

ITEM NO:	<u>Location:</u>	Land to the south of Bendish Lane and adjacent to 2-12 Cresswick, Whitwell
6	<u>Applicant:</u>	Pigeon Land Limited
	<u>Proposal:</u>	Residential development for 41 dwellings comprising 25 open market houses (5 two bed dwellings, 6 three bed dwellings, 6 three bed bungalows, 5 four bed dwellings, 2 four bed bungalows and 1 five bed dwelling) and 16 affordable dwellings (6 one bed dwellings, 7 two bed dwellings and 3 three bed dwellings), associated parking, cycle storage, refuse storage, pumping stations and open space.
	<u>Ref. No:</u>	15/02555/ 1
	<u>Officer:</u>	John Chapman

Date of expiry of statutory period: 05 January 2016: Extension of time for determination agreed until 31st July 2016.

Reason for Delay (if applicable)

Negotiations with applicant

Reason for Referral to Committee (if applicable)

This is a proposal for residential development with a site area greater than 0.5 hectares therefore under the Council's scheme of delegation the planning application needs to be determined by this Committee.

1.0 Relevant History

Pre-application advice given in June 2015 for the erection of c.45 dwellings (app no 15/01190/1PRE). Subsequent to this advice discussions then took place with regard to schemes proposing the erection of 31 houses and then 38 houses with 2 office units.

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations.

Policy 6 - Rural Areas beyond the Green Belt.
 Policy 14 - Nature Conservation.
 Policy 26 - Housing Proposals.
 Policy 55 - Car Parking Standards.
 Policy 57 - Residential Guidelines and Standards.

Supplementary Planning Document.

Design.
 Planning Obligations.
 Vehicle Parking at New Development.

Other relevant documents.

North Hertfordshire and Stevenage Landscape Character Assessment (Character, Sensitivity and Capacity).

2.2 **National Planning Policy Framework.**

Paragraph 14 - Presumption in Favour of Sustainable Development.

Paragraph 17 - Core Planning Principles.

Section 1 - Building a strong, competitive economy.

Section 3 - Supporting a prosperous rural economy.

Section 4 - Promoting sustainable transport.

Section 6 - Delivering a wide choice of high quality homes.

Section 7 - Requiring good design.

Section 10 - Meeting the challenge of climate change, flooding and coastal change.

Section 11 - Conserving and enhancing the natural environment.

Section 12 - Conserving and enhancing the historic environment.

2.3 **North Hertfordshire District Local Plan 2011-2031 'Preferred Options Consultation Paper' and Proposals Map**

Policy SD1 'Presumption in Favour of Sustainable Development'

Policy CGB1 'Green Belt'

Policy T1 'Sustainable Transport'

Policy T2 'Parking'

Policy HDS1 'Housing Targets 2011-2031'

Policy HDS2 'Settlement Hierarchy'

Policy HDS3 'Affordable Housing'

Policy D1 'Design and Sustainability'

Policy D3 'Protecting Living Conditions'

Policy NE6 'Reducing Flood Risk'

Policy NE7 'Water Quality and Environment'

Policy NE9 'Contaminated Land'

Policy ID1 'Infrastructure Requirements and Developer Contributions'

Chapter 12 'Part 1': Development for North Hertfordshire's Own Needs' - St. Paul's Walden

3.0 Representations

- 3.1 **St Pauls Walden Parish Council** - comments upon original proposals attached as an Appendix. Comments upon the revised scheme were requested to be received by 9pm on 7th July 2016 in order that they could be included in the report. However, no response was received by this time therefore I will report their comments orally at the meeting.
- 3.2 **Highway Authority** - do not wish to restrict the grant of permission, subject to the imposition of 9 conditions. I have included the first 8 of these as part of my recommendation (see conditions 3- 10) and included the last one as part of the highway informatives.
- 3.3 **Environment Agency** - recommend the imposition of 7 conditions, as set out under conditions 11 - 17 of my recommendation.
- 3.4 **Lead Local Flood Authority** - originally recommended that the application be refused due to the absence of an acceptable Flood Risk Assessment report. However, following the receipt of further reports from the applicant they now recommend that permission be granted, subject to the imposition of two conditions as set out in my recommendation (see conditions 20 and 21).
- 3.5 **Environmental Health** - recommend the imposition of a noise condition, as set out in condition 18 of my recommendation, together with the inclusion of two

informatives.

- 3.6 **Herts CC (Planning Obligations Officer)** - requests that contributions be made toward primary and secondary education, library facilities and the provision of fire hydrants.
- 3.7 **Herts CC (Natural, Historic and Built Environment Advisory Team)** - recommends the imposition of 3 conditions, as set out in conditions 23 - 25 of my recommendation.
- 3.8 **Herts Ecology** - recommends the imposition of a Landscape Strategy condition, as incorporated in condition 19 of my recommendation.
- 3.9 **Herts & Middlesex Wildlife Trust** - comment that the application "has the potential to deliver significant ecological gains "and recommends the imposition of a condition to deliver these enhancements, as incorporated in condition 19 of my recommendation.
- 3.10 **Hertfordshire CPRE** - objects to the application as it is outside of the Whitwell village boundary. They consider it is contrary to policies 6 (ii) and 7(i) of the Local Plan, although they welcome the fact that the applicant recognises the topography of the site and restricts development to the valley bottom. However, they request that should permission be granted a condition be imposed to prohibit further development on the proposed open space. They query the findings of the Flood Risk Assessment and consider the Council should require the specific agricultural quality of the land to be determined prior to determination of the application.

They conclude their objection by stating that they "appreciate that housing land availability in Whitwell is severely restricted and that if development has to take place a portion of this site would be the least worst option. However, any development of the scale envisaged in the draft Local Plan will be detrimental to the character of Whitwell and the countryside surrounding it. Consequently, as the proposal is for inappropriate development in the Rural Area beyond the Green Belt, we urge the Council to reject it. "

- 3.11 **St Pauls Walden School** - The Headteacher and the Chair of Governors raises the following concerns with regard to the originally submitted scheme:
- Impact of noise and heavy vehicles from building.
 - Traffic
 - Entrance to the housing development.
 - Drainage.
 - Beauty of the rural environment.
 - Type of business.

Subsequently, they raised concerns over the plans to manage surface water flooding, the safety of the drainage basins, parking and congestion on Bendish Lane, the location of the entrance to the site and school crossing and access to the site for builders.

- 3.12 **Local residents** - letters of objection have been received from the occupiers of properties in the following roads in the village:
- Bendish Lane
 - Cresswick
 - Horn Hill
 - High St
 - Tannery Yard
 - Codicote Road

- Bradway
- The Valley
- Dalton Way
- Roberts Court
- Strathmore Road
- Mimram Close
- Oldfield Rise
- Old Hall Court
- King Georges Way

In addition individual letters of objection have been received from residents who have not included an address, as well as from residents living outside of the village.

The letters of objection raise the following concerns:

- Whitwell is not a sustainable location for developments of this scale, given the lack of transport, employment, secondary school and retail facilities available for existing and future residents, whereas the NPPF requires schemes to be in areas that are, or can be made, sustainable.
- The road system serving Whitwell is poor with narrow roads to the village, which are presently in a shocking state and will only worsen with increased traffic and construction vehicles using them.
- Proposal is contrary to policy 6 of the Local Plan.
- Site being greater than 5 hectares in area means development is contrary to advice in the North Hertfordshire and Stevenage Landscape Character Assessment (Character, Sensitivity and Capacity).
- Harmful impact of increase in traffic through the village, particularly due to congestion problems in the High St which occur during peak hour periods, when refuse collection takes place and when buses and large lorries need to negotiate the many parked cars.
- There is no continuous pavement from this proposed estate to the village shop, doctors, pub and recreation ground so walking to these would necessitate crossing the road several times. Many people will take the safer option and take the car making traffic congestion worse than it already is.
- Proposals do not protect and enhance the natural environment and would cause permanent damage to the landscape, which is very popular with walkers and cyclists, in conflict with NPPF for sustainability of the environment.
- The site is prone to flooding and the proposals will only increase this risk and the potential for damage to adjacent properties, particularly as there has previously been flooding in Cresswick. The submitted FRA is inadequate.
- Risk of pollution to the principal chalk aquifer
- Location of pumping station is likely to cause noise to nearby residents in Cresswick and Bendish Lane.
- Public transport to and from the village is very limited, with only one bus every 2 hours, which only travels between Hitchin and St Albans and there is no public transport to Luton or Harpenden
- Pigeon's own document state that Sir John Lawes school in Harpenden is the nearest secondary school to the development. Due to the village's distance from any urban community, in recent years children from the village primary school have only been successful in obtaining any Harpenden school on appeal, and even then not everyone has done so. The normal allocation is to a school in Luton or Stevenage. At the present time there is no school bus to either of these towns, neither is there public transport. Pupils who do manage to secure places at Harpenden schools through the appeals process currently travel on the school bus, but there is a hefty charge for this presently and it appears the route is soon to be scrapped. It is clear that any children attending any secondary school in Harpenden, Luton or Stevenage would have to be taken by car.
- The site entrance is on a single lane opposite a primary and nursery school,

where children walk to school.

- The development would be isolated and unconnected to the rest of the village.
- The public consultation process was misleading and should be discredited, as it was for only 28, not 41, dwellings.
- Plots 11 & 12 would be too close to existing dwellings and therefore would be visually intrusive.
- Area is identified as an emerging Green Belt location in the draft Local Plan, being required to replace Green Belt land lost on the edges of larger towns, where development is more appropriate because of better transport services.
- Likelihood that development would lead to the rest of field being built upon.
- Proposals would lead to harm to wildlife.
- No details submitted to indicate how children can be safeguarded from falling into the ponds and not pose a danger.
- Site is important to the history of the village since it was used by John Bunyan to hold meeting to address villagers, as well as being used to keep and breed carrier pigeons during the war.
- Loss of agricultural land.
- Parish Plan identifies that any additional development should not occur outside the existing village boundary and should be in proportion to the size of the village. A development of 41 dwellings would increase the number of dwellings by 11% which is disproportionate to its size.
- Brownfield land within the village should be developed first.
- Vibration and noise from construction of development might affect the ability of pupils at the school to concentrate in class and hamper their learning.
- Increased pressure on school and doctors surgery facilities, which are presently at full capacity.
- Provision of affordable housing is not appropriate as there is little or no employment available locally and public transport is poor.
- Development should be restricted to approx 25 houses throughout the village - a number that would be an acceptable percentage growth of the village population.

4.0 Planning Considerations

4.1 Site & Surroundings

The application site is presently an open field with no discernible physical features, other than a hedgerow which forms the frontage of the site. The field is situated opposite the village primary and nursery school, adjacent to a dwelling known as St Marys Chapel in Bendish Lane and backs on to dwellings in Cresswick and Horn Hill. The site is undulating in nature and has a site area of approximately 5.9 hectares, although the submitted Design and Access Statement states at paragraph 3.1 that "the proposal is to develop only about 2ha of this area with low-density development, concentrated on the lower lying ground." To the rear of the frontage hedgerow the land is roughly level, but the topography of the site is such that it then drops down in level to the south and east, before rising again where it backs on to the rear gardens of properties in Horn Hill.

4.2 Proposal

As originally submitted planning permission was originally sought for a mixed development of the site both for 41 residential units and two office buildings. However, following negotiation with the applicant, the proposal to erect two office buildings was deleted and bungalows introduced along the site frontage and behind dwellings in Cresswick. The application now proposes the erection of 25 open market houses (5 two bed, 12 three bed, 7 four bed and 1 five bed dwellings) and 16 affordable dwellings (8 one bed, 4 two bed and 4 three bed), together with the other development set out in the description above.

Insofar as the residential layout is concerned this shows the site accessed from Bendish Lane by means of a new road located to the west of the school entrance, leading on to a circular access road. To the western and southern (where the land slopes up to the rear gardens of dwellings in Horn Hill) parts of the site it is proposed to provide a significant area of public open space.

The proposed residential layout indicates that 4 bungalows would be located along the frontage of the site (plots 1, 2, 3 & 41), with 3 other bungalows located behind properties in Cresswick (plots 11, 12 & 14). A further bungalow (plot 40) would be located to the south of the westernmost bungalow on the site (plot 41). Seven other dwellings (plots 4-10) are proposed to back onto the 3 bungalows fronting the site to the east of the proposed access road, with 25 dwellings (plots 15-39) situated within the loop formed by the proposed internal access road. A further two storey dwelling (plot 13) is proposed to the south and west of the bungalows proposed on plots 12 & 14. The 8 bungalows would have ridge heights of 6.25 metres, whilst the other 33 dwellings would be two storey and have ridge heights varying between 7.6 metres and 8.9 metres, as follows:

Plots 10, 19, 20, 30 & 31: 7.6 metres.

Plot 15: 7.75 metres.

Plots 16, 17 & 18: 7.9 metres.

Plots 8 & 9: 8.1 metres.

Plots 35 & 38: 8.4 metres.

Plot 13: 8.45 metres

Plots 23, 24, 25, 26, 27 & 28: 8.5 metres.

Plots 29, 32, 33, 34, 36, 37 & 39: 8.7 metres.

Plots 4, 5, 6, 7, 21 & 22: 8.9 metres.

The 16 affordable housing units are located on plots 15-18 & 23-34. Parking to serve the units on plots 23-34 is located to the rear of plots 29-32 accessed via a gated driveway between plots 30 & 31, as well as to the south of the double garage which would serve unit 22..

4.3 Key Issues

4.3.1 I consider the key issues to the determination of this application relate to the following:

- Whether the proposed development is acceptable in terms of present Council policy and NPPF advice?
- Whether the specific constraints raised by the the location of part of the site adjacent to the Whitwell Conservation Area is acceptable, given the relevant legislation applicable to the determination of the proposed development?
- The benefits of delivering new homes.
- The effect of the development upon the character of the countryside.
- Whether the proposed development is acceptable in sustainability terms, given the social, economic and environmental roles set out in the NPPF?
- Whether access to the site and traffic issues are satisfactory to the Highway Authority?
- Whether mitigation measures are necessary, by means of a Section 106 agreement, to satisfy the policy aims of the Local Plan, as set out in Policy 51 of the Local Plan?
- Matters relating to flood risk.
- Archaeological, ecological, groundwater and noise issues.
- Design and Heritage Assets.

4.3.2 **Whether the proposed development is acceptable in terms of present Council policy and NPPF advice?**

4.3.3 In considering the above issue the starting point should make reference to paragraph 49 of the NPPF which states the following:

"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites".

4.3.4 On this basis the applicant refers to the Council's position with regard to the provision of a 5 year land supply, in justifying why development of this site is acceptable given the above advice.

In considering this issue I have had regard to the most recent Annual Monitoring Report (AMR) of December 2014 which states that:

" The latest calculations for whether the district has enough housing land to meet needs for the next five years are contained in the Strategic Housing Land Availability Assessment (SHLAA) of November 2014. It concludes that the district has between a 2.2 and 3.8 years' supply of housing land, and is therefore well short of a five year supply. "

In addition to considering this lack of a 5 year land supply it is also necessary to take into account the North Hertfordshire Local Plan 2011 - 2031 Preferred Options Consultation background paper, dated November 2014, relating to housing and settlement hierarchy. This identifies Whitwell as one of 22 villages described in draft policy HDS2 as Category A villages. The Housing and Settlement Hierarchy Background paper, dated November 2014, which informs the above document states at paragraph 5.41 of the above paper that:

"Having considered the economic, social and environmental impacts of development in the rural areas, the Council concludes that there is a clear social and economic case for allowing further growth in those villages with schools. Whilst this approach may have negative environmental impacts, these are not considered so clear cut or measurable as to warrant a more restrictive approach, which would cause economic and social harm to those villages. For the villages with schools, the Council therefore proposes defining a settlement boundary within which further growth will be allowed."

Furthermore at the time of preparing this report this site has been identified in the Local Plan Review as the only possible sites for housing in the village

4.3.5 On this basis the applicant considers that in accordance with paragraph 49 of the NPPF, this planning application for housing development must be assessed against the 'Presumption in Favour of Sustainable Development', due to the lack of a five year supply of land for housing and I agree with their assessment in this regard.

4.3.6 **The Benefits of Delivering New Homes**

Having acknowledged that the Council does not have a five year land supply of deliverable housing sites, the benefits of delivering new homes are greater, as the absence of a five year land supply is a clear indication that insufficient homes are being delivered within the District to meet housing need (household formation).

This planning application proposes 41 new homes which would make a

contribution, albeit a small one, towards improving the five year land supply but also helping to meet the objectively assessed housing need of 16,500 new homes across the District, through the plan period (2011-2031). Meeting housing need is of itself a benefit of the proposed development.

- 4.3.7 The applicant has also proposed within the heads of terms of a necessary S106 Obligation to provide 40% affordable housing on this site. This offer would comply with emerging Local Plan policy HDS3. On this basis I consider that the provision of this level of affordable housing is something that weighs in favour of the development in this case.
- 4.3.8 The other S106 benefits which are proposed are referred to under paragraph 4.3.18 of this report and whilst the proposed contributions are of benefit I place little weight as to their net benefit, since they are necessary to mitigate the impact of the development proposal on local infrastructure and in accordance with policy 51 of the Local Plan.
- 4.3.9 In terms of economic benefits, it is clear that the proposed development would create employment opportunities in construction and by providing homes for new households in the local area. The development would also help to support existing local businesses and services in Whitwell and its surroundings.
- 4.3.10 Since the enactment of the Localism Act 2011, Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires planning applications to be determined in accordance with the development plan, any local finance considerations and any other material considerations. The Act defines local finance considerations for the purposes of determining planning applications as income derived from the Community Infrastructure Levy (CIL) and the government's Homes Bonus scheme as a top up to revenue grant to support the delivery of new homes.
- 4.3.11 Whilst the Council has not adopted a CIL, it is necessary to consider homes bonus income to the Council that would result from this development proposal. This is in my view another benefit of the scheme that must be considered, albeit, a non-land use factor.
- 4.3.12 **The effect of the development upon the character of the countryside.**

As is mentioned above, Local Plan policies which are relevant to the supply of housing are considered to be out-of-date (NPPF paragraph 49) in relation to the presumption in favour of sustainable development. In this case the site falls within the Rural Area beyond the Green Belt to which policy 6 of the Local Plan applies. However, whilst Policy 6 clearly has a role in directing new housing development towards existing settlements and in this respect it is out of date, it is not explicitly a policy that relates to the supply of housing. It has a broader planning purpose that being protecting the character of the countryside, which has a degree of consistency with the 12 'Core Planning Principles' set out in the NPPF: the fifth bullet point of paragraph 17 **'recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.'**

In considering this issue I have taken into account the Council's Landscape Character Assessment for the Whitwell Valley. Whilst objectors have made reference to the advice in the text relating to sites greater than 5 hectares in area I do not consider this is the relevant part of this document, since only 2 hectares of the site is to be developed for housing or that the reasons set out in that section of the Assessment would be compromised by the proposed development. Accordingly, I consider that the text for smaller urban extensions on sites less than 5 hectares is the relevant advice and in this regard I note that the Assessment states that development would not be entirely appropriate within this character area, due to its rural and undeveloped character. However, it goes on to add that some

small scale expansion at the periphery of the village, carefully designed and in keeping with the existing character of the village, could possibly be accommodated. In this case I consider that the proposed development does accord with this advice, particularly as the proposed bungalows adjacent to Cresswick has been carefully designed to be in keeping with the character of this part of the village and the most sensitive parts of the site would remain as public open space.

4.3.13 Whether the proposed development is acceptable in sustainability terms, given the social, economic and environmental roles set out in the NPPF?

There are three roles of sustainable development set out in the NPPF; these being economic, social and environmental roles. In terms of the **economic** benefits of the proposed development these are set out under paragraph 4.3.10 of this report. **Socially** the proposed development would be inclusive, as well as delivering much needed new homes, to include both market and affordable homes. In terms of infrastructure the development would be self sustaining in that all identified impacts on local infrastructure can be mitigated (see section on S106 obligation requirements). In terms of an **environmental** role the emerging Local Plan identifies Whitwell as a sustainable settlement with access to a reasonable range of services and public transport that could be accessed by future occupiers of this development and are in proximity to this development site. This means future residents of this development would not be wholly reliant on the private car, although for services such as anything more than small scale retail, nursery and primary education and doctors/surgery facilities residents would be likely to travel to nearby larger towns such as Stevenage, Hitchin, and Luton by private car. In addition, the houses would be visible from nearby footpaths and a small stretch of road to the west when travelling to and from Bendish. Taking account of this I consider that this development proposal would not be wholly environmentally sustainable.

4.3.14 Whether access to the site and traffic issues are satisfactory to the Highway Authority?

Members will note that consultations with the Highway Authority have led them to raise no objection to this application. As a result, and subject to the imposition of the conditions set out in the recommendation, in the absence of any expert technical advice to support the objections raised by the Parish Council, the Headteacher and Chair of Governors of the nearby school and local residents to this aspect of the scheme it is not felt there is any significant or demonstrable reason for refusal on this ground.

4.3.15 Whether mitigation measures are necessary, by means of a Section 106 agreement, to satisfy the policy aims of the Local Plan, as set out in Policy 51 of the Local Plan?

The table set out below sets out details of the heads of terms of a S106 Obligation that the applicant is prepared to enter with the Council and Hertfordshire County Council.

Element	Detail and Justification	Condition / S106
Affordable Housing	40% affordable housing across the scheme based on 65% affordable rent and 35% other affordable housing tenure. Preferred Options Local Plan Policy HDS3, evidence within the SHMA and Planning Obligations SPD	S106 Obligation
Primary Education Contributions	Full contribution based on Table 2 of the HCC toolkit index linked to PUBSEC 175, to be used towards the expansion of St	S106 Obligation

	Pauls Walden Primary School Policy 51 of North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD and HCC toolkit	
Secondary Education Contributions	Full contribution based on Table 2 of the HCC toolkit index linked to PUBSEC 175, to be used towards the expansion of Hitchin Boys School by 1FE Policy 51 of North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD and HCC toolkit	S106 Obligation
Library Services	Full contribution based on Table 2 of the HCC toolkit index linked to PUBSEC 175, to be used towards expanding the children’s areas at Hitchin library with new furniture and stock Policy 51 of the North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD and HCC toolkit	S106 Obligation
Fire Hydrant	Provision across the site in accordance with standard wording Policy 51 of North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD	S106 Obligation
Waste Collection and Recycling	£71 per dwelling index linked in accordance with SPD. Policy 51 of the North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD	S106 Obligation
Open Space management and maintenance arrangements	Private management company to secure timing, delivery and maintenance arrangements within an agreed scheme Policy 51 of North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD	S106 Obligation
Play space contribution.	Towards the enhancement and maintenance of play space at Bradway Recreation Ground based on the following index linked figures: £ 372.96 for 1 bed units. £ 526.88 for 2 bed units. £742.96 for 3 bed units. £ 908.72 for 4 bed units Policy 51 of North Hertfordshire District Local Plan No. 2 – with Alterations, Planning Obligations SPD	S106 Obligation

4.3.16 The heads of terms would deliver a S106 Obligation that accommodates affordable housing, mitigates the impact of the development on education, library and waste and recycling infrastructure, as well as the provision of fire hydrants, open space

maintenance and management and play space contributions.

4.3.17 These contributions, set out in the above heads of terms, could form the basis of a S106 Obligation that could successfully mitigate the impact of this development and, if implemented, would assist in making sure this development proposal would be sustainable.

4.3.18 Matters relating to flood risk.

Issues relating to potential flooding associated with this site, together with historic matters with regard to this issue on nearby roads and land within the village were raised by both the Parish Council and local residents during the consultation process upon this application. These matters are dealt with by the Lead Local Flood Authority (LLFA) who initially recommended that the application should be refused as they considered that the submitted Flood Risk Assessment report did not provide "a suitable basis for assessment to be made of the flood risks arising from the proposed development." However, a revised report taking into account the information requested by the LLFA, so as to enable this matter to be properly considered, was subsequently received. As members will note from paragraph 3.4 of my report the LLFA have now confirmed that, subject to the imposition of two conditions, their initial objections has been overcome.

4.3.19 Paragraph 103 of the NPPF also informs consideration of this matter, as does the report and background papers which is to be presented to the Council meeting suggesting that this site be allocated for housing. I will therefore update members orally at the meeting in this regard.

4.3.20 Ecological, groundwater and noise issues.

With regard to ecological issues both Herts Ecology and the Herts & Middlesex Wildlife Trust have commented upon the application. Herts Ecology (who are the statutory consultee on such matters) commented that the Landscape Strategy was welcomed since "it proposes the creation of valuable but relatively robust habitats that are easy to establish." They added that if the strategy is implemented in full it would, in turn, help meet the needs of the NPPF to avoid no net loss of biodiversity and will benefit a number of features of principal importance. They consider the site to be of negligible value for wildlife. The views of the Herts & Middlesex Wildlife Trust are referred to at paragraph 3.9.

Insofar as groundwater matters are concerned consultations have taken place with the Environment Agency with regard to this issue, given residents comments on this aspect of the application, who have raised no objections subject to the imposition of 7 conditions (as set out under conditions 11 -17 of this report).

Turning to the issue of potential noise associated with the development, consultations have taken place with colleagues in Environmental Health over the likelihood of any such problems arising. However, they have confirmed that as a matter of principle they consider the proposals are acceptable, but have requested that any permission should include a condition and two informatives as set out in my report.

4.3.21 Design and Heritage Assets.

Insofar as design issues are concerned detailed discussions have taken place, both prior to submission and during consideration of the application in this regard, so as to achieve a development sympathetic to its surroundings and limiting its impact upon the residential amenity of neighbouring properties and the visual amenity of the countryside. As a result it was felt important to ensure that development did not extend up the hillside or to the west of the site and these

areas should remain open in character, thereby concentrating housing mainly on the lower lying land at this site, thus reducing the impact of the development upon the locality when viewed from public footpaths and cross valley views. In addition, the applicants were requested to amend the layout to introduce bungalows to those plots fronting on to Bendish Lane and adjacent to the rear garden of dwellings in Cresswick. Furthermore, the siting and the appearance of the house shown as plot 1 was specifically designed to take into account its proximity to the Whitwell Conservation Area, as well as including window features which reflect the appearance of St Marys Chapel. In addition, the applicant was requested to amend the siting of the pumping stations to take them away from the Conservation Area and the rear garden boundary of St Marys Chapel. I also consider that the location of the higher dwellings to the centre of the proposed built area of the site, with lower dwellings at the periphery of this area and open space areas backing on to the rear gardens of properties in Horn Hill and adjacent to the public footpath to the west of the site (to include public access to these areas by means of new public footpaths) are positive aspects of the proposed design and layout of this scheme. In all respects I am therefore satisfied that, if the principle of allowing houses on this site is accepted, the design and layout which has been negotiated is of a high standard, similar to the dwellings granted at Roberts Court, and superior to other dwellings granted by this Council at Old Hall Court, Bradway and Cressmans Corner.

Finally, having consulted with the Natural, Historic and Built Environment Advisory Team at Herts CC with regard to archaeological issues relating to this application I was advised by them that they required further information regarding the impact of the proposals on this issue before the application was determined. The applicants therefore produced a report, which was referred back to the County Council, and as a result they have confirmed that

4.4 **Conclusion**

4.4.1 **The Planning Balance**

As is explained clearly above, the absence of a five year land supply means that the presumption in favour of sustainable development must be applied to applications for housing development. The presumption in favour of sustainable development as explained in paragraph 14 of the NPPF states that planning permission should be granted for housing development unless identified harm **significantly** and **demonstrably** outweighs the benefits of delivering new homes.

4.4.2 In considering the adverse impacts of granting permission to this application, when assessed against the policies in the NPPF as a whole it is acknowledged that for the reasons set out at paragraph 4.3, and as with all greenfield sites, the development would cause limited harm in environmental terms. However, this limited harm needs to be weighed against the benefits of the proposal.

4.4.3 As a result, having carefully assessed this application against the policies of the NPPF as a whole, addressing all key material considerations in detail I have concluded as follows:

- there would be some limited environmental harm as a result of this development, due to its impact upon the intrinsic value of the countryside and associated conflict with Saved Local Plan Policy 6.
- the site is not wholly environmentally sustainable insofar as residents are likely to rely quite heavily on the private car to access many services beyond the limited range of services that are available in Whitwell.

However, balanced against this harm the proposed development provides the following benefits:

- the provision of much needed market and affordable housing (together with the specific tailoring of bungalows to the site boundaries).
- the benefits that accrue from the S.106 contributions and Home Bonus funds
- the provision of a significant area of open space with public access and new footpath links to the public footpath to the west of the site.
- mitigation of existing flood risk problems.
- new homes helping to provide continued support toward local facilities.
- significant ecological enhancement of the site.
- close proximity of family homes to the village primary school which would allow pupils to walk to it, rather than needing to be driven, thereby resulting in a reduction to carbon emissions.

4.4.4 It could be argued that the harm caused to the character of the countryside and the limited environmental sustainability harm identified above outweighs the benefits of this scheme. However notwithstanding this view, and as stated above, the bar is set higher than the need to simply outweigh the benefits, the harm must **significantly** and **demonstrably** outweigh the benefits. In my view this bar has not been crossed in this case, particularly as the most sensitive parts of the site (when viewed from surrounding countryside) is not proposed to be developed for housing, but would be kept open in nature and used as public open space. In addition the development to the frontage and adjacent to Cresswick, being single storey to reflect the character of nearby dwellings is felt to be an important consideration relating to the development of this site. As a result it is not felt that development of the site, as proposed, would undermine the aims of the landscape character designation within which it is sited, and to which the majority of objectors have referred to in their comments. I appreciate that this view is a subjective judgement and there is no clear evidence based criteria against which the planning balance can be judged. Each planning application must be considered on its merits, and this is how I have constructed the arguments set out in this report. However, on balance, I do not consider that the harm identified by the objectors to this application **significantly** and **demonstrably** outweighs the clear benefits set out above. On this basis it is considered that this application complies with the aims and objectives set out at paragraph 14 of the NPPF and therefore it should be granted planning permission.

5.0 Legal Implications

5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations indicate otherwise. Where the decision is to refuse or restrictive conditions are attached, the applicant has a right of appeal against the decision.

6.0 Recommendation

6.1 6.1 That planning permission be **GRANTED** subject to the applicant entering a S106 Obligation to deliver the agreed heads of terms set out in the table above and subject to the following conditions:

6.2 In the event that the applicant is not willing to agree any necessary further extensions to the statutory period to enable the completion of the S106 Obligation that Members delegate a decision to the Development and Conservation Manager to refuse planning permission before the expiry of any agreed statutory period for determination based on appropriate reasons relating to these factors.

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

Reason: To comply with the provisions of Section 91 of the Town and Country

Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

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

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

3. The development hereby permitted shall not commence until the proposed access has been constructed for at least 30 metres from the highway to the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

Reason: In order to protect highway safety and the amenity of other users of the public highway.

4. Prior to commencement of the development the footway and pedestrian crossing points shall be complete each side of the new access road as part of the application. These will need to be connected to the adjacent village footways as appropriate. The exact location and accommodating works will need to be agreed in conjunction with appropriate parties. These works shall be secured and undertaken as part of the s278 works as identified on the in principle drawing number WHI-05-01 revision G.

Reason: In order to meet accessibility requirements for pedestrians for the development in accordance with Roads in Hertfordshire 'A Guide for New Developments.

5. The development hereby permitted shall not commence until, vehicle to vehicle inter-visibility splays of 2.4 metres by 80 metres to both directions shall be provided and permanently maintained. Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

Reason: To provide adequate visibility for drivers entering and leaving the site.

6. Before the driveways to the proposed dwellings are first brought into use 0.65 metre x 0.65 metre pedestrian visibility splays shall be provided and permanently maintained to the each side. They shall be measured from the point where the edges of the access way cross the highway boundary, 0.65 metres into the site and 0.65 metres along the highway boundary, therefore forming a triangular visibility splay within which there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level.

Reason: To provide adequate visibility for drivers entering and leaving private driveways.

7. The gradient of the main access from the adjacent Bendish Lane shall not be steeper than 1 in 20 for the first 15 metres from the edge of the carriageway.

Reason: To ensure a vehicle is approximately level before being driven off and on to the highway.

8. The access road shall be 5.5 metres wide, the kerb radii shall be 8.0 metres which shall be complete with tactile crossing features all as identified on the in principle drawing number WHI-05-01 revision G.

Reason: To facilitate the free and safe flow of other traffic on the highway and the safety and convenience of pedestrians and people with a disability.

9. Construction of the approved development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include construction vehicle numbers/routing of construction traffic and shall be carried out as approved.

Reason: In order to protect highway safety and the amenity of other users of the public highway.

10. Prior to the commencement of development a Construction Method Statement shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Statement.

The Construction Method Statement shall address the following matters:

- a. Off site highway works in order to provide temporary access throughout the construction period, work shall be completed prior to the commencement of development, and reinstated as required;
- b. Construction and storage compounds (including areas designated for car parking);
- c. The Siting and details of wheel washing facilities;
- d. Cable trenches within the public highway that affect traffic movement of existing residents;
- e. Foundation works that may affect traffic movement of existing residents;
- f. Cleaning of site entrances and the adjacent public highways and,
- g. Disposal of surplus materials.

Reason: In the interests of highway safety, amenity and free and safe flow of traffic.

11. **Prior to the commencement of the development hereby approved a scheme that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the local planning authority and thereafter the scheme shall be implemented as approved. :**

- 1) A preliminary risk assessment which has identified:**
- all previous uses,
 - potential contaminants associated with those uses,

- a conceptual model of the site indicating sources, pathways and receptors,
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Reason: To protect groundwater.

12. No occupation of the dwellings hereby approved shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation have been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect groundwater and ensure that all contaminated material identified on site has been removed or remediated.

13. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: Intrusive investigations will not necessarily capture all contaminants present, hence the need to appropriately address any new source discovered during excavation and development.

14. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To protect groundwater. Some piling techniques can cause preferential pathways for contaminants to migrate to groundwater and cause pollution, as well as impact water quality. A piling risk assessment should be submitted with consideration of the Environment Agency guidance <http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/scho0202bisw-e-e.pdf> The piling risk assessment should also include provisions for a suitable groundwater monitoring

scheme to demonstrate that any intrusive ground works are not impacting the abstractions located within 70m of the site's boundary. .

15. Infiltration systems should only be used where it can be demonstrated that they will not pose a risk to groundwater quality. A scheme for surface water disposal needs to be submitted to and approved by the local planning authority and thereafter the scheme shall be implemented as approved.

Reason: To protect the quality of controlled waters. The site is within a Source Protection Zone 1 (SPZ1), and as such where infiltration sustainable drainage systems are proposed for anything other than clean roof drainage a risk assessment must be carried out in line with the Environment Agency position statement G13 "Sustainable drainage systems" from the Environment Agency Groundwater protection: principles and practice document (GP3) <https://www.gov.uk/government/publications/groundwater-protection-principles-and-practice-gp3>

16. **The development hereby permitted shall not be commenced until such time as a scheme to install the underground tank has been submitted to, and approved in writing by, the local planning authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tank(s), tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme, or any changes as may subsequently be agreed, in writing, by the local planning authority.**

Reason: To protect groundwater since the submitted information contains insufficient information relating to the design of the sewage pumping station storage tank.

17. **No development shall commence until a scheme to manage the pollution risks associated with the operations of the proposed sewage pumping station and drainage system have been submitted to and approved, in writing, by the local planning authority and thereafter shall be implemented in accordance with the approved details. The scheme shall include and address the following components:**

i. The location and design of groundwater monitoring boreholes comprising of at least one up hydraulic gradient and two down gradient boreholes, one of these to be located down gradient of the sewage pumping station.

ii. The information must include proposed frequency of monitoring and reporting to relevant regulatory authority and the suite of substances that will be tested in each groundwater sample from the site. These boreholes must be constructed in a manner that ensures they do not provide a pathway for contaminants to enter the ground or groundwater from the site surfacing.

Reason: To protect the underlying groundwater from potential pollution in line with reference to planning policy in the NPPF and GP3, particularly position statement C3 "*On-going groundwater monitoring*"

18. **Prior to the commencement of the development the developer shall carry out a noise survey following the guidelines set out by BS4142: 2014. This survey shall take into account all proposed plant as part of the development and shall include noise control measures which should be submitted to and agreed in writing by the Local Planning Authority**

(LPA). No plant shall be installed and operated at the site until the noise survey has been approved by the LPA. Noise mitigation measures shall be such as to achieve 5dB below existing background noise levels. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the LPA.

Reason: to protect the residential amenities of existing and future residents.

19. **Notwithstanding the submission of the Landscape and Visual Appraisal and Appendix E of that report (drawing no CSa/2631/07G), prior to the commencement of the development a Landscape and Ecological Design Strategy shall be submitted to and approved in writing by the Local Planning Authority, detailing how it is planned to incorporate biodiversity as part of the development and how the habitats within the site boundary will be managed to maintain long term biodiversity objectives. This strategy shall include the following:**

- a) Purpose and conservation objectives for the proposed works**
- b) Detailed design(s) and/or working method(s) to achieve stated objectives**
- d) Extent and location/area of proposed works on appropriate scale maps and plans**
- e) Type and source of materials to be used where appropriate, e.g. native species of local provenance**
- f) Timetable for implementation**
- g) Persons responsible for implementation**
- h) Details of initial aftercare and long-term maintenance**
- i) Details for monitoring and remedial measures**

Thereafter the strategy shall be implemented in accordance with the approved details.

Reason: To ensure that biodiversity objectives and long term maintenance are secured in accordance with policy 14 of the Local Plan and paragraph 118 of the NPPF.

20. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment carried out by Fairhurst dated September 2015 reference 109490/0052/R1/4 and the Drainage Statement reference 109490/0052 R5.1 dated April 2016 and the following mitigation measures detailed within the FRA:

- 1. Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event.
- 2. Limiting the surface water run-off generated by the 1 in 100 year + climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- 3. Implementing appropriate SuDS measures as shown on the Surface Water Drainage Layout drawing reference 109490/0202 Rev G

4. Undertake drainage strategy based on infiltration and to include two infiltration ponds, permeable paving and swales.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to reduce the risk of flooding to the proposed development and future occupants.

21. **No development shall take place until a detailed surface water drainage scheme for the site (to include details of safeguarding measures for the proposed ponds during periods of flood) based on the approved FRA and sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.**
 1. Detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs.
 2. Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the increased risk of flooding, both on and off site.

22. **Prior to the commencement of the development, hereby approved, a detailed landscape scheme (to accord with drawing no CSa/2631/107G and clearly indicating such details to the rear boundaries of properties in Cresswick and St Marys Chapel, together with any fencing) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved landscape scheme shall be carried out in accordance with these approved details (unless otherwise agreed in writing by the Local Planning Authority) and planting shall be carried out in the first planting season prior to the occupation of any of the dwellings. Any trees or plants which, within a period of 5 years from the occupation of the dwelling, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.**

Reason: To safeguard and enhance the appearance of the completed development and the visual amenity of the locality.

23. **No development shall commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the**

Local Planning Authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and

1. The programme and methodology of site investigation and recording

2. The programme and methodology of site investigation and recording as suggested by the archaeological evaluation

3. The programme for post investigation assessment

4. Provision to be made for analysis of the site investigation and recording

5. Provision to be made for publication and dissemination of the analysis and records of the site investigation

6. Provision to be made for archive deposition of the analysis and records of the site investigation

7. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

Reason: To ensure that archaeological remains are appropriately evaluated and to protect matters of historic interest in accordance with Section 12 of the NPPF.

24. The development shall take place in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition 23.

Reason: To ensure that archaeological remains are appropriately evaluated and to protect matters of historic interest in accordance with Section 12 of the NPPF.

25. The dwellings shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 23 and the provision made for analysis and publication where appropriate.

Reason: To ensure that archaeological remains are appropriately evaluated and to protect matters of historic interest in accordance with Section 12 of the NPPF.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

HIGHWAY INFORMATIVE:

HCC recommends inclusion of the following highway informative to ensure that any works within the public highway are carried out in accordance with the provisions of the Highway Act 1980:

1. Works to be undertaken on the adjoining highway shall be constructed to the satisfaction of the Highway Authority and in accordance with Hertfordshire County Council publication Roads in Hertfordshire Highway Design Guide. Before proceeding with the proposed development, the applicant shall contact hertsdirect@hertscc.gov.uk or for information use the HCC website www.hertsdirect.org. or call on 0300 1234 047 to obtain the requirements for a section 278 agreement for the associated road works as part of the development. This should be carried out prior to any development work is carried out.

Reason:

1. To ensure that work undertaken on the highway is constructed to the current Highway Authority's specification, to an appropriate standard and by a contractor who is authorised to work in the Public Highway.

HIGHWAY INFORMATIVE 2:

It is advisable that all internal roads should be designed and built to an adoptable standard.

HIGHWAY INFORMATIVE 3.

Prior to commencement of the development the applicant shall contact hertsdirect@hertscc.gov.uk or for information use the HCC website www.hertsdirect.org. or call on 0300 1234 047 to obtain the requirements to arrange a site visit to agree a condition survey of the approach of the highway leading to the development likely to be used for delivery vehicles to the development. Under the provisions of Section 59 of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic associated with the development. Herts County Council may require an Officer presence during movements of larger loads.

HIGHWAY INFORMATIVE 4

Prior to commencement of the development a gateway feature shall be provided approximately 70 metres from the junction of the development.

ENVIRONMENTAL HEALTH INFORMATIVES.

During the construction phase the guidance in BS5228-1:2009 (Code of Practice for noise Control on construction and open sites) should be adhered to.

During the construction phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-13:00hrs and Sundays and Bank Holidays: no work at any time.