to be demonstrated to justify the development. It is considered that, collectively, there exist very special circumstances to justify inappropriate development in the Green Belt for a temporary period of an additional two years. The proposal accords with the provisions of Policy 1 of the Local Plan and the National Planning Policy Framework.

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

Signed



Tracy Harvey
Head of Planning & Building Control

Dated 10/04/2015

SEE ATTACHED SHEET FOR NOTES

INFORMATIVES:

This determination was based on the following drawings and information: Photographs, Planning Statement, 824-07-SL01 Rev. A and 824-07-BP01 received 10/12/2014.

The Local Planning Authority has been positive and proactive in its consideration of this planning application. The development improves the economic, social and environmental conditions of the District.

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development, or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990.

This is a decision to grant planning permission for a **Full planning**. If you want to appeal against your Local Planning Authority's decision then you must do so within 6 months of the date of this notice.

However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:

- 28 days from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
- 28 days from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).

NB – the LPA determination period is usually 8 weeks (13 weeks for major developments and 28 days for non-material amendment applications). If you have agreed a longer period with the LPA, the time limit runs from that date.

Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square Temple Quay Bristol BS1 6PN or online at www.planningportal.gov.uk/pcs

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

Ref No. 5/14/3465
DC.3

The Secretary of State may allow a longer period for the giving of notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development, or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under a development order.

THIS IS AN IMPORTANT DOCUMENT AND IS LIKELY TO BE REQUIRED WHEN YOU COME TO SELL YOUR PROPERTY. YOU ARE ADVISED TO KEEP IT WITH YOUR TITLE DEEDS.

Reference No: 5/14/3465

Valid Date: 14/01/2015

End of Stat Period Date: 10/03/2015

Case Officer: Kate Phillips

Report Written Date: 09/04/2015

Applicant: Butterfly World Project Ltd**Proposal:** Variation of Condition 1 (time limit) of planning permission 5/2008/2877 dated 06/02/2009 for the Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome to allow the retention of the buildings until 16/06/2019 and the retention of minor changes to buildings**Site Address:** Butterfly World Miriam Lane Chiswell Green St Albans Hertfordshire

Ward: ST STEPHEN**Parish:** ST STEPHEN**Constraints:**Metropolitan Green Belt

BACKGROUND**Site / Surroundings:**

Butterfly World occupies a significant area of land to the south of Chiswell Green Lane, north of the M25 motorway and west of Watford Road. The application site is within the Metropolitan Green Belt.

Proposal:

This application seeks planning permission for the retention of the following buildings until 16/06/2019:

- Toilet block
- Display space
- Service buildings ancillary to Butterfly World dome

Planning permission was originally granted for the buildings under planning application reference 5/2008/2877 on 06/02/2009. Condition 1 of that permission stated the following:

This permission shall be for a limited period only expiring 3 years after the date of this notice. On or before that date the building hereby permitted shall be removed, the use hereby permitted shall be discontinued and the land restored to its former condition in accordance with a scheme of work submitted to and approved by the Local Planning Authority.

Reason

Reason: To comply with Policy 1 of the St Albans District Local Plan Review 1994.

The temporary permission expired on 05/02/2012.

Relevant Planning History:Application property

5/2014/3467 Variation of condition 1 (time limit) of planning permission 5/1020/0872 dated 16/06/2010 for the temporary replacement of café and shop with study centre and breeding house to allow the retention of the buildings until 16/06/2016 and the retention of minor changes to buildings – retrospective
Not Yet Determined

- 5/2014/3466 Variation of condition 1 (time limit) of planning permission 5/2008/2878 dated 06/06/2009 for the erection of twelve buildings to provide catering and retail facilities and butterfly exhibition to allow the retention of the buildings until 16/06/2016 and the retention of minor changes to buildings
Not Yet Determined
- 5/2014/3464 Construction of indoor eating area and siting of five container units (incorporating café staffroom, café office and three storage units) to allow the retention of the buildings until 16/06/2016 and the retention of minor changes to buildings – retrospective.
Not Yet Determined
- 5/2010/0872 Temporary replacement of café and shop with study centre and breeding house
Conditional permission 16/06/2010
- 5/2008/2878 Erection of twelve temporary buildings to provide catering and retail facilities and butterfly exhibition
Conditional permission 06/03/2009
- 5/2008/2877 Erection of toilet block, display space and services buildings ancillary to Butterfly World Biome
Conditional permission 06/02/2009
- 5/2003/1343 Erection of building for the exhibition of butterflies and plants in association with the Gardens of the Rose with related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive
Conditional permission 16/02/2005

PLANNING POLICY

National Planning Policy Framework

St. Albans District Local Plan Review 1994:

POLICY 1	Metropolitan Green Belt
POLICY 69	General Design and Layout
POLICY 74	Landscaping and Tree Preservation

REPRESENTATIONS

Publicity: 04/02/2015 & 18/03/2015

Expiry Date: 25/02/2015 & 08/04/2015

Notifications:

There are no directly adjoining neighbours; however, in accordance with the publicity requirements of the Town and Country Planning (General Development Management Procedure) Order 2010 a site notice was displayed.

Town / Parish Council:

St Stephen Parish Council

No objections.

Consultations: N/A

DISCUSSION

Main Issues:

The key planning issue with this application is the principle of a further temporary planning permission. In 2005 planning permission was granted for the erection of a building for the exhibition of butterflies and plants in association with the Gardens of the Rose with a related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive (planning permission reference 5/2003/1343).

The permission has been implemented, but not completed and the biome element of the development is yet to be constructed because, as noted in the accompanying Planning Statement, it has been difficult to secure funding for this part of the development.

Over time, planning permission has been granted for various temporary buildings to house the facilities that will eventually be located in the biome, to allow the visitor attraction to open to the public. The permissions gave temporary planning permission because, when the biome is completed, there will be no need for the additional buildings and they represent inappropriate development in the Green Belt.

The Planning Statement notes that the buildings at the site (which are the subject of the current planning applications) are crucial to enable Butterfly World to continue to trade and the applicants have requested further temporary planning permissions, to expire on 16/06/2019.

Ordinarily, it would not be appropriate to allow a further temporary planning permission because this would lend the development a degree of permanence that is inappropriate in the Green Belt. However, the special circumstances of the case need to be carefully considered to determine whether 'Very Special Circumstances' exist to justify the inappropriate development in the Green Belt.

The National Planning Policy Framework (NPPF) notes that the planning system should not act as an impediment to sustainable growth and investment in business should not be overburdened by planning policy expectations. Furthermore, the NPPF supports a prosperous rural economy and Chapter 3 of the NPPF notes that planning policies should do the following (paragraph 28):

- Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;
- Promote the development and diversification of agricultural and other land-based rural businesses;
- Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Allowing a further temporary permission would allow the applicants additional time to implement the original permission (5/2003/1343), which would fulfil the aims of the NPPF referenced above (i.e. supporting a tourism / leisure facility in a rural area). Allowing a further temporary permission would also enable the Local Planning Authority to retain control over the development, rather than certain works becoming immune from planning enforcement action, which would be to the significant detriment of the character and appearance of the wider area. Combined, it is considered that these considerations amount to 'Very Special Circumstances' to justify inappropriate development in the Green Belt and it is considered appropriate to allow a further temporary planning permission.

However, extending the temporary planning permission until 2019 is not considered to be appropriate because, as already highlighted, this would lend the development an unacceptable degree of permanence and the buildings were only originally supposed to be on site for a maximum of three years in total. Such a long additional time period would be excessive and the Local Planning Authority needs to be confident that the applicants are trying to implement the 5/2003/1343 planning permission. As such, an extension of the time period for an additional two years is considered to be appropriate.

Comment on Town / Parish Council / District Councillor / Concern(s): N/A

Appendix 6 Copy of decision notice for application 5/2003/1343 for Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive.

TOWN AND COUNTRY PLANNING ACT 1990

AGENT

James Rawlings
Pegasus Planning Goup
Trinity House
Cambridge Business Park
Cowley Road
Cambridge
Cambridgeshire
CB4 0WZ

APPLICANT

The Royal National Rose Society & Butterfly
World Trust
The Gardens Of The Rose
Chiswell Green Lane
St. Albans
Hertfordshire
AL2 3NR

PLANNING PERMISSION

Erection of building for the exhibition of butterflies and plants in association with the Gardens of the Rose, related horticultural training and research complex, visitors centre, cafeteria, coach/car parking and access drive

The Gardens of the Rose Chiswell Green Lane St Albans

In the pursuance of their powers under the above-mentioned Act and the Orders and Regulations for the time being in force thereunder, the Council hereby **permit** the development proposed by you in your application dated 23/06/2003 and received with sufficient particulars on 23/06/2003 and shown on the attached plan(s) subject to the following conditions and reasons:-

Condition

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

Condition:

2. Notification shall be given in writing to the Local Planning Authority on commencement of the development hereby approved.

Reason:

2. To enable the Local Planning Authority to verify compliance with conditions in accordance with Policy 69 of the St. Albans District Local Plan Review 1994.

Condition:

3. Prior to the commencement of the development hereby permitted, details of all materials to be used for hard surfaced areas within the site including roads, driveways and car parking area shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the details so approved.

Reason:

3. To ensure that the development does not detract from the appearance of the locality. To comply with Policies 69, 70 and 85 of the St. Albans District Local Plan Review 1994.

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Peter Lerner

Head of Paid Service
Strategic Director Enterprise & Civic Environment

Steve Welch

Strategic Director Community Services

Patricia Adley

Strategic Director Corporate Services



Condition:

4. No development shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason:

4. To ensure that the finished appearance of the development is satisfactory. To comply with Policies 69 and 85 of the St. Albans Local Plan Review 1994.

Condition:

5. Details of the proposed finished floor levels of all buildings and the finished ground levels of surrounding property, shall be submitted to and approved in writing by the Local Planning Authority before any work commences.

Reason:

5. To ensure that construction is carried out at a suitable level having regard to drainage, access, the appearance of the development and the amenities of neighbouring occupiers, in compliance with Policy 69 of the St. Albans District Local Plan Review 1994.

Condition:

6. The development hereby permitted shall not be commenced until drawings showing existing levels and proposed slab levels have been submitted to and approved in writing by the Local Planning Authority.

Reason:

6. To enable the Local Planning Authority to exercise proper and considered control over the development as a whole, in compliance with Policy 69 of the S. Albans District Local Plan Review 1994.

Condition:

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), before any demolition, clearance, building or other works commence on site, details shall be submitted to and approved in writing by the Local Planning Authority, specifying the parts of the site to be used for the stationing of site huts, storage of materials, and plant and parking of employees cars during the construction period, and any proposal for fencing of a site compound. The compound and any fencing shall remain until building and clearance work have been completed.

Reason:

7. To ensure satisfactory provision in relation to adjoining property and circulation within the site. To comply with Policies 34 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

8. On site parking shall be provided for the use of all contractors, sub-contractors and delivery vehicles engaged on or having business on the site in accordance with details to be agreed in writing

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Ref No. 5/03/1343
DC.3

with the Local Planning Authority before the commencement of site works. The parking area shall remain until building and clearance work have been completed.

Reason:

8. To ensure that no obstructions to the public highway occur during the construction period. To comply with Policy 34 of the St. Albans District Local Plan Review 1994.

Condition:

9. No demolition or construction works relating to this permission shall be carried out on any Sunday or Bank Holiday nor before 07.30 hours or after 18.00 hours on any days nor on any Saturday before 08.00 hours or after 13.00 hours.

Reason:

9. In the interests of residential amenity. To comply with Policy 70 of the St. Albans District Local Plan Review 1994.

Condition:

10. Prior to the commencement of development, details of the method of washing of vehicle wheels exiting the site shall be agreed in writing with the Local Planning Authority, and the agreed method shall be operated at all times during the period of site works.

Reason:

10. In the interests of highway safety and visual amenity. To comply with Policies 34 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

11. No external loudspeaker systems shall be installed without the prior approval in writing of the Local Planning Authority.

Reason:

11. In the interests of the amenity of nearby properties. To comply with Policy 9 of the St. Albans District Local Plan Review 1994.

Condition:

12. This permission does not extend to the installation of external lighting. A scheme for such works shall be submitted to and approved in writing by the Local Planning Authority, before the development hereby approved is commenced.

Reason:

12. In the interests of amenity and highway safety. To comply with Policies 9, 34 and 80 of the St. Albans District Local Plan Review 1994.

Condition:

13. A methodology for the screening or enclosure of plant and machinery to be used during the construction period shall be submitted to and approved in writing by the Local Planning Authority before works are commenced.

The siting of plant and machinery shall be away from noise sensitive areas wherever possible.

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Vehicles and machines in intermittent use shall be shut down in the intervening periods between work, or throttled down to a minimum.

The contractor shall take all steps necessary to limit vibration caused by plant and machinery used on the site. In particular, no machine which uses a system of dropping a heavy weight, whether power assisted or by gravity, on the surface of paving or foundation, will be permitted for breaking up.

Reason:

13. To safeguard the amenities of nearby residential properties. To comply with Policy 82 of the St. Albans District Local Plan Review 1994.

Condition:

14. Airborne particulates from operations on the site shall be minimised by spraying with or by carrying out of other such works that may be necessary to suppress dust. Visual monitoring for dust is to be carried out continuously.

Reason:

14. To protect the health and amenity of people in the vicinity. To comply with Policies 9 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

15. No detriment to the amenity of nearby residents shall be caused by noise or other disturbance arising out of the use of the land and/or buildings and for purpose(s) hereby authorised.

Reason:

15. To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties. To comply with Policies 9, 82, 69 and 70 of the St. Albans District Local Plan Review 1994.

Condition:

16. Before the development hereby permitted is commenced, a scheme indicating the provision to be made for disabled people to gain access to the 'biome' shall have been submitted to and approved by the Local Planning Authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason:

16. To safeguard the interest of disabled persons. To comply with Policies 50, 69 and 81 of the St. Albans District Local Plan Review 1994.

Condition:

17. The use hereby permitted shall not be open to customers outside the following times: 0800 hours and 2300 hours on Mondays to Saturdays inclusive and 0900 hours and 2230 hours on Sundays and Public Holidays. Any customers remaining on the premises after those hours shall leave the premises not later than 23.30 hours on Mondays to Saturdays inclusive and not later than 2300 hours on Sundays.

Reason:

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17. To safeguard the amenities of the locality and residential occupiers. To comply with Policies 9 & 57 of the St. Albans District Local Plan Review 1994.

Condition:

18. The development shall not be occupied until the car parking and turning areas shown on the approved plan have been constructed, surfaced and permanently marked out. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time.

Reason:

18. To ensure adequate parking provision at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highway, or the amenities and convenience of existing local residents. To comply with Policies 34 and 39 of the St. Albans District Local Plan Review 1994.

Condition:

19. All existing hedges or hedgerows shall be retained, unless shown on the approved drawings as being removed. All hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. This shall be to the satisfaction of the Local Planning Authority in accordance with relevant British Standards (BS 5837:1991). Any parts of hedges or hedgerows removed without the Local Planning Authority's consent or which die or become, in the opinion of the Local Planning Authority, seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Authority.

Reason:

19. To ensure the continuity of amenity afforded by existing hedges or hedgerows. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

20. No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include (a) proposed finished levels and contours; (b) means of enclosure; (c) car parking layouts; (d) other vehicles and pedestrian access and circulation areas; (e) hard surfacing materials; (f) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); (g) proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines etc, indicating lines manholes, supports etc.); (h) retained historic landscape features and proposals for restoration where relevant; (i) existing trees to be retained; (j) existing hedgerows to be retained.

Reason:

20. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

21. Soft landscape works required to be submitted under Condition 20 shall include planting plans; written specifications (including cultivation and other operations associated with the plant and grass establishments); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme should be submitted.

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Reason:

21. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

22. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.

Reason:

~~22. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.~~

Condition:

23. No development shall take place until details of earth works have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.

Reason:

23. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

Condition:

24. A landscape management plan indicating long term design objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development whichever is the sooner for its permitted use. The landscape management plan shall be carried out as approved.

Reason:

24. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply Policy 74 of the St. Albans Local Plan Review 1994.

Condition:

25. If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement for it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless otherwise the Local Planning Authority gives its written consent to any variation. The tree or plant shall be planted within 3 months of felling/dying or if this period does not fall within the planting season by 31 January next.

Reason:

25. To ensure satisfactory landscape treatment of the site in the interests of visual amenity. To comply with Policy 74 of the St. Albans District Local Plan Review 1994.

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Condition:

26. Prior to the commencement of development, a detailed schedule of works to the public footpaths, including surfacing, and tunnel structures and other clay works, shall be submitted to and approved in writing by the Local Planning Authority.

Reason:

26. To comply with Policy 97 of the St Albans District Local Plan Review 1994.

Condition:

27. ~~The proposed access road and widening of Noke Lane between the new access road and the A405 shall be constructed and laid out in accordance with further details to be submitted and approved in writing by the Local Planning Authority and shall be satisfactorily constructed prior to the commencement of any other part of the development hereby permitted.~~

Reason:

27. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

28. The widening of Noke Lane between the new access road and the A405 shall include provision for cyclists.

Reason:

28. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

29. Covered secure cycle parking provision for 30 bicycles shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority.

Reason:

29. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

30. A detailed routing programme for all vehicles relating to the construction of the site shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Details of all intended signs shall be as agreed by the Local Planning Authority prior to installation.

Reason:

30. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

31. No motor vehicles shall access the site via Chiswell Green Lane except for emergency or management purposes.

Reason:

31. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

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Condition:

32. Details of the surfacing material to the emergency access drive and method of preventing visitor access to Chiswell Green Lane shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of site works.

Reason:

32. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

Condition:

33. Prior to the commencement of development the following should be submitted and approved in writing by the Local Planning Authority.

- a full land survey including indicative contours.
- a full landscape survey
- a habitat survey
- a soil survey
- a vegetation survey
- detailed landscape and earthwork proposals
- land drainage assessment.

Reason:

33. To comply with Policies 69, 74 and 106 of the St Albans District Local Plan Review 1994.

Condition:

34. No importation of earth, or other land fill or material to the site or exportation of earth or excavated material from the site shall occur without the prior written approval of the Local Planning Authority.

Reason:

34. To comply with Policies 69 and 34 of the St Albans District Local Plan Review 1994.

Condition:

35. Sales of food or drink to customers shall only take place on the premises between 09.00 hours and 22.30 hours and prior to 23.00 hours on any day all customer and visitor vehicles shall leave the premises.

Reason:

35. To comply with Policy 69 of the St Albans District Local Plan Review 1994.

Condition:

36. The development hereby permitted shall be used only for purposes directly related to the use of the site for horticulture, horticultural training, research, butterfly keeping and for visits by the public to the Gardens and Butterfly World and for no other purpose without the prior approval in writing of the Local Planning Authority.

Reason:

36. To comply with Policies 1 and 69 of the St Albans District Local Plan Review 1994.

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Condition:

37. A detailed programme of rose displays garden arrangements and associated works together with any garden layout changes shall be submitted in writing to the Local Planning Authority before 31st January each year.

Reason:

37. To comply with Policy 1 of the St Albans District Local Plan Review 1994.

Condition:

38. Prior to the commencement of development a bat survey shall be carried out and the details and any associated works carried out agreed in writing by the Local Planning Authority.

Reason:

38. To comply with Policy 106 of the St Albans District Local Plan Review 1994.

Justification for the grant of planning permission

In conclusion the proposal is inappropriate development in the Metropolitan Green Belt. There are however very special circumstances to justify the proposal and outweigh the harm caused. These include the importance of maintaining the tourist attraction, improved amenity for residents in Chiswell Green Lane and the highway improvements. The proposal provides opportunity for landscaping and provides adequate parking. There is no change to highway safety subject to improvements that will be sought. It is considered the proposal, subject to conditions and a Section 106 Agreement will comply with Policies in the Hertfordshire County Structure Plan Review 1991-2011 and Alterations 2001-2016 (1, 2, 5, 20, 22, 25, 27, 29, 38 and 48) and the St Albans District Local Plan Review 1994 (Policies 1, 34, 39, 69, 74, 97, 104 and 143A).

Signed


Dean Goodman
Head of Planning & Building Control

Dated 16th February 2005

SEE ATTACHED SHEET FOR NOTES

The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.

The attention of the applicant is drawn to the requirement for all food businesses to be registered with the Council. Application forms can be obtained from the Council's Head of Environmental Health.

The attention of the applicant is drawn to the advisory notes on extraction and filtration systems for food premises available from the Council's Environment and Health Department.

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Appendix 7 Copy of officer report for application 5/2003/1343 for Erection of building for the exhibition of butterflies and plants in association with the Gardens of The Rose with related horticultural training and research complex, visitors centre, cafeteria, coach / car parking and access drive.

PLANNING (DEVELOPMENT CONTROL) COMMITTEE SOUTH

1 MARCH 2004

1. REGISTERED NUMBER:	5/03/1343 – FULL
APPLICANT:	The Royal National Rose Society & Butterfly World Trust
PROPOSAL:	Erection of Building for the Exhibition of Butterflies and Plants, in association with the Gardens of the Rose, related Horticultural Training and Research Complex, Visitors Centre, Cafeteria, Coach/Car Parking and Access Drive.
SITE:	Gardens of the Rose, Chiswell Green Lane, St Albans.
DATE OF APPLICATION:	23.6.03
HISTORIC BUILDING GRADE:	Unlisted
CONSERVATION AREA:	No
DISTRICT PLAN REVIEW:	Metropolitan Green Belt

Background

The Royal National Rose Society 'Gardens of the Rose' occupies a 25.75 ha site on south facing sloping land on the southern side of Chiswell Green Lane east of its junction with Furze Bush Lane and Blunts Lane. It comprises existing gardens, car parking and buildings with an area of 1,179 sqm comprising office, retail and educational uses.

This fully detailed application is for the erection of a dome structure, partly underground, and with a height of 15m above ground and external diameter of 100m, for the exhibition of butterflies and associated plants, related horticultural training and research complex, visitor centre, cafeteria, coach and car parking and a vehicular access on to Noke Lane.

The application was accompanied by a Transport Assessment, Landscape and Visual Assessment, Design Statement and Planning Statement. An archaeological appraisal has also been undertaken since the original submission of the application. The transport assessment has been revised and updated following comments from the Highway Authority.

The site lies within a Landscape Development Area within the Metropolitan Belt.

The Proposal

The proposed 'biome' is to be located in the south east corner of the site adjacent to the parking area. It will have a circular plan form 100 metres in diameter set into the existing slope by 8m and moulded into the earth to absorb the structure into the undulating landscape. It will have a translucent shell structure.

Within the 'biome' the facilities will be laid out on two levels. The education and research area including library and classrooms will be at the lower level. At ground level will be the restaurants and concourse areas. A terrace will lead to the Gardens of the Rose.

The overall floor area will be 9,680 sqm comprising the following:-

6896 sqm	Exhibition space
200 sqm	Shop
341 sqm	Restaurant
212 sqm	Coffee Shop
410 sqm	Plant rooms (x3)
248 sqm	Lecture Theatre

14

113 sqm Education Suite
151 sqm Gallery

The remaining area includes administration, storage and other ancillary areas.

Supporting Information

The supporting information provided by the applicants referred to above makes the following points.

These design proposals seek to incorporate two organisations, the Royal National Rose Society and the Butterfly World Trust, into the Gardens of the Rose, based on a mutual desire to combine and expand shared activities, interest and facilities and encouraging education and research in environmental issues, conservation, and ecology, as well as horticultural, entomology and botany.

The arrangements between the Royal National Rose Society and the Butterfly World Trust will allow the continued use of this historic site by the Royal National Rose Society while providing an ideal location for the Butterfly World Trust. The Butterfly Gardens Project will effectively secure the long term future for the Royal National Rose Society at Gardens of the Rose in St Albans.

The design for the Butterfly Garden Project incorporates the following aims and objectives:

- a) To combine and expand shared activities, interests and facilities for the Royal National Rose Society and the Butterfly World Trust, into the Gardens of the Rose;
- b) The provision of facilities to attract a wide range of visitors from all walks of life with a special emphasis on year-round interest;
- c) The planting of the various species to provide rich and diverse wildlife meadows for butterflies and other insects which will complement the Gardens of the Rose and which will be suitable for study and research;
- d) The provision of combined educational and research facilities centres on the shared environmental focus of both organisations;
- e) Providing a setting for the new building which fully integrates the built form into the new Gardens;
- f) The facilities will have fully disabled access. A relatively high proportion of visitors are disabled and their needs have been accounted for from the start of design.
- g) Conservation education is of prime concern and the design will allow for each group visit to be guided around by staff. (The expectation is for more than 50,000 school children to visit each year in organised class visits. Support material for teachers directly relating to appropriate areas of the National Curriculum will be produced).
- h) Assimilation of the building into the wider landscape with particular regard to minimising the effects on the Green Belt;
- i) Incorporate into the design a) the objectives of the Green Belt and b) the countryside and environmental policies of the Hertfordshire Structure Plan and St Albans District Local Plan including:
 - (i) Provide opportunities for access to the open countryside for the urban population.
 - (ii) Provide opportunities for outdoor recreation near urban areas.

- (iii) Enhance the landscape near to where people live.
- (iv) Improve damaged and derelict land around towns.
- (v) Secure the nature conservation interest.
- (vi) Retain land in agricultural, forestry or a related use.
- (vii) Support the objectives of Watling Chase Community Forest Plan (1995) which states – Additional opportunities may be created by extending the Gardens of the Rose.

Design Summary

The design of the 'biome' incorporates the functionality required of a climatically sensitive building with the simplicity of form essential to an environmentally sensitive location.

It incorporates the ecological requirements of its occupants and provides the facilities necessary to ensure that the educational and research functions are satisfied.

The design is limited in its impact upon the Green Belt and sympathetic to both the existing landscape and the design of the proposed landscaping.

It incorporates sustainable design principles in its environmental control system, its selection of materials and its recessed form.

The facilities provide for conservation education for all ages with specific importance attached to the facilities for children.

The orientation, location and inclination of the dome combine with the landscaping to produce a form which satisfies the aspirations of its users, the needs of its occupiers and the desires of its visitors while harmonising with its surroundings.

Landscape summary

It is the intention to create not just an interesting landscape environment, but one that sits comfortably within its existing landscape setting. The new landscaping will reinforce the existing hedgerow and boundary patterns as well as introducing a substantial area of new tree planting. This together with new hedges, shrubs and other soft landscape will create a rich and varied habitat, which will enhance the immediate environment, improve the visual amenity and provide for a much improved recreational resource.

In addition it will help to provide opportunities for access to the open countryside for the urban population by improved access to the enhanced land with better cultivated areas and new meadowland.

It will provide opportunities for outdoor recreation near urban areas; by providing external areas of interest for ramblers, horticulturists, entomologists, botanists and conservationists.

Highways Matters

The Butterfly Gardens Project is expected to add just over 1% traffic to the A405 in a typical evening peak period. This is not a significant increase in traffic. Therefore the proposals will not adversely impact the local or strategic road network.

The majority of traffic to the Butterfly Gardens Project will remain in the off peak periods and months of the year, as is currently the case.

Parking for up to 405 vehicles is expected to meet demand for the majority of days. For the few days when this capacity is exceeded, there is space to provide overspill parking.

The Butterfly Gardens Project access proposals operate well within capacity in 2020 during a typical weekday evening peak period with maximum queues of 1 vehicle, allowing for the expected Thistle Hotel traffic.

The Butterfly Gardens Project on its predicted busiest day of the year, Easter Bank Holiday Monday, is estimated to generate 733 cars and 33 coaches over an eight hour period. The peak hour is 17:00 to 18:00 when 275 cars and coaches are predicted to leave. At this time in 2020, the proposed access to the A405 is predicted to operate with queues of 2 vehicles, allowing for the permitted Thistle Hotel flows. The permitted access arrangements are therefore more than adequate for the maximum expected amount of traffic.

Relevant Planning Policy

National Planning Advice:

PPG2	Green Belts
PPG7	The Countryside, Environmental Quality and Economic and Social Development
PPG21	Tourism
PPG16	Archaeology

Hertfordshire County Council Structure Plan Review 1991-2011 and Alterations 2001-2016:

Policy 1	Sustainable Development
Policy 2	Design and Provisions of Development
Policy 5	Green Belt
Policy 20	Tourism
Policy 22	Reduction in travel need and car usage
Policy 25	Car Parking
Policy 27	Highway improvements other than to primary routes
Policy 29	Traffic and safety implications of development proposals
Policy 38	Critical capital and other important environmental assets
Policy 48	Right of Way

St. Albans District Local Plan Review 1994:

Policy 1	Metropolitan Green Belt
Policy 34	Highway Considerations in Development Control
Policy 39	Parking Standards General Requirements
Policy 69	General Design and Layout
Policy 74	Landscaping and Tree Preservation
Policy 97	Existing Footpaths and Bridleways

St Albans District Local Plan Review 1994, Section 11 – Tourism – identifies the primary objectives of the tourism strategy. The strategy states that "... other tourists facilities need to be upgraded and new ones promoted, in order to increase the enjoyment and convenience of visitors and to attract new tourists." Gardens of the Rose is a tourist attraction within the District.

Policy 105	Landscape Development and Improvement
Policy 143A	Watling Chase Community Forest

Relevant Planning History

- 5/88/0101 Temporary building as gift shop. Granted 8.4.88.
- 5/90/2152 Temporary building as gift shop. Granted 8.1.91.
- 5/90/2214 Change of use of land to Gardens of the Rose. Refused on grounds of increase in traffic and commercial activity along Chiswell Green Lane to the detriment of the free flow of traffic 9.1.91.
- 5/91/0730 Change of use of land from agricultural to Gardens of the Rose. Granted 18.6.91.
- 5/91/2274 Extensions to Gardens of the Rose. Granted subject to a Section 106 Agreement to widen and upgrade Chiswell Green Lane – 21.4.95. The drawings accompanying the permission identify the visitor centre, information and parking.
- 5/96/0009 Retention of temporary building. Granted 12.2.96.
- 5/99/0055 Erection of horticultural training and research complex, visitor centre, cafeteria, ancillary buildings and new access drive.

Called in for determination by The Secretary of State. Granted planning permission (by the Secretary of State) following a Public Inquiry heard by a Planning Inspector on 25 October 2000.

In considering the proposal at appeal the Planning Inspector and Secretary of State made a number of points concerning the proposal.

The basis on which the Secretary of State determined the application included consideration on whether the proposals represented inappropriate development in the Green Belt.

The Planning Inspector considered that the three larger buildings would complement the use of the land as gardens and trial grounds. The Secretary of State noted that the uses have developed and continued for 40 years with only modest facilities for visitors and no drawing facilities. It was noted that the purpose of the buildings was to secure for the future those uses to facilitate the expansion of the Gardens and an increase in the numbers of visitors that could be attracted.

The Secretary of State and the Planning Inspector agreed that the buildings could not be considered as essential for outdoor recreation or another use, which preserves the openness of the Green Belt. Scale took them outside the intentions of Paragraphs 3.4 and 3.5 of PPG2. Their absolute size was substantial. They would harm the fundamental aim of maintaining openness and offend the purpose of including land in the Green Belt by encroaching on the countryside. Very special circumstances needed to be shown to exist to justify allowing the development in the Green Belt.

The issues were:-

1. whether very special circumstances existed which would justify allowing the proposed development.
2. the impact of traffic on amenity and the local highway network, the need for the level of parking and provision for access by other means of travel.

On the matter of very special circumstances, the Secretary of State and the Planning Inspector agreed that the potential to attract others than those with a real interest in roses was limited by the lack of indoor interest and opportunities at the site and the poor quality of

the minimal facilities that exist at present. Both felt the proposed horticultural training and research complex, visitor centre, garden cafeteria and car park would serve the Green Belt objectives of encouraging outdoor recreation and further access to a largely rural experience within the countryside.

The Secretary of State accepted that the proposals offered good arrangements for group travel and achieved the aims of the Council in respect of tourism. He was satisfied that there was undoubted potential to attract more tourists to the City and agreed that improvements to visitor facilities at the Gardens would assist in the marketing of the City.

The Secretary of State was satisfied that there would be significant benefits to highway safety and to residential amenity for those living on Chiswell Green Lane which greatly exceeded any disadvantage to those overlooking the proposed access.

The Secretary of State was satisfied that visitor income was essential and must be increased if expansion of the Gardens was to proceed. Existing facilities were poor. None of the proposed uses could be accommodated within the existing Headquarters and the mass of an extension would have a greater visual impact, particularly as the Headquarters is on a hilltop.

The Planning Inspector concluded that the visual impact on the countryside would be very modest. The proposed access road would not be seen from homes to the east and views of traffic would be modest in the early years.

The Secretary of State concluded that the harm caused by the inappropriateness and any other harm was outweighed by the benefits arising out of the development. Consequently very special circumstances existed which justified the proposed development.

On the impact of traffic, the Secretary of State and Planning Inspector agreed that any residual harm would be outweighed by the removal of the significant problems in Chiswell Green Lane.

Greater intrusion into open countryside would occur if the access road were moved to the west. The Secretary of State noted that the Gardens generated traffic almost entirely at off peak times. The Highway Agency and Highway Authority were content that the proposals would neither cause interruption to the free flow of traffic nor a danger to road users. The Secretary of State was satisfied that the site could accommodate the likely parking demand.

The overall conclusion of the Secretary of State, who agreed with the Planning Inspector was that the balance of advantage was clearly in favour of the proposal.

Representations

St Stephens Parish Council

We have no objections to this application but it is essential that the new access road is built to Noke Lane prior to the work on this application being undertaken. All construction traffic must then use the new road and not Chiswell Green Lane.

An hours of construction condition should also be in place.

Advertisement

The proposal was advertised as a departure from the Development Plan on 09.07.03. A site notice has been displayed.

Adjoining Occupiers and Interested Parties

Daneswick, Little Daneswick, The Caravan, Noke Lane, 46, 61-71 (all) Chiswell Green Lane, 18 Holmes Court, Carlisle Avenue, 42 Marshals Drive, 14, 16, Westfields, 16 Kingshill Avenue, 24 Fontmell Close, 84 Ragged Hall Lane, 27 The Croft, 22 Fryth Mead, 1 Hawthorn Way, 80 Watford Road, 95 Fishpool Street, 19 Laburnum Grove, 3, 5 Cherry Hill, 30, 36, 38, 40, 44, 50, 54, 55, 56, 60, 68 Long Follow. 26 Old Orchard, Park Street, 59 Orchard Drive, Park Street, 6 Pipers Close, Redbourn, East Farm, Potters Crouch, 15 Sauncey Avenue, Harpenden, 44 Riverside Road, Oxhey, Watford, 61 Bluebridge Road, Oxhey, Watford, 61 Bluebridge Road, Brookmans Park, 2 Lodge Close, Bengeo, Herts Chamber of Commerce, Herts TEC 45 Grosvenor Road, St Albans, Community Forest, CPRE, Cyclists Touring Club, 17 Tudor Road, Wheathampstead, British Horse Society, 57 Mount Pleasant Lane, Alban Developments c/o Ottaways, 1 St Peters Street were notified on 30.06.03.

A letter of objection has been received from 2 Appspound Lane, making the following points:

1. The Gardens of the Rose are in the Green Belt.
2. This is a very large development.
3. Considerable traffic increase.
4. Threat to the openness of the area.

Letters of support have been received from 19 Laburnum Grove, 61 Bluebridge Road, Brookmans Park, and 42 Marshals Drive making the following points:

- Visitors come from all over the world.
- Teaching, training and research facilities are needed.
- The season can be extended and the public will appreciate roses more.
- Impact will be small by sinking the development into the ground.
- There will be minimal visual disturbance to the landscape.
- The access is a good solution.
- It is an important centre for St Albans.

Consultations:

Archaeology

This application concerns a site that is within 500m of 8 archaeological or historic sites. These include buried earthworks visible on aerial photographs, upstanding earthworks probably of Roman or late prehistoric date in St Julians and Park Woods to the north of the site, and remains of Medieval moated sites to the south. An important piece of Iron Age decorated bronze (approximately 300-250BC) and now in the British Museum was found in the fields to the west of the site.

Although there are no recorded remains from the site itself there is therefore a considerable risk that important archaeological remains exist on the site. In view of the scale of earthmoving that will be involved in this proposal, any archaeological deposits on the site would be totally destroyed.

Planning Policy Guidance Note 16 Archaeology and Planning (PPG16) Paragraph 21 states that:

Where.....important archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before any decision on the planning application is taken.

It is therefore recommended that the developers are asked to arrange an archaeological evaluation of the site by means of a limited programme of trial trenching carried out by a professional archaeological organisation. This would enable the possible archaeological importance of the site to be established before planning permission is determined. This in

turn would allow for suitable measures to be taken for the protection and/or excavation of any archaeological remains that might be affected by the development.

If it is decided not to follow the guidance in PPG16, any grant of planning permission should include a requirement that the applicants enter into a legal agreement under which they arrange a programme of archaeological work after planning permission is granted but before any development takes place. Any such agreement should include proper contingency arrangements for the full excavation of archaeological remains and if necessary the publication of the excavation findings and the archiving of the excavated data.

An archaeological field evaluation has since been carried out. The further comments received state that the archaeological evaluation has been received and it is considered that from the information recovered by the applicants' consultants, the site is unlikely to contain important archaeological remains. No condition is required.

Policy

The site lies within the Metropolitan Green Belt, where Central Government policy guidance states that there is a general presumption against inappropriate development (i.e. any development not for the purposes described in paragraph 3.4 of PPG2).

PPG2 specifically states that:

'Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.'

Paragraph 3.13 of the guidance goes on to say that:

'When any large-scale development or redevelopment of land occurs in the Green Belt...it should, so far as possible contribute to the achievement of the objectives for the use of land in Green Belts...This approach applies to large-scale developments irrespective of whether they are appropriate development, or inappropriate development which is justified by very special circumstances..'

Whilst it is clear that the proposals will have an impact on the openness of the Green Belt and will be visible from a large area, consideration must also be given to whether there are any overriding benefits in the interest of the District which justify a departure from Central Government planning guidance and the adopted Local Plan.

From the plans, the location and design of the innovative dome structure appears to be sensitive to the topography of the area and considerable efforts have been made to reduce the visual impact of the building on the open countryside beyond.

It could be argued that the Butterfly World scheme would help to achieve the following national objectives for the use of land in Green Belts:

- to provide opportunities for access to the open countryside for the urban population;
- to secure nature conservation interest; and
- to enhance landscapes near to where people live.

In addition, there are clear tourism and educational benefits associated with the proposed development, particularly as the scheme would safeguard the future of the Gardens of the Rose on the same site. The adopted Local Plan does not say much in relation to new tourist attractions in the District. However, it is intended that the District Plan Second Review will include a new criteria-based policy which will ensure that the benefits from tourism are carefully balanced against the environmental impact of individual proposals.

It is likely that that assessment criteria will be similar to those set out below:

- Impact on the local environment
- Character of site and its likely relationship with proposed development
- Impact on landscape and ecology (including Green Belt and agricultural land)
- Traffic generation, access and parking considerations
- Impact on local facilities and infrastructure
- Accessibility by public transport
- Design in relation to scale, form, materials etc
- Buildings/structures related to proposed use
- Impact on the amenity of local residents
- Provision of open space/amenity areas
- Retention of natural landscape features
- Safeguarding of parks, gardens, archaeology etc
- Relationship to existing tourism development and whether the proposal is upgrading these facilities
- Whether the proposal would contribute to diversification of tourist attractions in District

In light of the above, there may be exceptional circumstances which justify the conditional approval of this development from a policy perspective. However, it is essential that very careful consideration is given to the detailed design proposals, to ensure that the impact on the Green Belt (both visually and in terms of traffic generation, intensification of use etc) is kept to an acceptable minimum.

Landscape

The proposed application stands in the Green Belt and will appear obtrusive from the gently sloping land to the south. The site falls within the St Stephens Plateau Landscape Character area and lies in an area recommended for landscape improvement. This development should provide more opportunities for major landscape improvement on a wider scale, but the development will create a major intrusion into the landform which will not easily be accommodated. The large areas of tree planting and other landscape features will not outweigh the damage caused.

There will be significant excavation into the plateau. There are several protected trees on the boundary and a major hedgerow. These should not be compromised.

Recommend refusal on the grounds of Policy 74 and Policy 1.

Hertfordshire County Council Countryside Access Officer

The drawing clearly shows Footpaths 28 and 44 as being unaffected. No objection.

Environment and Health

Any permission granted should include conditions relating to contractors parking, hours of construction, wheel washing, dust, noise, bonfires, soil decontamination, catering, air extraction and filtration, refuse storage and Informatives regarding noise on construction sites, registration of food premises and extraction and filtration systems.

Tourism Officer

As the St Albans Tourism Development Officer I would like to whole-heartedly support this planning application from a tourism perspective for the erection of a building for the exhibition of Butterflies at the Gardens of the Rose and all the components listed.

With the Tourism Development Officer's remit is the implementation of the SADC Tourism Strategy which has four key principles; Working in partnership, being sustainable, competition through quality and being market led. The strategy makes it clear that it wishes

to 'support development in the attractions sector' (Objective 4.5) and support initiatives that 'seek to extend the visitor season' (Objective 4.4). The strategy also intends to 'Create new market demand' (Objective 2), in particular develop products that 'encourage family days out' (Objective 2.9) and those which encourage a proactive approach to education (Objective 2.2).

This is just the sort of attraction St Albans should be attracting to the area as it will not only benefit the economy, increase visitor numbers, extend length of stay etc. but is a project which clearly fulfils many of the tourism objectives set out in the strategy. It will also create a centre of educational excellence that will benefit the area and put St Albans on the map in its own right. If we are ever going to achieve our goals of raising St Albans' profile to a national level, we will need the support of the private sector willing to invest in capital projects of national importance. This is the sort of project that will ignite enthusiasm in the media to promote St Albans further than is possible at the moment.

Below are a couple of interesting points:

- The approach from The Butterfly World Trust to locate in St Albans at the Gardens of the Rose has been welcomed from many quarters, as it would mean that the Gardens of the Rose (GOTR) would be secure for the foreseeable future. There is also considerable 'relief' as there are not many types of attractions that could actually compliment the GOTR, but a butterfly centre certainly does this. The other factor that is important here is that both the Royal National Rose Society and The Butterfly World Trust both have world-wide respect for their specialist fields so bringing them together would also be mutually beneficial particularly as there are clear shared priorities such as conservation, research and education.
- The Gardens of the Rose has always been one of the St Albans' main tourist attractions and has significance UK wide as the home of the Royal National Rose Society. However at present the Gardens of the Rose's future (as a visitor attraction) is in jeopardy due to financial problems and their ability, in the current climate, to attract sufficient visitor numbers. Therefore if nothing is done in the near future, it is likely that the Gardens of the Rose will not survive as a visitor attraction. To lose it would not only be a big blow to the local economy, but would have a national impact as well.

Countryside Access Officer

No objection to this application.

Highways Agency

Wishes to make no comment on the application.

Herts Environmental Records Centre

HBRC have records of a possible bat roost at Bone Hill. All bats are European Protected Species. A survey is recommended. This should be carried out by a licensed bat worker. A method statement will be required if Bats are found and a Habitats Regulations Licence obtained.

There are also concerns about the ground levels and how they will be achieved and what material used, the effect of the access road on open farmland, field margin habitats and areas of semi-improved grassland. Queries are raised concerning the proposed reed bed and species to be introduced.

The scheme offers opportunity for ecological gain. A detailed management plan should be sought via condition or Section 106 Agreement.

East of England Tourist Board

The proposed development is likely to have a major impact on the tourism and leisure industry in Hertfordshire and on the south west of the region. It could well serve to be Hertfordshire's 'flagship attraction' due to its innovative size and shape.

New large visitor attractions receive a great deal of publicity and therefore displacement of day visitors who would typically visit attractions around the area is likely to take place, especially during its first year in operation. According to our database there are 65 visitor attractions operating within a 20 mile radius of the proposed development site. There is also an existing butterfly park in Bedfordshire (approximately 45 miles away), which will no doubt be directly affected by this development; especially its schools group market that originates from both Luton and Milton Keynes, which are located between this existing site and the proposed development.

However, due to its location near the M1 and M25 motorways this new development is also likely to have considerable pulling power in attracting visitors from London and the South East who would not typically visit Hertfordshire or other counties of the region.

Although we encourage the development of this project, we would expect significant marketing promotion of neighbouring visitor attractions as referral opportunities to on-site visitors and participation in joint marketing initiatives.

Hertfordshire County Council Forward Planning Unit

- The site is in the Metropolitan Green Belt. Very special circumstances need to be demonstrated.
- The proposed development should be considered in the layout of the updated Structure Plan Tourism Policy.
- Prior approval is required for a full land survey with indicative contours, a full landscape survey, a habitat survey, soil landscape survey, detailed landscape and earthworks proposals, land drainage assessments.
- Public transport funding for bus services and infrastructure improvements should be sought via a Section 106 Agreement.
- A marketing strategy and publicity should be secured via a Section 106 Agreement.

Hertfordshire County Council Development Control Engineer

The application is for an erection of a building for the exhibition of butterflies and associated plants with related horticultural training and research complex, visitor centre, cafeteria, coach/car parking and access drive. Initial comments on the application and the Transport Assessment prepared by WSP consulting engineers in support of the proposed development are set out below:

Traffic Generation

- The volume of predicted traffic generated by this development has been calculated based upon one similar site in Stratford upon Avon, which is a butterfly farm and attracts on average 90,000 visitors per annum. It is accepted that the main use by visitors to the Butterfly Gardens Project would remain mainly at weekends and off morning peak period and mostly during the summer months. However, there are no details submitted of the site in Stratford upon Avon in terms of its scale, facilities available within the site or whether they are comparable to the proposed development. The proposed training and research complex itself comprises 162 seat lecture hall, library and meeting rooms, that could result in a large volume of traffic if it were used for say conference functions. There would also be 55 members of staff, deliveries of plants, food, and retail goods etc, which have not been included in the traffic generation.

- No information has been provided as to whether there will be special functions such as open air concerts and fireworks displays, which currently take place regularly throughout the summer in the Gardens of the Rose. Such events could have considerable impact on traffic flows.
- Clarification is required of the peak day visitor rate of 1.3% derived from the absolute daily peak in any year. Appendix 1 provides only for May 2002 data, which indicates 1.1% for the percentage of annual visitors during the Easter Bank Holiday.
- There are 2 stops on Watford Road (B4630) in the proximity (800m) of the proposed development. Both stops currently have Parish bus shelters. The northbound stop has 2 parish shelters in good condition which may not need replacing and the southbound stop ought to have its scruffy shelter replaced with a wooden shelter or non-advertising shelter as this will be more sympathetic towards the character of the area. Both bus stops will require infrastructure improvements including new posts, new hardstands, kassel kerbing, bus cage markings and possible new shelters.
- The pedestrian entrance to the site measured from the existing bus stops at B4630 are double the recommended maximum walking distance of 400m in Hertfordshire's Bus Strategy. There is a suitable footpath for only 200m and the remaining 600m is on a country lane without pavement. Consideration should be given to provide a suitable footway provision along this section. It is also unlikely that visitors would wish to use the southern bus stops near Noke Lane as they are on the other side of the dual carriageway.
- Consideration should be given to marketing and publicity. It needs to include the details of the new service, bus zones and explore –
 - Integrated ticketing between rail journeys and bus services
 - Leaflets
 - Promotion at bus stops
 - Incentives to use public transport

A supplementary Transport Impact Assessment has been carried out to cover the above points. Any further comments will be reported at the meeting.

Orally Hertfordshire County Council have indicated that there is no objection to the proposal following the updated Traffic Impact Assessment.

Discussion

The issues for consideration are appropriateness in the Green Belt and very special circumstances, visual impact, landscaping, access, parking, effect on adjoining occupiers, and amenity. Consideration needs also to be given to the planning history, in particular the resolution of the Secretary of State to grant permission for three large buildings at the Gardens of the Rose following a Public Inquiry (ref. 5/99/0055).

The current proposal is different from that considered previously by the Secretary of State in two principle ways. Firstly, the proposed is submitted by the Royal National Rose Society in conjunction with Butterfly World as a joint inter-linked venture to secure the long term future of the Gardens of the Rose. Secondly, visually the scheme comprises one single large partly underground dome as opposed to the three large detached buildings. Essentially, many of the other issues are similar to those addressed in connection with the previous scheme which was granted permission by the Secretary of State following a Public Inquiry.

Green Belt

In Green Belt terms, as was the case with the scheme which was the subject of the previous inquiry, the biome is to secure the future of the Gardens of the Rose and their expansion in

conjunction with the linked establishment of Butterfly World. The 'biome' cannot be considered as essential for outdoor recreation or another use which preserves the openness of the Green Belt. The scale of the structure takes it beyond the intentions of PPG2. Its size is substantial and would harm the fundamental aim of maintaining the openness of the area and be against the purpose of including land in the Green Belt. By encroaching on the countryside, the ecodome is inappropriate development in the Green Belt. Very special circumstances, therefore, need to be justified for allowing the development.

In the same manner that the Secretary of State and the Planning Inspector regarded the previous proposal as meeting Green Belt objectives, it is considered the 'biome', comprising the proposed horticultural training and research complex, visitor centre and Butterfly World facilities would serve the Green Belt objectives of encouraging outdoor recreation and further access to a largely rural experience within the countryside. The ability to attract others than those with a real interest in roses is limited at present. The existing minimal facilities are of a poor quality. The Secretary of State attached importance to the potential to attract more tourists to the city, seeing tourism as a special circumstance. Visitor income for the Gardens of the Rose is essential and must be increased if expansion is to proceed.

The concept of an extension to the existing HQ building as an alternative was ruled out.

Very special circumstances are considered to exist to justify this proposal in the Metropolitan Green Belt, taking into consideration the joint approach with Butterfly World and the change of approach involving a single large biome as opposed to three larger buildings. The proposal accords with Policy 1 of the St Albans District Local Plan Review 1994 and Policy 5 of the Hertfordshire County Structure Plan Review 1991-2011 and Alterations 2001-2016.

Visual Impact

The site is on land which falls to the south towards Noke Lane. The northern boundary of the Gardens of the Rose runs along Chiswell Green Lane, along a ridge. Although the 'biome' has a diameter of 100m and as a single structure is larger than the three buildings for which permission has been granted, it will be more suited to the undulating landscape and will not be seen above the existing ridge when viewed from the south. The visual impact, although different, is not considered to be any more harmful to the rural character of the area or the Metropolitan Green Belt than the three large buildings allowed by the Secretary of State. The impact of the access, driveway and car parking area will be of a similar nature to the impact of those aspects in the previous scheme.

Access and Parking

The Inspector and Secretary of States in the previous decision considered there would be significant benefits to residents on Chiswell Green Lane which would outweigh any residual harm. The position as proposed would minimise visually any intrusion into open countryside. The Inspector and Secretary of State were satisfied that the traffic impact assessment was a sufficiently robust assumption about traffic growth. The Highways Agency and Highway Authority were at that time content that the proposals would cause neither interruption to the free flow of traffic nor a danger to road users. A traffic impact assessment has been provided with this application and assessed by Hertfordshire County Council and subject to adjustments and amendments and the provision of further information, has resulted in the same conclusion. There is no objection from the Highways Agency in any case.

The site can satisfactorily accommodate the parking demands of the development. A total of 405 spaces, plus 12 coach parking bays are proposed and are considered acceptable to meet the needs of the proposal.

Residential Amenity

The dwellings most affected by the development are those between the site and the western side of Watford Road, and those along Chiswell Green Lane.

The Inspector and Secretary of State both came to the view on the occasion of the previous application that there would be no serious adverse harm to residents to the east as a result of the physical form of the development, or the access road and its associated activity. This is still considered to be the case.

As far as residents in Chiswell Green Lane are concerned there is a clear benefit as a result of the proposal, as was the case with the previous scheme. The redirecting of visitor traffic to arrive at the site via an access off Noke Lane would improve the amenity and quality of environment of those residents. It would reduce traffic along the narrow Chiswell Green Lane and the associated impact.

There is no adverse effect on residential amenity as a result of the proposal.

Landscape

The development is on land sloping to the south with existing vegetation along the northern boundary which runs along a ridge and along Chiswell Green Lane. The 'biome' and access road will be visually obtrusive and there are concerns in this respect indeed an objection has been made by the Landscape Section. There is, however, scope for major landscape improvement in conjunction with the application, on a very wide scale. Consideration in landscape terms has to be given to the scale and visual impact of the previously approved access road and three large buildings. These too would have been obtrusive in the landscape but the Secretary of State still found the proposal acceptable. On this basis it would be difficult to justify a refusal of planning permission for the development proposed on the basis of Policy 74 of the St Albans District Local Plan Review 1994.

Tourism

The importance of tourism both to secure the future of the Gardens of the Rose and as the importance of St Albans and the local economy was recognised by the Secretary of State and the Inspector.

The proposal would provide opportunity for access to the open countryside by the urban population secure a nature conservation interest and enhance the landscape.

The St Albans District Local Plan Second Review and Policy 20 of the County Structure Plan deal with Tourism. The Local Plan Review will include a criteria based approach to ensure the benefits from tourism are carefully balanced against the environmental impact of individual proposals.

As part of the overall assessment of this proposal, consideration has been given to the impact on the local environment; the character of the site and its relationship with the proposed development; the impact on the landscape and ecology; traffic generation, access and parking; impact on local facilities and infrastructure; accessibility by public transport; design in relation to scale, form and materials; the buildings associated with the proposed use; impact on amenity; retention of natural landscape features; archaeology; the relationship to the existing facilities at the Gardens of the Rose and the contribution to the diversification of tourist attractions in the St Albans District.

The Council's Tourism strategy supports development in the attractions sector and initiatives which seek to extend the visitor season. The strategy intends to create new market demand and to encourage family days out and those with a proactive approach to education. The proposal will benefit the local economy, increase visitor numbers and fulfils many of the tourism objectives. The approach from the Butterfly World Trust would secure the future of the Gardens of the Rose. Both have world-wide respect for their specialist fields. They will be mutually beneficial with clear shared priorities such as conservation research and education. Indeed the Gardens of the Rose has always been one of St Albans' main tourist attractions. It is important that it survives otherwise the impact on the economy will be national as well as local.

Environment and Health

In Environment and Health terms the main issues involve construction works and associated nuisance and disturbance and control over catering activities. It is considered that these matters will best be addressed via planning conditions.

Archaeology

Following the commissioning and carrying out of a field evaluation by the applicants, the details have been provided to the Authority. It is clear that there are no issues of archaeological importance arising out of this proposal.

Other matters

Other matters raised in response to the application involve the provision of a contoured land survey, landscape survey, habitat survey, soil survey and vegetation survey. These matters can best be addressed via the imposition of a condition seeking their provision prior to commencement. Matters relating to public transport funding and marketing can be covered with a Section 106 Legal Agreement.

Conclusion

In conclusion the proposal is inappropriate development in the Metropolitan Green Belt. There are however very special circumstances to justify the proposal and outweigh the harm caused. These include the importance of maintaining the tourist attraction, improved amenity for residents in Chiswell Green Lane and the highway improvements. The proposal provides opportunity for landscaping and provides adequate parking. There is no change to highway safety subject to improvements that will be sought. It is considered the proposal, subject to conditions and a Section 106 Agreement will comply with policies in the Hertfordshire County Structure Plan Review 1991-2011 and Alterations 2001-2016 (1, 2, 5, 20, 22, 25, 27, 29, 38 and 48) and the St Albans District Local Plan Review 1994 (Policies 1, 34, 39, 69, 74, 97, 104 and 143A).

The following recommendation is made in accordance with the above and also having regard to the Human Rights Act 1998.

Recommendation

- I. The application be referred to the First Secretary of State as a departure from the Development Plan.
- II. Should the First Secretary of State decide not to intervene in the application, permission be **GRANTED** subject to the following conditions and subject to the applicants, within six months of the date of this permission, entering a Legal Agreement pursuant to Section 106 of The Town and Country Planning Act 1990 in respect of the following matters:
 1. Highway improvements to Noke Lane.
 2. Financial contribution towards passenger transport and integrated ticketing.
 3. Retention of pedestrian and cycle access from Chiswell Green Lane.
 4. Highway sign improvements.
 5. Cycle parking.
 6. Contribution to marketing and publicity.

7. Footpath link to Noke Lane.

III. Conditions:

1. C003 (Time Limit – Full)
2. C022 (Notification of Start of Development)
3. C065 (Hard Surfacing)
4. C069 (Details of Materials)
5. C088 (Levels)
6. C089 (Slab Levels)
7. C091 (Construction Site Compound)
8. C092 (Contractors Parking)
9. C093 (Hours of Construction)
10. C096 (Wheel Washing)
11. C105 (External Loudspeakers)
12. C106 (External Lighting)
13. C114 (Noise and Vibration)
14. C115 (Dust)
15. C117 (No Nuisance – General)
16. C190 (Access for Disabled People) (access to the 'biome')
17. C200 (Hours of Opening – Food Premises)
18. C400 (Car Parking – Detailed) (the approved plan)
19. C560 (Hedge/Hedgerow Protection)
20. C565 (Landscape Design Proposals)
21. C566 (Soft Landscape Works) (Condition 21)
22. C567 (Landscape Works Implementation)
23. C568 (Details of Earthworks)
24. C575 (Landscape Management Plan)
25. C577 (Tree/Plant Replacement) (3 months)
26. Prior to the commencement of development, a detailed schedule of works to the public footpaths, including surfacing, any tunnel structures and other clay works, shall be submitted to and approved in writing by the Local Planning Authority.

27. The proposed access road and widening of Noke Lane between the new access road and the A405 shall be constructed and laid out in accordance with further details to be submitted and approved in writing by the Local Planning Authority and shall be satisfactorily constructed prior to the commencement of any other part of the development hereby permitted.
28. The widening of Noke Lane between the new access road and the A405 shall include provision for cyclists.
29. Covered secure cycle parking provision for 30 bicycles shall be provided in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority.
30. A detailed routing programme for all vehicles relating to the construction of the site shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. Details of all intended signs shall be as agreed by the Local Planning Authority prior to installation.
- X 31. No access by foot or by vehicle, to or from the site, shall take place from Chiswell Green Lane other than in conjunction with the administration of the Gardens of the Rose Society. No visitor access to the site by motor vehicle shall take place via Chiswell Green Lane other than in conjunction with the management of the Royal National Rose Society.
32. Details of the surfacing material to the emergency access drive and method of preventing visitor access to Chiswell Green Lane shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of site works.
33. Prior to the commencement of development the following should be submitted and approved in writing by the Local Planning Authority-
 - a full land survey including indicative contours
 - a full landscape survey
 - a habitat survey
 - a soil survey
 - a vegetation survey
 - detailed landscape and earthwork proposals
 - land drainage assessment
34. No importation of earth, or other land fill or material to the site or exportation of earth or excavated material from the site shall occur without the prior written approval of the Local Planning Authority.
- X 35. Sales of food or drink to customers shall only take place on the premises between the hours 09.00 hours and 22.30 hours and no vehicles other than those used by staff shall be removed from the site after 23.00 hours on any day. *insert*
- X 36. The development hereby permitted shall be used only for purposes directly related to the use of the site for horticulture, horticultural training, research, butterfly keeping and for visits by the public to the Gardens and Butterfly World and for no other purpose without the prior approval in writing of the Local Planning Authority. ~~Maintained Gardens of the Rose shall be kept with public access during opening hours, in accordance with details which shall be submitted to and agreed in writing by the Local Planning Authority.~~

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Reasons:

1. R003

2. R022
3. R065
4. R069
5. R088
6. R089
7. R091
8. R092
9. R093
10. R096
11. R105
12. R106
13. R114
14. R115
15. R117
16. R190
17. R200
18. R400
19. R560
20. R565
21. R566
22. R567
23. R568
24. R575
25. R577
26. To comply with Policy 97 of the St Albans District Local Plan Review 1994.
27. To comply with Policy 34 of the St Albans District Local Plan Review 1994.
28. To comply with Policy 34 of the St Albans District Local Plan Review 1994.
29. To comply with Policy 34 of the St Albans District Local Plan Review 1994.
30. To comply with Policy 34 of the St Albans District Local Plan Review 1994.
31. To comply with Policy 34 of the St Albans District Local Plan Review 1994.

32. To comply with Policy 34 of the St Albans District Local Plan Review 1994.
33. To comply with Policies 69,74 and 106 of the St Albans District Local Plan Review 1994.
34. To comply with Policy 69 and 34 of the St Albans District Local Plan Review 1994.
35. To comply with Policy 69 of the St Albans District Local Plan Review 1994.
36. To comply with Policies 1 and 69 of the St Albans District Local Plan Review 1994.

Informatives:

1. The attention of the applicant is drawn to the Control of Pollution Act 1974 relating to the control of noise on construction and demolition sites.
2. The attention of the applicant is drawn to the requirement for all food businesses to be registered with the Council. Application forms can be obtained from the Council's Head of Environmental Health.
3. The attention of the applicant is drawn to the advisory notes on extraction and filtration systems for food premises available from the Council's Environment and Health Department.
4. The applicants attention is drawn to the Section 106 Legal Agreement under the Town and Country Planning Act 1990 attached to this permission in respect of the following matters:
 1. Highway improvements to Noke Lane.
 2. Financial contribution towards passenger transport and integrated ticketing.
 3. Retention of pedestrian and cycle access from Chiswell Green Lane.
 4. Highway sign improvements.
 5. Cycle parking.
 6. Contribution to marketing and publicity.
 7. Footpath link to Noke Lane.

Drawing Nos: PL/AL011,13,16,04,05,01,17

O.S. Grid Reference: TL 5124 2045

Decision Notice Code: A1

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Report Written : 04.02.04

Officer : A V Moorhouse

Bibliography

<u>Title of Background Documents</u>	<u>Custodian & Tel. No</u>	<u>File Location</u>
Hertfordshire County Council Structure Plan 1991-2011 adopted April 1998 and Alterations 2001-2016:	Mrs W Burt 01727 866100 x2347	Council Offices Civic Centre St Peters Street St Albans, AL1 3JE
St Albans District Local Plan Review 1994 adopted November 1994 and Second Review Pre-Deposit Consultation		

Government Planning Policy Guidance.

Relevant Previous Planning Decisions

5/88/0101	Temporary building as gift shop. Granted 8.4.88.
5/90/2152	Temporary building as gift shop. Granted 8.1.91.
5/90/2214	Change of use of land to Gardens of the Rose. Refused on grounds of increase in traffic and commercial activity along Chiswell Green Lane to the detriment of the free flow of traffic 9.1.91.
5/91/0730	Change of use of land from agricultural to Gardens of the Rose. Granted 18.6.91.
5/91/2274	Extensions to Gardens of the Rose. Granted subject to a Section 106 Agreement to widen and upgrade Chiswell Green Lane – 21.4.95. The drawings accompany the permission identifies the visitor centre, information and parking.
5/96/0009	Retention of temporary building. Granted 12.2.96.
5/99/0055	Erection of horticultural training and research complex, visitor centre, cafeteria, ancillary buildings and new access drive. Called in by Secretary of State. Granted following Public Inquiry on 25.10.00 by the Secretary of State.

Consultations

Archaeology - 17.07.03, 08.07.03 & 04.02.04
Tourism (undated)
East of England Tourist Board - 21.07.03.
Environment and Health - 22.07.03.
Countryside Access Office - 14.07.03.
Highways Agency - 07.07.07.
Go East - 08.07.03.
Herts Biological Records Centre - 22.07.03.

Third Party Responses

G Helwig, 2 Appspend - 18.08.03.
J McCann, 42 Marshalls Drive - 17.07.03.
C Crick, 19 Laburnum Grove - 14.07.03.
P Farey, 47 Marshalls Drive - 10.07.03.

Section 65 Parties

The applicant.

Appendix 8 Photo of laminated letters attached to site on 09/01/2019 as part of Enforcement Investigation

Letter attached to Miriam Lane gates 19 January 2019.



Letter attached to Chiswell Green Lane gates 19 January 2019



Appendix 9 Copy of Planning Contravention Notice served 19/03/2021

IMPORTANT – THIS COMMUNICATION AFFECTS YOUR PROPERTY.

TOWN AND COUNTRY PLANNING ACT 1990

(As amended by the Planning and Compensation Act 1991)

PLANNING CONTRAVENTION NOTICE

SERVED BY: St Albans City & District Council.

To: BWP Ltd., c/o Breheny, Florden Road, Creeting St. Mary, Ipswich, Suffolk. IP8 8NH

To: Convene Construction Ltd., Francis House, 2 Park Road, Barnet, Herts. EN5 5RN

CC: Mr David Lane, DLA Town Planning Ltd., Unit 5, the Gavel Centre, Porters Wood, St. Albans, Herts. AL3 6PQ

- 1. THIS NOTICE** is served by the Council because it appears to it that there may have been a breach of planning control, within section 171A (1) of the above Act at the land described below. It is served on you as a person who appears to be the owner or occupier of the land or has another interest in it, or is carrying out operations in, on, over or under the land or is using it for any purpose. The Council require you, in exercise of their powers under section 171C (2) and (3), so far as you are able, to provide certain information about interests in, and activities on, the land.

2. THE LAND TO WHICH THE NOTICE RELATES

The land formerly known as Butterfly World, now known as (and referred to within this document) The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY - shown edged in red on the attached plan.

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

Without planning permission, the unauthorised change of use of the land and unauthorised operational development; on the land formerly known as Butterfly World, now known as The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY comprising of:

- The unauthorised change of use of the land from Butterfly World visitor attraction to mixed uses that include, but are not limited to: car sales, car storage; scaffolding storage; home removals; vehicle recovery and Self-drive van hire.
- The unauthorised change of use of the land for the purpose of stationing shipping containers.
- Unauthorised operational development in the form of structures for associated unauthorised uses.
- Unauthorised retention of temporary structures related to the former Butterfly World

(v) Erection of fencing within the site higher than 2m

(vi) Unauthorised display of Advertisements

4. WHAT YOU ARE REQUIRED TO DO:

Provide in writing, the following information:

- (1) Please identify the name and address of the owner(s) (including any mortgagee and / or mortgage company) of :-

a) The land formerly known as Butterfly World, now known as (and referred to within this document) The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY.

(all as identified in their approximate locations within the land outlined in red on the attached site plan).

Owner:
Mortgagee:
Mortgage Company:

- (2) Please identify the name and address and type of tenancy / tenure (including the length of tenancy) of any occupier(s) and tenant(s) of:-

a) The land formerly known as Butterfly World, now known as (and referred to within this document) The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY.

(All as identified in their approximate locations within the red lined land on the attached site plan).

Unit 1:
Unit 2:
Unit 3:
Unit 4:
Unit 5:
Unit 6:
Unit 7:
Unit 8:
Unit 9:
Unit 10:
Unit 11:
Unit 12:
Please continue below to add any further Units as necessary to ensure ALL units of operations are included.

- (3) Please specify the current use of all units created on the land (marked as 1 – 12 on the attached site plan within the red lined land.)
(All as identified in their approximate locations within the red lined land on the attached site plan).

Unit 1:
Unit 2:
Unit 3:
Unit 4:
Unit 5:
Unit 6:
Unit 7:
Unit 8:
Unit 9:
Unit 10:
Unit 11:
Unit 12:
Please continue below to add any further Units as necessary to ensure ALL units of operations are included.

- (4) Please confirm the date when the use changed from being Butterfly World visitor attraction, to its current use(s).

In your answer please indicate the use of each Unit as per the previous question. Please list ALL uses of the land.

(All as identified in their approximate locations within the red lined land on the attached site plan).

Unit 1:

Unit 2:

Unit 3:

Unit 4:

Unit 5:

Unit 6:

Unit 7:

Unit 8:

Unit 9:

Unit 10:

Unit 11:

Unit 12:

Please continue below to add any further Units as necessary to ensure ALL units of operations are included.

- (5) Please list all structures that have been erected / constructed / installed in relation to all the uses as listed in question (4). This should include all structures including shipping container / storage container; caravan or any other structure which is associated with each Unit.

Please list all relevant planning permissions for each structure erected / constructed / installed. If you believe that the structures do not require formal planning permission, please state why you believe this.

Unit 1:

Unit 2:

Unit 3:

Unit 4:

Unit 5:

Unit 6:

Unit 7:

Unit 8:

Unit 9:

Unit 10:

Unit 11:

Unit 12:

Please continue below to add any further Units as necessary to ensure ALL units of operations are included.

- (6) Please confirm the date that the temporary structures that were associated with the former Butterfly World use have been removed.

Please identify each structure and the date of its removal.

--

- (7) Please confirm the date of the installation of the fences over 2 metres in height on the land that has been erected at The land formerly known as Butterfly World, now known as (and referred to within this document) The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY.

(All within the red lined Land on the attached site plan)

Date of installation of all fencing over 2 Metres

- (8) Advertisements: Please list any advertisements displayed on The land formerly known as Butterfly World, now known as (and referred to within this document) The Convene Enterprise Hub, Miriam Lane St. Albans Hertfordshire. AL2 3NY.

(All within the red lined Land on the attached site plan)

(Please identify their approximate locations within the land outlined in red on the attached site plan).

AD1:

AD2:

AD3:

Please continue below to add any further advertisement as necessary to ensure ALL advertisements displayed are included.

Time within which the information must be provided: within twenty-one days, beginning with the day on which this notice is served on you.

5. OPPORTUNITY TO MAKE REPRESENTATIONS IN RESPONSE TO NOTICE

If you wish to make an offer to apply for planning permission, or to stop carrying out any operations or activities, or to undertake remedial works; or to make any representations about this notice, the Council, or representatives of the Council, will consider them in writing at the District Council Offices, Civic Centre, St. Peter's Street, St. Albans, Hertfordshire AL1 3JE.

6. WARNING

It is an offence to fail, without reasonable excuse, to comply with any requirements of this notice within twenty-one days beginning with the day on which it was served on you. The maximum penalty on conviction of this offence is "level 3" on the standard scale, currently is a fine of £1,000, as provided by the Criminal Justice Act 1991. Continuing failure to comply following a conviction will constitute a further offence. It is also an offence knowingly or recklessly to give information, in response to this notice, which is false or misleading in any way. The maximum penalty on conviction of this offence is "level 5" on the standard scale, currently a fine of £5,000 as provided by the Criminal Justice Act 1991.

7. ADDITIONAL INFORMATION

If you fail to respond to this notice, the Council may take further action to deal with the suspected breach of planning control. In particular, they may issue an enforcement notice,

under section 172 of the 1990 Act, requiring the breach, or any injury to amenity caused by it, to be remedied.

If the Council serve a stop notice, under section 183 of the 1990 Act, section 186(5)(b) of the Act provides that should you otherwise become entitled (under section 186) to compensation for loss or damage attributable to that notice, no such compensation will be payable for any loss or damage which could have been avoided had you given the Council the information required by this notice, or had you otherwise co-operated with the Council when responding to it.

Dated: 19 March 2021

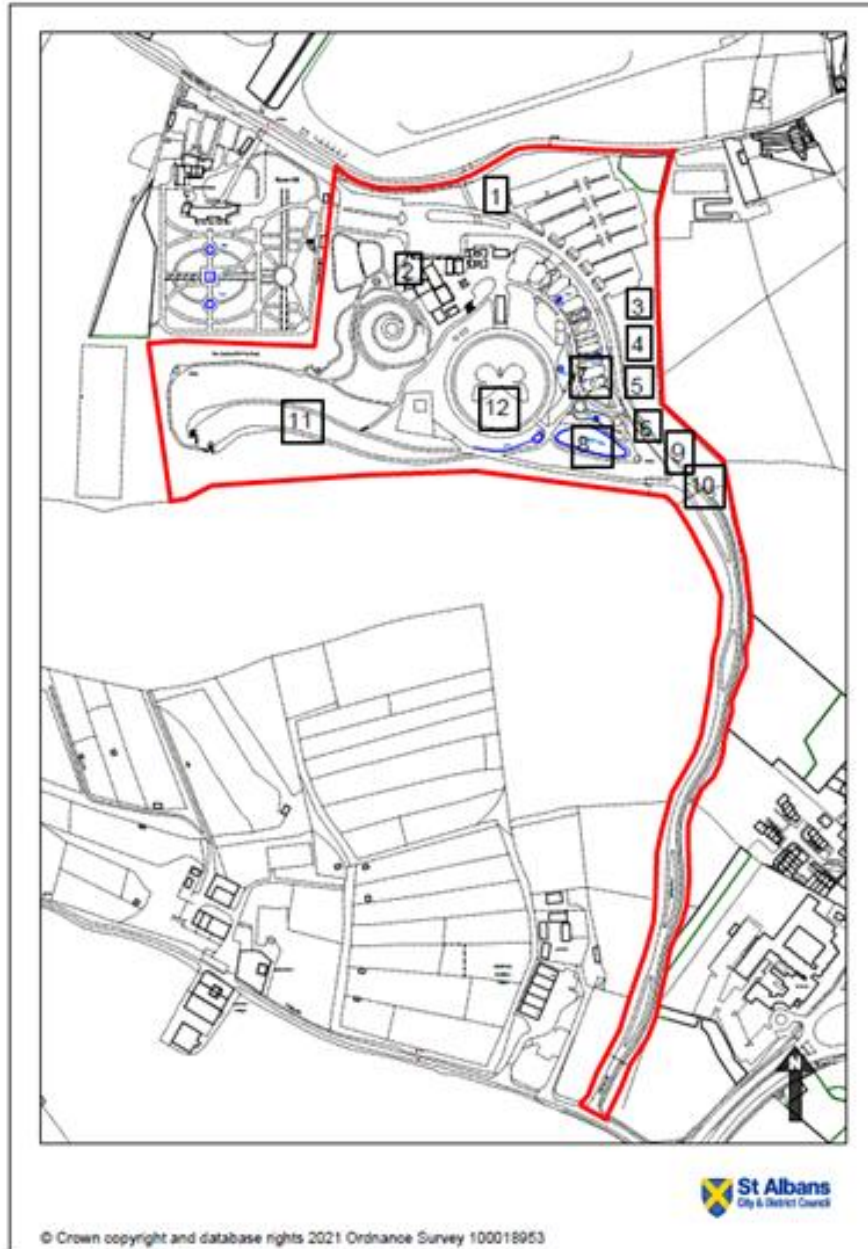
A handwritten signature in black ink, appearing to be 'TH' followed by a long horizontal stroke.

Signed:

On behalf of: St. Albans City & District Council, Civic Centre Offices, St. Peter's Street, St. Albans, Hertfordshire. AL1 3JE

SITE PLAN: The former Butterfly World now known as Convene Enterprise Hub, Miriam Lane, St. Albans, Hertfordshire. AL2 3NY

KEY: 1 - 12 – Units / compounds – marked in black



Appendix 10 Site visit photographs 05/05/2021

Photographs of temporary structures that have not been removed from the land as observed on 05 May 2021 Butterfly World: See entrance building – ‘B’ [payment booth] the tented white structure on the right currently in use by current occupiers. Grey double storey mobile office unit (unauthorised) is also being used as office space by the current occupants:



05 May 2021 former Butterfly World – Bee Hives - WC block – ‘A’:



05 May 2021 – Site visit photos of Removals company and storage facilities:



05 May 2021 – Site visit photos of building waste left on the land:



05 May 2021 – Site visit photos of hard surfaces (not approved under planning permission references: 5/1999/0055, 5/2003/1343, 5/2008/2877, 5/2008/2878, 5/2010/0872, 5/2014/3465 and 5/2014/3467)



05 May 2021 – Site visit photos of vehicle maintenance and associated structure



05 May 2021 – Site visit photos of vehicle parts



05 May 2021 – Site visit photos of recovery vehicles / caravans and other vehicles being stored on the land.



05 May 2021 – Site visit photos of motorcycles / storage container / vehicles on the land.



05 May 2021 – Site visit photos of cars being stored on the land in association with a car sales business.



05 May 2021 – Site visit photos of compound fencing over 2m in height on the land.



05 May 2021 – Site visit photos of vehicles being stored on the land.



05 May 2021 – Site visit photos of scaffolding business and associated structures and hard standing (not approved under planning permission references: 5/1999/0055, 5/2003/1343, 5/2008/2877, 5/2008/2878, 5/2010/0872, 5/2014/3465 and 5/2014/3467).



05 May 2021 – Site visit photos of car transporters parked on the land.



Appendix 11 Site visit photos of 07/09/2021

07 September 2021 – Site visit photo of 'A' – toilet block & 'B' – entrance building / payment booth.



07 September 2021 – Site visit photo of 'A' – toilet block & 'B' – entrance building / payment booth.



07 September 2021 – Site visit photo of 'A' – toilet block & 'B' – entrance building / payment booth.



07 September 2021 – Site visit photo of 'A' – toilet block.



07 September 2021 – Site visit photo of 'B' – entrance building / payment booth.



07 September 2021 – Site visit photo of hard surface.



07 September 2021 – Site visit photo of hard surface and scaffold storage [distant].



07 September 2021 – Site visit photo of scaffold storage.



07 September 2021 – Site visit photo of scaffold storage.



07 September 2021 – Site visit photo of hard surface.



07 September 2021 – Site visit photo of hard surface.



Appendix 12 Certificate of Service of both Enforcement Notices and associated photos

CERTIFICATE OF SERVICE

I William Carpenter of Hatwel Enforcement, PO Box 179 Welwyn Garden City, Hertfordshire, AL7 4GH do hereby confirm the following

1. I am employed by Hatwel Enforcement as a Certificated Enforcement Agent (bailiff) and have been a 'Bailiff' for the past 34 years
2. Under instruction from our client St Albans City & District Council, I served the following documents on the respondents
 - a. Enforcement Notice (Change of use)
 - b. Enforcement Notice (Breach of condition)
3. Service was effected as follows, against each respondent:
 - a. Convene Construction Ltd – at 16.00hrs on 21.10.2022 by personal service on male who identified himself as Eddy Cowen 'Convene Construction'
 - b. Bud Rescue & Recovery Ltd – at 16.04hrs at their office on site
 - c. Alliance Intelligent Scaffolding Ltd - notice served by attaching to post at entrance to this area of land at 16.08hrs on 21.10.22
 - d. London Broadway Car Sales Ltd - notice affixed to companies sign at entrance to this area of land at 16.10hrs 21.10.22
 - e. Car Webs Motors Ltd - notice affixed to post (with sign) at entrance to this area of land at 16.12hrs 21.10.22
 - f. Akers Removals Ltd - notice affixed to companies sign situated at the entrance to this area of land at 16.11hrs 21.10.22
 - g. Durkins Scaffolding Ltd - notice left attached to gates at this companies entrance to this area of land. 16.13hrs
 - h. KW Motors Ltd - notice left attached to sign on fence at entrance to this companies area of the land 16.14Hrs 21.10.22
 - i. Roy Smith - notice left attached to fence at entrance to the area of land (also known on map as Tractor Plant Storage at 16.17hrs 21.10.22
 - j. FV Removals Ltd - notice left on metal gate situated at the entrance to this companies area of land at 16.20hrs 21.10.22
 - k. Automart UK Ltd - notice left attached to post at entrance to this companies area of land at 16.21hrs on 21.10.22

- l. Mapach Ltd - notice left by attaching to fence (next to electric wooden entry gate) at entrance to this area land 16.22hrs 21.10.22
- m. SRS Limited (Smart Repair Shops Limited) - notice left by attaching to fence (next to electric wooden entry gate) at entrance to this area land 16.23hrs 21.10.22
- n. SAI Scaffolding and Plant Hire Ltd - notice left by attaching to fence (next to electric wooden entry gate) at entrance to this area land 16.23hrs 21.10.22
- o. *VIP Partybuses Ltd (this company was not known by Mr Cowen and he had no idea of where it would be situated, there were no vehicles seen that could be associated with a bus hire company on the site). It was implied that it could be a business situated on the entrance road where a set of gates were located. A notice was served at this area, though no sign was on this area and no contact established. Notice attached to fence at 16.30 hrs 21.10.22*
- p. Notice addressed to Convene Construction Limited attached to fence on curtilage of land situated on Chiswell Green Lane St Albans - served at 16.41 hrs 21.10.22
- q. Notice addressed to the John Nicholas Edward Breheny, attached to fence on curtilage of land situated on Chiswell Green Lane St Albans - served at 16.42 hrs 21.10.22
- r. Notice addressed to Butterfly World Project Limited attached to fence on curtilage of land situated on Chiswell Green Lane St Albans - served at 16.43 hrs 21.10.22
- s. 3 x Enforcement Notices Breach of condition & Material Change of use Notices attached to fence in different locations on curtilage of land situated on Chiswell Green Lane St Albans - served 21.10.22

I believe the facts stated in this certificate of service are true

William John Carpenter

Position Certificated Enforcement Agent (Bailiff)

Dated 24.10.2022



St Albans
City & District Council

STRATEGIC DIRECTOR (CUSTOMER SERVICE)
BUSINESS AND CORPORATE SUPPORT
SUZANNE JONES
Solicitor to the Council: Charles Turner
Our Ref: Legal/016656/DJE
Your Ref:

Please ask for: David Edwards
Direct Dial: 01727 819548
Email: david.edwards@stalbens.gov.uk

21 October 2022

Recorded Delivery

SRS Ltd (Smart Repair Shops Limited)
Worthy House
14 Winchester Road
Basingstoke RG 21 8UQ

A copy of this letter is also attached to the land

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 172
ENFORCEMENT NOTICE
END AT FORTHAM BUDSHIRE
LAND AT FORTHAM BUDSHIRE
ST ALBANS

Dear Sirs

The Council have issued an enforcement notice relating to the above land and I now advise you that the notice is now in force. (Copies of the notice are being served on others who, it is understood, have interests in the land.)

Unless an appeal is made to the Secretary of State, as described below, the notice will take effect on 20 October 2022 and you must then ensure that the required steps for compliance are taken within the period(s) specified in the notice.

The Council have issued an enforcement notice from The Planning Inspectorate which sets out the requirements for the enforcement notice. You must ensure that you comply with the notice so that normally it will be delivered by the Secretary of State (at The Planning Inspectorate) unless you make an appeal to the Secretary of State (at The Planning Inspectorate) within the period(s) specified in the notice.

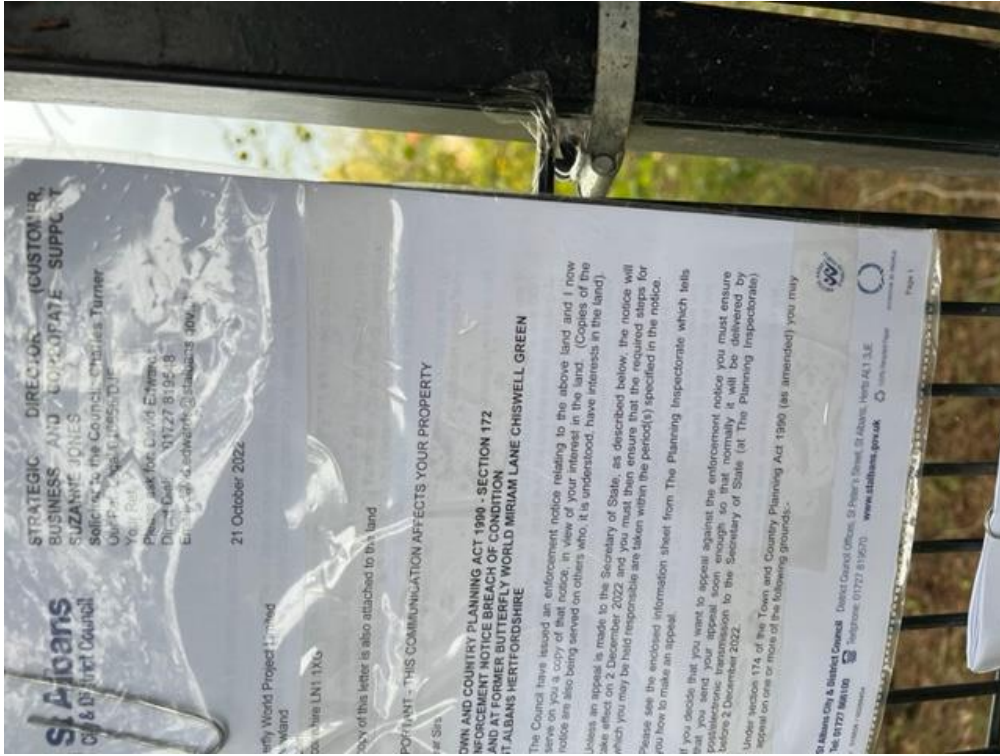
Please see the enclosed information sheet from The Planning Inspectorate which sets out the requirements for the enforcement notice. You must ensure that you comply with the notice so that normally it will be delivered by the Secretary of State (at The Planning Inspectorate) unless you make an appeal to the Secretary of State (at The Planning Inspectorate) within the period(s) specified in the notice.

If you have any queries please contact the Council on 01727 819548 or email david.edwards@stalbens.gov.uk

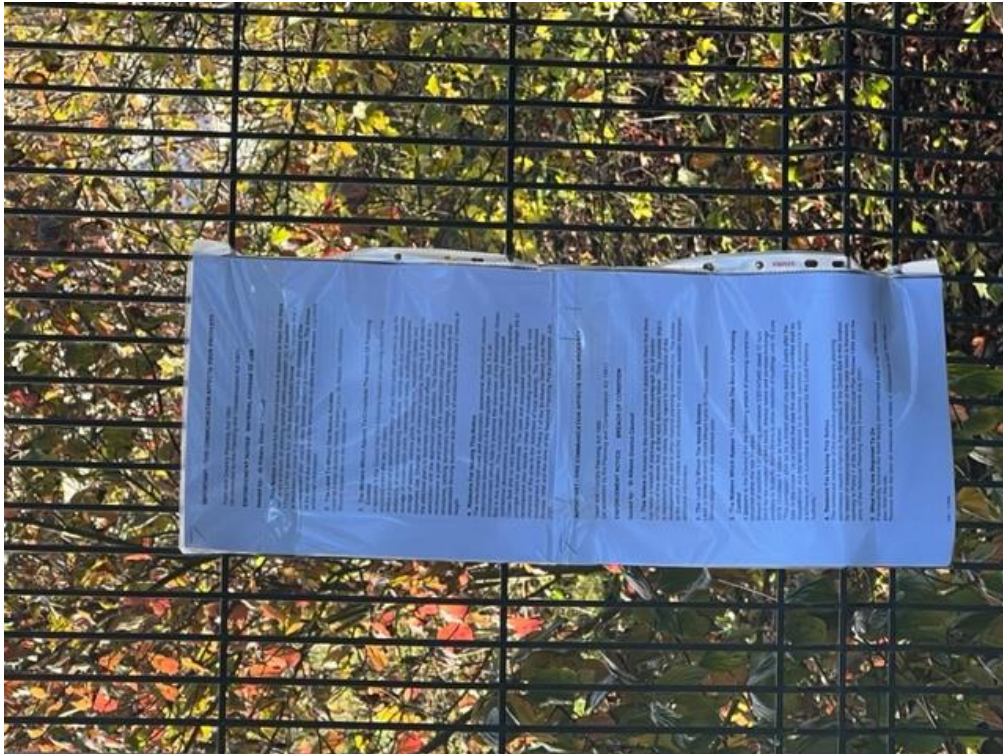


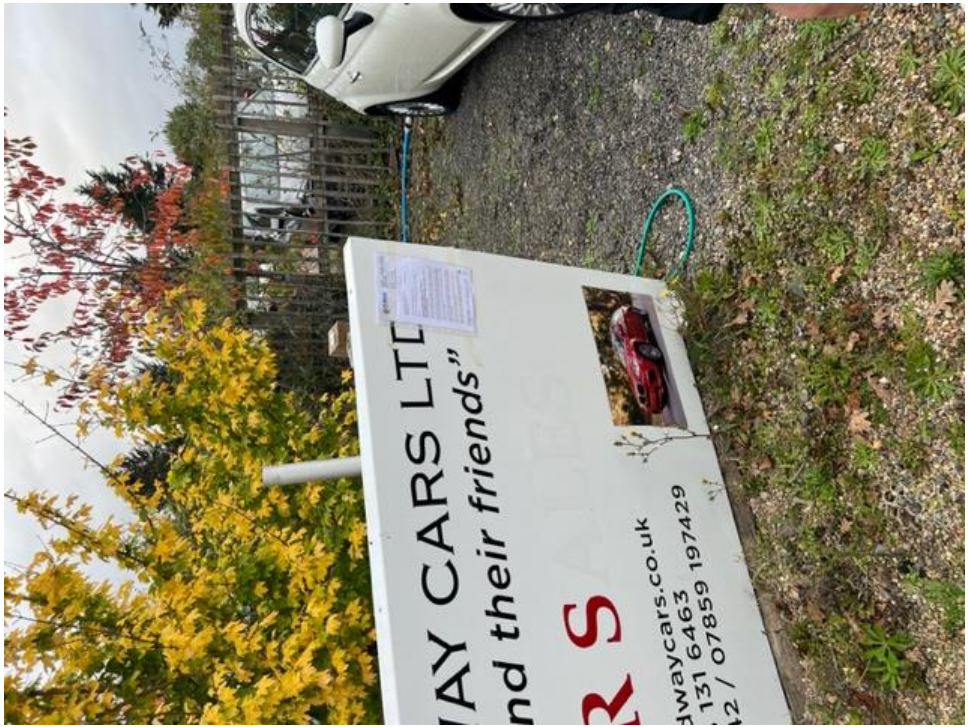






















Appendix 13 – Google Earth Image 2022





Community & Place Delivery
Christine Trail – Strategic Director

Our Ref: 5/2022/2771ENF & 5/2022/2772ENF
Your Ref: APP/B1930/C/22/3311308 &
APP/B1930/C/22/3311314
E-mail: planning@stalbans.gov.uk
Date: 8 February 2023

The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Sir/ Madam

**Appeal by Mr Eddy Cowen, Bud Rescue and Recovery Ltd
Site at Bud Recovery, Noke Lane, St Albans AL2 3NY**

I refer to the above appeals, which are being dealt with by means of written representations.

Please find attached a copy of the council's response to the appellant's statement submitted January 2023.

Yours faithfully,

A handwritten signature in black ink that reads "Chris Traill" with a stylized flourish underneath.

Christine Traill Strategic Director
Community and Place Delivery

1.0 INTRODUCTION

- 1.1 This statement relates to two Enforcement Notices issued by St Albans City and District Council (the “Council”) on 21/10/2022 (LPA references 5/2022/2771 and 5/2022/2772) and provides the LPA’s response to the appellant’s appeal statement and appendices dated January 2023.
- 1.2 It is noted that the Appellant has addressed the appeals as Appeal A and Appeal B as follows, while the Council’s previous statement referred to Enforcement Notices 1 and 2, following the order of the Inspectorate’s reference numbers. Although it is noted that the appellant’s statement dated January 2023 sets out the assessment of both notices together and so this rebuttal follows a similar format.

Inspectorate ref	Appellant’s ref	LPA ref in first statement	Description
APP/B1930/C/22/3311308	Appeal B	Enforcement Notice 1	Breach of Condition (toilet block)
APP/B1930/C/22/3311314	Appeal A	Enforcement Notice 2	Change of Use

- 1.3 This statement should be read in conjunction with the Council’s statement and appendices, submitted January 2023.

2.0 RESPONSE TO APPELLANT’S STATEMENT – GROUND A APPEALS

- 2.1 The Council’s assessment of the harm to the Green Belt is included in the Council’s original statement.
- 2.2 For the reasons set out in the Council’s January Statement, the Council does not agree that the site falls under exception (g) of para 149 of the NPPF as the existing, unauthorised, development on the site has a greater impact on the openness of the Green Belt that the previously approved development of Butterfly World.

- 2.3 At para 6.2.2.9 of the Appellant's statement, they state that the duration of the development is of limited relevance as the Butterfly World permission was for a permanent use. While the potential permanence of the Butterfly World use is not disputed, as set out in the appeal decision for application 5/2020/1265 (Inspectorate Ref APP/B1930/W/21/3272537, included at Appendix 2 of the Council's January Statement) the permanent use of the car parking area for the storage of vehicles, as is currently taking place on the site, was assessed to be more harmful than the approved use of that area of the site for visitor parking that would not have taken place overnight. It is also noted, that some of the vehicle parking in association with the existing uses includes vans and trucks that have a greater visual presence in the Green Belt and in views into the site (for example from Chiswell Green Lane) than cars that would have been associated with the visitor attraction.
- 2.4 Their statement, also at para 6.2.2.9, doubts that the site will ever return to its 'original state'. While the Butterfly World permission was implemented, the significant landscaping approved as part that permission, which has been eroded by the spread of the existing unauthorised uses on the site, would have ensured that the openness to this Green Belt location and the rural character of the majority site was maintained.
- 2.5 In relation to the paragraph above, it is noted that the LVIA submitted in support of the appellant's statement states at para 4.4 that '*the operation of the site is beginning to spread and encroach into these areas of landscaping. Additionally, the long-term management of these areas is unknown.*'

Whether Inappropriate Development in the Green Belt

2.6 Spatial Openness

- 2.7 In support of their January 2023 Statement, the appellant has included a survey drawing (Drawing No. TS22-601-1-RevA by Terrain Surveys), demonstrating the areas of the site occupied by the various, currently unauthorised uses.
- 2.8 Comparing this with the approved plan for the original Butterfly World application (reproduced here at Diagram A), the encroachment of areas of hardstanding, structures and car storage in areas that would have been significantly landscaped, can clearly be seen. While there is some overlap, particularly in the area of the approved parking zones and the position of the biome, there are a number of other areas experiencing significant encroachment.



Diagram B: Extract from Google Earth 2022.

- 2.10 The appellant’s statement sets out that the existing compounds cover around 4.3ha (para 6.2.2.11) which they compare with the whole site area of 11ha. However, when comparing this with the extent of built form and hard surfacing as approved for the Butterfly World site, it would result in a significant increase compared with that approved scheme.
- 2.11 In terms of floorspace, the appellant compares the approved footprint of structures associated with Butterfly World with the existing structures on site. While larger as originally approved, this was focused on the area of the biome, the concrete base of which is retained on site and used for vehicle storage. In contrast, the existing use of the site includes additional structures beyond the location of the approved biome. A comparison of floorspace also does not reflect the spread of uses into previously landscaped areas that causes additional harm, as outlined above.
- 2.12 The comparison of the use of the previously approved parking area with the existing storage use is also addressed in the Council’s January statement with reference to the previously dismissed appeal on the car park area of the site (Inspectorate Ref APP/B1930/W/21/327253).
- 2.13 As set out in the Council’s January statement it is also clear that the Butterfly World permission was granted on the basis of Very Special Circumstances in

relation to the provision of a significant visitor attraction that do not apply in this case.

- 2.14 It is also noted that the appellant's statement does not appear to provide a robust mechanism to prevent or control any future operational development or additional encroachment into the site that would further degrade the landscape and rural nature of the site. This is of particular concern, given the existing development of the site is in breach of planning control and has continued despite dialogue from the Council that planning permission should be sought or the use ceased. The application for the use of the parking area for the storage of cars indicates an understanding of the need for planning permission on this site and the owner is aware that permission was refused and the subsequent appeal dismissed, for this use and yet the use of the site has continued and required formal enforcement action to be taken.
- 2.15 In support of their assertion that the current use of the site and associated structures would have no greater impact than the extant permission, on the openness of the Green Belt in this location, the appellant refers to the height of the approved dome structure (up to 15m above ground level, taking into account the part sunken design of the structure).
- 2.16 It is noted, from the submitted elevation drawings, that this maximum height is the highest point of the dome only, with the remainder of the structure below this height. The dome is also positioned in one part of the site, providing one structure of a high quality design, with the majority of the rest of site approved with no structures and only significant soft landscaping.
- 2.17 As set out in the Council's January 2023 statement, the existing unauthorised uses also result in significant sprawl, in relation to hardstanding, vehicle storage and structures into areas of significant soft landscaping that has a significant adverse impact on the openness of the Green Belt in this location.
- 2.18 **Visual Openness**
- 2.19 In support of the appeal, the appellant has submitted a Landscape Visual Impact Assessment.
- 2.20 Reference to contour plans indicate that ground levels rise to the north of the site, however the view points in the LVIA are focused to the lane immediately to the North of the site. Some discussion is included in the LVIA in relation to this, with some limited views from the north being discounted in the assessment. The LVIA assessment also refers to other potential views although these are not explored further in the document in any detail to be able to comment on further.

2.21 It is however noted that the LVIA also includes the following comment:

The localised topography and intervening vegetation mean that at lower levels there are no realistic views of the Appeal Site. As the footpaths rise up to the higher ground there are views of the Appeal Site. Some of these are blocked or screened by localised vegetation.

2.22 On the basis of the commentary included in the LVIA It is not therefore considered that a full appraisal of viewpoints towards to the site has been provided on the basis of the included commentary.

2.23 Turning to the views provided, in brief:

View point 1 is directed largely along Chiswell Green Lane, though still clearly demonstrates views through the boundary screening to the parking area beyond. As stated elsewhere, while much of this area was approved as parking for the Butterfly World visitor attraction, this particular (north-east) corner of the site was absent of car parking (comparing the plan at Diagram A of this statement, with the position of View Point 1 in the submitted LVIA). It is also apparent that the existing use of the area for storage includes vans and trucks (visible in the submitted photo in the LVIA) which have a greater visual impact on openness than the use of the adjacent area for the parking of cars due to their additional height. The use of the site for the storage of cars is also 24 hour, rather than day time only as associated with the use of the area for parking in association with the approved visitor attraction.

View point 2, while showing boundary planting along Chiswell Green Lane to the extremity of the boundary with the application site, it does not directly show a view towards the site to assess the visual impact on openness in this location.

View point 3 is directed southwards, parallel to the boundary with the site. Again this provides a view of the boundary treatment in this close proximity but not a view towards the site itself.

Viewpoint 4 again shows the planting along the southern boundary of the site on land at a lower height and in close proximity to the application site.

Viewpoints 5 & 6 demonstrate the visibility of the site in longer views from the south, impacting on the visual openness of this predominantly rural area. While photos do not always represent the full extent of what would be seen with the naked eye, these photos still demonstrate the impact on visual openness here.

Viewpoint 7 does not demonstrate any views of the existing structures due to its position and proximity to the site.

2.24 Conditions will be considered further below, however the appellant has proposed conditions relating to:

- Planting - 'A scheme to provide further vegetation to soften and screen the existing site' and 'additional tree planting could be provided to the top of the mounds to the site perimeter'. This is at paras 5.2.1 and 6.2.2.14 of the appellant's statement and is proposed to represent 'an improvement over the extant position'. However it suggests that this would be to the boundaries of the scheme and does not address the existing loss of vegetation within the site or lack of vegetation as approved for the original Butterfly World scheme. It is also not been demonstrated that additional boundary planting would provide any substantive screening of the site from Viewpoints 5 and 6 in the LVIA.
- Height Restriction. 'Building/structure heights should be restricted (i.e. to 10m)'. While stating that some measures could be applied retrospectively to the existing buildings and structures on the site, it is not clear if the intention is to propose that this would apply to any other structures to be erected in the future or that existing structures could increase in height to no more than 10m.
- External materials. This is also at paras 5.2.1 (materials used should be subdued and non-reflective) and 6.2.2.14 and is proposed 'to further minimise the visual impact of the existing structures'. No details are provided in relation to the specific materials that the appellant considers could 'minimise the visual impact of the existing structures'. Given the visual harm identified by the Council, the use of alternative materials would not address the significant harm identified to the openness of the Green Belt in this location.

2.25 The appellant comments that a Visual Impact Assessment did not form part of the previous proposal relating to the temporary use of the approved Butterfly World car park. This is noted but would have been the decision of the agent at the time of the previous appeal. Nevertheless, the LVIA that is now provided does not address the concerns raised by the Council in relation to the impact of the existing uses on the character of the area and the openness of the Green Belt in this location.

2.26 Also as set out elsewhere in the Council's statements, the appeal against the refusal of application 5/2020/1265 (Inspectorate Ref

APP/B1930/W/21/3272537) carefully considered the impact of the use of the area for car storage against the approved use and found harm to the openness of the Green Belt in this location. The impact on visual openness was considered. The Inspector commented that:

'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm' (extract from para 6)

Hence, the proposal would result in an intensification of the use of the site, with a more permanent impact on the openness of the Green Belt, in both visual and spatial terms. Thus, the openness of the Green Belt would not be preserved by the proposal. For the same reasons, the proposal would conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment. (para 8)

- 2.27 The submitted LVIA has demonstrated that the structures on the site are visible from public viewpoints. However, as set out by the previous Inspector (and quoted above), harm to openness exists even if not visible from public viewpoints.
- 2.28 It is also noted, as set out in more detail below, the appeal site is identified as being in an *Area of Higher Landscape/Visual Sensitivity* in the SKM 'Part 2: Green Belt Review Sites & Boundaries Study' (February 2014)(extract at Appendix 1 to this statement).
- 2.29 On the basis of the above, the Council considers that the existing use of the site results in harm to the visual aspect of openness in this location.
- 2.30 **Activity**
- 2.31 The intensification of the use of the site compared with the approved Butterfly World use was considered and assessed to be harmful to openness, in the appeal against the use of the car park for storage of cars, even on a temporary basis.
- 2.32 While the appellant asserts that the general level of activity and vehicular movements is likely to be significantly less than for the use of the site as Butterfly World, no figures/transport assessment etc have been provided to substantiate this.
- 2.33 It is also noted that the original permission for the Butterfly World use of the site was on the basis of Very Special Circumstances that outweighed the harm to the openness of the Green Belt in this location. These Very Special

Circumstances do not exist in relation to the existing use of the site that is the subject of this appeal.

2.34 Summary

2.35 The Council considers that the existing use of the site constitutes inappropriate development in the Green Belt, having a greater impact on the Green Belt in relation to both visual and spatial aspects of openness, than the approved use of the site as a tourist attraction (Butterfly World).

2.36 The existing use and associated structures therefore result in harm by reason of inappropriateness and other harm to the openness of the Green Belt in this location and do not therefore meet the tests of criterion (g) of para 149 of the NPPF.

Consideration of Very Special Circumstances

2.37 Assessment of any other harm

2.38 It is not intended to reiterate the arguments set out above or in the Council's January 2023 statement in relation to the harm to the openness of the Green Belt in this location.

2.39 In their January Statement, the appellant makes reference to the Green Belt reviews undertaken in 2013 and 2014 in support of the review of the (subsequently withdrawn) Local Plan. They quote from the SKM review (at para 6.2.3.6 of the appellant's statement) and place an emphasis on the reference to Butterfly World and the adjacent Mansion House in their assessment of the urban fringe location of the Broad Location to the east of the Butterfly World site.

2.40 As part of the Council's evidence base for the now withdrawn local plan, this site, as part of a much larger parcel of land labelled GB25, was included in the SKM Green Belt review. It is noted that the withdrawn plan has no status for decision making, and that the previous site selection process has no weight, but that the judgments reached in the Green Belt review in relation to Green Belt purposes as part of the evidence base to the plan are relevant for the determination of applications.

2.41 The appeal site itself is part of parcel GB25 in the SKM 'Part 1: Green Belt Review Purposes Assessment' (November 2013) (SKM GBR). The SKM GBR considered that overall parcel GB 25 does significantly contribute to safeguarding the countryside and maintaining the existing settlement pattern,

in addition to making a partial contribution towards preventing merging and preserving setting.

- 2.42 The part of the review quoted by the appellant refers to sub area S8. It should be noted that the site that is the subject of this appeal lies outside and to the west of the strategic sub-area S8 that was identified in the SKM 'Part 2: Green Belt Review Sites & Boundaries Study' (February 2014).
- 2.43 The appellant's statement suggests that the Butterfly World site and the adjacent Mansion House lies within the area assessed as displaying 'urban fringe characteristics' within that report.
- 2.44 However, paragraph 10.6.5 of the SKM report differentiates between the urban edge of Chiswell Green and the Butterfly World site, stating (with reference to Sub-Area S8) '*The site is also located within the area of lower landscape sensitivity within the sub-area; between the existing urban edge to the east and Butterfly World to the west*'.
- 2.45 It is also noted that within the SKM report, the area that contains the appeal site (Butterfly World) is identified as being in an *Area of Higher Landscape/Visual Sensitivity* compared with the parcel of land identified as Sub Area S8 which is labelled as *Area of Lower Landscape/Visual Sensitivity* (see plan extracted from SKM report in Appendix 1 to this statement).
- 2.46 The Council does not therefore agree with the appellant's apparent assertion that the appeal site should be considered alongside the strategic location identified to the west.
- 2.47 It is considered that the additional urbanisation of the appeal site through the spread of uses is harmful to the openness and the purposes of the Green Belt in this sensitive location.
- 2.48 Given the significant harm to openness identified, the matters raised by the appellant in relation to their assessment are considered to have a neutral impact that does not outweigh the identified harm in this case.
- 2.49 **Fallback Position**
- 2.50 The Council has no further comments in addition to those set out in their January statement in response to the appellant's comments on this point.
- 2.51 **Accessibility**

- 2.52 While further information has been submitted with the appellant's January statement, it is not considered that sufficient evidence has been provided in relation to the availability of site that would not cause harm to the openness of the Green Belt as is the case of the appeal site.
- 2.53 While the site is in close proximity to motorways, it has not been demonstrated that other sites that would not have an impact on the openness of the Green Belt are available with similar links.
- 2.54 It is also not considered that this consideration would outweigh the significant harm identified to the openness of the Green Belt in this location by reason of inappropriateness and other harm.
- 2.55 **Lack of Alternative Suitable Sites and Allocated Sites in the District**
- 2.56 The Council has addressed these points in the Council's January Statement.
- 2.57 In summary, The Radlett Strategic Rail Freight Interchange (SRFI) site in Park Street covers 331,665 square metres, for Storage and Distribution B8 Use Class uses, and is a major scheme in the Green Belt. The Hertfordshire County Council Future Resources and Performance Cabinet Panel on 1 December 2022 agreed, in principle, to the disposal of the site to Segro which does not support the uncertainty suggested by the appellant in their statement (<https://democracy.hertfordshire.gov.uk/ieListDocuments.aspx?CId=283&MIId=5135&Ver=4>).
- 2.58 In addition, Employment Areas were allocated in the 1994 Local Plan, with the list of 19 protected sites provided in the AMR 2021.
- 2.59 In relation to occupancy rates, a survey of August 2021 showed an average vacancy rate of 14%. Employment areas with relatively high recorded vacancy rates included: Southdown Industrial Estate and former Gas Works in Harpenden (vacancy rate of 37%), Batford Mill Industrial Estate in Harpenden (vacancy rate of 33%) and Redbourn Industrial Park in Redbourn (vacancy rate of 33%).
- 2.60 In addition, the forthcoming AMR (2022) will contain updated employment land figures and will be published early in March 2023.
- 2.61 On the basis of the above, it is considered that capacity is identified within the District and the use of the appeal site is not justified in this case.
- 2.62 Within their statement, the appellant also includes reference to 3 appeal decisions elsewhere in the country that they consider support the use of the

appeal site for employment land. However, the examples given relate to strategic sites. The sites referred to include strategic employment provision of a significantly greater scale than on the current appeal site that comprises a number of smaller individual users as set out at Fig 2.3.69 of the appellant's January statement. Moreover each decision would be based on the individual circumstances of the site, in this regard, the appellant has failed to provide a detailed assessment of these decisions to allow the Council to draw comparisons with the Butterfly World site.

- 2.63 It is therefore not considered that these sites are directly comparable in relation to the weighting to be given to the provision of employment land that was considered to outweigh the significant harm to the Green Belt in those cases.
- 2.64 The matters raised by the appellant in relation to these points are not considered to result in Very Special Circumstances that would outweigh the significant harm to the Green Belt in this location.

3.0 RESPONSE TO APPELLANT'S STATEMENT – GROUND E APPEALS

- 3.1 The Council's response to Ground E is set out in their January Statement. The appellant has not provided any significant additional information and so the Council has no further comments to make on this point.

4.0 RESPONSE TO THE APPELLANT'S STATEMENT – GROUND G APPEALS

- 4.1 The Council's response to Ground E is set out in their January Statement. The appellant has not provided any significant additional information and so the Council has no further comments to make on this point.

5.0 CONDITIONS

- 5.1 The Council's comments on the conditions suggested by the appellant are set out in this statement, above.
- 5.2 While the Council would normally expect to propose conditions in support of a Ground A appeal, without prejudice to the Council's case, in this case it is not clear that there are any appropriate conditions that would suitably control the use in this case.

- 5.3 While a plan has been submitted to show the extent of the compounds at the time of the survey, given the continual erosion of the site, as highlighted in the appellant's LVIA, the Council is concerned that an approval would continue to result in further encroachment which would be difficult to control by enforceable conditions.
- 5.4 However, should the Inspector decide to allow the appeal on Ground A and without prejudice to the Council's case, a condition to restrict the areas of use of the site and associated structure to those shown on the submitted survey drawing would be appropriate.
- 5.5 Any further development would require planning permission and so a condition to restrict new structures to no higher than 10m would not be necessary or appropriate in this case.

6.0 CONCLUSION

- 6.1 The two Enforcement Notices have set out that the change of use of the site as set out in the Enforcement Notice relating to the use of the site and the associated operational development set out in that notice, together with the retention of the toilet block results in a change of use to and harm to the openness of the Green Belt in this location.
- 6.2 The change of use and development identified constitutes inappropriate development in the Green Belt and does not fall under the exceptions set out under para 149 of the NPPF.
- 6.3 National policy indicates that inappropriate development in the Green Belt should be resisted unless 'very special circumstances' exist that would outweigh the harm through inappropriateness.
- 6.4 The Very Special Circumstances put forward by the appellant do not outweigh the harm identified to the openness of the Green Belt and the purposes of including land in the Green Belt in this location, contrary to the aims of the National Planning Policy Framework and Policy 1 (Metropolitan Green Belt) of the St Albans District Local Plan Review 1994.
- 6.5 It is therefore considered that the enforcement notices should stand and be complied with.
- 6.6 The Inspector is therefore invited to dismiss the enforcement appeals.

Appendix 1

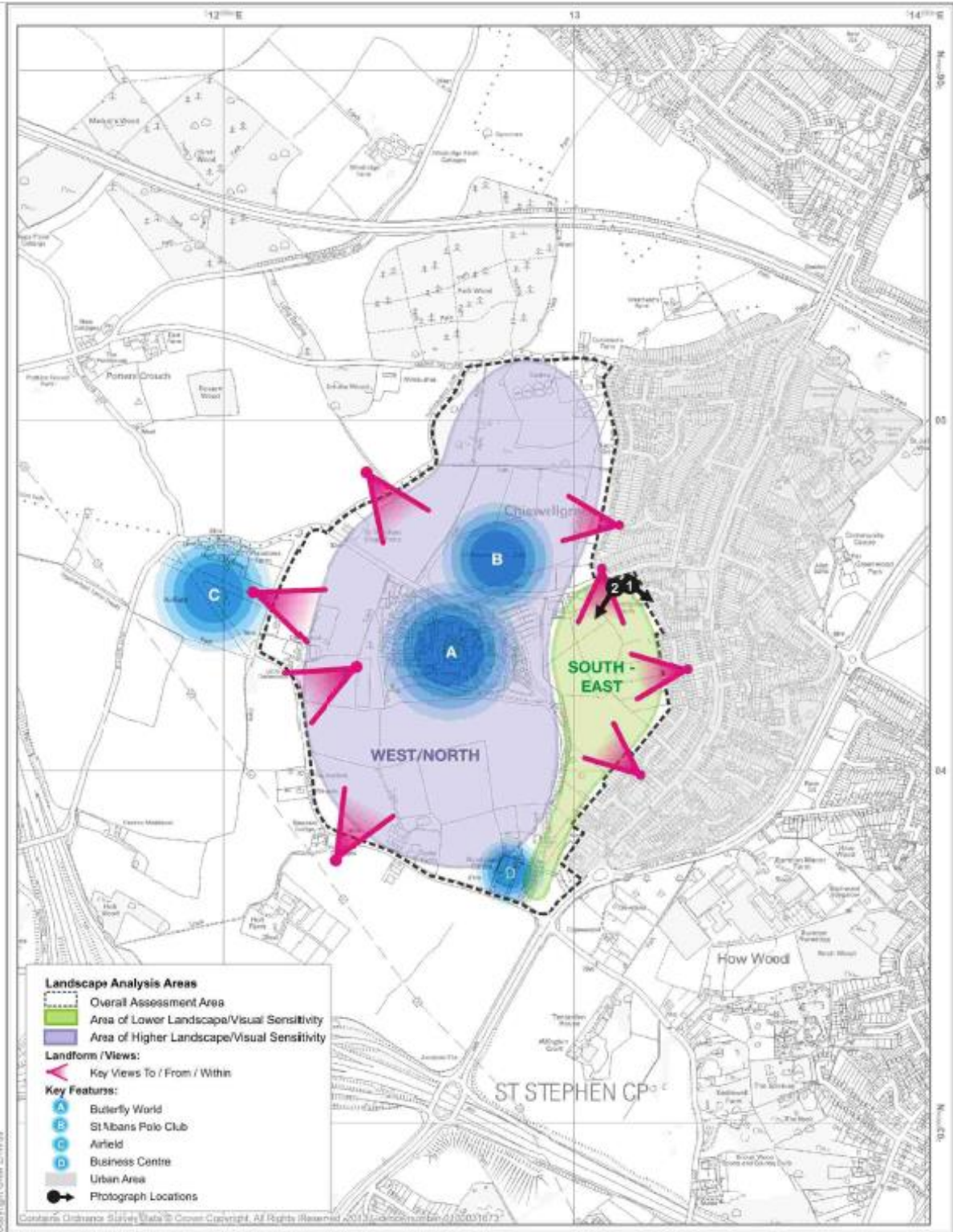
Extract from SKM 2014 Review.

Figure 10: Landscape and Visual Appraisal, Sub-Area 8 Land at Chiswell Green

Key:

Sub Area S8 – marked by green shading, labelled 'South-East'.

Butterfly World site – marked 'A' within Area of Higher Landscape/Visual Sensitivity



**Sites & Boundaries
Study for St Albans City
and District Council**

SCALE
N at Scale

CONTENT
SM

CHECKED
RB

PROJECT CODE
J030701.02

DRAWN
JW

DATE
29/01/2014

N

Coordinate System: British National Grid
Projection: Transverse Mercator
Datum: OS28 1936
Units: Meter



**Figure 10.1 Landscape and
Visual Appraisal, Sub-Area 8
Land at Chiswell Green**

Extract from SKM Green Belt Review Sites & Boundaries Study February 2014