

ITEM NO:	<u>Location:</u>	Land to the south of Bendish Lane and adjacent to 2-12 Cresswick, Whitwell
	<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 August 2016.

Reason for Delay: Negotiations with applicant and deferral at last Committee.

1.0 Introduction

- 1.1 Members will recall that at the last meeting of the Planning Control Committee on 21st July 2016 it was resolved that this application should be deferred " in order to allow local residents to comment upon the amended sustainable urban drainage system proposals. " A copy of my report to the last meeting is attached as Appendix 1 to this report.
- 1.2 At that meeting the case officer referred to two letters which he understood had been copied to Councillors, dated 7th & 15th July 2016 from St Paul's Walden Parish Council (copied as Appendix 2 & 3 of this report). In addition, he advised that he understood that an e-mail had been sent to members on 17.7.16 from Mr Norman, Chair of St Paul's Walden Parish Council. The report was also updated to inform members of the receipt of a petition from Ms A Crossley which contained 284 signatories. Furthermore, members were informed of a second petition sent by Mr Ashton of the " Bendish Lane Action Group " which contained 143 individual letters, as well as a further 11 standard letters from local residents (as formatted in one of the two standard letters sent with the petition from the Bendish Lane Action Group). In addition, members were advised of the receipt of further individual letters making reference to, amongst other matters already set out under paragraph 3.12 of the report, a lack of consultation upon the amendment to the Sustainable Urban Drainage System (SUDS) proposals relating specifically to the re-contouring of the land to the north west corner of the site which was proposed in order to deal with the historic flooding on this site, as well as nearby dwellings and roads. The case officer also updated members to advise them he was aware of a briefing note which had been copied to them from the applicant, which included a technical note regarding flooding.

Finally in response to paragraph 4.3.19 of the report members were advised of the decision at the Council meeting on 20th August 2016 to identify this land as a housing proposals site in the consultation process which is being undertaken upon the Local Plan. Members also received a presentation from Mr Rumble from the Lead Local Flood Authority who then took questions and answers from members over specific flood risk concerns.

- 1.3 Consultation letters have therefore been sent to the two people who organised the petitions, as well as those who have previously sent individual letters in response to the application, advising them of the Committee resolution and seeking any further comments they may wish to make on the specific reason for deferral. At the time of preparing this report I have not received any comments in this regard but, in anticipation of doing so, I will update my report orally at the meeting on this matter.
- 1.4 Finally, members should note that paragraph 4.3.21 of my report to the July meeting is incomplete and the following words should be added to the last sentence of that paragraph " they have no objection to the application subject to the imposition of 3 conditions (please refer to paragraph 3.7 of the report). "

2.0 Conclusion

2.1 The Planning Balance

As is explained in my previous report, 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.

2.2 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.

2.3 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.

- 2.4 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.

3.0 Recommendation

- 3.1 That planning permission be **GRANTED** subject to the applicant entering a S106 Obligation to deliver the agreed heads of terms as set out in the table above and subject to the following conditions:
- 3.2 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.

3.0 Legal Implications

- 3.1 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.

4.0 Recommendation

- 4.1 That planning permission be **GRANTED** subject to the applicant entering a S106 Obligation to deliver the agreed heads of terms as set out under paragraph 4.3.15 of the report to the July Planning Control Committee (appendix 1) and subject to the following conditions:
- 4.2 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**
- c) **Extent and location/area of proposed works on appropriate scale maps and plans**
- d) **e)Type and source of materials to be used where appropriate, e.g. native species of local provenance**
- e) **Timetable for implementation**
- f) **Persons responsible for implementation**
- g) **Details of initial aftercare and long-term maintenance**
- h) **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.**

8.

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.

26. **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 1

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:

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: 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.