Delegated Officer Report

Recommendation: Refuse Planning Permission

Application number: 3/26/1091/FUL

Proposal: Change of use of land from burial ground to residential; construction of 1 x 3 bedroom self build and custom build dwelling with EV charging point, bike and bin store, landscaping and associated works; forming opening in existing boundary wall for on site parking

Site Address: Quaker Burial Ground Port Hill Hertford Hertfordshire

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National Scheme of Delegation Assessment:

Delegated Schedule:	Schedule 2
Own Interest:	N
Local Triage:	Y
Gateway Test:	N
Gateway Met:	N/A

Planning History:

No relevant planning history.

Neighbour Responses:

Neighbour Consultations	Contributors	Neutral	Objections	Support
14	36	0	28	8

Summary of Neighbour Responses

The comments received in objection can be summarised as follows:

- Heritage and archaeological disturbance of the site
- It is considered a disrespectful proposal due to the status of the site
- Concern over required notification of the Quaker organisation
- Further archaeological investigation is requested and further information on the piles.
- The archaeological work is outdated
- There is a historic importance to the site beyond the burials
- Further ecological assessment is requested in relation to priority species
- Impacts on the character of the Conservation Area and nearby heritage assets
- Loss of the historic boundary wall
- No public benefits are presented to outweigh the harm to the burial ground
- Inadequate assessment of the impacts on surrounding heritage assets
- Negative impacts on trees and wildlife in the site and the loss of green space
- Concern of noise, disturbance, overshadowing, loss of light and loss of privacy
- Insufficient drainage and wastewater information
- Concern over parking and access arrangements, including highways safety
- Need for a construction management plan

- It is considered to cause overdevelopment of Port Hill
- Concern over future development within the site
- Construction disturbance and site impacts
- Harmful external lighting and resultant glare

Six comments have been received in support of the proposed development.

Consultee Responses

Consultee	Comments
Conservation And Urban Design	Objection. There would be harm to the Conservation Area, the nearby designated heritage assets and the character and appearance of the area. The site itself is a non-designated heritage asset and there would be harm to this. Concern is raised over the archaeological significance of the site and its uses.
Landscape Officer	Comments 11 September 2026 – Objection. The trees to be removed are worthy of retention. The loss of these would impact on the landscape character of the site and area. There is concern over the proposed replacement planting and the impacts on the burial ground. Comments 13 October 2026 – Objection. The retention of two further trees is supported. However, this does not overcome the previous points raised.
HCC Highway Authority	Does not wish to restrict the grant of planning permission. Informatives are recommended to be attached to any planning permission. The access track is existing and there would be no change to the use of this.
Thames Water Development Control	No comments.
Affinity Water	No comments.
Environmental Health (Noise And Light)	No objection subject to conditions, to include the submission a demolition and construction method statement, information on lighting and details of external plant and machinery.
Parish Council	The concerns of the Love Bengeo Group are supported. The Committee highlight the sensitivity of the archaeological remains and the need to protect biodiversity.
Archaeology-Historic Environment	Comments 07 September 2026 - Objection. The Heritage Impact Assessment is welcomed. However, there is insufficient investigation to assess whether the proposed pile foundation locations would impact on assets of archaeological importance. Further work is required prior to determination. Comments 12 October 2026 – Objection. The further information supplied by the applicant does not address the previous comments and no investigation work has been carried out.
Love Bengeo Community Group	Objection. The site is on the Historic Environment Record and is associated with

	the Hertford Quaker Meeting House. It is considered that the proposal would harmfully impact on archaeological and heritage assets. The burial ground should remain undisturbed.
Councillor Ben Crystal	The application is supported in principle. The use of burial grounds is not uncommon. The Passivhaus design is welcomed. It is recognised that the objections from Conservation and Landscape Officers must be addressed.
Waste Services (EHDC)	The bins should be presented on the highway and will not be collected from the bin store.
Historic England	No comments.

Planning Policies:

S3 - Presumption in favour of sustainable development - National Planning Policy Framework
S4 - Principle of development within settlements - National Planning Policy Framework
HE4 - Securing the conservation of heritage assets - National Planning Policy Framework
HE5 - Assessing effects on heritage assets - National Planning Policy Framework
HE6 - Proposals affecting designated heritage assets - National Planning Policy Framework
HE7 - Decisions on non-designated heritage assets - National Planning Policy Framework
HE9 - Conservation areas - National Planning Policy Framework
HE10 - Loss or removal of heritage assets - National Planning Policy Framework
DP3 - Key principles for well-designed places - National Planning Policy Framework
DPS2 - The Development Strategy 2011-2033 - East Herts District Plan 2018
CC1 - Climate Change Adaptation - East Herts District Plan 2018
CC2 - Climate Change Mitigation - East Herts District Plan 2018
CC3 - Renewable and Low Carbon Energy - East Herts District Plan 2018
TRA1 - Sustainable Transport - East Herts District Plan 2018
TRA2 - Safe and Suitable Highway Access Arrangements and Mitigation - East Herts District Plan 2018
TRA3 - Vehicle Parking Provision - East Herts District Plan 2018
DES3 - Landscaping - East Herts District Plan 2018
DES4 - Design of Development - East Herts District Plan 2018
NE2 - Sites or Features of Nature Conservation Interest (Non-Designated) - East Herts District Plan 2018
NE3 - Species and Habitats - East Herts District Plan 2018
HOU7 - Accessible and Adaptable Homes - East Herts District Plan 2018
HOU12 - Change of Use of Land to Residential Garden and Enclosure of Amenity Land - East Herts District Plan 2018
HA1 - Designated Heritage Assets - East Herts District Plan 2018
HA2 - Non-Designated Heritage Assets - East Herts District Plan 2018
HA3 - Archaeology - East Herts District Plan 2018
HA4 - Conservation Areas - East Herts District Plan 2018
HA7 - Listed Buildings - East Herts District Plan 2018
Hertford Bengeo Ward - Adopted Neighbourhood Plan
Planning (Listed Buildings and Conservation Areas) Act 1990

Considerations

The application site is located along Port Hill in Hertford. The site is a parcel of land between No.37 and No.45 Port Hill. It is bound by a brick wall to the north, east and south sides. Along the southern boundary, there is an access road to the rear Grove Cottage and No.39 Port Hill.

The site is a historic Quaker Burial Ground which is stated to have last been in use in 1939. Within the site, no built form is present. Trees cover the majority of the site. Moving west through the site, the land levels slope down away from Port Hill and then steeply upwards towards Grove Cottage.

The site is located within the Hertford Conservation Area, the Plan Area for the adopted Bengeo Area Neighbourhood Plan and adjacent to several grade II listed buildings.

The application seeks planning permission for the change of use of the land to residential and the erection of a single self-build dwelling, with storage structures and associated access and landscaping works.

The proposed dwelling would be a one and a half storey building at approximately 7.1 metres in height. It would have a pitched roof with an extended front roof slope. The building would have front and rear steps for entry, and a rear raised terrace area. The dwelling would be constructed using vertical timber cladding, standing seam metal roofing and integrated solar panels.

The dwelling would be constructed on a raised platform with piling foundations below. This would cause the building to be raised approximately 1 metre above the ground level.

To the south of the building, it is proposed to open up a 7 metre wide section of the wall to allow for access to a parking area. Access would be via the track to No.39 to the rear of the site. To the front of the site, it is proposed to construct bin and bike storage structures. The front entrance gate would be re-opened for pedestrian access.

The main issues relevant to the proposal are:

Five Year Housing Land Supply

Chapter 4 of the NPPF sets out locational policies which direct development towards the most sustainable locations. The National Decision-Making Policies of this chapter are applied in the assessment of this application.

For the purposes of applying the National Decision-Making Policies of chapter 4, the current position is that the Council is not able to demonstrate the delivery of homes over the five-year period to establish a Five Year Housing Land Supply, and the supply policies including the Development Strategy set out in DPS2 are out-of-date. An unmet need is identified for this type of development. Policies S3 to S6 will be applied under this basis.

Policy S3 states that a presumption in favour of sustainable development means, subject to Policies S4 and S5, development should be approved without delay, unless the benefits of doing so would be substantially outweighed by any adverse effects, including but not limited to, when assessed against the National Decision-Making Policies in this Framework.

Compliance with chapter 4 of the NPPF, any adverse impacts of the proposed development, and the National Decision-Making Policies will be assessed in the relevant sections below.

Principle of development

The application site is within the settlement of Hertford. Policy S4 of the NPPF 2026 states that within settlements, development proposals should be approved unless the benefits of doing so would be outweighed by any adverse impacts, when assessed against the National Decision-Making Policies (NDMPs) of the Framework. This will be assessed throughout this report.

Policy S4 states that those instances where the benefits would be substantially outweighed by adverse impacts includes, but is not limited to, where there would be failure to comply with a NDMP which creates a mechanism for refusal of development, or where the proposal would result in the loss of burial ground land.

Policy DM7 states that the "Relationship with other regulatory regimes" and it states at criterion 1 that "Development proposals should be assessed on the basis of whether they would be an acceptable use of land. Matters which are controlled by separate regulatory regimes may, in the context of a particular development proposal, be a material consideration where they have land-use implications."

Sustainability of Location

The application site is located within the settlement boundary of Hertford where there is a wide range of services and facilities for daily needs, walking routes to public transport and nearby community open spaces. The location of the development is therefore considered to be in a sustainable location.

Land use

The change of land use of the site would result in a significant character change of this parcel of land. Whilst this location is surrounded by residential plots, the application site as existing is not related to residential uses both historically and visually.

It is assessed below that the proposed development would fail to relate to the character and appearance of the surrounding area. Those landscape features that are important to the Conservation Area would be removed. The boundary wall would be removed in part and new residential boundary and external structures installed.

Furthermore, the change of use would cause the site to take on a residential appearance, with residential paraphernalia clearly visible above the boundary wall on the raised steps and terrace areas. The front bin and bike store contribute to the residential use of the site, and the re-opening of the front entrance would demonstrate the active and alternative use of the plot. Furthermore, rather than being lost to development, closed urban churchyards and cemeteries are frequently transferred to local authorities under the Open Spaces Act 1906 to be maintained permanently as public parks or gardens. Therefore, it is considered that a change of use of the site would be contrary to the applications site's function and a future potentially suitable use for a burial ground.

It is noted that the proposal falls under the Disused Burial Grounds Act 1984. This Act states that all burials are required to be removed prior to the erection of a building on the site and arrangements made for the reinterment or cremation of the remains. This requirement can only be avoided upon direction from the Secretary of State, where evidence demonstrates that there would be no disturbance to remains.

Developing housing on a former burial site in England and Wales is strictly controlled by statute and is prohibited unless specific legal clearance and exhumation procedures are

completed. Under the Disused Burial Grounds Act 1884, erecting residential buildings on a disused burial ground is a criminal offence unless the site qualifies for a statutory exception.

As such, as a matter of principle, it is considered contrary to the historical uses of the site and there is failure to provide robust evidence that the site can come forward from burial to residential land use purposes. Whilst the insertion of residential dwellinghouse and associated paraphernalia would not be out of place in this broadly residential area, it is considered that the site characteristics and existing land use render this an inappropriate use for the land parcel at this time contrary to Policy HOU12 of the District Plan and S4 of the NPPF. Matters relating to the archaeology which also contribute to matters of principle are discussed later in the report.

Heritage and Design

Background

The application site is within the Hertford Conservation Area. The Hertford Conservation Area Appraisal (CAA) identifies the boundary wall and the trees within the site as important features to be protected due to their contribution to the Conservation Area.

Directly to the north of the site is the statutory Grade II Listed Building known as Reindeer Public House and directly to the south is the Grade II Listed terrace of Nos. 33, 35 and 37 Port Hill. To the rear (west) is the Grade II Listed known as Grove Cottage, The Grove and buildings associated with these properties.

The Council's Conservation Team consider that the application site itself is a Non-Designated Heritage Asset (NDHA) due to its strong heritage interest as an early Quaker Burial Ground. This ground is strongly associated with the earliest recorded Quaker Meeting House in the town centre and the fact of being a burial ground holds community value. It is noted that there are no above ground features within the site. However, the Quaker movement did not typically use tombs or monuments. The boundary wall, entrance and central path remain visible.

Therefore, the application site holds significant intangible heritage value, with some tangible heritage elements still present at the site.

The County Council Archaeology Advisor has also commented on the proposed development. The advisor considers that extensive archaeological work may be required should development take place. This is discussed within the archaeology section below.

Conservation Area

The application site positively contributes to the character and appearance of the Hertford Conservation Area through the lack of built form, together with the boundary wall and the trees which are of heritage value. The gap in the built form of Port Hill provides visual relief from the otherwise continuous building lines to the east and the south. To the north, development becomes more spaced and sporadic. The Conservation Officer considers that this space provided serves as an introduction to the change in building pattern to the north, an entrance into the open grounds of The Grove and Grove Cottage, and breathing space between the north, south and western listed buildings.

The introduction of a residential building at this site would remove the visual and spatial function of the land, resulting in a loss of trees, a partial loss of the wall and the coalescence of the building line along the west side of Port Hill.

Firstly, the loss of the trees and boundary walls would result in the direct loss of important features within the Conservation Area, eroding the heritage value of the site and the immediate area. Secondly, the proposed development would cause harm to the significance of the Conservation Area and surrounding historic features through the change in character.

The Council's Conservation Officer has addressed the form, scale and design of the proposed dwelling. This area of Port Hill features buildings of historic architectural value, with those more recent structures designed to respond to this local context. It is noted that there are some structures of more modern appearance such as No.57. However, this building is set away from the street scene and is heavily screened from views from the public realm.

The proposed dwelling features a design that is stated to allow it to recede into the landscape setting of the site. However, the proposed development would remove much of the front landscaping in the site and open up views towards the building. The building would no longer form part of the existing landscape setting, rather it would form part of the building pattern along Port Hill.

The proposed building is of a design and materiality that does not relate to the traditional style of buildings seen along this part of Port Hill and would therefore appear as a prominent and incongruous building within the building line of the road. The building fails to relate to its surroundings. This, together with the erosion of the important heritage features of the site would result in a harmful impact on the character and appearance of the Conservation Area and the surrounding street scene.

The proposed building would not be excessively tall. However, it would be set on a raised platform. The site's land levels are challenging in this regard, as is the need to raise the building off the ground. The building would have its ridge line approximately 5.5 metres above the front boundary wall and would be comparable in height to the northern Reindeer Public House. This height exacerbates the visual impact of the building.

In terms of scale and size, the building itself follows the uphill trend of Port Hill and therefore, the dwelling is considered to be of a dimension that corresponds to the development pattern. However, this does not change the above considerations that a dwelling in this space is unacceptable in heritage terms.

Overall, the proposed development would result in harm to the character and appearance of the Conservation Area due to the loss and removal of important features, the inappropriate design and the change in character of this space. The proposed development is contrary to Policies HE5, HE6, HE9 and HE10 of the NPPF and Policies HA1 and HA4 of the District Plan.

<u>Designated Heritage Assets</u>

The Conservation Officer has identified a neutral impact on Nos. 33, 35 and 37 Port Hill as these would be separated by the access track to Grove Cottage and placement of these in the overall building line of Port Hill.

The application site is considered to contribute to the setting of the norther Reindeer Public House. The application site acts as a separation space between this building and surrounding development. The Conservation Officer notes that this is one of the earliest buildings to survive in this area and that the layout of the building and the application site is a historic arrangement. The breathing space offered by the application site allows the listed building to be seen as a landmark within the street scene.

Therefore, the principle of the proposed dwelling, set only 1.3 metres from the northern boundary with the Reindeer PH, is considered unacceptable. The proposed dwelling would be of a comparable height and in proximity to the listed building, blocking views towards it through Port Hill. This, as well as the stark change in architectural style proposed, would result in a moderate level of harm to the setting of the listed building.

To the west are listed buildings associated with Grove Cottage. It is considered that the application site contributes to the spatial open setting of the Grove Cottage grounds. The proposed dwelling in this location would erode the contribution of the site to the heritage assets and add a residential character in a location incongruent with its setting. This harm has been quantified at a low level of harm to the listed building's significance.

Non-Designated Assets

The NDHAs surrounding the application site are set a distance away from the land and therefore, there would be no impact on their significance.

As noted above, the boundary wall to the site is marked as an important feature within the Conservation Area and therefore is a NDHA. The proposal seeks to remove a seven metre section of this wall to create new vehicular access to the site. The boundary wall is a prominent historical feature within the Conservation Area and beyond this, holds value in delineating the burial ground site. The removal of a large portion of the wall would disrupt its historic position and extent, with a loss of the visual appearance that this affords to Port Hill. The loss would be exacerbated by the installation of other retaining features and raised platforms such that boundaries within the site take on a different form and are no longer indicative of the historic site uses. There would be harm to this non-designated heritage asset, contrary to Policy HE7 of the NPPF and Policy HA2 of the District Plan.

As noted above, the application site itself is a NDHA. This is due to its intangible heritage significance. This is a principle outlined within the ICOMOS International Charter and Guidance on Sites with Intangible Cultural Heritage 2024, which places great importance on spiritual, cultural and community value of sites with intangible heritage.

The archaeological implications of the scheme are discussed below. However, the Conservation Officer considers that any disturbance of burial sites, markers and the setting of the graves would be detrimental to the NDHA. The proposed development would be positioned over the entranceway to the burial site. A secondary entrance would be created and the character of the site would be fundamentally altered. This is considered to cause a high degree of harm to the NDHA, contrary to Policy HE7 of the NPPF and Policy HA2 of the District Plan.

Layout and External Areas

The proposed development would result in the opening up of the side boundary wall to the site. This new vehicular entrance would let into a geotextile covered driveway area which is larger in area than the footprint of the proposed dwelling. The submitted plans note that a retaining wall would be built to the west of the driveway. To the east side would be an area of land infilled with topsoil for boundary planting.

This part of the site is covered with shrub and grassland. Due to the land levels in the surrounding areas, the land in the site is visible from any first floor vantage points within the Conservation Area.

The proposed external areas around the dwelling are considered to exacerbate the impact of the change in character of the site. Whilst the submitted concept plans show a new building

pushed towards one side of the site, this does not represent the fact that the remainder of the site's width would be developed upon. Furthermore, the street scene plans demonstrate that the bin and cycle store features would be visible, rising above the front boundary wall.

Although not harmful in isolation, these elements contribute to the above identified impacts of the proposed development upon the Conservation Area and the surrounding heritage assets.

Seven trees are proposed to be removed to facilitate the piling mat for the new dwelling. Other trees are marked on the plans as requiring a reduction in their canopy area. As discussed above, these trees are identified within the Hertford CAA as important features to be protected. Their removal is considered harmful to the character and appearance of the Conservation Area and the application site. Furthermore, the removal of these trees would result in the continuing of the urban form along Port Hill, removing this important breathing space between the historic buildings.

The impacts on landscape features will be discussed further below.

Archaeology

The application is supported by a Heritage Impact Assessment which addresses the archaeological potential of the site. As a historic burial ground, there is potential for remains to be present; not only of the burial sites but also of historic markers and monuments, tracks and other features.

The County Council Archaeology Advisor has commented on the proposal. It is considered that further information and assessment is required in relation to the proposed piling foundation methods. It cannot be assessed at this point whether the proposed pile locations would directly impact or disturb any burial remains. Further to this, the piling may disturb soil surrounding burial features which would cause indirect disturbance.

Policy HE5(5) of the NPPF requires that, where a development proposal has the potential to involve assets of archaeological interest, appropriate desk-based and fieldwork assessment should be carried out. In line with this, the Archaeology Advisor requires that test pitting of the piling locations is carried out prior to determination of any application.

The submitted Heritage Impact Assessment notes that investigations at the site offer a unique opportunity to study archaeological heritage of a self-contained, post-medieval population. This assessment made by the applicant is clear that the site has a valuable history and that the archaeological remains that may be present are of high significance to the local area, with the earliest Quaker House being located in Hertford.

It is acknowledged that archaeological investigations may, in some instances, be dealt with via a pre-commencement condition. However, in this instance, any works at the site have an unknown potential to impact on assets of archaeological importance. Should this be the case, the proposed development would not be viable and could not be continued. Therefore, it would not be reasonable or appropriate to use such a condition, and this information is required prior to determination of the application.

The applicant was advised of this requirement and was offered the opportunity to provide further information. A written response was provided to state that this work was not considered reasonable. The Archaeology Advisor responded to this reiterating that the work was necessary given that, if burial remains are encountered at the proposed pile locations, the full proposed scheme would need to be amended and re-designed.

As such, the proposed development is considered to have the potential to impact upon assets of archaeological importance. This potential disturbance and harm have a high likelihood of rendering the proposed development unviable. Furthermore, without the required evidence, the Archaeology Team cannot be certain that there would be no loss to assets of archaeological significance or the loss and damage of burials. Therefore, there would likely be a high level of harm to archaeological assets, where no evidence has been presented contrary to Policy HA3 of the District Plan and Policies HE5, HE10 and S4 2(b) of the NPPF.

Landscape

Policy DES3 of the District Plan states that development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value, in order to ensure that there is no net loss of such features. Where losses are unavoidable, compensatory planting or habitat creation will be sought either within or outside the development site.

BS5837:20121 notes that development should achieve a harmonious relationship between trees and structures, that can be sustained in the long term. Where the relationship between trees and a development is not adequately considered, this can lead to harm to root systems, the decline of previously healthy trees, trees needing pruning to accommodate the building and construction, and pressure to remove or severely prune specimens to allow light and daylight into rooms and across amenity areas.

The application site is comprised of an area of woodland within the site and a set of important trees. The Council's Landscape Officer has identified many of the trees as worthy of retention.

The tree coverage forms part of the character and appearance of the site and the local area, offering both visual and biodiversity value. It has been assessed in sections above that the tree removal would result in harm to the character and appearance of the site and the surrounding Conservation Area, together with the setting and significance of the nearby listed buildings.

The proposed development would result in the clearance of five trees within the site and the removal of lower level landscape features such as shrubs and grassland. It is also proposed to reduce the canopy of a number of trees.

An Arboricultural Impact Assessment has been submitted in support of this application. The Landscape Officer considers that one of the proposed trees to be removed is in poor condition and therefore, there is no landscape harm resulting from this. However, the remaining trees are not in a poor condition and therefore, there is no requirement or overriding justification for their removal. This is further to the status of the trees as outlined within the Hertford CAA.

The Landscape Officer has considered that the works to the other trees that are to be retained and the protection of these is acceptable. Therefore, the harm would arise through the loss of the trees. The proposal would cause the loss of important landscape features both ecologically and visually and therefore, the proposal is contrary to Policies NE3, DES3 and DES4 of the District Plan.

It is noted that the submitted plans proposed the replacement planting of six trees along the front boundary of the site. There are concerns with the replacement planting.

Firstly, the proposed new trees would be constrained up against the front boundary and between the wall and the hard surfaces. This limits the space for the trees to grow healthily and achieve a full canopy to mitigate the loss of the existing high quality tree specimens. Furthermore, in this arrangement, the trees do not reflect the existing trees to be removed and would be somewhat incongruent up against the boundary with Port Hill together with the new dwellinghouse.

The applicant has submitted further information to state that T7 and T8 would be retained and not removed, with works to the canopies. Despite this confirmation, there remains concern that the proposed development would be in proximity to these where the canopies are low at the ground level.

The Landscape Officer also considers that the works to plant the replacement trees would be relatively invasive: soil compaction, aeration and groundbreaking. Given the above considerations of ground works and archaeology, there is concern over the removal and planting of trees where this would result in ground movement and breaking. This information would be required as part of the required archaeological works or by way of a condition should permission be forthcoming.

It is considered that the proposed site arrangement is designed with a poor relationship in respect of the trees at the site. The submitted site plan shows a sun path analysis. The proposed trees are shown to be between the path of the sun and the proposed dwellinghouse.

The proposed dwelling is shown to have its principle openings to the front (east), the south and the rear (west). There would be no openings to face north. To the rear of the site is the area of woodland proposed to be retained. Although separated from the proposed dwelling, these trees are within the steep slope at the rear of the site and therefore, are at a higher land level than that of the proposed building. The dwelling is constrained to the north by the adjacent building at No.45. The proposed tree planting would, if the desired canopy height and size is achieved, block sunlight from the east and southeast sides.

There are concerns that the proximity of the proposed dwelling to the new and retained trees would result in overshadowing of the dwelling and its gardens, with a restriction of light to habitable rooms. Overshadowing and the likely dark and gloomy environs provided to occupiers, leaf litter and bird droppings on parked vehicles are likely to result in resentment of the surrounding trees and pressure to lower their height and crown or remove them entirely, in order to let more light into the property and gardens. This would not be supported nor acceptable. This is supported by the appeal decision to refused application 3/23/0288/FUL. Within a Conservation Area, any works to trees require prior consent.

The trees within the application site contribute positively to the Conservation Area and the NDHA, through the character, appearance and ecological and biodiversity value, as well as the character and appearance of the wider area. Any loss or harm to the trees would detrimentally impact the locality.

Overall, it is considered that there would be a negative landscape impact of the proposed development, with important trees removed and an inappropriately designed mitigation proposal. This would diminish the significance of the Conservation Area, amounting to harm to its character and setting. A significant negative impact on assets of landscape value would arise, with a loss of biodiversity and amenity provided by the site. In light of the above it is considered that the proposed development fails to accord with Policies HE4-HE6 of the NPPF and Policies HA1, HA4, DES2, DES3, NE2 and NE3 of the East Herts District Plan.

Neighbour amenity

Concerns have been raised by neighbours over the disruption potential from the proposed development during the construction phase. This would be a temporary phase and the construction of a single residential dwelling would not be considered to cause unacceptable disturbance. However, it is noted that the conditions on Port Hill would mean that there would be disturbance within this phase. The Council's Environmental Health Officer has therefore requested that a condition be attached to any planning permission to require a demolition and construction method statement to ensure that appropriate measures are taken to limit disruption and disturbance.

It has been raised that external lighting proposals would cause impacts on neighbouring amenity. No external lighting has been shown on the plans. The Council's Environmental Health Officer has requested that a condition be attached to any planning permission to require details of external lighting prior to its installation.

A further condition has been requested to be attached to require details of any external equipment such as air source heat pumps. The details are necessary to ensure that the equipment would not result in unacceptable noise impacts towards the surrounding properties.

Due to the separation provided by Port Hill, it is not considered that unacceptable impacts would arise upon front facing properties. The properties to the rear (No.39 and The Grove) are separated by the land levels and a large distance of woodland. It is not considered that unacceptable impacts would arise upon these neighbours.

No.37 Port Hill

No.37 is to the south of the application site. It is separated by the lane leading to The Grove Cottage and the boundary wall of the site. Although the boundary wall is proposed to be removed adjacent to the neighbour.

No.37 shows a first floor side window looking into the application site. One double height side window is proposed to face southwards within the new dwelling. This would serve a staircase. The neighbouring first floor window is seen to serve a staircase and landing. Owing to the separation between the buildings and the uses of the windows, it is not considered that a detrimental impact on overlooking would arise.

It is proposed to create external raised platforms within the application site. However, this would bring the land level similar to that of the pavement and therefore, it is not considered that this would result in overlooking greater than that achieved from a public pavement position.

The proposed dwelling, being to the north and set away from the common boundary, would not be considered to result in unacceptable impacts on light, overshadowing or overbearing towards this neighbour.

No.45 Port Hill

No.45 is directly to the north of the application site. No.45 abuts the boundary wall and a first floor window look over the application site. This window appears to serve a bedroom and under planning permission granted in 2025 (LPA ref.: 3/25/1302/FUL) a further first floor bathroom window was approved to face into the application site. This has not been implemented at the time of writing but could reasonably be constructed.

No windows are proposed to face No.45 and the proposed raised platforms would remain lower than the neighbouring land level and boundary wall. Therefore, it is not considered that unacceptable impacts on privacy or overlooking would arise.

However, the proposed building would directly block this bedroom window to the south and east sides. This would be considered to result in a direct loss of natural light and sunlight available to the neighbouring window such that it would be severely restricted. Furthermore, the dwelling would be positioned at a minimum of approximately 1.3 metres from the neighbouring dwelling at a raised position above the ground. This is considered to result in unacceptable overbearing, overshadowing and restriction of light to the detriment of the neighbouring occupier.

Due to this, it is considered that unacceptable impacts would arise on the amenity of the neighbouring property and the proposal fails to comply with Policy DES4 of the East Herts District Plan 2018.

Living Conditions for Future Occupiers

New dwellings are expected to align with the Technical Housing Standards - Nationally Described Space Standard (2015) (NDSS) and the requirements of District Plan Policy DES4(f). The proposed dwelling would be a three bedroom property.

The NDSS expect a dwelling of three bedrooms and six bedspaces provided across two floors to be a minimum of 102m2 in internal floor area, with an additional 2.5m2 of built in storage space. The proposed dwelling would have a gross internal area of approximately 132 m2, surpassing this requirement. There is adequate amenity and storage space for the new unit. The proposal complies with Policy DES(f) and the Nationally Described Space Standards.

The habitable rooms would all have window openings of an acceptable sizes to provide a satisfactory level of natural light and ventilation. However, it was considered above that there would be an unacceptable restriction of light to internal spaces and external amenity areas due to the existing and proposed trees at the site such that the living conditions of future occupiers would be unacceptably impacted, in conflict with Policies HOU7 and DES4.

Highways and Parking

The Local Highway Authority raises no objection to the proposal and have recommended that informatives be attached to any permission granted. The proposed access is away from the public highway and down an existing residential access track. Therefore, there would not be additional impacts on the public highway or the front footpath.

Comments from neighbouring properties raise concern over the impact on local parking and highways safety. It is acknowledged that the proposed access uses a route across the footpath. However, this is an existing residential route and therefore, the use of this is established. No parking to the front of the site would be lost due to the use of this. The proposal complies with District Plan Policy TRA2.

The Council's Updated Vehicle Parking standards Supplementary Planning Document (SPD) requires a dwelling of three bedrooms to provide a 2.5 off-street parking spaces. The driveway area measures at a sufficient size for two off-street parking spaces according to the measurements within the SPD. Within this inner settlement location, the site is within proximity to the town centre, a supermarket, public transport and amenity facilities. It is considered that the proposed development complies with Policy TRA3 of the District Plan.

Furthermore, all new dwellings are required to be served by at least one electric vehicle charging point. This has been shown on the submitted plans. Cycle storage space has also been shown for the proposed dwelling which is supported. Overall, the proposal complies with Policies TRA2 and TRA3 of the District Plan.

Climate Change and Sustainable Design

Consideration must be given to climate change adaptation and mitigation, as well as building design requirements for renewable and low-carbon energy, as outlined in Policies CC1, CC2, and CC3 of the District Plan. The Council's Sustainability SPD 2021 is a material consideration for this application.

Details are provided in the submitted Sustainability Statement within the Design and Access Statement. The proposed dwelling adopts a fabric first approach and targets a Passivhaus standard of design. Integrated solar panels, EV charging points and insulation methods are proposed for the dwelling.

The Sustainability Statement notes that an Air Source Heat Pump (ASHP) would be installed under the dwelling. This has not been shown on the plans and therefore, cannot be considered to contribute to the sustainability of the dwelling. The Environmental Health Officer has requested that a condition be attached to any planning permission requiring details of ASHPs or other equipment prior to installation. This is considered reasonable to attach to any planning permission.

It is considered that the submitted information provides the bases and principles for compliance with Policies CC1, CC2 and CC3 of the District Plan. The construction methods, materials use, and sustainability measures are supported.

Additionally, efficient water resource use should support improvements in water usage as outlined in Policy WAT4. The Sustainability Statement indicates that the dwelling will incorporate measures to ensure an average water consumption of less than 110 litres per person per day. This is a Building Control requirement and therefore, this is secured through that other legislation.

Biodiversity Net Gain

The Environment Act 2021 (the Act) has introduced a statutory requirement for development proposals to provide a minimum 10% biodiversity net gain, except in certain circumstances where development is exempt. This requirement was updated in 2026 to offer a further exemption to application sites of less than 0.2ha in area.

The application site measures at under 0.2ha in area. The proposed development benefits from the 0.2ha site area exemption and therefore, the mandatory Biodiversity Net Gain condition does not apply to this application.

Ecology

The application site is covered by trees and is undeveloped. There is potential for local wildlife to use the site, along with protected species. The application site is marked within the Hertfordshire Local Nature Recovery Strategy (LNRS) as an area which could become of particular biodiversity importance.

An Ecology Assessment has been submitted alongside the application. This document has concluded that the site has no potential for roosting bat presence and a negligible potential for use as a roost site. No other protected species were encountered.

There would be some loss of biodiversity and ecology at the site as a result of the change of use and residential development. However, this is considered to be a low level of harm which could reasonably be mitigated through ecological enhancements and the retention of the landscaped areas to the rear of the proposed dwelling.

The Ecology Assessment sets out recommendations and working precautions such as the installation of bat boxes, bird boxes, swift bricks and hedgehog routes. Should this application have been recommended for approval, a condition would have been imposed to require details of these features and that they are implemented at the site. Subject to this, the proposal complies with Policies NE2 and NE3 of the District Plan.

Waste

The proposed plans show that bin storage would be provided for the dwelling adjacent to the driveway area. This location is considered acceptable to serve the size of dwelling proposed. The comments from Waste Services state that bins would need to be presented on the highway for collection and that they would not be collected from the bin store. This is considered to be a standard arrangement for this area.

The bins would remain within easy drag distance to the public highway collection points, being able to be moved across paved surfaces. This is an arrangement expected within this residential location and is considered acceptable to comply with Policy DES4 of the District Plan.

Representations

Representations have been received both in support and in objection to the proposed development. The comments have been addressed in the relevant sections of this report. Those not covered are discussed here below.

There is concern that the correct notifications have not been carried out by the applicant on the Quaker association. The applicant has signed a Certificate to state that they own the land or that notice has been served on the landowner. It is understood that the land has been sold by the Quaker Association. The Quaker Association has not commented on this application and the Council has no reason to doubt that the applicant has an ownership interest in the land.

Comments have raised concern over wastewater and drainage. The application site is not within Flood Zones 2 or 3 and the risk of surface water flooding is low, outside of the area of the proposed dwelling and access point. It is not considered that the erection of a single dwelling would result in harmful impacts on local drainage and wastewater.

Concern has been raised that the proposal results in overdevelopment of Port Hill and that this proposal could cause a precedent to be set for future development at the site. Should any planning permission be granted, this would not limit the ability of the Council to assess any future proposals individually. The impacts of overdevelopment have been addressed in sections above.

Planning Balance and Conclusions

Policy S4 of the NPPF states that in the application of the Policy, the circumstances in which the benefits of approving development proposals are likely to be substantially outweighed by adverse effects include, but are not restricted to, situations where the development proposal

would fail to comply with one of the national decision-making policies which state that development proposals should be refused in specific circumstances.

Policy S4 also states that where a proposal involves the whole or partial loss of a burial ground, this would also result in an adverse impact of the development.

The proposed development would result in the whole loss of the burial ground. Although this is inactive, the land contains burials, archaeological remains and historic significance. The proposed development has a high potential to cause direct disturbance of burial remains and there is insufficient site investigation to demonstrate that the proposed methods of construction would not result in a loss and destruction of archaeological assets of importance. Furthermore, the proposed development would result in the overall disruption of the site and its uses, together with its historic layout and function and association with the Hertford Quaker Friends Meeting House. There would be harm to the site itself, the boundary wall, its archaeological assets, and the trees within the site, which are all considered as Non-Designated Heritage Assets. This would cause a high level of harm to the significance of the NDHA and would result in conflict with Policies HE4-HE7 and HE10 of the NPPF.

Therefore, the use and function of the development site would cause the development to result in an adverse impact to which the NPPF attaches substantial negative weight. The proposed change of use of the application site and the proposed residential uses would therefore result in an adverse impact that would be considered of substantial weight, contrary to Policy S4 2.(b) of the NPPF.

Further to the above, the proposed development would result in harm to the character and appearance of the Conservation Area and harm to the setting and significance of the surrounding designated heritage assets. The harm to the designated heritage assets has been quantified as low to moderate harm to significance.

Policies HE6 and HE7 of the NPPF require that harm to heritage assets, both designated and non-designated, are weighed against any public benefits of the development proposal.

In this application, the positive elements of the scheme include the provision of a new residential dwelling in a sustainable location. This would be a self-build dwelling which is to be constructed to a high standard of design in terms of sustainability. However, as a single dwelling, this can only be considered of limited positive weight.

Therefore, it is not considered that there are sufficient public benefits of the scheme to outweigh the harm to the heritage assets identified. The proposed development fails to comply with Policies HE4-HE7 and HE10 of the NPPF, and Policies HA1, HA2, HA3, HA4 and HA7 of the East Herts District Plan. The Policies of the NPPF present a mechanism for refusal of the development and a substantial adverse impact which would cause the development to be unacceptable in principle.

Therefore, there are conflicts with the NDMPs of the Framework which create mechanisms for refusal of the development, together with a conflict of land use under Policy S4. There are adverse impacts that substantially outweigh the benefits of the proposal and as such, the proposed development is not acceptable in principle, contrary to Policy S4.

The proposed development would result in harm to the landscape assets within the site and the loss of trees. This is considered to be detrimental to the landscape character of the site and surrounding area, with harm to the trees and the biodiversity health of the site. The proposal is contrary to Policies DES3, DES4 and NE3 of the East Herts District Plan.

The proposed development would result in unacceptable overbearing, overshadowing and restriction of light to the detriment of the amenity of a neighbouring occupier. The proposed development fails to comply with Policy DES4 of the District Plan.

Owing to the landscaping, the vicinity of buildings and the placement of the proposed new dwelling, it has been considered that there would be an inadequate level of light reaching the proposed building such that the living conditions of future occupiers would be unacceptably impacted. This would lead to pressure to remove or cut back trees which would not be acceptable in the Conservation Area, contrary to Policies DES4 and HOU7 of the District Plan.

Overall, the proposed development would result in adverse impacts which are considered to substantially outweigh the benefits of the proposal, which are given limited weight. Therefore, the material considerations indicate that planning permission should be refused for the development, which fails to comply with the National Planning Policy Framework, the East Herts District Plan 2018, the Planning (Listed Building and Conservation Areas) Act 1990 and the adopted Bengeo Neighbourhood Plan.

Reason(s) for Refusal:

1 In the absence of supporting archaeological evidence and field evaluation, the proposed development would result in the disturbance, potential destruction, and loss of heritage assets of archaeological importance, including the complete loss of a burial ground, and is therefore unacceptable in principle. The application fails to demonstrate that harm to these heritage assets would be avoided or appropriately mitigated, failing to meet the requirements of Policies HE5 and HE10 of the National Planning Policy Framework. Consequently, the proposal is contrary to Policies S4, HE4–HE7, and HE10 of the National Planning Policy Framework (2026) and Policies HA1 and HA3 of the East Herts District Plan (2018)

2 The proposed development by reason of its siting, design and layout of the proposed development, harm would arise to the character and appearance of the Hertford Conservation Area, the setting and significance of the surrounding designated heritage assets and to the significance of non-designated heritage assets. The public benefits of the proposal are not sufficient to outweigh the harm. The proposal therefore fails to comply with Policies DP3 and HE4-HE7 of the National Planning Policy Framework 2026, Policies HA1, HA2, HA4, HA7, HOU12 and DES4 of the East Herts District Plan 2018, the adopted Neighbourhood Plan and the Planning (Listed Building and Conservation Areas) Act 1990.

3 The proposed development, by reason of its position and vicinity to the neighbouring property, would result in unacceptable impacts of overshadowing, loss of light and overdominance towards the occupiers of No.45 Port Hill, to the detriment of the amenity conditions of this neighbour. As such, the proposal is contrary to Policy DES4 of the East Herts District Plan 2018 and the National Planning Policy Framework 2026.

4 Due to the need to remove trees and the inappropriateness of the proposed replacement planting, the proposed development would result in a detrimental impact on the landscape character of the site and the landscape features contained within it. The landscape and ecological qualities of the site would be diminished, with a harmful impact on the surrounding area. The proposed development fails to comply with Policy DP3 of the National Planning Policy Framework and Policies NE3, DES3 and DES4 of the East Herts District Plan 2018.

5 The proposed development by reason of its siting and relationship with surrounding structures, would be subject to overshadowing and inadequate levels of daylight and sunlight. This would result in unacceptable living conditions for future occupiers and a substandard level of accommodation, contrary to Policies DES4 and HOU7 of the East Herts District Plan (2018).

Informatives:

1. East Herts Council has considered the applicant's proposal in a positive and proactive manner and whether the planning objections to this proposal could be satisfactorily resolved within the statutory period for determining the application. However, for the reasons set out in this decision notice, the proposal is not considered to accord with the Development Plan.

Plans

Plan Ref	Version	Received
902_P3		4th August 2026
905_P3		4th August 2026
913_P3		4th August 2026
914_P3		4th August 2026
922_P2		4th August 2026
04205K_A2_1_200		20th August 2026
001_P1		4th August 2026
901_P3		4th August 2026
921_P3		4th August 2026
903_P3		4th August 2026
904_P3		4th August 2026
906_P3		4th August 2026
907_P3		4th August 2026
908_P3		4th August 2026
909_P3		4th August 2026
910_P3		4th August 2026
911_P3		4th August 2026
912_P3		4th August 2026

Recommending Officer and Date
Daniel Clark
16th November 2026

Authorising Officer and Date:
Scott Hackner
18.11.26

Authorising Officer Assessment for National Scheme of Delegation:

Delegated Schedule:	Schedule 2
Own Interest:	N
Local Triage:	Y
Gateway Test:	N
Gateway Met:	N/A