

Public Document Pack

27 October 2017

Our Ref Planning Control Committee
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Your Ref.
Contact. Ian Gourlay (01462) 474403
Direct Dial. (01462) 474403
Email. ian.gourlay@north-herts.gov.uk

To: Members of the Committee: Councillor David Barnard, Councillor Fiona Hill, Councillor John Bishop, Councillor John Booth, Councillor Paul Clark, Councillor Bill Davidson, Councillor Jean Green, Councillor Cathryn Henry, Councillor Tony Hunter, Councillor Ian Mantle, Councillor Michael Muir, Councillor Mike Rice, Councillor Adrian Smith, Councillor Harry Spencer-Smith and Councillor Martin Stears-Handscomb

Substitutes: Councillor Elizabeth Dennis, Councillor Sarah Dingley, Councillor Faye S Frost, Councillor Gary Grindal, Councillor Simon Harwood, Councillor Ben Lewis, Councillor Valentine Shanley and Councillor Terry Tyler

You are invited to attend a

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held in the

SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH GARDEN CITY

On

THURSDAY, 9TH NOVEMBER, 2017 AT 7.30 PM

Yours sincerely,



David Miley
Democratic Services Manager

Agenda **Part I**

Item	Page
1. APOLOGIES FOR ABSENCE	
2. MINUTES - 28 SEPTEMBER 2017 To take as read and approve as a true record the minutes of the meeting of this Committee held on the 28 September 2017.	(Pages 1 - 18)
3. MINUTES - 12 OCTOBER 2017 To take as read and approve as a true record the minutes of the meeting of this Committee held on the 12 October 2017	(Pages 19 - 36)
4. NOTIFICATION OF OTHER BUSINESS Members should notify the Chairman of other business which they wish to be discussed by the Committee at the end of the business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chairman will decide whether any item(s) raised will be considered.	
5. CHAIRMAN'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which requires they leave the room under Paragraph 7.4 of the Code of Conduct, can speak on the item, but must leave the room before the debate and vote.	
6. PUBLIC PARTICIPATION To receive petitions and presentations from members of the public.	
7. 17/01781/1 - LAND NORTH OF, LUTON ROAD, OFFLEY REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	(Pages 37 - 58)
Outline planning permission for up to 70 residential dwellings (including 40% affordable housing), new village gateway, new retail outlet/village facility, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.	

8. **17/01982/1 - KINGSFIELD, HADRIAN WAY, BALDOCK** (Pages
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 59 - 66)
- Erection of 6 x 2 bed single storey retirement dwellings including creation of vehicular access off of Hadrian Way, Baldock.
9. **17/02337/1 - BALDOCK SERVICES, GREAT NORTH ROAD, RADWELL, BALDOCK** (Pages
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 67 - 74)
- Increase parking provisions and alterations to existing parking layout.
10. **17/01998/1 - KINGSHOTT SCHOOL, STEVENAGE ROAD, HITCHIN** (Pages
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 75 - 82)
- Change of Use of agricultural land to additional soft play areas for school use (Class D1 Use).
11. **17/02190/1 - STARWOOD HOUSE, AVENUE ONE, LETCHWORTH GARDEN CITY** (Pages
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER 83 - 88)
- Proposed and replacement security perimeter fencing and minor landscape works.

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Agenda Item 2

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH
GARDEN CITY ON THURSDAY, 28TH SEPTEMBER, 2017 AT 7.30 PM

MINUTES

Present: *Councillors Councillor David Barnard (Chairman), John Booth, Paul Clark, Bill Davidson, Jean Green, Tony Hunter, Ian Mantle, Michael Muir, Harry Spencer-Smith and Martin Stears-Handscomb.*

In Attendance:

Simon Ellis (Development and Conservation Manager), Richard Tiffin (Area Planning Officer), Nurainatta Katevu (Property and Planning Lawyer) and Hilary Dineen (Committee and Member Services Officer).

Also Present:

At the commencement of the meeting Councillor David Levett and approximately 83 members of the public, including 4 registered speakers and 1 Member Advocate (Councillor Claire Strong).

59 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors John Bishop, Cathryn Henry and Fiona Hill.

60 NOTIFICATION OF OTHER BUSINESS

There was no other business notified.

61 CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman welcomed the Committee, officers, general public and speakers to this Planning Control Committee Meeting;
- (2) The Chairman announced that Members of the public and the press may use their devices to film/photograph, or make a sound recording of the meeting, but he asked them to not use flash and to disable any beeps or other sound notifications that emitted from their devices;
- (3) The Chairman reminded Members and speakers that in line with Council policy, this meeting would be audio recorded;
- (4) The Chairman advised that Members would be using hand held microphones and asked they wait until they had been handed a microphone before starting to speak;
- (5) The Chairman requested that all Members, officers and speakers announce their names before speaking;
- (6) The Chairman clarified that, for the two Pirton/Holwell construction route items, he had allowed the following:
 - (i) 6 minutes in total for Mr John Burden and Mr Brian Clamp (Holwell against CALA Traffic) who would be sharing the time on application 17/02023/1DOC.

- (ii) 6 minutes for Parish Councillor Diane Burleigh (Pirton Parish Council) on application 17/02024/1DOC.
- (iii) 6 minutes for the Councillor Advocate (Councillor Claire Strong) on each item.
- (iii) 6 minutes for the applicant on each item.

The bell would sound after 5½ minutes as a warning and again at 6 minutes, to signify that the speaker must cease.

- (7) Members were reminded that any declarations of interest in respect of any business set out in the agenda should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and were required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which required they leave the room under Paragraph 7.4 of the Code of Conduct, could speak on the item, but must leave the room before the debate and vote.

62 PUBLIC PARTICIPATION

The Chairman confirmed that the 4 registered speakers and 1 Member Advocate were present.

63 17/02023/1DOC - LAND ADJACENT TO ELM TREE FARM, HAMBRIDGE WAY, PIRTON

Construction Management Plan & Traffic Management Plan - Condition 6 - Holwell only route by CALA dated 4/8/17 Construction Route Plan - Arrival and Departure via Holwell by Waterman Infrastructure & Environment Ltd dated 4 August 2017 (as Discharge of Condition of Planning Permission 15/01618/1 granted 25/05/2016).

The Development and Conservation Manager advised that, due to the high volume of representations received since the report was finalised, he had sent Members a briefing note by email on 26 September 2017.

All comments received were displayed on the Council's website and Members had been strongly advised to review these comments shortly before the meeting in order to have an up to date picture.

In order to assist Members, he had provided a very high level summary of new comments received as follows:

CPRE

Perhaps sites like this should not be granted permission or allocated in Local Plans as construction routes are impractical in rural areas. In this case any damage to verge and cutting has not been assessed properly.

Holwell Parish Council

This route is unsafe, absurd and has not been properly safety audited and does not meet the criteria of the condition.

Pirton Parish Council

This route is relatively safe – there are some blind spots and they have concerns about the Waterloo Road area;

Noise from the reversing vehicles etc;

Impact on dark skies from lighting;

The development project should be enclosed by hoarding at all times;

Local Residents

- The tracking shown on the plans does not show where cars are regularly parked therefore it is misleading and the route in and out of Holwell is unsafe;
- The officer report states that a new road would be unreasonable whereas independent experts argue that it is the only safe option;
- The Council's Environmental Protection Officer and Hertfordshire County Council (Highways) believe that the Pirton – Holwell through-route is more likely to mean vehicles entering the Hitchin Air Quality Management Area. They argue that construction vehicles are likely to go through the Hitchin Air Quality Management Area whichever route is chosen so this is biased against the Holwell only route;
- Hertfordshire County Council (Highways) have not objected to an off-road route as suggested by CALA Homes in their Construction Management Plan, so this option should be explored further;
- Archaeological evaluations of road verges should be undertaken before any construction on the verge for road widening;
- Inconsistent approach from Hertfordshire County Council (Highways) demanding two way tracking for the through route but not the Holwell in and out route;
- Children accessing Holwell School would be at risk from construction traffic (from the school governors).

The Development and Conservation Manager presented the report, supported by a visual presentation consisting of plans, drawings and photographs of the site.

He referred to the recommendations as set out at Paragraph 6.1 of the report and stated that he was not advising that the condition be discharged this evening, but rather that the construction management plan be approved and only discharge the condition subject to the following elements:

1. That the applicant submits to the Council a revised CMP which specifies that any deliveries to the site shall not take place until 9.30am and not after 3.00pm on any day. The revised CMP must also stipulate that all HGV (Heavy Goods/Duty Vehicles) and all LGV (Light Goods/Duty Vehicles) utilised as part of the construction phase of the permitted development must be Euro V or Euro VI engine compliant. And include a methodology to demonstrate how this will be managed, enforced and verified by the applicant/developer.

The Development and Conservation Manager advised that to his knowledge CALA had agreed to this condition

2. That the requirements of condition no. 6 of planning permission no. 15/01618/1 are not discharged until the applicant has secured the necessary S278 Agreement with Hertfordshire County Council (Highways) in order to implement the highway alterations to secure road widening and passing places (including associated safety audits and highway licences).

The Development and Conservation Manager advised that the reason for this element was that Members had previously raised concerns regarding the details of the proposed mitigation measures that would be put in place on the Holwell Road. As the construction management plan did not include those exact details he recommended a cautionary approach whereby Members allow the condition to be discharged, but only after the details had been secured through a S278 agreement.

This condition would mean that the development could not commence until the agreement had taken place as the original permission had a condition stating that no development shall take place until the construction management plan had been approved and approval of the construction management plan would not take place until the S278 agreement had taken place.

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3. That Members delegate the decision to approve the CMP and discharge the requirements of condition no. 6 of planning permission no. 15/01618/1 to the Development and Conservation Manager following the completion of points 1) and 2) above;

The Development and Conservation Manager referred to the recommendation contained at Paragraph 6.2 of the report and explained that legislation and regulations did not allow for continued deferment of a decision, as the applicant could submit a deemed discharge consent application, which was a two week notice to make the Council come to a conclusion about their submission. It was therefore necessary to hold this special meeting in order to make a decision in the timescales. This recommendation protected the Council's position should a deemed discharge consent application be submitted prior to conditions 1 and 2 being met.

The Development and Conservation Manager reminded Members that there was no role for them or the Local Planning Authority to play in the S278 agreement.

If the S278 agreement was not able to be completed then the developers would have to return with alternative solutions.

Mr John Burden and Mr Brian Clamp, Holwell Against CALA Traffic, thanked the Chairman for the opportunity to address the Committee in objection to the application.

Mr Burden advised that he was speaking for Holwell Against CALA Traffic, Holwell Parish Council and Pirton Parish Council and introduced Mr Clamp as an experienced Highways and Traffic Engineer.

The main thrust of the presentation was that CALA Homes had provided scant evidence to satisfy Condition 6 and that to refuse this and the next application was the only decision that could be fully justified so that a much safer off-road option could be considered,

It was now universally accepted, including by CALA, that the roads through Holwell and Pirton were totally unsuitable for heavy goods vehicles, even with so-call improvements, with over 400 objections testifying to this.

The considerable damage to the road surfaces, verges and banks through Holwell demonstrated that the roads were far too narrow with several dangerous tight and blind bends.

This was unsuitable for existing traffic, let alone an increase of 60 heavy goods vehicles per day, plus scores of contractors vans for a minimum of three years.

Condition 6 was intended to protect and maintain traffic safety and efficiency in the face of this enormous increase in heavy traffic.

Clearly the Holwell only route did not have the safe capacity to comply with this condition, under such an overwhelming additional volume of heavy traffic.

The Highways Authority required CALA to demonstrate how Condition 6 could be satisfied in the case of both routes however that evidence was not forthcoming on the one-way Pirton/Holwell route and that has been recommended for refusal.

Even less evidence had been provided for the Holwell only route and yet this had been recommended for approval.

This was incompetence on the part of the Highway Authority.

CALA's proposal to manage construction traffic remotely to reduce conflict with existing traffic, such as buses, sounds good in theory, but in practice would not work.

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Traffic management alone would not satisfy Condition 6 because for two HGVs to pass safely on a straight carriageway, a road must be at least 5.5 metres wide and on bends 6.75 metres wide. The Holwell route was never more than 5.5 metres and was frequently well below 5 metres, with the narrowest part being only 3.3 metres wide.

So where was the evidence that a few passing places, as proposed by CALA, would make the route safe?

Vehicle tracking analysis or swept path analysis was widely used to test the safety and efficiency of a route. The only tracking test carried out by CALA was of a single lorry traveling in one direction only.

No two way analysis had been carried out of heavy vehicles against other CALA HGVs. This was essential in testing the two way Holwell only route.

Also no two way analysis had been carried out of heavy vehicles against existing HGVs such as busses, agricultural vehicles, delivery and construction vehicles. This was essential in testing the one way route through Pirton and Holwell.

Highways merely requested minimal tracking testing of a lorry against an oncoming car.

Even this request was ignored.

CALA had not demonstrated that the route would operate safely and efficiently for all predicted traffic on both routes.

Hence Condition 6 had not been satisfied and, as a result, they accused Highways of a dereliction of duty in recommending the removal of the condition without the necessary evidence.

CALA was aware that a full racking analysis would not produce the results to satisfy the condition, because the road was sub-standard, so they relied heavily on subjective evidence in their application and highways swallowed this hook, line and sinker.

Moreover, neither of the two routes could be improved to the extent required to satisfy the condition without causing significant environmental damage, loss of village character and heritage.

Therefore another solution must be investigated.

In May this Committee requested that an off-road route to the site be investigated by CALA.

A viable off-road route existed over private land, with a single landowner, who was willing to discuss the route, without seeking ransom values. However CALA dismissed the proposal, citing problems with rights of way.

We were assured by the Rights of Way officer that these could be overcome in principle, as was the case with the temporary haul road over the same Icknield Way for the Hitchin rail flyover construction.

CALA had defied the Committee's request.

CALA also gave the impression that Highways had judged this option to be not viable, when it had not even been considered by them.

Thanks to Holwell Against CALA Traffic, Highways confirmed that this was a deception.

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The Committee had been placed in an invidious position, having been misled by the developer and poorly served by Highways officers.

Mr Burden concluded by asking Members not to jeopardise the safety of Holwell residents and turn the village into a service road for construction vehicles.

He asked Members to refuse this application and the next to be heard and insist on a safe and sustainable alternative.

The Chairman thanked Mr Burden and Mr Clamp for their presentation

Councillor Claire Strong, a Member Advocate speaking in objection to the application, thanked the Chairman for the opportunity to address the Committee.

Councillor Strong thanked the Committee for previously deferring the application and Officers for presenting the application to this Committee again.

She reminded Members that on the previous occasion that she addressed the Committee regarding the construction route she had asked the Committee to think outside of the box. She had suggested that the applicant, officers and Highways be requested to go away and do some proper work regarding an alternative solution.

It would seem that an alternative was available, but no-one wanted to investigate it.

She stated that she was disappointed that Highways would not consider an alternative solution, just because they hadn't had an application detailing that route.

There was a need to make Holwell safe with HGV vehicles passing in both directions.

Members had visited the route and had seen the pictures that demonstrate what Waterloo Lane was like

It wasn't only the issues with Waterloo Lane, but the route to get to this lane, either via Hitchin Road or Pirton Road. Neither road was sufficient in width, even to have white lines on the roads. There was always a little trepidation when driving along these roads as to what you might meet and whether you might have to back up.

Imagine how it would be with HGV lorries going in both directions.

Officers stated that the condition could be discharged providing there was a S278 agreement in place and talked about mitigation measures on the Holwell Road, but they did not mention Waterloo Lane or Pirton Road, where Councillor Strong lived.

If Pirton Road were widened to provide mitigation it would destroy the rural village feel.

Councillor Strong did not believe that there was any way in which the roads through either Pirton or Holwell could be made viable for construction traffic without rebuilding the whole route.

So why were the developers not considering building a route that would go round a few fields and that would not cause inconvenience to residents and would not endanger walkers, riders, cyclists and anyone else using the existing roads.

The alternative route was a simple option and, she considered a cheaper option in order to secure the whole of the route and make it of a standard suitable for HGV lorries.

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Councillor Strong asked Members to refuse the application, as perhaps then the developer may provide a construction management plan that considered the third option that Highways would then be able to comment on.

Councillor Strong concluded by stating that she had been inundated with information, as had the Members of this Committee and the message was clear that there was no clear safe route to access this construction site. The only way to access the site was to apply out of the box thinking.

She implored Members to refuse the application in order to make CALA consider an alternative way to get to the site.

The Chairman thanked Councillor Strong for her presentation.

Mr Philip Wright, CALA Homes, the Applicant and Mr Andrew Trowbridge, Waterman Group, thanked the Chairman for the opportunity to address the Committee in support of the application.

Mr Wright advised that, whilst there remained local concern, the preferred route being considered was acceptable in highways terms.

The specific benefits of this route were:

- It was the shortest route to the nearest A road;
- It impacted on the lowest number of properties;
- Personal injury accident information showed only one accident in the 18 years from 1999 to 2016;
- The section of the routes through the village was less than one mile in length, with half of this distance was covered by traffic calming measures;
- The roads had a footway on one side of the carriageway;
- The current highway measurements were commonplace for rural areas;
- Forward visibility had been assessed by experts and was considered to be good especially when viewed from an elevated position;
- The good forward visibility would enable drivers to give way to oncoming vehicles;

In addition to the construction management plan, CALA, in conjunction with Highways, would improve the route by installing passing places that were designed to accommodate HGVs.

Following in-depth negotiation with Highways and Planning officers this route included proposals that he believed to be the most effective and least harmful way to get construction traffic to and from the site for the temporary construction period only.

It should be recognised that the route to be used was a public highway and that construction traffic was legally permitted to be used on it on a day to day basis without restriction.

He asked that full consideration be given to this route as access to the site especially as the aim was to make the route safer for such vehicles to use by providing mitigation measures.

He asked that full consideration be given for approval of the officer's recommendations.

Mr Trowbridge informed Members that he was a transport planner for the Waterman Group and that his company had been employed to consult CALA regarding the construction route options for the site.

He understood the concerns that have been raised by both Holwell and Pirton residents and that the route was contentious, but CALA wanted to develop the site in the safest possible manner.

At the outline stage this had been deliverable in terms of the planning conditions attached to the outline planning permission.

The main problem was the number of variations of route to the site with variations either via Pirton or Holwell.

The suggested options to provide direct access from either the A600 Bedford or the Hitchin Road had been considered, but would involve the construction of a road on land not within their control, that would cross public highways and land that was currently used for farming. These options would also require significant engineering and construction work to provide roads suitable for construction traffic and for these reasons, neither option was viable.

Since the original route, submitted with the construction management plan, was deferred they had listened to residents and reassessed the options available for construction traffic

Whilst he appreciated the concerns, the proposed passing places would help with traffic flow, which would provide safer passing places than currently existed.

These would be located and designed in conjunction with Hertfordshire Highways requirement and be on land in the ownership of Highways

There would be two passing places on Holwell Lane that would widen the road by 3 metres and the road would be widened by 2.5 metres at the bend, which would enable a bus and a crane to pass as well as the use of existing informal passing places, which would be resurfaced, and cutting back of vegetation in order to provide the maximum levels of visibility achievable.

It should be noted that, whilst CALA did not have control over either the Pirton or the Holwell routes, the likelihood of local busses meeting HGVs on the route was small and the current position was that HGVs used the road and was not known to cause problems.

CALA would also consider the bus timetable when arranging deliveries to try to avoid possible conflict.

CALA would typically use articulated vehicles, delivery times had been constructed in order to avoid morning and evening busy traffic times and key school periods.

A full condition survey had been agreed to prior the beginning of construction and CALA would make good any damage caused.

The construction management plan was a live document which had been prepared, taking into account feedback from local residents and Parish Councils, in order to improve the construction process throughout the construction period.

It would be for people to speak to the site manager, to discuss any issues in respect of any issues caused by temporary traffic.

Mr Trowbridge concluded by stating that, whilst he appreciated the concerns of local residents, CALA had attempted to mitigate the impacts of construction traffic as much as possible.

He stressed that it was not in the best interest for CALA to cause problems as they had a reputation to maintain and he reminded Members that the site had the benefit of detailed planning permission.

Members asked why a swept path analysis was not undertaken by CALA with two HGVs meeting each other.

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Mr Trowbridge advised that they had undertaken analysis in respect of a bus and a crane passing each other at the bend, which they considered the worst case and most contentious scenario

A Member commented that the provision of a safe route as required by the Section 278 agreement would be expensive and queried whether CALA would reconsider the new road option, that they had deemed as not viable, if the conditions of the Section 278 agreement proved to be more expensive. He also queried whether works needed to the proposed route would involve removing trees.

Mr Trowbridge advised that, from discussion already held with Highways, they could get the route as proposed through a stage 1 and stage 2 safety audit through a Section 278 agreement and that they were happy that they could deliver that option. In respect of trees, he did not believe that removal of trees would be required.

Members asked whether CALA had undertaken discussions with the landowners regarding the new road option and if they had what had been the outcome,

Mr Wright advised that following the meeting held on 20 May they sent seven letters to landowners who had connecting or adjoining link to the boundary of their site. They had received one response and subsequently met and undertook site visits with that landowner, construction director and highways experts. At this point the constraints of this option were identified including overhead power lines and an agricultural tenant and the difficulties of constructing a road suitable for construction traffic. It became clear that this option was unviable.

The Chairman thanked Mr Wright and Mr Trowbridge for their presentation.

The Development and Conservation introduced Mark Youngman (Hertfordshire Highways) and Danielle Shadbolt (Opus International – Highway Consultants) who were available to answer any questions.

To ensure clarity, the Chairman asked that the contents of a Section 278 agreement be clarified.

The Highways Officer advised that a Section 278 agreement was a legal agreement under the Highways Act generally between the Highway Authority, the developer and the appropriate landowners. The agreement would include such matters as inspection fees, the agreed bond for costs that allowed the Highways Authority to finish work, if they were not completed and technically agreed drawings. The agreement would also include clauses that explained how safety audits would be undertaken before commencement of the work and at later stages including completion and gave authority to third parties to carry out work on the highway. It explained the method of booking road space and laid out the procedures and stages that would be in place in order to comply with the construction, design and management regulations.

Members queried who completed the works on the ground and whether, if the proposed work would change the character of the streets in the village, whether any public consultation regarding those proposals would be carried out.

The Highways Officer advised that, once the Section 278 agreement was in place it was up to the developer to tender for licensed contractors to undertake the work. In respect of consultation, if Highways were undertaking the works, then they would consult, depending on the nature of those works. Third party works go through the planning process and therefore there is not as much consultation.

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A Member expressed concern that, in light of the reduced requirement for public consultation regarding changing the nature of these village roads, the plans for those alterations should be seen by Members before making a decision regarding the construction route.

The Highways Officer advised that he would expect a third party contractor to advise people affected of the work they would be carrying out.

The Development and Conservation Manager drew attention to Paragraph 4.2.4 of the report which described the key elements of the construction management plan and advised that the public consultation of the highway works was through the planning process in relation to the discharge of the condition and this meeting contributed to the consultation element.

A Member asked for clarification regarding the concluded associated safety audit in that he understood that safety audits were completed before and after the works were carried out and questioned what happened if there was a problem

The Highways Officer advised that there was a staged safety audit process that included evaluating the technical drawing, undertaking a site visit, producing a list of comments for action or explanation. This process was not completed until the Highways Authority was satisfied with the design.

The Development and Conservation Manager advised that the safety audit was about auditing the mitigation measures. The recommendation was implicit that, if the Section 278 agreement were to fail then this condition would not be discharged.

The Committee was not being asked to discharge the condition, but to do so subject to the Section 278 Agreement.

Members questioned why a safety audit had not been completed on the entire route and whether a more thorough safety audit would be undertaken if the recommendations were approved.

The Highways Officer advised that they did not undertake safety audits until there was some surety regarding the scheme, therefore no work in this area would be undertaken at the pre-planning stage.

If the recommendations were approved then the Highways Authority would look not only at the passing places and road widening, but also the Y junction. The Highways Authority only road safety audited permanent changes to the highway and did not generally look at a complete route.

Members were concerned that they were being asked to make a decision having only had sight of indicative drawings, rather than detailed plans. They commented that this was an extremely important lane and that, as such, the details should be considered by this Committee.

The Highways Consultant advised that plans were usually indicative as the detail of the design was subject to a Section 278 Agreement, an agreement between the Highways Authority and the developer. It was at this point that surveys were undertaken in respect of services under the highway and other issues were considered.

The Chairman commented that all Planning Control Committee Members received training, a part of which was a planning aid provided by the Department of Communities and Local Government. This document stated that when considering a planning application only certain issues were to be taken into account, known as material planning considerations. One of the material planning considerations listed in that document was highways issues, traffic generation, vehicular access and highway safety.

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He reminded Members of the history of the site in that outline planning permission had been granted, which purely accepted the principal of development. When considering the detailed permission, Members considered the detail of all matters including transport and access matters. The roads surrounding the site were unsuitable for large construction vehicles on a regular pattern over a long period of time.

He queried whether Members could be certain that the Section 278 Agreement would make the proposed route totally safe and expressed doubt regarding this and noted that the suggested off-road solution had been researched by the developers and rejected.

Whilst he accepted the officer recommendation that a satisfactory Section 278 Agreement must be in place prior to commencement, he stated that he could not agree that existing routes could be adapted to provide a safe route with children walking to school, horses, cyclist and pedestrians using these small lanes, little more than farmers tracks that had, over the years been tarmacked.

Even with a time limit on the hours of operation, he advised that he was not convinced that safety would not be seriously compromised.

A Member queried whether, if the Committee refused to discharge the condition, reasons for refusal would be required.

The Development and Conservation Manager advised that it was very unusual for the Committee to be considering details in regard to a condition, however the same rules apply as that for planning applications. If Members were minded to refuse to discharge the condition, as with a planning Application, the applicant would have the right of appeal and Members needed to be able to substantiate their decision with evidence at an appeal.

Any decision to refuse had to be supported by clear reasons that could be evidenced and associated to Policies.

He suggested that, if any decision to refuse was on the grounds of highway safety, the Committee would have to provide evidence that the advice from the Highways Authority was unsafe.

A Member questioned whether any of the people involved in the decision could be held responsible for any accident or death on the proposed route if the recommendations were approved.

The Property and Planning Lawyer advised that she would have to research this issue and advise the Committee.

Members noted that the times of work applied on any day, but this should be amended for Saturdays, Sundays and holidays. They also noted that Phase 1 of the development could be underway before the Section 278 Agreement was in place.

The Development and Conservation Manager advised that the Construction Management Plan detailed site working hours. The delivery schedule was about highway safety and stated that you can't deliver to the site outside of the agreed hours. It was extremely unlikely that deliveries would be arranged at times when work was not taking place. Members could ask that the delivery hours be aligned with the working hours on site by amending Recommendation 1.

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The Development and Conservation Manager advised that Phase 1 was for 6 dwellings and the Construction Management Plan stated that Phase 1 works would take place whilst the Section 278 works were being undertaken. If a planning application for 6 dwellings was being considered it would be unlikely that the Committee would be imposing a construction management plan. The purpose of Phase 1 was to allow a small discreet development to take place before the road widening, with the rest of the development taking place after the highway works had been completed.

A Member drew attention to the Council's Corporate Plan, in particular the objective to provide an attractive and safe environment for our residents, the Local Plan which stated that the development must not adversely impact on the area, the development Plan for the application which required it to be safe and efficient and Paragraph 32 of the National Planning Policy Framework which stated that a development could be refused when residual cumulative impacts are severe regarding transport.

He felt that the requirement and conditions had not been met by this development and that there was a good case for refusal on the NPPF grounds.

The Chairman clarified that that planning permission had already been granted and therefore could not now be refused. This was consideration regarding the discharge of Condition 6.

He reminded Members that, if they were minded to approve the recommendation, it would be with the amendment that times of delivery be aligned with the times of working on the site.

He also reminded Member that they would not be discharging Condition 6, but discharging it, subject to a satisfactory Section 278 agreement with Hertfordshire County Council which would provide road widening and passing places and the associated safety audits.

A Member stated that he remained concerned about the safety and legal responsibility. He also expressed concern that deliveries would be difficult to timetable, due to possible delays on their journey which would result in the passing places becoming parking bays.

A Member was concerned about the professional advice given regarding the route through Holwell and stated that he did not believe that this was a safe route option.

It was proposed that the application be refused on the grounds of the effect on highway safety and that, if it were approved it would cause undue and unsafe conditions.

The Development and Conservation Manager understood that this was a difficult decision to make, however advised that, if the Committee refused permission on the grounds that the Committee considered the route to be unsafe and was not capable of being safe despite the recommendations, CALA could appeal and Members would be required to present their own technical evidence that could be tested at a public inquiry.

Members queried whether the details of the proposed Section 278 Agreement could be brought to this Committee to consider.

Members debated that consideration of the route to be taken to the site should have been considered at the time the planning application was approved and that the situation now was that the professional Highway engineers would have to give evidence in support of the route if this went to an appeal and that, although this was an unsatisfactory route, it would be difficult to show that it was unsafe. It was also noted that, if the Section 278 Agreement could not be agreed then the construction management plan would fail.

It was proposed and seconded that the Construction Management Plan be approved and the requirement of Condition 6 be discharged, subject to the conditions laid out in the report, subject to an amended Condition 1 that aligns delivery times with work times.

A Member brought to the Committee's attention another application where the Committee refused an application against Highways advice and this was upheld at appeal.

Members noted that in planning law stated that the Highways Authority were the experts regarding the road network and, even if Members felt that this route was not safe, the expert opinion was against that. If this went to an appeal then Members would have to hire their own planning expert to argue the case against the Highways Authority.

Councillor Clark called for a recorded vote.

Proposal: that the Construction Management Plan be approved and the requirement of Condition 6 be discharged, subject to the conditions laid out in the report, subject to an amended Condition 1 that aligns delivery times with work times.

For	Against
Councillor John Booth	Councillor David Barnard
Councillor Bill Davidson	Councillor Paul Clark
Councillor Tony Hunter	Councillor Jean Green
Councillor Ian Mantle	Councillor Harry Spencer-Smith
Councillor Michael Muir	Councillor Martin Stears-Handscorn

The Chairman's casting vote was against the proposal.

The Development and Conservation Manager advised that a decision not to approve was not a decision and the Committee now needed to decide on what basis they would consider the application and give reasons for that decision.

The Chairman suggested the following wording could be used "That the Committee resolve not to approve the construction management plan as it did not consider that there could be a satisfactory or safe construction route through Holwell, The Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031)." and asked for a proposer and seconder for his suggested wording.

It was proposed by Councillor Clark and seconded by Councillor Stears-Handscorn and upon the vote the proposal was agreed.

The Chairman asked that the Proposer and Secunder represent the Committee at any appeal.

RESOLVED: That, in respect of application **17/02023/1DOC** regarding the Construction Management Plan and discharge of the requirements of condition 6 of planning permission no. 16/01618/1, the Committee resolved **NOT TO APPROVE** the construction management plan as it did not consider that there could be a satisfactory or safe construction route through Holwell, The Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031).

64 17/02024/1DOC - LAND ADJACENT TO ELM TREE FARM, HAMBRIDGE WAY, PIRTON

Condition 6 - Construction Management Plan & Traffic Management Plan - Pirton and Holwell route by CALA dated 4/8/17 Construction Route Plan - Arrival via Pirton, Departure via Holwell by Waterman Infrastructure & Environment Ltd dated 4th August 2017 (as Discharge of Condition of Planning Permission 15/01618/1 granted 25/05/2016).

The Development and Conservation Manager advised that, due to the high volume of representations received since the report was finalised, he had sent Members a briefing note by email on 26 September 2017.

All comments received were displayed on the Council's website and Members had been strongly advised to review these comments shortly before the meeting in order to have an up to date picture.

In order to assist Members, he had provided a very high level summary of new comments received as follows:

Environmental Health (Noise)

No objections.

CPRE Comments

Perhaps sites like this should not be granted permission or allocated in Local Plans as construction routes are impractical in rural areas. In this case any damage to verge and cutting has not been assessed properly.

Pirton Neighbourhood Plan Steering Group

This is longest of the two routes proposed so will affect the greatest number of people;
The route is used extensively by cyclists and pedestrians.

Pirton Parish Council

This is longest of the two routes proposed so will affect the greatest number of people;
The route is used extensively by cyclists and pedestrians;
Noise from the reversing vehicles etc;
Impact on dark skies from lighting;
The development project should be enclosed by hoarding at all times.

Holwell Parish Council

This route is unsafe, absurd and has not been properly safety audited and does not meet the criteria of the condition.

Additional Local Residents comments

The through route proposed will effect the most number of residents so should be rejected;
The Priors Hill / Shillington Road route will affect local wildlife, traffic will disturb them and this should be investigated;
Vehicles parking in Shillington Road

The Development and Conservation Manager presented the report, supported by a visual presentation consisting of plans, drawings and photographs of the site.

Parish Councillor Diane Burleigh, Pirton Parish Council, thanked the Chairman for the opportunity to address the Committee in objection to the application.

Parish Councillor Burleigh advised that the off road route mentioned by some people was not an option supported by Pirton Parish Council mainly due to safety issues on the Hitchin Road with the majority of the 50 plus personal injury accidents over the last 18 years had taken place on the Hitchin Road, including one fatality.

To take a route off Hitchin Road would be extremely unsafe as well as destroy some of the heritage verge, would require the destruction of two lots of hedges and the diversion of the Hambridge Way, all of which would damage wildlife.

Pirton Parish Council objected to the proposal to arrive through Pirton and depart though Holwell and supported the conclusions and recommendations in the report.

She stated that as you refused the earlier application for Holwell on safety grounds, then, as this route also went through Holwell, it should again be rejected on that ground alone, but wished to make the following comments:

Safety

1. The route was not safe.
There had been more than 50 personal injury accidents on the route, principally the B655 and Hitchin Road, including 2 fatalities on Hitchin Road since 1998.
There were no traffic calming measures on any roads to and within Pirton.
There was no Road Safety Audit for these dangerous stretches of road.
2. The route was used extensively by cyclists, pedestrians and horse riders for leisure purposes.
It was part of the Chilterns Cycleway and the Icknield Way Route.
The safety of the roads for these users would be undermined.
3. None of the five roads selected for the route had a pavement on both sides of the road, and three of the roads, did not have any pavement at all. therefore almost half of the route through Pirton had no pavement.
During school holidays children would be walking and cycling along these roads putting them at additional risk
Neither Waterman nor CALA dealt with the significant issue of pedestrian safety.
4. The reports were particularly poor regarding the issue of Holwell Road and safety for the terraced houses known as the 12 Apostles.
There was no pavement either side of Holwell Road. Pedestrian traffic is not mentioned.

Environment

1. The proposed route would involve the destruction of the Y junction at the northern end of Priors Hill, at a time when the NHDC recognised this type of junction as part of Pirton's architecture and setting in the landscape.
2. The junction of Shillington Road, High Street and West Lane was awkward and narrow.
There was very likely to be damage to the verges, particularly the verge outside of the area known as the Dial, which formed part of an ancient village green.
3. The designated Heritage Verge along the whole length of Hitchin Road Pirton was also a local wildlife site.
As a priority habitat, the area was protected from negative impacts of development by both the NPPF and the current and emerging North Herts Local Plan.
The Officers report dealt extensively with this issue.
4. The route along Priors Hill and Shillington Road passed a field which was home to badgers, a protected species.
Further work should be undertaken to investigate the best ways to mitigate the danger of disturbance to these animals, in order to be fully compliant with the NPPF and wildlife legislation.
6. In respect of air pollution in Hitchin she referred to the opinion of your Environmental Health Officer.

Impact on the Community

1. This proposed route would impact upon a large number of properties disturbing residents' amenity within Hitchin, Pirton and Holwell. It was a long distance from an A road, contrary to best practice and Herts County Council Policy.

It was extremely important that conditions should be attached in respect of:

1. Hoarding right round the site to prevent noise and dust.
2. Light to be kept to a minimum to protect the night scene in the village.

The Chairman thanked Parish Councillor Burleigh for her presentation.

Councillor Claire Strong thanked the Chairman for the opportunity to address the Committee as a Member Advocate objecting to the application

Councillor Strong informed the Committee that the roads in this area were not suitable for construction traffic.

Construction traffic going through these villages on these roads only had to meet a bus, agricultural vehicle or refuse lorry to cause a major traffic problem.

The only area considered for mitigation had been the area around Waterloo Lane.

The people of Pirton were not keen to have large lorries going through the village, even in one direction.

If CALA were considering using this through route they would have to undertake even more work to make the route safe.

Any traffic going through either Holwell or Pirton would pass through Hitchin.

The Officer recommendation was for refusal and she urged Members to support the recommendation and if possible add to the reasons for refusal.

The Chairman invited Mr Philip Wright and Mr Andrew Trowbridge to address the Committee in support of the application but they refused the offer to do so.

It was proposed and seconded that permission to discharge the requirements of condition 6 of outline planning permission no 16/1618/1 be refused for the reasons set out in the report.

RESOLVED: That, in respect of application **17/02024/1DOC**, permission to discharge the requirements of condition 6 of outline planning permission no 16/1618/1 be **REFUSED** for the reasons set out in the report of the Development and Conservation Manager.

65 17/01024/1 - LAND BETWEEN A505 AND, YORK WAY, ROYSTON

Erection of 2 retail foodstores with ancillary cafe; provision of 170 associated car parking spaces; plant and service yards; provision of new road on junction of A505 and new link road to Orchard Road Industrial Estate; landscaping and all other associated works (as amended by plans received on 16 May 2017).

The Area Planning Officer advised that there were a number of updates and corrections since publication of the report as follows:

At the time of reporting, the unilateral undertaking which would deliver £100,000 for sustainable transport had been agreed with Herts County Council and was out for signature. This process should be complete in a few days.

Therefore the recommendation should be amended to read:

“That planning permission be granted subject to the following conditions and receipt of a satisfactory Unilateral Undertaking delivering £100,000 for sustainable transport provision”:

If the above recommendation was accepted and in the unlikely event that the unilateral undertaking process was not complete by the 1st November 2017 and if the applicant was not willing to extend the timetable for determination,, the Committee was asked to authorise refusal permission, under delegated powers, on the grounds that there was no satisfactory legal undertaking.

The following corrections to the report were advised:

The second sentence of Paragraph 4.2.1 should read:

“This represents an increase of about 700 sqm of additional sales floorspace over that already approved. The new stores are specified with 170 car parking spaces off of a new mini roundabout.”

The fifth sentence of Paragraph 4.3.4 of the report should read:

“This scheme represents an increase on this approval of some 700 sqm.”

An additional Condition 16 was required to read:

“The travel plan submitted on behalf of Marks and Spencer PLC by Caneparo Associates and dated April 2017, shall be implemented and monitored in accordance with the action plan and timetable set out within the plan.

Reason: To promote sustainable patterns of travel and use as encouraged by the NPPF.”

The Area Planning Officer presented the report of the Development and Conservation Manager, supported by a visual presentation consisting of plans, drawings and photographs of the site.

Members asked for clarification regarding the placement of access and exit points to the site. They queried whether the £100,000 transport contribution would be used to provide the new road and access to the site, what action could be taken if the travel plan was unsuccessful and whether any hedgerows or trees would be lost during construction.

The Area Planning Officer advised that there was an exit from the new road and access and exit from the A505 westbound.

The contribution to sustainable transport would not be used to provide either the roundabout or the access, it would provide bus services to the facility.

Non compliance with the Travel Plan would be a breach of condition and would be enforceable as such

In respect of trees and hedgerows, some would need to be removed in order to provide the access onto the A505, although there was a condition that required a landscaping plan.

Members were supportive of the proposal and commented that the proposed stores were unlikely to have an effect on the town centre

It was proposed, seconded and

RESOLVED:

- (1) That planning application **17/01024/1** be **GRANTED**, subject to the conditions and reasons set out in the report of the Development and Conservation Manager and the additional Condition 16 below and subject to receipt of a satisfactory Unilateral Undertaking delivering £100,000 for sustainable transport provision.

Additional Condition 16 to read:

“The travel plan submitted on behalf of Marks and Spencer PLC by Caneparo Associates and dated April 2017 shall be implemented and monitored in accordance with the action plan and timetable set out within the plan.

Reason: To promote sustainable patterns of travel and use as encouraged by the NPPF.”

- (2) That, If the unilateral undertaking process is not complete by the 1 November 2017 and the applicant does not agree to extend the timetable beyond that date, the Development and Conservation Manager be requested to refuse permission under delegated authority with the reason for decision being that there is no satisfactory legal undertaking.

The meeting closed at 9.54 pm

Chairman

Agenda Item 3

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

MEETING HELD IN THE SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH
GARDEN CITY ON THURSDAY, 12TH OCTOBER, 2017 AT 7.30 PM

MINUTES

Present: *Councillors Councillor David Barnard (Chairman), Councillor Fiona Hill (Vice-Chairman), John Bishop, John Booth, Paul Clark, Bill Davidson, Jean Green, Cathryn Henry, Tony Hunter, Ian Mantle, Mike Rice and Harry Spencer-Smith*

In Attendance:

Simon Ellis (Development and Conservation Manager), Tom Rea (Area Planning Officer), Jo Cousins (Senior Planning Officer), Kate Poyser (Senior Planning Officer), Nurainatta Katevu (Property and Planning Lawyer) and Hilary Dineen (Committee and Member Services Officer)

Also Present:

At the commencement of the meeting Councillors Julian Cunningham, David Levett and Lynda Needham, 36 members of the public, including 6 registered speakers and 2 Member Advocates (Councillors Jane Gray and Steve Hemingway).

66 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Michael Muir, Adrian Smith and Martin Stears-Handscomb.

Councillor Val Shanley was substituting for Councillor Michael Muir.

67 MINUTES - 14 SEPTEMBER 2017

RESOLVED: That the Minutes of the meeting of the Planning Control Committee held on 14 September 2017 be approved as a true record of the proceedings and signed by the Chairman.

68 NOTIFICATION OF OTHER BUSINESS

There was no other business notified.

69 CHAIRMAN'S ANNOUNCEMENTS

- (1) The Chairman welcomed the Committee, officers, general public and speakers to this Planning Control Committee Meeting;
- (2) The Chairman announced that Members of the public and the press may use their devices to film/photograph, or make a sound recording of the meeting, but he asked them to not use flash and to disable any beeps or other sound notifications that emitted from their devices;
- (3) The Chairman reminded Members and speakers that in line with Council policy, this meeting would be audio recorded;

- (4) The Chairman advised that Members would be using hand held microphones and asked they wait until they had been handed a microphone before starting to speak;
- (5) The Chairman requested that all Members, officers and speakers announce their names before speaking;
- (6) The Chairman clarified that each group of speakers would have a maximum of 5 minutes. The bell would sound after 4 1/2 minutes as a warning, and then again at 5 minutes to signal that the presentation must cease;
- (7) The Chairman advised Members of the Committee and members of the public about the process regarding the items about Land at Junction of Potters Heath Road and Danesbury Park Road, Welwyn.

The Committee would listen to the information and ask questions regarding item 6 after which Members of the press and public would be excluded and Members will consider Item 11.

Once consideration of Item 11 was complete, members of the public and press would be invited to return to the room, at which time the Committee would undertake any further Part 1 debate required and make a decision.

Following completion of these items there would be a 10 minute recess to allow members of the public to leave if they wished to do so.

- (8) Members were reminded that any declarations of interest in respect of any business set out in the agenda should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and were required to notify the Chairman of the nature of any interest declared at the commencement of the relevant item on the agenda. Members declaring a Disclosable Pecuniary Interest must withdraw from the meeting for the duration of the item. Members declaring a Declarable Interest which required they leave the room under Paragraph 7.4 of the Code of Conduct, could speak on the item, but must leave the room before the debate and vote.

70 PUBLIC PARTICIPATION

The Chairman confirmed that the 6 registered speakers and 2 Member Advocates were present.

71 16/02460/1 - LAND AT JUNCTION OF POTTERSHEATH ROAD AND, DANESBURY PARK ROAD, WELWYN

Retrospective application for change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home, erection of two utility buildings, additional hardstanding, associated parking spaces, erection of entrance gates, timber fence and ancillary works (as amended by plan no. 3 and site layout plan received 7/12/16).

The Development and Conservation Manager presented the report of, supported by a visual presentation consisting of plans, drawings and photographs of the site.

The Development and Conservation Manager advised that Members had before them a legal opinion on behalf of Codicote Parish Council and an appeal decision which, he had been informed, had been emailed out in advance of the meeting.

The legal opinion had been reviewed by the Council's appointed barrister, who had provided further written response.

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He stated that he had been advised by the Council's Corporate Legal Manager and Monitoring Officer that he could not reveal the content of this further advice in Part 1, however copies would be distributed to Members in Part 2 for their consideration.

He did however confirm that the Council's barrister strongly disagreed with the position taken by Codicote Parish Council's barrister.

The Development and Conservation Manager advised that, as this was not a typical planning report and recommendation and the decision was not to grant or refuse planning permission, he would summarise the position for the benefit of Members.

Members were not being asked to grant or refuse planning permission, but were being advised to review the Council's position in relation to the forthcoming appeal.

As things stand and regardless of the decision made this evening, the decision regarding whether or not planning permission should be granted rested with the appointed Planning Inspector.

As set out in Paragraph 7.1 of the report, Members resolved to refuse planning permission for this development at the meeting held on 17 January 2017. This was contrary to the officer recommendation to grant temporary 3 year planning permission.

Paragraph 7.3 of the report detailed that an appeal against this decision was received in March 2017.

In an appeal proceeding, the Planning Inspectorate decided the method of appeal to be used to enable the planning inspector to reach a decision. In this case the Inspectorate had decided that the appeal must be decided by way of a public inquiry rather than a hearing or written representations. The inquiry dates were set for 3 days commencing on 5 December 2017.

The purpose of a public inquiry was to enable all members and parties to present evidence for their position and to allow that evidence to be scrutinised under cross examination. Each party would normally have legal representation at the inquiry.

As Members were aware, Planning Officers are unable, under their professional Code of Conduct, to present evidence on behalf of the Council which was contrary to their professional view.

As the Officer view, in this case, was that a temporary planning permission was justified, this ruled out the ability of Officers to represent the Committee's decision to refuse planning permission at the inquiry.

In this case officers considered the case to be marginal and therefore employed the services of a highly experienced Planning Consultant, Philip Hughes, to be Council's expert witness at the inquiry.

The duty of each participant on the inquiry was to assist the appointed inspector in their decision. This inquiry would not be about reviewing the basis for the decision that the Committee reached in January 2017, but to consider the issues in light of the most up to date evidence.

Therefore, as well as appointing a planning consultant to seek to defend the Committee's decision, officer's sought more up to date evidence on the welfare of the current occupiers of the site by undertaking a welfare assessment and, as part of the Local Plan process, updated the Gypsy and Traveller Accommodation Assessment, as attached at Appendix D to the report.

The welfare assessment, need and the appellant's statement case revealed that the number of children had increased by one since the time that planning permission was refused in January 2017. The welfare assessment was carried out on 27 June 2017 and it revealed there were now 5 children residing at the site ranging in age from 5 months to 12 years old, with the school aged children attending local schools. This was new information that Members needed to be aware of and that would be considered by the Inspector when the appeal was determined.

The updated Gypsy and Traveller Accommodation Assessment, conducted by the Council's appointed consultants (Opinion Research Services), which would inform the forthcoming examination into the Council's Local Plan, had concluded two matters of relevance to the appeal, which would also have a bearing on the Inspector's decision regarding the forthcoming appeal in respect of this case.

The first conclusion was that the current occupiers of this site did comply with the 2015 definition of Gypsies and travellers. This definition was contained in the 2015 Government publication 'Planning policy for travellers sites. Travellers were defined as:

"Persons of a nomadic habit of life, whatever their race or origin, including such persons who on grounds only of their own, their families or dependents' educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such."

The second conclusion was that in order to meet the needs of the travelling community within the Plan period, while applying the assessment, based on up to date definition of travellers, was that an additional 10 pitches were required over the Gypsy and Traveller Site Assessment period of 2017 – 2032, rather than the 7 detailed in in the current submission of the Local Plan Policy HS7.

Whilst primarily this updated evidence would be for the examination in public, an Inspector would use the Local Plan evidence, but this new evidence would be a factor that the Inspector would wish to examine.

This change in accommodation need for the traveller community was another material change in circumstance that had taken place since January 2017, when Members resolved to refuse planning permission for this development.

Another change in circumstance, as set out in Paragraph 8.4 of the report, was that the temporary planning permission for six pitches at Pulmore Waters had now lapsed and this, together with other factors, called into question the feasibility of an alternative site that the Council was putting forward to meet identified need over the Plan period.

This was the playing field in which the public inquiry would meet and the issues that the Council would be required to provide evidence to assist the Inspector in reaching a decision as to whether to allow or dismiss this appeal.

In light of this new evidence, Philip Hughes advised that he was professionally unable to defend the position of refusal at a public inquiry.

Of crucial significance to this conclusion was the assessment of the best interests of the children who reside at this site, as required under Paragraph 16 of the August 2016 Planning Policy for Travellers Sites which stated:

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“Inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. Subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances.”

The equation here was whether the best interests of the children residing on the site were best served by refusing planning permission, the consequence of which would be to remove them from the current site, leaving open the question of where they could live as part of the travelling community.

In the view of officers and the planning consultant, this argument when added to the current plan and need was compelling and they did not consider the refusal as sustainable at a public inquiry.

The Development and Conservation Manager recommended that Members reconsider the Council's position, given this change of circumstances, and accept the officer's recommendation.

The only alternative was for Members themselves to present the evidence at the public inquiry.

He then introduced Phillip Hughes and asked him to give a brief explanation of his experience in these matters.

Mr Phillip Hughes informed Members that he extensive experience of advising local planning authorities, parish councils and local amenity groups in respect of appeals including inquiries and hearings relating to gypsy and traveller sites for over 20 years.

He explained that his duty at an appeal, as a chartered town planner, was to assist an inspector to properly understand the evidence and outline his professional opinion in respect of the whole of the evidence presented.

In this case Members were in a position where the evidential base had moved on since reaching their decision. The application, as submitted, was accompanied by scant information, However since the appeal was submitted, a significantly enhanced amount of information had been submitted, in particular in respect of the need of the appellant and their personal circumstances.

Members will be aware of the appeal statement and appended witness statements of the occupants of the site. Attached to those witness statements was a list of previous sites occupied by the appellants, who came to this site from the road side.

In addition, as part of the Local Plan process, the Council had updated its own evidence base by completing an updated Gypsy and Traveller Accommodation Assessment (GTAA). The result of this review was to increase the level of need over the Plan period from 7 to 10 pitches. This level of need was significantly higher than that previously anticipated and currently planned for in the adopted or emerging Local Plan.

The emerging Local Plan, submitted in 2017, understandably did not make provision for the full level of gypsy and traveller sites for the period that had now been identified by the GTAA. Therefore permission would need to be granted outside the identified allocated sites.

Mr Hughes advised that there was no doubt in his mind that this proposal caused harm to the green belt, in terms of inappropriateness and loss of openness. It also offended the purpose of the green belt policy as the development encroached into the countryside.

The reason for refusal identified the inappropriateness and the harm to the openness and

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Members were entitled to carry out that planning balance and to conclude that the planning balance in favour of granting permission at that time did not amount to very special circumstances and thus refuse permission.

Having considered the up to date position this was no longer a viable position to defend, given that the circumstances of the occupants had evolved, in that there were now 5 children residing on the site. From the information submitted with the appeal, he also understood the local connections of the appellant and their circumstances more completely, as well as the circumstances of the children and their educational needs.

A refusal of planning permission would, in all likelihood, result in the applicant, including the children, having to resort to the roadside. In that regard, it was important to be conscious of the fact that the applicant had been moved on 12 times from the road side before alighting on this site.

The Council had no alternative site that it could point to for these occupants to occupy and currently had not identified enough land to meet the recognised need for pitches over the Plan period.

The circumstances were materially different to those at the time of the application and, in that context, he could not support the proposition that the best interests of the children on that site would be served by refusal of planning permission.

Parish Councillor Helena Gregory, Codicote Parish Council, thanked the Chairman for the opportunity to address the Committee in objection.

Parish Councillor Gregory informed Members that local residents and Codicote Parish Council had engaged the services of a barrister to uphold the decision to refuse the planning application and she would summarise that advice for Members.

Considering that a breach of planning regulations had taken place, there had been an expectation that the matter would be dealt with appropriately, but Councillors were now being asked to reverse their decision and invite the appellants to submit a further planning application.

Members were familiar with the grounds for overturning the recommendation and their barrister was clear that the reason set out in the report were flawed.

In January it was considered that the best needs of the 4 children living on the site did not give rise to special circumstances that outweighed the harm to the green belt. The material change to those circumstances was the additional of one child and the health issues of resident on the site. This did not demonstrate that planning permission would be granted on appeal.

The mere presence of children on the site and their need for education and healthcare did not automatically give rise to very special circumstance and the Government advice was clear on this.

The report highlighted that there was a shortfall in the number of Gypsy and Traveller accommodation identified in the proposed submission Local Plan and erroneously suggested that a marginal increase in unmet need was a material change in circumstance. The Planning Committee was well aware that there was an unmet need when it made the decision to refuse planning permission in January 2017.

In 2013 the Government made a statement which said that The Secretary of State considered that the single issue of unmet demand was unlikely to outweigh harm to the green belt in order to constitute the very special circumstances justifying inappropriate development in the green belt.

The officer's report also failed to consider the August 2015 policy statement on green belt protection and intentional unauthorised development.

In a recent appeal decision the Inspector took into account that there was potential unauthorised development, that there was a significant unmet need that was unlikely to be met by the Authority in the short term and the personal circumstances and health needs of the applicant and the needs of his small children. In that case it was concluded that the harm caused to the green belt was not outweighed by the various factors relied upon. These factors were similar to those outlined in this case.

Members had also been advised that, if the appeal was pursued, it was likely that the Council would be found to have acted unreasonably and that this would lead to an award of costs against the Council. The guidance used to substantiate this assertion was out of date and was superseded by the planning policy guidance. This stated that the Local Planning Authority were at risk of an awards cost if they behaved unreasonably with respect to the matter under appeal, for example unreasonably refusing or failing to determine planning applications or by unreasonably extending the period.

In the light of relevant Government policy, it was far from inevitable that the new circumstances identified would carry significant weight in favour of granting permission. Even if the appeal was allowed and planning permission was granted, this would not necessarily indicate that the Council acted unreasonably in choosing to defend the appeal.

Legal matters aside, many issues that have had to be weighed up were superfluous. The original planning statement outlined a dispute which led to the family to flee in fear from their previous home, this dispute was now settled and very soon after the application was refused the applicants were seen back at their former home and continue to spend much of their time there.

Other Gypsy and Traveller sites in the Parish continued to flourish and the unmet need for pitches did not seem to be causing a huge problem as adverts for accommodation were regularly seen in the local paper and migrants from overseas travel to the site to live and work for the family business.

Parish Councillor Gregory concluded by stating that this was a rural leafy lane, where most of the residents had lived quietly as neighbours for years and asked Members to consider whether a neighbour someone who stops you in the street to ask after your health or someone who stops the traffic in the street to threaten your health after you have spoken to the Planning Control Committee.

She urged the Committee to consider all parties and make a stand against this illegal and unnecessary encroachment into the green belt.

The Chairman thanked Parish Councillor Gregory for her presentation.

Councillors Jane Gray and Steve Hemingway thanked the Chairman for the opportunity to address the Committee as Member Advocates in objection.

Councillor Hemingway advised that this site was within his Ward, although Councillor Gray had more frequent direct contact with Codicote Parish Council.

The site had had multiple applications made, all of which had been refused. It was a site not suitable for development.

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The temporary planning permission and retrospective planning permission had also been refused and the Committee was now being asked to accept that an additional child and an increase in demand of a handful of sites in the District, over the Plan period, suddenly changed everything and that the Committee should now accept the recommendation to no longer defend a decision that had been through proper process.

The argument was that, although a decision had been made to refuse the application, it was, in practice impossible to defend that decision at the public inquiry and Members had heard from an expert that circumstances were now such that the case was not able to be defended.

This was a considered a marginal decision and, as such, the Committee should not now view it as so clear cut that the decision was not defensible. This application demanded that a planning inspector make the decision and implicitly a series of similar applications on adjacent sites, as he was confident that, if this application was not defended, it would not be the last application of this nature.

It was very unsatisfactory that the Committee was being advised that a decision they had made could not be defended. The objector group had always assumed that, because the Council came to a proper decision, they would not have to the considerable expense of employing their own barrister and expert witness when it came to a public inquiry.

This was a considerable expense for a small rural community and the Council had much more resources available to address this important issue, which should be settled at a public inquiry.

The argument centering on the lack of sites was that there was not enough sites in the District, but that this opportunistic site was clearly the right site to meet the shortfall and that the carefully scrutinized process used to select sites for the Local Plan did not need to be followed in this case, as the Council would just accept that this particular site, where a family moved to overnight, was the right site.

Members had been given the opinion of the Parish Council's barrister, which clearly set out many new grounds and the position was obviously defensible.

Councillor Gray advised that she endorsed everything that Councillor Hemmingway and Parish Councillor Gregory had said and hoped that Members would take on board every piece of advice given by Mr Pike, the Parish Council's barrister. This advice was absolutely correct and compelling.

Mr Matthew Green, Appellant's Agents, thanked the Chairman for the opportunity to address the Committee.

Mr Green advised Members that his company's area of specialism was gypsy and traveller appeals and he did not take on an appeal unless he thought there was a realistic prospect of success.

The harms in this case had been fairly appraised by Mr Hughes, but they were all green belt harms such as inappropriateness and openness and he concurred with these.

The Secretary of State, following a court case in 2016, accepted, in writing to the High Court, that green belt harms should be given substantial weight but that, where the best interests of the children were served by granting permission, a similar weight must be given. This meant that the interests of the children alone would balance out the harm in this case.

To win this case it would be necessary to clearly outweigh the harm, but there were other factors such as the general need for Gypsy and Traveller sites, the lack of alternative sites, the inability of the Plan to completely meet the need currently identified and the fact the sites were very likely to be in the green belt, that had to be taken into account when weighing the balance.

Mr Green advised that he had not lost a case that involved children since 2015 and the only cases he had lost that involved sites in the green belt were where children were not involved and therefore he fully expected to win this case,

In respect of costs, it was relatively rare for costs to be awarded against Councils, as these cases were usually matters of very fine balance. He had however recently had full costs awarded in a case where the reason for refusal only involved green belt harms and there were children involved, which was almost identical to this case. In that case the Inspector took the view, in light of current case law, that the Council could not reasonably defend a situation where there was only green belt harm.

Mr Green concluded by stating that he concurred with the advice being given and it was very likely that a grant of permission would result from the inquiry and it was likely, in this case, that costs would be awarded against the Council. This was not in the interest of the Council, nor his clients, who would rather get permission before that happened. It was in everyone's interest for this case not to go to a public inquiry.

In response to the presentations the Development and Conservation Manager informed Members that the legal advice provided by Codicote Parish Council referred extensively to the appeal decision and compared that appeal decision to the current situation but did not contrast.

Mr Hughes was aware that each application should be dealt with on its own merits and it was rarely possible to contrast two decisions, evenly and come to the same conclusions, particularly in regard to personal circumstances, which were rarely the same in two cases.

In the case detailed in the appeal decision the appellant had moved from bricks and mortar, where he had resided with his family and four children who were in education at the time to the site that was subject of the appeal decision. One of the results recorded in the appeal decision was of deterioration in the education of one of the children and that led to the Inspector opining that the best interests of the child may not be served by granting of planning permission at that site. He also commented on the aversion of the appellant and his family to reside in bricks and mortar. There was an adopted strategy dated 2012 and a GTAA dated 2008 in place

In this case the appellants had been roadside prior to occupation of this site and there was a schedule, included in the appeal papers, of 12 roadside sites previously occupied by the appellants where they received notice to vacate land prior to occupying this site.

It was not possible to know the full gamut of evidence that was considered by the Inspector in the Surrey case, but the appeal decision demonstrated clear differences between the two cases.

Mr Hughes cautioned Members that the conclusions of the Inspector of the Surrey decision may not be transferrable to this case. He stated that he had carried out an assessment of this case and, if in his wide experience of over 20 years, he felt that there was a case and it could be defended he would not be advising otherwise.

In response to a comment from a Member, the Chairman acknowledged that, although officers had been assured that the legal opinion and appeal decision supplied by Codicote Parish Council had been circulated to Members, they had not had the benefit of time to read the hard copies tabled at the meeting. He would therefore, following the exclusion of press and public call a 15 minute recess to allow Members time to read the paperwork supplied.

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Members noted that the decision made was based on evidence presented at the time the application was considered and that the Council's expert had advised that the decision was a defensible position at that time. They expressed concern that they were being further advised that, due to new evidence, the position could no longer be defensible and queried why this new evidence had to be considered when Councillors could not have known what evidence may be produced after a decision had been taken.

Mr Hughes acknowledged and confirmed that, based on the circumstances at the time Members made their decision, he was comfortable that it was a defensible decision. However, an appeal had to be based on the evidence available to the Inspector at the date of the inquiry and there was now evidence of changes of circumstances including much more information on the personal circumstances of the appellant as well as the changes in terms of the identified need, which emerged as part of the Local Plan process. The Inspector was duty bound to consider these material circumstances as part of his decision. It was also a duty of Local Authorities to review their decisions should circumstances change.

Members commented that they had been told that planning applications apply to a site and not the circumstances of the applicant and queried whether the consideration of personal circumstance only applied to applications relating to Gypsy and Traveller sites. They also queried whether there had been a change in circumstance for the appellant, or whether it was just a case of more information being available.

Mr Hughes advised that the personal circumstances provided with the application were scant with very little information provided by the applicant in support of the application. At that stage the Council undertook a welfare assessment and were able to identify some of the circumstances. The appeal statement, which accompanied the appeal, set out a number of circumstances and, importantly, there were witness statements that detailed the full circumstances of the family including the education needs of the children. There was also the addition of another child since the application was determined as well as the detail regarding the occupation of roadside sites prior to occupation of the appeal site. This in combination with the Council's evolved evidence base that identified a greater level of need and that the Local Plan currently did not plan to meet that level of need created circumstances that, in his view, meant that he could not defend the Council's decision.

In respect of personal circumstances, these were capable of being a material consideration. They were not always relevant, unless those circumstances were such that they tipped the balance. In the case of having or not having a home, then the personal circumstances of that family, Gypsy, Traveller or otherwise, were capable of being material planning considerations, the weight that they attract was a matter for the decision maker.

In response to a question regarding information provided at the time of refusal, the Chairman advised that every consideration was given to the information provided in the report and at the meeting.

Members asked for clarification about where, in the NPPF, consideration of personal circumstances was mentioned.

The Development and Conservation Manager advised that personal circumstances were not referenced in the NPPF, however reference was made, in regard to the green belt, to very special circumstances. Planning permission could only be granted in the green belt when there were very special circumstances and the advice being given was that personal circumstances could contribute to those very special circumstances, however the Gypsy and Traveller Accommodation Assessment did refer to the best interests of the child and personal circumstances, so there was policy guidance for this.

A Member noted that the Committee had come to a decision based on the evidence at that time and there had been additional work required in order to take account of and assess the evidence that had come to light since that decision and queried whether the Council could claim costs for this extra work.

They also noted that Appellant's Agent had mentioned a letter from the Secretary of State that mentioned that special circumstances in respect of the needs of the child should be considered, yet Mr Hughes had commented that the needs of the child did not outweigh the green belt issues and asked for clarification.

Mr Hughes stated that he was not advising that the information that had come forward as a result of the appeal was enough in itself to change the decision, it was a combination of factors that included the work completed by the Local Authority in respect of assessing need.

In respect of costs against any party at an appeal, one would first have to demonstrate unreasonable behavior and this had to be linked to causation. Given the combination of factors, it was unlikely that the changes amounted to unreasonable behavior.

The best interests of the children must be a primary consideration in any decision made, although this may not be the determining factor.

A Member asked for clarification that, should this Committee decide to go to appeal, officers would not support Members at that appeal.

The Development and Conservation Manager advised that, regardless of any decision made by the Committee, there would still be an appeal. If Members supported the recommendation in the report, Mr Hughes and the Council's barrister would represent the Council at the appeal, however the evidence given would be that, in light of the additional information, the appeal should be granted. The decision regarding the appeal remained with the Inspector. In the event that Members did not agree with the recommendations and go against professional advice, then Members themselves would have to present the evidence at the appeal and be cross examined by the appellant's barrister. Professional planners were not able to give evidence against their professional judgment.

At this point the confidential information was considered by Members (Minutes 75 and 76 refer).

Following consideration of the confidential information, it was proposed, seconded and

RESOLVED:

- (1) That officers be authorised to write, without delay, to the Planning Inspectorate to confirm that, in light of a material change in circumstances, North Hertfordshire District Council as Local Planning Authority would be inviting the appointed inspector to grant conditional planning permission;
- (2) That officers be authorised to write, without delay, to all those who submitted representations to the Local Planning Authority prior to the determination of the planning application and to those third parties who have registered to appear at the Public Inquiry of the Local Planning Authority's decision, setting out the reasons for this decision;
- (3) That officers be authorised to write to the Appellant, without delay, to invite a planning application similar to that originally submitted (planning ref: 16/02460/1) so that the Local Planning Authority can consider such an application in the light of information now available which includes the personal circumstances of the Appellant and occupiers and the Council's interim Gypsy, Traveller and Showperson Accommodation Assessment Update (2017);

- (4) That, subject to the receipt of a re-submitted planning application, officers be authorised to write to the Planning Inspectorate to suggest that it is no longer necessary to hold a public inquiry and/or to request that the appeal/Public Inquiry is held in abeyance pending the outcome of the Local Planning Authority's decision on the re-submitted planning application. In the circumstances that the appeal is to proceed, officers be authorised to make representations on a change in appeal procedure to a written appeal.

REASON FOR DECISION: To enable the Committee to consider the position of the Local Planning Authority at the Planning Public Inquiry scheduled for 5th – 7th December 2017, having regard to material changes in circumstances since the refusal of planning application ref: 16/02460/1 and the advice received from professional witnesses and Counsel.

The Chairman called a brief recess to enable members of the public to leave the meeting if they wished to do so.

72 17/01406/1 - LAND DEVELOPMENT OFF, STATION ROAD, ASHWELL

Residential development of 46 no. dwellings, children's play area, two new sports pitches, pavilion building and associated infrastructure.

The Senior Planning Officer presented the report of the Development and Conservation Manager supported by a visual presentation consisting of plans, drawings and photographs of the site.

Mr Richard Young, speaking in objection to the application, thanked the Chairman for the opportunity to address the Committee.

Mr Young informed Members that he was not going to speak about the many reasons for refusing the application that were included on the officer's report, but would rather concentrate on a couple of key areas.

There were two main reasons for refusal being the impact on the village and the location of the application site outside of the village.

Ashwell was an historic village with over 1,000 years of history.

The visual approach to the site would have a significantly urbanising effect on the village, not only from Station Road, but also from the Slip End access, which was significantly higher and looked down onto the site.

In terms of the impact on the village, the primary school had no capacity, with several sales of houses in the village not proceeding due to there being no places available.

Clearly 46 additional house, would place a significant demand on the local amenities.

These houses would create significant additional traffic issues both in and out of the village.

In terms of the location of the site, it was right on the very edge of the village and was the furthest away from the centre than any other building in the village.

It was on the absolute limit of where anyone would walk and therefore it was almost certain that anyone travelling to the village from this site would use a car, there were no parking spaces in the middle of the village and the village was already highly congested with traffic, particularly at the weekends and anybody living on this site would need to commute for work

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The journey along Station Road included a very dangerous junction with Lucas Lane, where there had been numerous accidents including one fatality and this development would add to the traffic issues.

The journey in the opposite direction included the junction with the A505 which was an extremely dangerous junction where there had again been numerous accidents and this development would again compound the issues.

The site was outside of the village boundary, and was not included in the Local Plan and was therefore an opportunistic development. This was purely an opportunity for the landowner to make money and there was no support from the village for this development.

Mr Young concluded by stating that the village could not cope with these additional houses, there was already significant development in the village, the location would urbanise a beautiful village and result in a significant increase in traffic using dangerous junctions.

He asked Members to refuse permission.

Mr Stuart Booth, Applicant's Agent, thanked the Chairman for the opportunity to address the Committee.

Mr Booth advised that there had been a significant amount of feedback from officers that had led to the reasons for refusal, these matters could be addressed through negotiation as was normal with applications.

The site was immediately adjacent to existing houses in the village boundary and had access to the road through the village and had direct access onto Station Road which had a petrol station and a shop. Immediately adjacent was the tennis club and cycle club.

There was a good pathway from the site to the village centre and there was access to the station, which was also a bus route demonstrating that this was a sustainable location, in terms of alternative modes of travel, the development would provide improvements to the footway as well as providing a bus stop.

The opportunity to consider this site for inclusion in the Local Plan was missed as the Applicant had not been aware of the site until the Plan was drafted. However the District was not going to have sufficient planning permission to meet the housing need shortfall and therefore the Council needed to balance the potential negatives of development against the sustainable credentials that this scheme provided.

The Applicant had not been given the opportunity to address the objections. The potential negatives of developing this site amounted to landscape impact. The Local Plan included thousands of potential homes on the green belt and the potential benefits of developing this single field, on the edge of Ashwell, in a sustainable location should be considered in this context.

This was an application for mixed house types of varying sizes that were suitable for young families and smaller homes people wishing to downsize, which was an identified local need.

In addition it met the direct need for sport provision by providing the specific sports facilities and changing rooms that had been requested.

Mr Booth acknowledged the objections made by the Parish Council but they had also objected to the previous plan, which was part of the Local Plan.

He reminded the Committee that they had a duty to make decisions to provide new housing

The Local Plan had a provision within it for windfall sites, such as this, to come forward. The number of new houses that currently had permission would not provide even the next two years of need.

This development provided significant social, economic and environmental benefits and the development itself was mitigated by good design with landscape design, sports pitches and facilities.

He reminded Members that they had engaged with residents and that there had been very few letters of objection to the scheme

He requested that Members consider the benefits of this scheme that would meet identified need.

The Chairman thanked Mr Booth for his presentation.

The Senior Planning Officer advised that windfall sites would have to be policy compliant in regards to the existing and emerging Local Plan Policy.

Members referred to Paragraphs 3.7 and 4.3.29 of the report regarding Highways and expressed disappointment that the dangers regarding the junctions and traffic were not supported by reasons for refusal. They were surprised that no objections had been raised considering the comments made regarding the suitability of parking on the site and the limits of highway adoption given the road layout and further that they appeared to be agreeing to roads that were unacceptable.

They commented that this was an inappropriate form of development in a village that didn't relate on any way to the village. Expansions to historic villages such as Ashwell had to be sympathetic and bear in mind the existing built environment, rather than an Off-the-shelf bolt on of standard housing.

It was proposed, seconded and

RESOLVED: That, application **17/01406/1** be **REFUSED** planning permission, subject to the conditions and reasons as set out in the report of the Development and Conservation Manager.

73 17/01195/1 - FORMER LANDFILL SITE, BLAKEMORE END ROAD, LITTLE WYMONDLEY

Use of land for gas fired electricity generating station to deliver electricity during times of peak demand of up to 49.99 MW.

The Senior Planning Officer advised that there were some updates to the report.

St Ippolyts Parish Council had submitted the following comment:

It was agreed to object as it was not a special enough case to warrant St Ippolyts Parish Council to support development on green belt land.

The Applicant had submitted a copy of the lease and options agreement with the landowner, which referred to the provision of a sinking fund to provide for the clearing of equipment from the site. The intention of this was to overcome the second objection and showed a clear intention to make provision for the clearance of the site after the 20 year temporary permission.

She therefore recommended withdrawal of the second reason for refusal. If Members were minded to grant the application then there should be a condition to ensure that a bond was in place before work commenced on the site.

In respect of the first reason for refusal, which stated that the development was contrary to the green belt policy, the Applicant had submitted a table showing 167 sites that had been considered in the eastern and southern region. However, having considered this table, she felt that it was such that it would not amount to very special circumstances and the recommendation for refusal on green belt grounds remained.

The Senior Planning Officer advised that the Applicant was requesting that Members consider deferring a decision, in order to allow for a further amended scheme to be submitted that would reduce the number and height of the chimneys.

The Senior Planning Officer presented the report of the Development and Conservation Manager supported by a visual presentation consisting of plans, drawings and photographs of the site.

Mr Adrian Hawkins, Wymondley Parish Neighbourhood Plan Committee, thanked the Chairman for the opportunity to address the Committee in objection to the application.

Mr Hawkins advised that he wished to draw attention to certain aspects regarding the application and suggest further reasons for refusal.

There was growing concern about air pollution and the residents of Wymondley, in particular Little Wymondley, were particularly concerned about the pollution levels that would emanate from this power station.

North Herts District Council were meticulous in measuring the air quality at the Three Moorhens in Stevenage Road and following extensive dialogue with the Environmental Protection Officer, it was acknowledged that, although there were long term measurements of air quality PM 10 and various other obnoxious air pollutants, particularly those emitted by motor vehicles, there were no long term measurements regarding PM 2.5.

PM 2.5 was recognised by Public Health England as contributing to the premature death of 29,000 people in the UK and the World Health Organisation estimated that this contributed to the premature death of 4.3 million people worldwide.

The residents of Wymondley, who were bordered by the A1M to the west, the A602 to the south and the main railway line to the north, felt that having a power station to the east would be disappointing, particularly as they were already suffering from air pollutants.

It had been established that Defra had an Air Quality Management Area on the A1M that covered Little Wymondley and there were two aspects for the Committee to consider in respect of the air quality, being measured by the Government monitoring station.

PM 2.5 at the Three Moorhens Roundabout was measured at 13, this measurement in London was 12.5 to 15. When looking at the equipment installed on the A1M, this situation also applied to Little Wymondley, which demonstrated that the area was already being subjected to very high levels of pollution and the installation of this power station would only add to this.

Consideration should be given to the provision of alternative methods of power support for the infrastructure of Hertfordshire, such as long term storage facilities such as batteries which would not necessarily accrue pollutants or create noise and vibration issues.

Mr Hawkins concluded by stating that he wished, on behalf of Wymondley Parish Council, to support the officer's recommendation to refuse this application.

A Member asked for clarification regarding the type of batteries referred to in the presentation.

Mr Hawkins advised that he was referring to the fact that this was near to the sub-station and the power was drawn from the National Grid and some for peaking power support could be investigated for the infrastructure of Hertfordshire through batteries rather than a gas fired generator.

The Chairman thanked Mr Hawkins for his presentation.

Mr Andrew Troup, the applicant, thanked the Chairman for the opportunity to address the Committee.

In respect of air quality PM 4, 5, 10 and 2.5, Mr Troup advised that he had worked with officers to get to a position where they agreed on need.

He had looked at 166 facilities and in the south these facilities, that had to be next to the sub-station, were inevitably in urban locations and on green belt as that was where the demand and the electrical interface was.

There were currently three other proposals which were all in the green belt being Newcastle, Tilbury and Rayleigh, this is because these locations were where support was needed and there were no alternatives.

Officers agreed that there would be no material noise impact and that air quality was not a problem.

In respect of the suggestion regarding batteries as an option, they currently are unable to do the job that this facility could in particular it could not provide voltage control.

This development was completely unsubsidised as it was predicated on the contracts with the National Grid.

Once built, the development would not generate any traffic and the Environment Agency were positively in favour of the development stating that ultimately they were strongly in favour of this development.

It was necessary to consider the planning balance between harm and need

In respect of the landscape, Officers recognised that the chimneys were an artificial element in the landscape, however there were relatively few footpaths in the area and it was likely that this development would not be visible, particularly from longer distances and there was a backdrop of nearby pylons and, subject to a condition regarding landscaping, raised no objection regarding the visual aspect.

Mr Troup informed Members that he could see both sides and had agreed a change of design reducing the number of chimneys from 11 at 15 metres to 4 at 7 metres.

He asked Members to defer the application in order to give officers the opportunity for the amended plans, submitted 10 days previously, to be considered.

Members asked for clarification regarding the need for demand.

Mr Troup advised that the primary driver was a change to the method of delivery system. Currently more than a quarter of power was from wind or solar energy. In winter, when solar power was much reduced, the winter margin meant that we were getting close to running out of power.

This Council previously agreed to a 20 megawatt gas-fired power system in the green belt in Letchworth, this was more of the same. There was a need for 2 or 3 gigawatts of fast reacting power and this facility also did inertia and therefore could provide more stability to the grid system than other forms of renewables.

The Chairman thanked Mr Troup for his presentation.

Members asked for clarification regarding pollution

The Senior Planning Officer advised that the applicant had submitted an air quality report as part of the application and the Environmental Services had concluded they had no objection with regard to air quality subject to two conditions that the flue stacks should be a minimum of 15 meters high and that there was a written guarantee relating to the make and model of the gas engine.

Members acknowledged the need for more power, particularly with the proposed number of new houses but commented that the site was raised and the chimneys were some 50ft high. They recognised that the chimneys needed to be that high in order to address air quality but commented that this was not acceptable in the green belt.

It was proposed, seconded and

RESOLVED: That application **17/01195/1** be **REFUSED** planning permission, subject to condition 1 and the reasons as set out in the report of the Development and Conservation Manager.

74 **PLANNING APPEALS**

The Development and Conservation Manager presented the report entitled Planning Appeals. He advised that, since the last meeting of the Committee, two planning appeals had been lodged and one planning appeal decision had been received, all as detailed in the report.

RESOLVED: That the report entitled Planning Appeals be noted.

75 **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED: That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A of the said Act.

[Note: The definition of Paragraph 5 referred to above is as follows:

5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.]

76 **16/02460/1 - LAND AT JUNCTION OF POTTERSHEATH ROAD AND, DANESBURY PARK ROAD, WELWYN**

Retrospective application for change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home, erection of two utility buildings, additional hardstanding, associated parking spaces, erection of entrance gates, timber fence and ancillary works (as amended by plan no. 3 and site layout plan received 7/12/16).

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This item was discussed prior to a decision being made in the public item on this subject (Minute 71 refers).

The Chairman allowed 15 minutes for Members to read the legal advice and appeal decision presented by Codicote Parish Council.

The Development and Conservation Manager presented the report and following a detailed discussion, including many questions posed by Members to the Officers it was:

RESOLVED: That the report regarding application 16/02460/1 - Land at Junction of Pottersheath Road and Danesbury Park Road, Welwyn be noted.

The meeting closed at 9.54 pm

Chairman

ITEM NO:	<u>Location:</u>	Land north of, Luton Road, Offley
	<u>Applicant:</u>	Gladman Developments Ltd
	<u>Proposal:</u>	Outline planning permission for up to 70 residential dwellings (including 40% affordable housing), new village gateway, new retail outlet/village facility, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters reserved with the exception of access.
	<u>Ref. No:</u>	17/01781/ 1
	<u>Officer:</u>	Kirstie Hough

Date of expiry of statutory period: 13 October 2017

Reason for Delay

I had planned to report this application to Members at the 14 December meeting of the Planning Control Committee, by which time the Examination in Public (EiP) relating to the North Hertfordshire District Submission Local Plan (2011-2031) would have been underway. By which time the Council may have had some indication on the Inspector's views relating to the proposed Green Belt boundary changes set out in this Local Plan (The Inspector is due to consider Green Belt issues at the EiP on 20 November 2017).

However, the applicant has now submitted an appeal against non-determination (as the application has gone past the Statutory expiry date of 13th October). At the time of writing this report, a start date for the appeal has not been received from the Planning Inspectorate (PINs), therefore the appeal is not technically valid. However, following confirmation from PINs of a valid appeal including an official start date the Council will have 5 weeks in which to notify the Inspector as to how the Council would have determined the application had it had time to do so. Given that the Council are limited to the 14 December Planning Control Committee date, should the start date for the appeal against non-determination be prior to 9th November 2017, then it would not be possible to notify the Inspector of our determination decision without organising an extra special meeting of the Planning Control Committee. As such, this application has been placed on this agenda; albeit we are not able to have sight of any further submissions from the applicant with regard to the appeal.

Reason for Referral to Committee

The site area for this application for residential development exceeds 0.5ha and therefore under the Council's scheme of delegation, this outline application for residential development must be determined by the Council's Planning Control Committee.

1.0 Relevant History

- 1.1 17/01329/1PRE – Pre-application advice given
- 1.2 Land off Luton Road White Hill 17/02119/1PUD- Use of land as a private allotment
GRANTED

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 29 - Rural Housing Needs
- Policy 51 - Development Effects and Planning Gain
- Policy 55 - Car Parking Standards
- Policy 57 - Residential Guidelines and Standards

2.2 Supplementary Planning Documents

- Supplementary Planning Document - Vehicle Parking Provision at New Development (September 2011)
- Supplementary Planning Document – Design
- Supplementary Planning Document – Planning Obligations

2.3 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 8 - Promoting healthy communities
- Section 9- Protecting Green Belt land
- 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

2.4 North Hertfordshire District Local Plan – Submission Local Plan 2011-2031

- Policy SP1: Sustainable development in North Hertfordshire
- Policy SP2: Settlement hierarchy
- Policy SP5: Countryside and Green Belt
- Policy SP8: Housing
- Policy SP9: Design and Sustainability
- Policy SP10: Healthy Communities
- Policy SP12: Green infrastructure, biodiversity and landscape
- Policy D1: Sustainable Design
- Policy D3: Protecting living conditions
- Policy D4: Air Quality
- Policy T1: Assessment of Transport Matters
- Policy T2: Parking
- Policy NE1: Landscape
- Policy NE4: Protecting Publically accessible open space
- Policy NE7: Reducing flood risk
- Policy NE8: Sustainable drainage systems
- Policy HS2: Affordable Housing
- Policy HE1: Designated heritage assets

The Proposed Submission Draft Local Plan was considered and approved by the Councils Cabinet in April 2017 following public consultation. The Plan has now been submitted for examination.

The site is currently allocated as Rural Area Beyond the Green Belt, however following a Green Belt review and Background Paper in 2016 (Green Belt Review (NHDC, 2016), Housing and Green Belt Background Paper (NHDC, 2016)), the draft Local Plan includes the site within the Green Belt.

The draft Local Plan includes the following wording:

Para 4.55- In part to offset the Green Belt releases necessary to meet housing needs, particularly in the Stevenage, Hitchin and Luton area, an additional area of Green Belt is designated around Offley and Whitwell to cover an area which was not previously Green Belt. This has the effect of linking the formerly separate Metropolitan and Luton Green Belts. This new area of Green Belt is intended to strengthen protection in the area of the District between Stevenage and Luton.

2.5 National Planning Practice Guidance

3.0 Representations

3.1 **Offley Parish Council** – Object to the proposal on various grounds which Include:

- Residents have not been consulted.
- The site is outside the current village boundary and therefore Policy 6 - Rural Areas beyond the Green Belt, applies.
- Offley is classed as a Category 'A' village in the proposed submission Local Plan and further development will be allowed within the village boundary. The remainder of the parish is classed as Green Belt. There are no allocated sites in Offley, in the proposed submission Local Plan and the site is outside the proposed village boundary, in the Green Belt.
- There are no serious employers in the area and very few places to spend any new money coming into the area.

See full representation via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

3.2 **Highway Authority (Hertfordshire County Council)** - Would not wish to restrict the grant of permission, subject to the imposition of conditions.

3.3 **Herts Ecology** – Comment as follows:

'- We have no existing ecological data for this site other than the presence of some birds in the immediate area. I note from historic map evidence, however, that the NE corner of the site had a substantial orchard in the 1880s and which lasted until at least the 1930s although nothing of this now remains.

- The ecological assessment of the area appears thorough. No significant ecological interest was identified which is not unexpected given the past management of the site. The main features are the remaining historic hedgerows and occasional trees, one of which to the SW is clearly a significant and old oak tree. The allotments are recent so they are unlikely to have developed an established resource for reptiles. They were not present in 2010 and were in any event a replacement for historic allotments now developed to the south – they are now to be moved again

They do not consider there to be any ecological constraints associated with the proposals. Suggest that issues raised are formally presented as part of a landscape / ecology management plan should permission be granted.

3.4 **Lead Local Flood Authority (LLFA)** – In the absence of an acceptable flood risk assessment they object to the grant of planning permission and recommend refusal on this basis that the Flood Risk Assessment carried out by MLM Consulting reference 618538-REP-CIV-FRA Rev 2 dated 26 June 2017 does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

An update will be provided to Members at Committee, as at the time of writing this report, the LLFA are considering further information submitted by the applicant.

- 3.5 **Landscape and Urban Design Officer** –Raises some concern about the setting of the AONB and the relocation of the allotments.
- 3.6 **NHDC Housing Development Liaison Officer** - Following the Cabinet meeting in September, public consultation and the Council meeting on 11 April 2017, the affordable housing requirement is 40% on sites which will provide 25 dwellings and above, in accordance with the proposed submission Local Plan.

Within the overall 40% affordable housing requirement a 65%/35% rented/ intermediate affordable housing tenure split is required, in accordance with the proposed submission Local Plan and the councils Planning Obligations SPD, supported by the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update.

Based on the provision of 70 dwellings overall, a 40% affordable housing requirement would equate to 28 affordable dwellings; 18 for rent and 10 intermediate affordable housing tenure.

- 3.7 **Environmental Health (noise)** – make the following comments:

Acoustic Report

I have reviewed the submitted Noise Assessment. I consider that the relevant noise sources have been identified (Section 2.2.2 A505 road traffic noise); appropriate design criteria standards have been applied (Section 2.3); and that adequate noise monitoring has been undertaken.

Noise mitigation measures were found to be required. These may include an acoustic fence or changes to building orientation such that outdoor amenity areas of dwellings are not positioned closest to the A505 at the northern site boundary. Internal building layouts, glazing and ventilation specifications to achieve the appropriate design criteria standards will still need to be confirmed on a plot by plot basis (higher specification for dwellings closest to road traffic noise). As this is an application for outline planning permission specific mitigation measures will need to be confirmed on a plot by plot basis, once a detailed design layout is available. Noise associated with retail outlet /village facilities could also be assessed at a later stage.

Taking into account the measured noise levels at the site, I consider that appropriate noise mitigation measures can be implemented at the proposed development site to achieve satisfactory internal and external amenity area noise levels. The proposed noise mitigation measures in the submitted noise assessment are not currently enforceable (general comments rather than plot specific); I therefore recommend the submission of a supplementary noise assessment to incorporate detailed, plot specific noise mitigation measures should the application proceed to apply for full planning permission.

- 3.8 **Environmental Health (contaminated land and air quality)**- Raise no objection to the proposal in terms of local air quality, but recommend planning conditions be attached to any permission.

- 3.9 **Herts County Council (Archaeology)** – Comment as follows:

'The site lies immediately adjacent to Area of Archaeological Significance no.139 as identified in the Local Plan. This notes that Great Offley is a medieval settlement recorded in Domesday Book as Offelei. The parish church of St Mary Magdelene dates to the 12th century. Additionally, the Historic Environment Record notes that Offley has Anglo-Saxon origins, and is first recorded in c.990. There is also an early tradition, recorded in c.1230 by Matthew Paris, that King Offa of Mercia (A.D. 757-96) built a palace at Offley, and that the village was named for him as 'Offanlege'. If the tradition is genuine, an important settlement, possibly a royal palace may have existed in Offley. Archaeological evidence for the early medieval (e.g. Anglo-Saxon period) is rare in Hertfordshire and Offley may

therefore have the potential to contain extremely significant archaeological remains.

The Historic Environment Record (HER) notes that flint tools have been found in or close to the site (HER44530). The site of Westbury Farm lies adjacent to the site and this is thought to have been a medieval manor mentioned in Domesday Book. Archaeological investigations have found evidence dating from the 10th-13th centuries (HER12743). The site itself is approx. 5.5 ha. This is relatively large for Hertfordshire and this office normally asks to be consulted on all proposals of 1ha or more because of the likelihood of archaeological remains existing in an area of that size or greater.

I believe therefore that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest. I recommend that the results of an archaeological evaluation of the site are included with any planning application. This evaluation is likely to comprise geophysical survey followed by trial trenching

Subsequently a geophysical survey report has been submitted and is considered acceptable but County are still awaiting the results of trial trenching before they would wish any application be granted for development at the site.

3.10 **NHDC Waste Management** – No comments received

3.11 **Hertfordshire Fire & Rescue Services** – No comments received

3.12 **NHDC Community Development Officer** - No comments received

3.13 **NHDC Parks and Countryside manager** – No comments received

3.14 **Thames Water**- A representation was received stating:

The applicant would need to approach them for a pre-development enquiry, details of which can be found here:

www.developers.thameswater.co.uk/developing-a-large-site/planning-your-development/wastewater.

Our sewer records don't indicate any shared drainage within the site, but there may be newly transferred sewers that we haven't yet mapped and aren't aware of.

If the site owner finds shared drainage, the sewers may need to be diverted, as we don't allow new builds over public sewers. They will need to submit their pre-development application to us and then discuss any potential diversions with the engineer dealing with their application.

However, the applicant has submitted a Foul Drainage Analysis with the application which shows that they did have correspondence with Thames Water during March and May of this year with agreement from Thames Water that 70 dwellings is acceptable but is near the limit of the capacity.

3.15 **Environment Agency**- Have made the following comments:

We are currently operating with a significantly reduced resource in our Groundwater and Contaminated Land Team in our Hertfordshire and North London Area. This has regrettably affected our ability to respond to Local Planning Authorities for some planning consultations. We are not providing specific advice on the risks to controlled waters for this site as we need to concentrate our local resources on the highest risk proposals.

We recommend however that the requirements of the National Planning Policy Framework and National Planning Policy Guidance (NPPG) are still followed, as the site is within a Source Protection Zone 2. This means that all risks to

groundwater and surface waters from contamination need to be identified so that appropriate remedial action can be taken. This should be additional to the risk to human health that your Environmental Health Department will be looking at.

We expect reports and Risk Assessments to be prepared in line with our 'Groundwater protection: Principles and practice document (commonly referred to as GP3) and CLR11 (Model Procedures for the Management of Land Contamination).

In order to protect groundwater quality from further deterioration:

- No infiltration based sustainable drainage systems should be constructed on land affected by contamination as contaminants can remobilise and cause groundwater pollution.

- Piling or any other foundation designs using penetrative methods should not cause preferential pathways for contaminants to migrate to groundwater and cause pollution.

- Decommission of investigative boreholes to ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with paragraph 109 of the National Planning Policy Framework.

3.16 Hertfordshire Property (Development Services) - seek the following planning obligation project contributions:

- Primary Education towards the expansion of Offley Endowed Primary School (£170,891)
- Secondary Education towards 0.5fe expansion of Hitchin Boys School (£168,755)
- Library Service towards Hitchin library to develop IT on the ground floor enabling customers to access public IT as well as their own mobile devices (£11,586)
- Youth Service towards equipment for outreach sessions in Offley (£3,205)

HCC's standard approach is to request Table 2 of the Toolkit (below) is referred to and included within any Section 106 deed. This approach provides the certainty of identified contribution figures with the flexibility for an applicant/developer to amend the dwelling mix at a later stage and the financial contribution to be calculated accordingly. This ensures the contributions remain appropriate to the development and thereby meet the third test of Regulation 122 of the Community Infrastructure Levy Regulations 2010: "fairly and reasonably related in scale and kind to the development".

Table 2: Hertfordshire County Council Services planning obligations contributions table

Bedrooms*	1	2	3	4	5+	1	2	3
	HOUSES Market & other					FLATS Market & other		
Primary education	£231	£1,036	£2,469	£3,721	£4,692	£93	£816	£1,392
Secondary education	£263	£802	£2,561	£4,423	£5,662	£47	£444	£1,677
Youth facilities	£6	£16	£50	£82	£105	£3	£13	£41
Library facilities	£98	£147	£198	£241	£265	£77	£129	£164
	HOUSES Social Rent					FLATS Social Rent		
Primary education	£247	£2,391	£3,860	£5,048	£5,673	£44	£1,167	£2,524
Secondary education	£62	£450	£1,676	£2,669	£2,405	£14	£261	£1,084
Youth facilities	£2	£8	£31	£51	£55	£1	£6	£21
Library facilities	£48	£91	£130	£156	£155	£38	£82	£107

*uses an assumed relationship between bedrooms and habitable rooms
All figures are subject to indexation and will be indexed using the PUBSEC index base figure 175.

Please note that current service information for the local area may change over time and projects to improve capacity may evolve. This may potentially mean a contribution towards other services could be required at the time any application is received in respect of this site.

- 3.17 **Site Notice / Press Notice and Neighbour consultation** – Representations have been received which express concerns relating to, but not necessarily limited to, the following points.

Summary of responses against the development

- The site is outside of the village boundary
- The development does not form part of the Local Plan 2011-2031 housing allocations
- It is proposed to be allocated as Green Belt within the submission Local Plan
- Would have a negative effect on the village and the quality of life of the residents
- Would be detrimental to the character and appearance of the village and the surrounding area
- The village school is already oversubscribed
- The allotments have already been moved once for development
- The site is prone to flooding
- The infrastructure could not cope with the additional dwellings
- The service of two buses an hour would not be able to cope with the increase of people using them
- The shop is not required and would impact the local shop keeper
- The roads could not cope with the additional vehicles
- The development is not required in the village
- The development would affect wildlife in the area
- Offley has already recently absorbed a similar sized development in the Garden Fields estate on the south side of Luton Road
- It would constitute overdevelopment of the village

These representations can be read in full on the Council's website page via link:
http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

- 3.18 **Other comments**

North Hertfordshire Archaeological Society :

Have made comments on the Archaeological report submitted. The full representation can be viewed via the Council's website page via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

- 3.19 **CPRE Hertfordshire**

Objects to the proposal. The full representation can be viewed via the Council's website page via link:

http://documentportal.north-herts.gov.uk/GetDocList/Default.aspx?doc_class_code=DC&case_number=17/01781/1

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site is located to the west of Luton Road and to the south-west of Westbury Farm Close. The area of the site totals approximately 5.79 hectares and consists of a private allotments and arable field/ grazing land. Two public footpaths (PROW) cross the site- Offley 17 along the sites western boundary and Offley 16 in the southern part of the site.
- 4.1.2 The site which is roughly an 'L' shape has a frontage onto Luton Road of approximately 260 metres and approximately 170 metres along the rear of properties in Westbury Farm Close. The depth of the site is between approximately 190 metres and 300 metres. The A505 is located to the north-west beyond agricultural land and to the south-east on the opposite side of Luton Road lays the Garden Fields housing development which was granted planning permission in May 2014 and was previously the site of the private allotments which are now accommodated on the application site.
- 4.1.3 The Great Offley Conservation Area extends for a very small part into the front of the site, at the point of the start of the access and public right of way. The Great Offley Conservation Area also shares part of its western boundary with the site's north eastern boundary and there are two Grade II Listed Buildings on the west side of Westbury Farm Close.
- 4.1.4 Two areas of land to the south of Luton White Hill are shown as potential sites to accommodate the relocation of the private allotments. The use of agricultural land for allotments does not constitute development requiring planning permission.
- 4.1.5 The southern boundary of the site with Luton Road is defined by post and rail fencing along with established mature hedgerow/ trees, as are the western and northern boundaries. A mature oak tree sits in the south-west corner of the site.

4.2 Proposal

- 4.2.1 This application seeks outline planning permission for up to 70 new dwellings (including 40% affordable housing), a new village gateway, new retail outlet/village facility, planting, landscaping, informal public open space, children's play area and sustainable drainage system (SuDS). All matters are reserved for future consideration with the exception of access. Appearance, landscaping, layout and scale associated with the proposed development are therefore reserved matters.
- 4.2.2 The application is accompanied by a 'Development Framework Plan (drawing no. CSA/3282/105) which illustrates the potential site layout with landscape buffer planting to the north, west and south of the main built development and an area of open space to the top of the 'L' at the north-west.
- 4.2.3 The application is supported by the following documents:

- Planning Statement
- Design and Access Statement
- Landscape and Visual Impact Assessment
- Transport Statement
- Ecological Survey and Report
- Arboricultural Report
- Ground Conditions Desk Study
- Flood Risk Assessment
- Foul Drainage Analysis
- Air Quality Screening Report
- Noise Assessment
- Utilities Appraisal
- Statement of Community Involvement
- Socio-Economic Report

4.2.4 The applicants planning statement makes the following points in support of the proposed development:

The site is located in close proximity to a variety of services and facilities and is accessible by sustainable transport modes.

The local plan is out of date and does not meet objectively assessed needs, is inconsistent with the National Planning Policy Framework and does not support the delivery of development to meet needs and should be accorded limited weight.

The Council cannot demonstrate a 5 year supply of deliverable housing sites and therefore the presumption in favour of sustainable development exists.

The proposals will deliver a range of benefits including affordable housing. The development presents no significant harm or impacts that outweigh the benefits of delivering housing on the site.

With sensitive and appropriate design, development of the site would not compromise national or local Green Belt objectives for the following reasons:

- Development is well related to the existing settlement;*
- The development extends no further north or west than the existing settlement envelope;*
- The proposed layout and landscape create a defensible settlement boundary;*
- The development will not lead to coalescence; and*
- The development will not impact on the setting of an historic town.*

4.2.5 The applicants have also pointed out the following social, economic and environmental benefits that the proposed development provides:

- Provision of up to 70 new homes adjacent to the bus service*
- 40% policy compliant affordable housing*
- Council tax payments of approximately £1,100,000 over 10 years*
- Up to 168 new residents with 89 economically active*
- Generation of total gross expenditure of £1,623,000 annually*
- Support 64 FTE construction jobs over 3 years and 69 FTE indirect jobs in associated industries*
- Delivery of £2.6m of direct GVA over the build period and*
- Potential surface improvements to existing PROW Offley 16 & 17 within and around the application site*
- New visual gateway to Offley*
- Potential relocation of private allotments with improved facilities such as formal parking and water supply*
- Upgrade of Offley 17 & 21 PROW to a bridleway extending from A505 underpass to Luton Road and School Lane including upgrades of gates/ accesses and;*
- New retail outlet with proposed qualifying incentives for operator*

4.3 Key Issues

4.3.1 The application is for outline planning permission and the key considerations relate to:

- The principle of the development;*
- Sustainability;*
- Character and appearance of the countryside;*
- Impact upon the designated heritage assets of the Great Offley conservation area and adjacent listed buildings;*
- Highway considerations;*
- Archaeology;*

- Other matters relating to flood risk and ecological issues;
- Section 106;
- The Planning Balance.

4.3.2 Principle of the development in the Rural Area beyond the Green Belt

There are three policy documents which are relevant to the consideration of this application: the saved policies of the North Hertfordshire District Local Plan No. 2 with Alterations (adopted 1996) (the development plan), the emerging Local Plan 2011 - 2031 Submitted for Examination to the Secretary of State 9th June 2017, and the National Planning Policy Framework (NPPF). Set out below is my assessment as to weight that should be attributed to various policies within these documents.

4.3.3 Paragraph 49 of the NPPF states that:

'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 Paragraph 14 of the NPPF defines the presumption in favour of sustainable development for decision makers as follows:

- ***approving development proposals that accord with the development plan without delay; and***

- ***where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:***

-any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or

-specific policies in this Framework indicate development should be restricted.'

Under paragraphs 14 it is necessary to assess the weight that can be applied to relevant development plan policies to this application.

4.3.5 North Hertfordshire District Local Plan No. 2 with Alterations

Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 215 of the NPPF states that:

'due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework.'

The applicant states that the Council cannot currently demonstrate a five year supply of deliverable housing sites, and so development plan policies which seek to restrict the supply of housing are out-of-date. Saved Policy 6 - Rural Areas beyond the Green Belt, in so far as it deals with the supply of housing, is in my view out of date. However, insofar as it seeks to operate restraint in the Rural Area for the purpose of protecting the intrinsic character and beauty of the countryside the policy accords with one of the core planning principles of the NPPF as set out in paragraph 17 of the document.

- 4.3.6 This is an important point and is supported by a very recent Supreme Court decision in 2017 (in the case of Suffolk Coastal District Council v Hopkins Homes Ltd) which held that a local plan policy to protect the countryside from development (such as NHDC Policy 6) is not 'a policy for the supply of housing and therefore is not 'out of date' and therefore should continue to be accorded weight in planning decisions.
- 4.3.7 As well as stating that the Council cannot demonstrate a five year supply of deliverable housing sites (a point I do not dispute, see below), the applicant considers that the submission Local Plan does not meet the requirements of paragraph 47 of the NPPF to provide objectively assessed need and therefore Policy 6 (of the saved Local Plan) carries reduced weight and along with Policy 7 is also inconsistent with paragraph 157 of the NPPF. This does not take into account the decision of the Supreme Court above which considers that policies to protect the countryside from development are consistent with the NPPF. Moreover, the emerging Local Plan makes provision to meet the Districts own full objectively assessed needs for housing and additionally makes positive contributions towards the unmet housing needs of its neighbouring authorities such as Luton. The emerging Local Plan achieves all of this without the need to allocate this application site for housing.
- 4.3.8 In taking the view that material weight can still be attached to Policy 6 it is clear that the proposed development does not meet any of the exceptions for development in the Rural Area Beyond the Green Belt. The development would not maintain the existing countryside and the character of the village of Offley by reason of its location (which would expand the village westward), which would in my view have an adverse visual impact on the landscape and density of development contrary to the aims of Policy 6.
- 4.3.9 Submission Local Plan Policies (2011-2031)
With regard to the relocation of the allotments, there are no specific protections for the allotments under the saved policies of the District Local Plan. However, Policy NE4 of the Submission Local Plan states that:
- 'Planning permission will be granted for any proposed loss of open space only where [among other things]:
the quality and accessibility of alternative open space [is appropriate];
it is mitigated against by:
i re-provision of an appropriate open space taking into account quality and accessibility; and/or
ii financial contributions toward new or existing open space where:
the required provision cannot reasonably be delivered on site; or the required provision cannot be provided on site in full; and the proposal has over-riding planning benefits.'**
- 4.3.10 The explanatory text to this policy (paragraph 11.16) in the Submission Local Plan includes allotments as a type of open space that is applicable to Policy NE4. The proposed development which would lead to the loss of allotments on this site must therefore be assessed against this policy, albeit given limited weight prior to examination and adoption of the new Local Plan.
- 4.3.11 I make this assessment as follows: As is explained in paragraph 1.2 above, a lawful use certificate has been granted for the use of an alternative site for allotment purposes at White Hill, Luton Road (ref. 17/02119/1PUD). This area of land is of similar size and accessibility.
- 4.3.12 This area is one of two possible options for the relocation of the allotments are identified on the framework plan. The current allotments on the site were previously relocated here to make way for the Garden Fields housing development.

- 4.3.13 Allotments were relocated from the site opposite Luton Road to this site before planning permission was granted for the 63 dwelling scheme (ref. 13/00267/1). In this case a mechanism would be needed to ensure the relocation within any planning permission and having given this matter very careful consideration I do not consider that the loss of and re-location of allotments can be a sustainable reason for refusal of planning permission for the following reason:
- 4.3.14 Were Members minded to grant planning permission for this development as the applicant has demonstrated two feasible alternative sites for the re-provision of allotments in my view a grampian condition could be imposed which would secure this re-provision, by stating that no development can commence until suitable allotment re-provision has been secured and is operational. Relevant case law and government guidance is clear that when a matter can be addressed by means of appropriately worded planning conditions it should not be included as a reason for refusal of planning permission.
- 4.3.15 Under the provisions of the new plan, Great Offley is identified as a Category A village within which general development will be supported. However, this site lies beyond the proposed village boundary and has not been allocated for future development.
- 4.3.16 The NPPF offers guidance on the weight that can be attributed to emerging Local Plan policies which is set out in paragraph 216 of the Framework as follows:
- 'From the day of publication [of the NPPF, March 2012], decision takers may also give weight to relevant policies in emerging plans according to:***
- * the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);***
 - * the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater weight that may be given); and***
 - * the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in this Framework, the greater the weight that may be given).'***
- 4.3.17 Where local planning authorities cannot demonstrate a five year supply of deliverable housing sites, the NPPF places a further restriction on weight that can be attributed to development plan policies which seek to restrict the supply of housing (NPPF paragraph 49). The Council has recently published a Housing and Green Belt Background Paper together with the proposed submission Local Plan (2011-2031). This paper argues that from the date that Full Council decided to submit the Local Plan to the Secretary of State for examination at the meeting held on 11 April 2017, the Council can demonstrate a deliverable five year land supply of housing sites, at 5.5 years land supply. The emerging Local Plan was Submitted to the Secretary of State 9th June 2017 and this claim will of course be tested at the forthcoming Examination in Public (EiP) due to start in November 2017. Therefore, until the plan is adopted, I consider a precautionary approach should be taken to the weight that should be given to the emerging Local Plan. This precautionary approach has recently been supported at appeal.
- 4.3.18 Therefore, the Council cannot yet demonstrate a 5 year supply of deliverable housing sites. As a result, this application for housing development must be assessed against the presumption in favour of sustainable development (paragraph 14 of the Framework). This states that for decision-taking granting permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering new homes, when assessed against the policies within the Framework taken as a whole.

4.3.19 The emerging Local Plan does not allocate the site for development. Indeed, the site has not been identified for consideration as a possible housing site at any stage of the emerging Local Plan process, but moreover is included as part of the extended Green Belt. The applicant has objected to the omission of this site from the Local Plan, although it was not previously promoted during the preparation of the plan

4.3.20 Policy SP5 - Countryside and Green Belt states that under criteria c) that the Council will:

'Only permit development proposals in the Green Belt where they would not result in inappropriate development'.

This site will only become Green Belt if the Inspector agrees the terms of the proposed new Green Belt boundary (following the EiP) and only following adoption of the new Local Plan. Until this time the site is not located in the Green Belt and whilst this proposal would in my view clearly be inappropriate development in a future Green Belt designation, at this stage and before being tested at EiP I can only give limited weight to the proposed designation as Green Belt in the submission Local Plan.

4.3.21 The development is not for a proven local need for community facilities or services. A local shop is proposed as part of the scheme but as confirmed by the representations received, this is not required nor is it regarded as a community facility. Furthermore the development is not for a proven need for rural housing (in compliance with Policy 29 of NHDLP). The application refers to 40% affordable housing, but this relates to Policy HS2: Affordable Housing, of the emerging plan and not to Policy CGB2: Exemption Sites in Rural Areas.

4.3.22 National Planning Policy Framework

Although the Council considers the emerging Local Plan 2011 - 2011 to hold sufficient weight for the Council to be able to demonstrate a 5 year housing land supply, this is situation that can be predicted with any certainty, as the Plan has yet to taken through EiP and adopted. The National Planning Policy framework directs us in this instance under paragraphs 14 and 49, mentioned and quoted above. I, therefore, take a precautionary approach by assessing this application on the basis that the Council cannot with any degree of confidence demonstrate a five year supply of deliverable housing sites. I therefore consider the proposal under the following paragraphs whether the development is sustainable and whether the adverse impacts of the development would significantly and demonstrably outweigh the benefits of delivering new homes.

4.3.23 Summary on the principle of the development

The development site is in the Rural Area beyond the Green Belt. Saved Local Plan Policy 6 can still be afforded weight in determining this application in that it seeks to protect the countryside from development which would be in conformity with the NPPF; which requires decision makers to recognise the intrinsic character and beauty of the countryside. The proposed development is in open countryside and fails to meet any of the criteria set out in Policy 6 and as such is contrary to the provisions of the saved District Plan No. 2 with Alterations.

4.3.24 Furthermore, the proposed development would be contrary to policies in the Emerging Local Plan in that the development site lies outside of the proposed defined village boundary and within part of the proposed extended Green Belt area, so would be covered under Green Belt Policy (Policy SP5) should the plan be taken successfully through EiP and adopted. However, given that the site is not Green Belt at the present time, it is of most relevance to this scheme to understand the Councils intention to continue applying a policy of restraint to this site in the new Plan by not including it within the 'white land' of the adjoining Category A village. As such, the development would be contrary to Policies SP5 of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.25 Character and Appearance of the Countryside

The site is fairly level and lies in an elevated position within LCA 211 Offley – St Pauls Walden which is characterised by gently rolling upland plateau landscape. To the north, the A505 dual carriageway runs through a cutting less than 500m away and beyond that, on the northern side of the A505, lays the Chilterns AONB.

4.3.26 The erection of dwellings on the site and the introduction of the associated infrastructure would permanently alter the agricultural and thus rural character of the site and its contribution within the landscape. The erection of dwellings on the site, introduction of the associated infrastructure and shop would permanently alter the appearance of the site and would represent a substantial change to the character of the area. The scheme has a heavily landscaped led approach in which a high proportion of the site would be dedicated to green infrastructure. Whilst this landscaping would break up views of the proposed dwellings, it would in itself bring about changes to the character of the area. I consider that the extent of the westward encroachment of the development into the countryside would have a detrimental impact upon the wider views of the settlement, to the significant detriment of the character of the landscape.

4.3.27 The upgrading of PROW 17 and 21 would also give the perception of the village expanding into the countryside and the effect for those approaching the village along these footpaths from the north would be the perception that the settlement would be experienced much earlier than at present. I consider these impacts would cause a detriment to the visual amenity of the countryside and character of the wider area.

4.3.28 Summary on character and appearance

It is considered that the proposed development would be harmful to the intrinsic character of the countryside, contrary to Policy NE1 of the emerging local plan and paragraphs 17, 109, 116, 156 of the NPPF.

4.3.29 Designated Heritage Assets

The site lies partially within and adjacent to the western boundary of the Great Offley conservation area. To the east of the site lie Grade II listed buildings within Westbury Farm Close, both of which comprise designated heritage assets.

Where development can impact designated heritage assets, specific policies in the Framework indicate development should be restricted. In this respect paragraph 132 states:

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."

4.3.30 Due to this being an outline application with all matters reserved apart from access, the Framework plan submitted shows an indicative layout and it is therefore not possible to know exactly where housing would be sited. The applicant has submitted a Heritage Statement which I note in paragraph 6.34 states:

'Agricultural land within the site immediately adjacent to the west of the Conservation Area may be considered to make a small contribution to its illustrative value, due to views towards the Conservation Area from the public right of way within the site, as well as views from the Conservation Area to the site from adjacent to the post office and chapel...'

And in 6.36 it goes on to say ***Overall, the setting of the Conservation Area will***

remain, as currently, a combination of agricultural land and post-war built form.'

4.3.31 I disagree with this analysis, as I believe the agricultural land makes a significant contribution to the open setting of this part of the Conservation Area adjacent to the site and as such, development here would have a detrimental impact upon its setting.

4.3.32 As such, it is considered that the applicant has failed to demonstrate that development of up to 70 dwellings on this site would not cause harm to the setting of the Conservation Area.

4.3.33 **Highway Considerations**

Access is currently provided via the north-eastern corner of the frontage. This un-gated access is tarmac for a short distance and also forms the start of a Public Right of Way (PRoW) which crosses the site. Luton Road is a two-way single carriageway which acts a local distributor road subject to a speed limit restricted to 30 mph and runs parallel to the A505, connecting to it east and west of Offley. The road provides direct frontage access to existing residential dwellings and local shops/amenities within Offley, in addition to providing access to additional residential streets via priority junctions on both sides of the carriageway.

4.3.34 Access to the site is proposed to be provided from Luton Road, via a simple priority T-junction located to the south-east of the site.

4.3.35 Hertfordshire County Highways have commented that:

- The vehicle to vehicle inter-visibility from the new junction within the new development is shown on the submitted drawings to accord with Manual for Streets.
- The width of the access road has been shown at 5.50 metres wide on the submitted drawings which would conform to the minimum width of an access road that would be able to accommodate a waste collection vehicle in current use.
- The new junction at Luton Road would have the capacity to carry the total volume of traffic from the new development. Bearing in mind that the traffic flows are fundamental to the assessment of traffic impact HCC is satisfied that the data comparison provides an overall picture of the existing traffic movements and the future traffic generated from the new development.

4.3.36 The overall conclusion of Hertfordshire County Council as Highway Authority is that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways and does not wish to restrict the grant of permission subject to recommended planning conditions and highway informative's.

4.3.37 As there are no objections from the Highway Authority I am of the opinion that the proposed development would not cause harm that can be sustained by way of objective evidence in terms of highway impacts.

4.3.38 **Summary on Highway issues**

The Highway Authority raises no objections to the proposal and I can see no sustainable planning objections on highway grounds. However, a S106 Agreement would be required to secure a Construction Traffic Management Plan.

4.3.39 **Archaeology**

Hertfordshire County Council Historic Environment team have commented that the site lies immediately adjacent to an Area of Archaeological Significance no.139 as identified in the Local Plan. This notes that Great Offley is a medieval settlement recorded in Domesday Book as *Offelei*. The parish church of St Mary Magdelene dates to the 12th century. Additionally, the Historic Environment Record notes that Offley has Anglo-Saxon origins and is first recorded in c.990. Archaeological

evidence for the early medieval (e.g. Anglo-Saxon) period is rare in Hertfordshire and Offley may therefore have the potential to contain extremely significant archaeological remains.

4.3.40 HCC considers that the proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and recommends that the results of an archaeological evaluation of the site are undertaken prior to determination. This evaluation is likely to comprise a geophysical survey followed by trial trenching.

4.3.41 Subsequently a geophysical survey report has been submitted, and HCC advise that given the proximity of the site to the early medieval manorial settlement at Westbury Farm and the Anglo-Saxon features (including possible timber building) at the old allotments a short distance to the east, they continue to advise that the results of a trial trenching evaluation should be included with any application. At the time of writing this report, these details have not been submitted.

4.3.42 Summary on archaeology matters

At present not enough information is provided to demonstrate the archaeological significance of the site and that there would not be an impact upon heritage assets of archaeological interest. As such, the proposed development would be contrary to Section 12 of the NPPF and therefore generates a reason for refusal of the application.

4.3.43 Sustainability

There are three roles to sustainable development set out in the NPPF, an economic, social and environmental role. All roles must be satisfied to achieve the objective of a genuine sustainable development. I briefly address each role in turn.

4.3.44 **Economic role** – I recognise that the construction of the development would provide some employment for the duration of the work contributing to a strong responsive and competitive economy. It is also recognised that there would be increased expenditure in local shops and pubs and other services. Additionally there would be economic benefit from the new homes bonus which assists local authorities to maintain and provide services. The economic role is therefore positive.

4.3.45 **Social role and Environmental Role** – The development would provide housing to assist in meeting the needs of existing and future generations including badly needed affordable housing (the application form states 42 open market and 28 intermediate dwellings). It would also support community facilities such as the church, the Public House as well as potentially contributing towards recreational facilities and their improvement. The applicant has stated that it would provide potential surface improvements to existing PROW Offley 16 & 17 within and around the application site; potential relocation of private allotments with improved facilities such as formal parking and water supply; upgrade of Offley 17 & 21 PROW to a bridleway extending from A505 underpass to Luton Road and School Lane including upgrades of gates/ accesses and; provide a new retail outlet with proposed qualifying incentives for the operator. However, in my view the relocation of the allotments would have some negative social impact, given that they have already been relocated to this site to make way for the Garden Fields housing development so a further move would once again be detrimental to the allotment holders and their produce. In addition, there is no substantial explanation about why the proposed shop is necessary and how it would be delivered.

4.3.46 The Submission Local Plan seeks to designate Great Offley as a category A village, which implies that it has sufficient local services to accommodate sustainable growth in housing. The facilities of Offley consist of a primary school, one public house, a Country House Hotel, a village hall, a church, a salon, a restaurant, a playground and a village shop which includes a post office. Whilst there is not a full range of services in the village given the proposed category A

designation and this site immediately adjoins the proposed village boundary I consider this development proposal would be reasonably sustainable in social and environmental terms.

4.3.47 **Section 106**

At the time of submission the application did not include a draft Section 106 document. As such and given the substantial planning objections to this proposal no further negotiations have been undertaken in respect of S106 matters. The applicant was provided with an option to extend the statutory expiry date until the end of March 2018 in order to enable time to complete the necessary S106 Obligation and by this time review the underlying policy position post EiP. The applicant refused this option and as is explained above have lodged an appeal against non-determination; this has forced me to make a recommendation on this planning application before negotiations could commence on the necessary S106 Obligation. As Members will know planning permission cannot be granted until a S106 Obligation is completed and the absence of a completed agreement is of itself a reason for refusal of permission.

4.3.48 **The Planning Balance**

As set above I have identified broad areas of how I consider this planning application is unacceptable in terms of the principle of development in addition to other planning considerations.

4.3.49 Whilst paragraph 187 of the NPPF requires local planning authorities to act pro-actively and seek to find solutions, in my view the substantial and compelling planning objections to this development are not capable of resolution in my judgement, certainly not without a dramatic change in the submission Local Plan following EiP. In the light of the progress with the emerging Local Plan and the programme of dates for the EiP I consider that the Council is now moving forward towards achieving its Housing Allocations (this site not being one of them) and thus demonstrating it has a 5 year land supply. The agent was given the opportunity to defer determination of the application until March 2018 after the EiP however, did not wish to do so.

4.3.50 However, in the absence of a five year land supply where relevant policies which restrict the supply of housing can be considered out-of-date (paragraph 14 of the NPPF) the weighted planning balance is tipped in favour of granting planning permission for sustainable development. Planning permission should only be refused in such circumstances where:

'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of [of delivering new homes], when assessed against the policies in this Framework taken as a whole.'

4.3.51 Whilst the Council now claims to be able to demonstrate an up to date five year land supply of deliverable housing sites (since the submission of the Local Plan to the Secretary of State in June 2017) I have applied a precautionary approach and have assessed this application against paragraph 14 of the NPPF whereby any adverse impacts must significantly and demonstrably outweigh the benefits of delivering new homes.

4.3.52 This planning application proposes up to 70 new homes which would make an important contribution towards improving the five year land supply but also helping to meet the objectively assessed housing need for at least 14,000 (+ 1,950 for Luton's un-met need) new homes across the District through the plan period (2011-2031). Meeting housing need is in itself a clear benefit of the proposed development.

4.3.53 The applicant also offers 40% affordable housing and there are clear social and economic benefits arising from the delivery of the new homes as I have acknowledged above and the case for which has been clearly made by the applicant.

4.3.54 Applying the presumption in favour of sustainable development it is necessary to critically assess this planning application against the policies of the NPPF taken as a whole before judging whether any identified harm as a result of this analysis would 'significantly and demonstrably' outweigh the benefits of delivering new homes on this site.

4.3.55 I have identified however that there would be significant and demonstrable environmental harm caused by this development relating to the following:

- The development would cause harm to the intrinsic beauty of the countryside and as such would conflict with paragraph 17 of the NPPF
- The development would be harmful to the character and appearance of the landscape
- There would be a harmful urbanising impact of the development beyond the settlement boundary
- The application has failed to demonstrate that the development would not cause harm to the setting of the Great Offley Conservation Area
- Full details of an archaeological survey have not been submitted

4.3.56 The application is also unacceptable because it is not accompanied by a satisfactory Section 106 Planning Obligations agreement within which would also need to ensure that there is a strategy to ensure continuity and long term provision of the allotments.

4.4 Conclusion

4.4.1 I conclude that even with the associated economic and social benefits of providing new housing, as set out above, the harm that would be caused by the development, would significantly and demonstrably outweigh the benefits of allowing the development and, as such, it is recommended that planning permission should be refused. At the time of writing the appeal against non determination has not been registered by PINs as a valid appeal. Therefore as things stand the Council remains the determining authority for this application and the recommendation below reflects this. If before the Committee the Council is informed of a valid appeal by PINs and given a start date for the appeal proceedings the recommendation will be changed to a resolution to inform PINs that had the Council been able to determine this planning application it would have refused permission for the reasons set out below.

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 That outline planning permission be **REFUSED** for the following reasons:

1. By reason of its siting beyond the built limits of Offley, the location within open allotments and farmland in an area of countryside adjacent to Great Offley and the Great Offley Conservation Area, the development proposal would fail to positively enhance the wider landscape setting of the village, nor would it

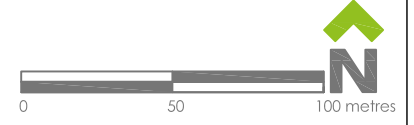
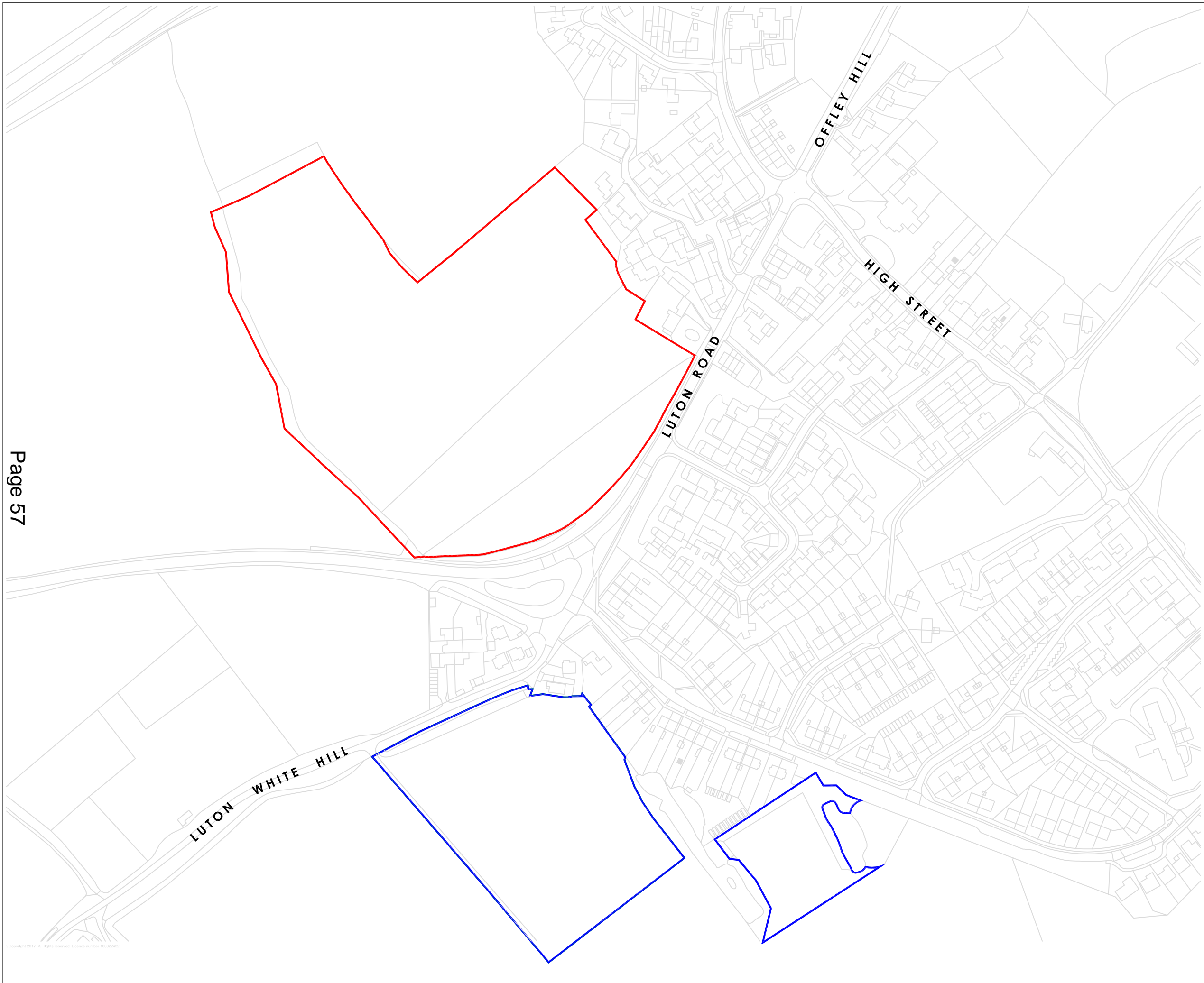
improve the character and quality of the Rural Area and, as such, would afford significant and demonstrable harm to the intrinsic beauty of the countryside. Moreover, the development would afford harm to the setting of the Great Offley Conservation Area as it would develop an area which currently provides an open aspect of views to and from the Conservation Area. Subsequently, this harm is considered to clearly outweigh the benefits of providing new dwellings on the site. The proposal is therefore contrary to the provisions of saved Policies 6 of the North Hertfordshire District Local Plan No. 2 with alterations and, Paragraphs 17, 109, 116, 132 and 156 of the National Planning Policy Framework. The development would also be contrary to Policy SP5 of the North Hertfordshire Emerging Local Plan 2011 - 2031.

2. The proposed development lies immediately adjacent to an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of extremely significant archaeological potential. Given this and the large scale nature of the proposal, this development should be regarded as likely to have an impact on significant heritage assets with archaeological interest, some of which may be of sufficient importance to meet NPPF para 139. This could represent a significant constraint on development. In the absence of a full archaeological field evaluation, there is insufficient information to determine the importance of any archaeological remains on the site. The proposal will be contrary to Section 12 of the NPPF.
3. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) setting out how the shop would be delivered, along with the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations and provision of the allotments is required to mitigate the impact of the development on the identified services in accordance with the adopted Planning Obligations SPD, Policy 51 of the North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies 2007) or Proposed Local Plan Policy HS2 of the Council's Proposed Submission Local Plan (2011-2031). Without this mechanism to secure these provisions the development scheme cannot be considered as sustainable form of development contrary to the requirements of the National Planning Policy Framework (NPPF).

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied 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.

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- Site Application Boundary:
5.79ha
- Additional parcel of land within the control of the landowner

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A	06/06/17	SM	Text amendment
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Rev	Date	By	Description
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CSA
environmental

Dixies Barns, High Street,
Ashwell, Hertfordshire SG7 5NT

t 01462 743647
e ashwell@csaenvironmental.co.uk
w csaenvironmental.co.uk

Project	Luton Road, Offley
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Title	Site Location Plan
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Client	Gladman Developments Ltd
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Scale	1:2500 @ A3	Drawn	SM
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Date	June 2017	Checked	RR
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Drawing No.	CSA/3282/108	Rev	A
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ITEM NO:	<u>Location:</u>	Kingsfield, Hadrian Way, Baldock, SG7 6AN
	<u>Applicant:</u>	Mr Page Deeside Drylining Limited
	<u>Proposal:</u>	Erection of 6 x 2 bed single storey retirement dwellings including creation of vehicular access off of Hadrian Way, Baldock.
	<u>Ref. No:</u>	17/01982/ 1
	<u>Officer:</u>	Anne McDonald

Date of expiry of statutory period: 02 October 2017

Reason for Delay

The applicant has agreed an extension to the statutory determination period for this application to 15 November 2017.

Reason for Referral to Committee

Cllr Muir has called the application into Planning Control committee for determination on the basis that he believes that there are not enough bungalows for the elderly to downsize into areas being built within the District.

1.0 Relevant History

- 1.1 There is an extensive planning history for the site as a whole. However, this relates to the main building of Kingsfield itself, not the side grounds which are the subject of this application.

2.0 Policies

2.1 The relevant policies are:

2.2 North Hertfordshire District Local Plan no.2 with Alterations 1996:

- 2 - Green Belts;
- 55 - Car Parking Standards;
- 57 - Residential Guidelines and Standards.

2.3 National Planning Policy Framework:

- Achieving sustainable development - paragraph 6 and 7;
- 6 - Delivering a wide choice of high quality homes;
- 7 - Requiring good design;
- 9 - Protecting Green Belt land;
- 11 - Conserving and protecting the natural environment.

2.4 Local Plan 2011 - 2031 - Proposed Submission - October 2017:

- SP5 - Countryside and Green Belt;
- T2 - Parking;
- D1 - Sustainable design;
- D3 - Protecting living conditions;
- D4 - Air quality;
- NE8 - Sustainable drainage systems;

3.0 Representations

- 3.1 **NHDC Environmental Protection** - no objection subject to conditions regarding land contamination and electric vehicle charging points.
- 3.2 **HCC Lead Local Flood Authority** - insufficient information has been provided for the full consideration of drainage. Recommend that a condition is imposed regarding a drainage strategy in the event that planning permission is granted.
- 3.3 **HCC Fire Safety** - fire hydrants are required within the development, and these can be secured via a condition.
- 3.4 **HCC Archaeology** - no objection subject to a condition.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The application site comprises the lawn area or side garden area of the building known as Kingsfield, which is a large building positioned to the rear (north) of Hadrian Way. This building has been in long term office use, although recently permission has been granted to convert this into flats, and this conversion process is well advanced on site. In close proximity to the east of the application site, is the A1, which is on an elevated section of road in comparison to the surrounding land level of Hadrian Way and the application site. To the north is the vacant sports and bowls club and the area is washed over by green belt designation.

4.2 Proposal

- 4.2.1 The application is seeking full planning permission for the erection of six two bedroom bungalows. Four are detached and two form one pair of semi-detached properties. The bungalows are positioned along a driveway access off the main access drive up to Kingsfield, and they form a rough 'L' shape in layout along this. Each bungalow has tandem parking for two cars and a private rear garden area. Five of the bungalows comprise a large open plan kitchen, dining living area with two bedrooms and one bathroom while the sixth bungalow has an additional en-suite bathroom off bedroom one. The plans show that the exterior of the bungalows are to have a red buff red brick finish, with a pantile roof and a ridge height of 6m.
- 4.2.2 In support of the application, a Planning Statement, Noise Survey, Tree Survey Report and Transport Assessment has been provided. These are all available to view in full on line. Key points raised include:
- 4.2.3 **Planning Statement:** - This sets out the planning history for the site and the policy background. It sets out that the site is within the Green Belt. It states that paragraphs 89 and 90 of the NPPF allows for 'infilling' in villages and previously developed sites. The application sets out that this is an infill site within the Green Belt, and therefore the development of six bungalows on this land is not inappropriate development. It also goes on to state that due to the site being enclosed by built development and mature trees, it is not open in a contextual sense, and the development of it would have no harm on openness. It concludes that the site is not characteristically open, but is in fact rather just a gap amongst existing built form. It concludes that the contribution and role which the site makes to the green belt is so minimal that the level of harm would be negligible.
- 4.2.4 The Planning Statement also sets out that the site is considered to be in a sustainable location and that the bungalows are intended for the independent elderly.

4.2.5 **Tree Survey** - this sets out that most of the mature trees around the site are to be retained. A few will have to be felled, and these trees are not worthy of preservation order protection.

4.2.6 **Traffic Survey** - this sets out bus and train routes locally and public foot path links. It concludes that the number of trips generated would be low and would not have adverse impact on the locality. Furthermore, that the combined trips from the converted flats in Kingsfield as well as from these new bungalows is still less than the number of trips generated when the site was in office use. It also recommends to enhance the access way linking off Hadrain Way with resurfacing, a wider driveway and additional dropped curb on Hadrain Way to improve visibility.

4.3 **Key Issues**

4.3.1 The key issues are the principle of the development in the Green Belt and the layout and design considerations of the development.

4.3.2 Green Belt

The NPPF section 9 - Protecting Green Belt land, sets out the national policy for Green Belts. This sets out the five purposes of Green Belts as well as what type of development can be permitted within Green Belts.

4.3.3 The five purposes of Green Belts are to:

- prevent the unrestricted sprawl of large built up areas;
- prevent neighbouring towns merging into one another;
- assist in safeguarding the countryside from encroachment;
- preserve the setting and special character of historic towns; and
- assist in urban regeneration by encouraging the recycling of derelict and other urban land.

4.3.4 Paragraphs 87 and 88 of the NPPF sets out that inappropriate development within the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 goes on to clarify that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations.

4.3.5 Paragraph 89 sets out that new development within Green Belts is inappropriate development unless it is for one of the following exceptions:

- buildings for agriculture or forestry;
- the provision of appropriate facilities for outdoor sport or recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
- the extension of an existing building, provided that it does not require disproportionate addition over and above the size of the original building;
- the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- limited infilling in villages, and limited affordable housing for local community needs;
- limited infilling or the partial or complete redevelopment of previously developed (brownfield) sites, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

4.3.6 The application sets out that this proposal is 'infilling' within the Green Belt, and is not inappropriate development nor would it have harm on the context or openness of the site. However, this is not a view I can support. With regards to the five purposes of including land within the Green Belt, one of the most important aims of Green Belts is to prevent urban sprawl and to stop towns merging into one another. This area of Green Belt is a key part of the section of Green Belt separating

Baldock and Letchworth, and keeping this land open is important to stop these two towns from merging into one another. I note that there are existing houses to the south of this site, both on Hadrian Way and fronting Baldock Road, the converted development of Kingsfield to the west and the neighbour no.35 to the east, and that there is existing development within this part of the Green Belt. However, this part of the Green Belt between Letchworth and Baldock is very narrow, and can be considered to be a 'pinch point' between the two towns. I therefore have to conclude that it is even more important to retain the openness of this area and to prevent development that would further enclose it. The application is therefore considered to fail to comply with the aims of the Green Belt to stop towns from merging. Additionally, as the proposal is not for outdoor sport or recreation, in my view, the proposal fails to comply with the purposes of designating Green Belts.

4.3.7 Further consideration of the proposal can be given with regards to paragraphs 88 and 89 of the NPPF. The application does not set out a case of very special circumstances to justify the proposal, because it is argued that the proposal is not inappropriate development as the proposal is considered to be infill development, in accordance with the provisions set out in paragraph 89. As set out above, paragraph 89 allows for infilling under bullets 5 and 6. Bullet five is with regards to infilling within existing villages, and bullet 6 allows for the limited infilling on previously developed sites. In my view, the proposal fails to comply with the requirements of both of these exceptions set out under paragraph 89. The site is not within a village, and therefore, bullet 5 is not applicable. The site is the side garden land of the extensive grounds of Kingsfield, and in my view cannot be regarded as previously developed brownfield land. I note that Kingsfield itself could be regarded as a previously developed site. However, this building is being retained and converted into flats and is outside of the red line application site area of this proposal. I therefore do not conclude that the site can be considered to be brownfield land, and the application fails to comply with the provision of paragraph 89. In conclusion, the application has to be considered to be unjustified inappropriate development with the Green Belt, contrary to the provisions of the NPPF.

4.3.8 Finally, I note that the application sets out that the site is visually enclosed, and does not contribute to openness, so that this development will not have harm on the openness aspect of the site. The NPPF does not distinguish between visually open or visually enclosed sites with regards to 'openness'. Openness has to be considered to mean the land not being built on, rather than whether it is enclosed with trees or not being visually open. I note that the site does have mature trees around parts of the boundaries, but this does not and cannot mean that the site is less 'open' as a result. As a result, the application is considered to represent inappropriate development within the Green Belt, for which no case of very special circumstances has been provided, and the application is being recommended for refusal on this basis.

4.3.9 Sustainability

The NPPF sets out three 'tests' of sustainable development, being that new development should have an economic, environmental and social function. The Planning Statement does not set out how the development would meet these tests. However, it does set out that the site is in a sustainable location, as there are bus stops on the nearby main Baldock Road, and Baldock town centre and station are considered to be within walking distance.

4.3.10 I note that the site is on the edge of Letchworth. However, the distance to the north end of Baldock High Street is just over 1 km, and this is considered to be a reasonable walking distance for most people. It can also be accepted that the process of the development can provide an economic role or function, and the social aspect is dependent upon future residential of the proposed bungalows and occupiers of the flats to be neighbourly. I therefore raise no objection to the application on sustainability grounds.

4.3.11 Elderly accommodation

The application makes reference to the bungalows being suitable for independent elderly people who wish to downsize. Whilst I accept that this claim is made in good faith, the application does not set out any mechanism to secure these bungalows being only for the elderly, and therefore in reality, these are open market properties being proposed. I therefore cannot give any material weight or justification to this claim. Having said that if Members were minded to grant planning permission for this development restrictive conditions can be imposed which set a floor on the age of occupation for the proposed development.

4.3.12 Layout and design considerations

I have no objection to the proposed layout or design of the bungalows. There are no adverse overlooking relationships between the proposed properties or with the neighbouring properties at Kingsfield or the neighbour no.35, discussed in more detail below. Each bungalow has its own parking and private rear garden area, where bins would be able to be accommodated.

4.3.13 Impact on neighbours

Due to the location of the site and the relationship of the proposed bungalows to nearby dwellings, the only neighbour that would be impacted by the proposal is no.35 Hadrain Way, which is positioned on the east of the application site. This property has a side flank wall to the application site, with no habitable room windows that would be affected on that side. The rear gardens of plots 1 and 2 run down to adjoin this neighbour and its garden. The new bungalows have a rear garden depth of just over 10m, and there are some mature shrubs along the boundary. On balance, I do not consider that the proposal represents such an adverse loss of privacy to no.35 to justify the refusal of this application for this reason.

4.4 **Conclusion**

- 4.4.1 The application is considered to be inappropriate development within the Green Belt, for which no case of very special circumstances has been demonstrated, and the application is recommended for refusal on this basis.

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 That permission be **REFUSED** for the following reason:

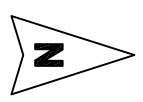
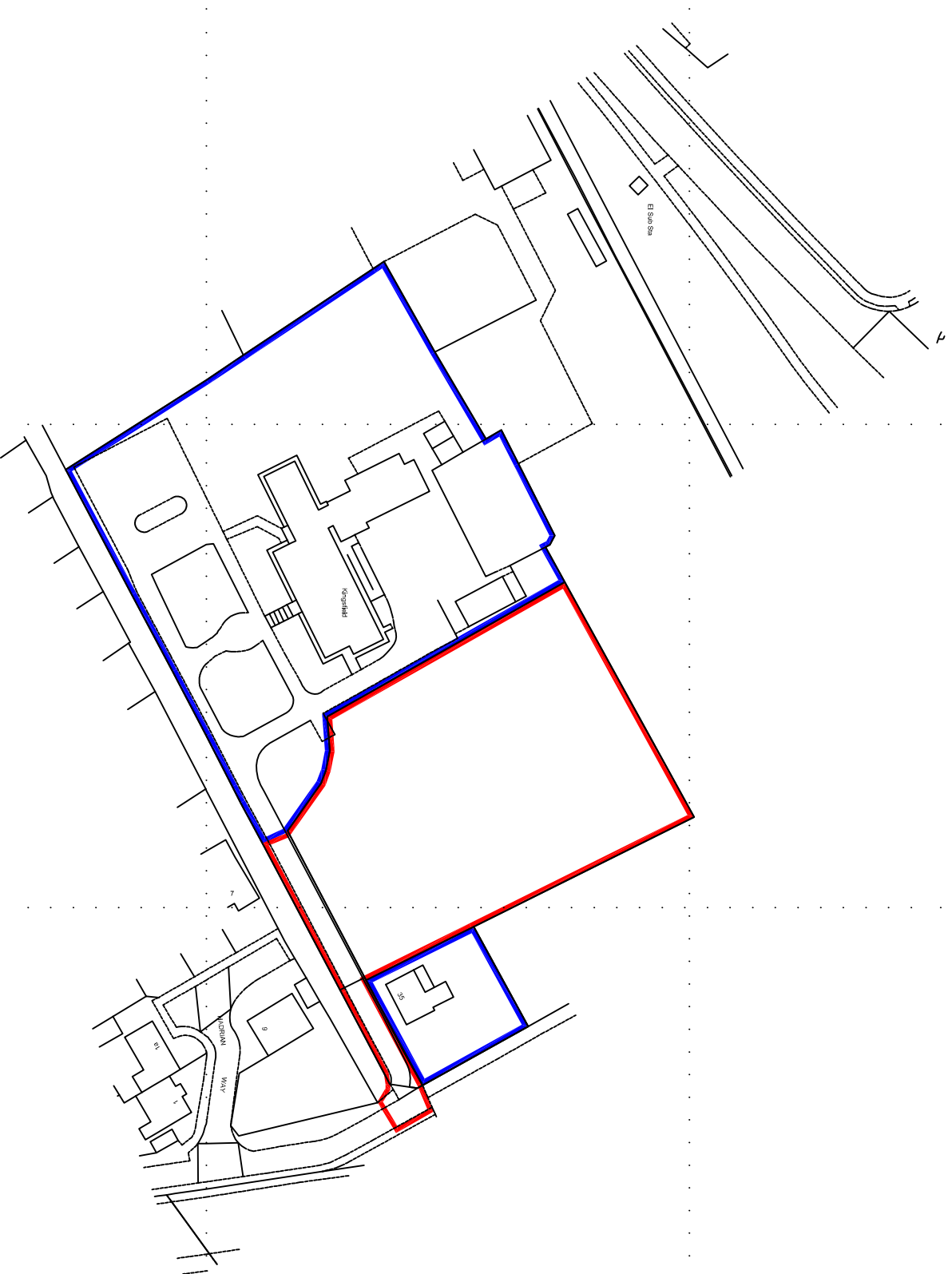
1. The application site is within an area designated in the North Hertfordshire District Local Plan no.2 with Alterations as Green Belt, within which there is a presumption against inappropriate development, such as that proposed, unless very special circumstances can be demonstrated. In the view of the Local Planning Authority the proposal is not supported by such circumstances. Moreover, it would harm the fundamental aim of Green Belt policy which seeks to maintain the openness of the area. As such, the proposal would not accord with the provisions of Saved Policy 2 of the North Herts District Local Plan no.2 with Alterations 1996 and fails to comply with paragraphs 87, 88 and 89 of the NPPF.

Proactive Statement

Planning permission has been refused for this proposal for the clear reasons set out in this decision notice. The Council has not acted proactively through positive engagement with the applicant as in the Council's view the proposal is unacceptable in principle and the fundamental objections cannot be overcome through dialogue. Since no solutions can be found the Council has complied 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.

Land adjacent Kingsfield, Hadrian Way, Baldock

Site Location Plan



- Application Site
- Other Land in Applicants Ownership
- Amends application site boundary

REVISIONS	DATE
A - Amends application site boundary	03/17

Page 65

d.p.s.
Kingsfield House
Baldock
Hertfordshire
SG4 2JSA
T: 01438 272829
F: 01438 271412
info@philipsplanning.co.uk

Philips Planning Services Ltd.
Town Planning and Development Consultants

PROJECT
Land adjacent to Kingsfield,
Hadrian Way, Baldock

TITLE
Site Location Plan

CLIENT
Deeside Dryllining LTD

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PROJECT NUMBER	DRAWING NUMBER	REV
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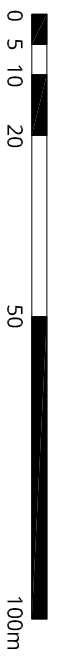
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ITEM NO:	<u>Location:</u>	Baldock Services, Great North Road, Radwell, Baldock, SG7 5TR
	<u>Applicant:</u>	Extra MSA Baldock Limited
	<u>Proposal:</u>	Increase parking provisions and alterations to existing parking layout.
	<u>Ref. No:</u>	17/02337/ 1
	<u>Officer:</u>	Joanne Cousins

Date of expiry of statutory period: 13 November 2017

Reason for Delay

Not applicable.

Reason for Referral to Committee

As the site area is over 1.0ha this application needs to be determined by the Planning Control Committee under the Council's scheme of delegation.

1.0 Relevant History

- 1.1 Planning permission was granted for the motorway service area in 2000 and since that time there have been numerous applications for advertisement consent as well as applications for a car wash enclosure.
- 1.2 Planning permission granted in 2008 for a single storey extension to unit 7b to provide ancillary accommodation.
- 1.3 In 2014 permission granted for the retention of an electric vehicle parking point and the installation of an additional point within the car parking area.
- 1.4 Permission granted in August 2017 for a single storey side extension to unit 8a (Starbucks).

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations**
Policy 6 - Rural Areas beyond the Green Belt
Policy 55 - Car Parking Standards

Supplementary Planning Documents

Vehicle Parking Provision at New Development SPD

- 2.2 **National Planning Policy Framework**
Section 1 - Building a strong, competitive economy
Section 4 - Promoting sustainable transport

North Hertfordshire District Local Plan 2011-2031 Proposed Submission

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy T2 'Parking'

Policy CGB1 - 'Rural Areas beyond the Green Belt'

3.0 Representations

- 3.1 **Hertfordshire County Council** - as Highway Authority does not wish to restrict the grant of permission subject to the imposition of one condition and highway informatives.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The Motorway Service Area (MSA) occupies a large site which sits just east of the main A1 (M) carriageway. The MSA is reasonably well hidden in views from the open countryside to the east and is only really exposed to public view when approaching from the roundabout serving the facility.

The main amenity building comprises a number of shops, restaurants, cafes and a hotel serviced by an existing car park, lorry and coach parking area.

- 4.1.2 The application site comprises an area of 1.1 hectares encompassing the existing Lorry/Coach Park to the north east of the main amenity building and the grassed area to the south east of the existing car parking area.

4.2 Proposal

- 4.2.1 The application seeks planning permission for alterations to the existing car park layout in order to better accommodate overall parking amenity through the provision of extra spaces. The proposal includes a larger area to the north east for HGV parking and an extension to the south of the main parking area to accommodate more car parking spaces as part of a planned phased construction. This would provide parking provision for the increased patronage since opening the site with the existing access arrangements to remain as at present.

At present the site has a total of 203 parking spaces and 27 HGV parking spaces which would be increased to 291 car parking spaces and 49 HGV (45 full size and 4 "rigid" HGV spaces) parking spaces. The coach parking at 7 spaces would remain the same and there would be a reduction of two caravan parking spaces to 5 spaces to be accommodated within the car park area rather than the Lorry/coach park as at present.

The altered orientation of the HGV parking and expanded main car park have required slightly amended access points. These revised entry and exit points help the circulation of cars through the MSA (Motorway Service Area) utilising the internal layout more effectively.

- 4.2.2 The application has been accompanied by the following documents:-
Transport Statement
Ecological Report
External Lighting Planning Statement
Drainage Plan

4.3 Key Issues

- 4.3.1 The key issues in this case centre on the following:

- The principle of using land for car parking
- The impact on the locality
- Highway impact
- Landscaping
- Ecology and Environment

4.3.2 Principle of using land for car parking

The site is within the rural area and therefore both policy 6 of the current plan and policy CGB1 of the emerging plan will have due consideration. However the nature of the development and its location confined within the existing site boundaries would not result in any material adverse impact on the intrinsic beauty of the countryside or erode the policy here in my view.

4.3.3 Paragraph 19 of the NPPF states: ***Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.***

The site is currently a very well used Motorway Service Area (MSA) which meets an acknowledged safety and welfare need on the Motorway Network and thus economic growth.

4.3.4 Department of Transport Circular 02/13 sets out the Governments policy on the provision, standards and signing of roadside facilities on the Strategic Road Network. The Circular explains the important road safety function of MSAs providing opportunities for the travelling public to stop and take a break in the course of their journey. Government advice is that motorists should stop and take a break of at least 20 minutes every two hours. The Government's objective is to encourage greater choice in the provision of service facilities for all road users, thereby encouraging drivers to take breaks more frequently and so reducing the number of fatigue related accidents. In accordance with the Circular 02/13, allowing more people to stop at the MSA will encourage motorists to take more regular breaks contributing to the reduction in collisions caused by tiredness which is one of the vital roles of an MSA.

4.3.5 The level of demand and usage of the MSA is directly related to the level of traffic using the network it serves. The site currently caters for 4,500 vehicles per day of which nearly 500 are HGV movements. The reorganisation of the MSA to better accommodate more cars and HGVs within the same site footprint responds to the increase in traffic as part of the A1 (M).

The submitted Transport Strategy shows that the existing car parking provision of 203 spaces falls below the current standards for a MSA. The HGV parking provision is consistent with the standards. However, Extra's experience both at Baldock and across their sites is that policy levels of HGV parking tend to under-estimate demand. Future growth on the A1 (M) is likely to increase by around 15% from 2017 to 2030 as a 15 year design. On that basis the Policy level requirement for parking would increase to 267 cars and 30 HGV parking spaces. The Transport Strategy goes on to present data from Baldock that confirms the usage of the site by HGVs for the last six months. The provision of 47 spaces as a minimum would allow for sufficient parking requirements, based on current traffic flows, and to allow for future growth on the network. Therefore, in addition to the assessed need, there is clearly a compelling practical need for more spaces on the site. The car parking data is less readily available as parking is free for two hours. Inbound car movements demonstrate an increase in demand and the new provision would improve access and circulation within the site particularly at peak periods.

I am satisfied that the proposals are necessary to accommodate existing and future demand to ensure that the MSA can function in its role as an integral part of the transport infrastructure.

4.3.6 Impact on the locality

In terms of the proposals impact on adjacent land uses I can see no sustainable grounds for objection. The site is purpose designed and sits close to the A1 (M) I therefore consider that the additional car parking would support this existing use. The application has been accompanied by a lighting plan which demonstrates that

light spillage would be minimal here. I would suggest that the use of the land as additional car parking would present few concerns.

4.3.7 Highway impact

There is no objection from the Highway Authority. The MSA benefits from an existing access road that is designated within a private site not maintained at public expense. The new scheme proposes an early segregation of the car park access and HGV traffic and the provision of a direct, separate route for them to leave the designated parking areas. The proposal does not affect the internal road layout in terms of vehicle and pedestrian visibility which is acceptable. Hertfordshire County Council as Highway Authority have therefore concluded that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highway network subject to the inclusion of the recommended planning condition and highway informative.

4.3.8 Landscaping

A full landscape planting plan has been submitted in support of this application. This shows that trees and shrubs are in the proximity of the development and a number of which would be removed to complete the work. The documents confirm that 37 individual trees/large shrubs would be removed and replaced by 40 trees of a higher quality than the existing scrub like ones. The scheme also includes two screening hedges which are supported by a one metre high light chestnut fence. I am satisfied that subject to the imposition of conditions to safeguard the completion of this landscaping that the scheme would be acceptable here and not detrimental to the landscape surrounding the MSA.

The proposals would not affect the existing bunding areas that surround the site so wider views into the site would remain as existing. The childrens play area to the south-east of the Hotel would remain and existing outdoor seating in this area would be re arranged.

4.3.9 Ecology and Environment

As a precautionary measure an Ecological Assessment of the site was submitted with the application, with observations on flora and fauna along with location and extent of habitats noted. The site and its habitats were also assessed for their potential to support protected species. The assessment concluded that from a biodiversity/ecology perspective the development covers an area of negligible ecological value, comprising mainly very short mown amenity grassland, ornamental shrub plantings and hard standing. A small number of young trees, planted as part of the landscaping scheme for the original construction will be removed, however none of these are suitable for roosting bats or nesting birds. Consequently there will be no direct adverse environmental effects arising from the proposals. The single feature of potential value is a balancing pond which lies in proximity to the works but would not will be impacted by the development. An ecology search also confirmed there are no statutory nature conservation sites within 2km of the development area. As there is no likelihood of adverse effects to ecological receptors a Preliminary Ecological Appraisal was not undertaken, however a Habitat Suitability Index assessment of the balancing pond was conducted, in order to investigate the likelihood of Great Crested Newt presence. This assessment confirmed the lack of suitability of the pond and surrounding habitat for Great Crested Newts, and no further surveys or mitigation are considered to be necessary.

4.3.10 In terms of mitigating other environmental harms I confirm that the MSA already benefits from Electric Vehicle recharging points which comply with the Environmental Protection measures to improve air quality.

4.3.11 The scheme has been supported by a drainage plan which satisfactorily demonstrates how surface water would be treated within the site in accordance with good practice.

4.4 Conclusion

- 4.4.1 Having regard to the above I do not consider there to be any material planning objections to be raised against the proposal which would support the transport infrastructure and have no detrimental impact on the vicinity of the site. I have framed a favourable recommendation accordingly.

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 That planning permission be **GRANTED** subject to the following conditions:

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 landscaping details illustrated on Planting Plan SH12022/005 shall be carried out before the end of the first planting season following either the first use of any of the parking spaces or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, 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.

4. **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: 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.

Highway Informative

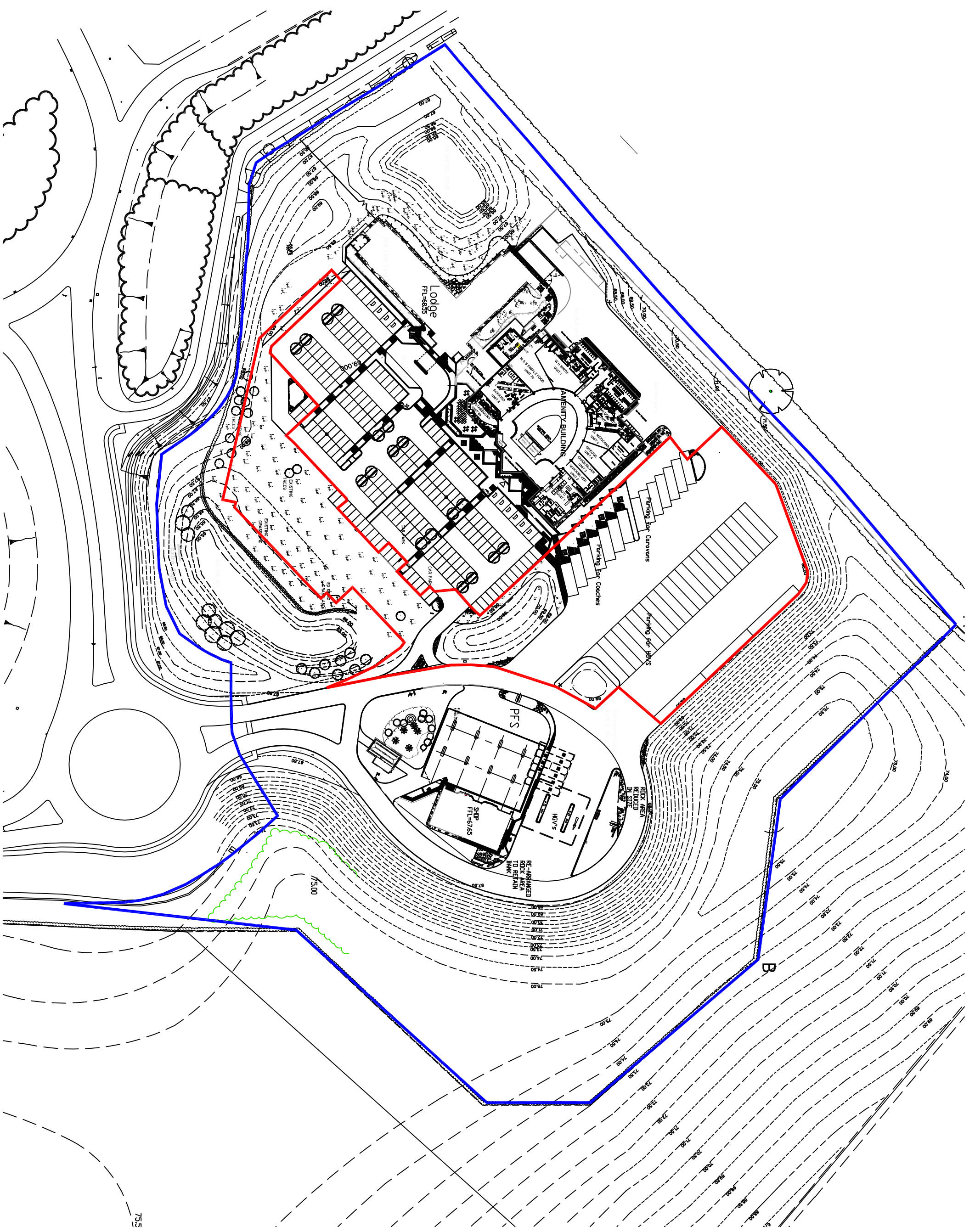
Prior to commencement of the development the applicant is advised to contact the Highway Authority on 0300 1234 047 to arrange a site visit to agree a condition survey of the approach of the highway leading to the development likely to be used for delivery vehicles to the development. Under the provisions 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, or videoing of the movements may be considered.

Ecology Informative

For reptiles and amphibians, caution should be taken when moving debris piles or building materials as any sheltering reptiles and amphibians could be impacted on. Clearance of existing vegetation should be undertaken progressively towards boundaries. Grass / vegetation should be kept as short as possible up to, and including, the time when the construction works take place, so that it remains/becomes unsuitable for amphibians to cross. Trenches should have escape ramps to provide an escape opportunity for any animals that may have become trapped.

Proactive Statement

Planning permission has been granted for this proposal. The Council acted proactively through early engagement with the applicant at the pre-application stage 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.



Title
**BALDOCK MOTORWAY
SERVICES**

Project
LOCATION PLAN

Drawing No.
PARKAL T008

Scale
1:1250 @A3

Date
SEPTEMBER 2017

Extra MSA Group,
Rectory Stables, The Old Rectory,
Rectory Road, Coleby,
Lincoln, LN5 0AJ.
Telephone : 01522 813688

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ITEM NO:	<u>Location:</u>	Kingshott School, Stevenage Road, Hitchin, SG4 7JX
	<u>Applicant:</u>	Kingshott School
	<u>Proposal:</u>	Change of Use of agricultural land to additional soft play areas for school use (Class D1 Use).
	<u>Ref. No:</u>	17/01998/ 1
	<u>Officer:</u>	Joanne Cousins

Date of expiry of statutory period: 28 September 2017

Reason for Delay

Committee cycle - extension of time agreed.

Reason for Referral to Committee

As the site area is over 1.0ha this application needs to be determined by the Planning Control Committee under the Council's scheme of delegation.

1.0 Relevant History

- 1.1 Extensive history relating to various applications for the expansion of the education facilities at the school. The first building to be used as a school on this site was Oakfield House, a country house built in 1859 which is still in use today. Later, the stables were converted into the Dining Room, Library and Art Room. Over the years various classroom blocks have been added and a theatre/gym was constructed and later extended. A covered swimming pool was also added. In September 2004 a new pre-prep building was opened, which is positioned in front of the original building as approached from the A602. This is known as the Rowan Building. In September 2008 a new two storey Middle School building was opened and this sits in a detached location to the east of the original building. This is known as the Ashbrook Building. A new standalone nursery which was completed in October 2010 and is known as Nutkins Nursery. New classrooms, dining hall, kitchen, gymnasium and reception, including demolition of existing structures was Permitted in December 2012- Only the classrooms element of this permission was implemented, which comprises a two storey block of contemporary design and materials to the rear of the site.
- 1.2 With regard to outdoor facilities the School has benefited from various planning permissions, including permission to change the use of agricultural land to playing fields in 2002, construction of all weather sports pitches with associated flood lighting in April 2017 and a Sports Hall building granted in May 2017.
- 1.3 In April 2017 permission was also granted for a new internal road system, provision of additional parking spaces and a new school access road with associated landscaping.

2.0 Policies

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations**
Policy 2 - Green Belt
Policy 39 - Leisure Uses

2.2 **National Planning Policy Framework NPPF**

- 8. Promoting healthy communities
- 9. Protecting Green Belt Land

2.3 **North Hertfordshire District Local Plan 2011-2031 Proposed Submission**

Policy SP5 - Countryside and Green Belt

3.0 Representations

3.1 **St Ippolyts Parish Council** - no comments received.

3.2 **Site Publicity** - no comments received

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 Kingshott School is located off the A602 Stevenage Road to the south east of the town centre of Hitchin and is located in the green belt. The school site comprises the buildings with playing fields to the north. The surroundings thereafter is agricultural land. Directly adjacent to part of the northern boundary of the site is Oakfield Farm, within which there are two residential properties with the closest being Oakhurst. Hard standing on the school site includes driveways, three car parks, playgrounds and all weather sports pitches. In terms of access, there are currently two vehicular accesses to the school site from the main carriageway of the A602 Stevenage Road. The original access is the western entrance and exit which is designated for staff, visitors and right of way for Oakfield Farm.

4.1.2 The location plan attached to this report shows the field in question adjoining the established eastern boundary of the school, beyond the existing sports pitches. The boundary with the school is formed of a strong, well-established tree belt and the north boundary by a tall field hedge. As seen from Ashbrook, the field rises in level towards the eastern school boundary with the highest point being approximately half way along this boundary. From this point the field falls away down to Stevenage Road by some 2m and by a similar height down towards the north boundary. This results in the area of the application site being well obscured from Stevenage Road and to a lesser degree as viewed from Ashbrook.

4.2.3 Within the school boundary the area between the general complex of school buildings and the boundary contains a fenced all-weather pitch, a cricket green and an area used for different sporting purposes during the year. To the north of the school and extending to the north of the current application site, land is leased to provide playing fields.

4.2 Proposal

4.2.1 The application seeks permission for the change of use of 2.98 hectares of agricultural land for additional soft play areas/outdoor recreation for School use. This would involve the ploughing and sowing of new grass on the land which would then remain open with no courts or formal markings and the boundaries to remain as existing.

4.2.2 The application is accompanied by a brief Design and Access Statement confirming that the land has not been farmed for many years and will form additional play space whilst providing habitat spaces within the existing hedgerows.

4.3 Key Issues

4.3.1 The site is within a rural part of District covered by the Green Belt. The key issue in the determination of this application is to judge whether it proposes an appropriate form of development in Green Belt terms and, if so, whether the particular use would keep the land open in character. In addition the impact of the development on any nearby residents is a material consideration.

4.3.2 Green Belt Impact

With regard to the impact upon the openness of the green belt, the National Planning Policy Framework (referred to further as the Framework), is a key consideration when assessing this issue. Paragraph 80 of the Framework states:

"Green Belt serves five purposes:

- to check the unrestricted sprawl of large built-up areas;***
- to prevent neighbouring towns merging into one another;***
- to assist in safeguarding the countryside from encroachment;***
- to preserve the setting and special character of historic towns; and***
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land".***

4.3.3 The NPPF also states at para 81 that ***Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.*** In my opinion the application satisfactorily meets these requirements being for outdoor informal sport and recreation and as such is, in my view, a straightforward proposal for consideration and determination by the planning authority. Clearly the use of the existing field in the manner described (see para 4.2.1) would preserve the openness of the area. I would therefore regard the proposal as an appropriate form of development in the Green Belt which preserves the openness of the Green Belt. This also reflects the provisions of Green Belt policy within the District Local Plan and emerging plan.

4.3.4 The application is for the change of use only and does not include any means of fencing, merely stating that existing boundaries would be maintained. If fencing were required this would in any event constitute permitted development and I do not believe that the openness of the Green Belt would be prejudiced by say post and rail fencing around the boundary or by any enhanced boundary landscaping as the applicants may chose to carry out.

4.3.5 Furthermore, Insofar as the "essential" nature of the additional soft play areas are concerned, the desire of the school to continue to provide outdoor facilities for pupils would accord with Paragraph 72 of the Framework which states the following in support of school facility expansion and alteration:

"The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools***
- work with schools promoters to identify and resolve key planning issues before applications are submitted".***

This central government intention for schools is to be able to improve their facilities is considered to add further weight to the case for allowing the proposed development. In my view the application presents no harm to the openness of the Green Belt. However if very limited harm were to be incurred to the openness of

the green belt this would in my view be greatly outweighed by the benefits of the development in my view in providing access to outdoor recreation and leisure and is therefore considered acceptable development in this green belt location.

4.3.6 Finally the current local plan Policy 36 states:

For leisure uses, the Council will normally permit development proposals which are acceptable in land use and environmental terms, and according to the following criteria:

(iii) low intensity leisure development will normally be permitted between towns where it would improve the rural environment or it would prevent coalescence between towns.

I am satisfied that the proposed change of use would be compliant with this policy.

4.3.7 Impact upon neighbouring properties

For the impact on neighbouring properties, there are no properties immediately adjacent to the land which abuts the existing school and agricultural land. The nearest dwellings are those on Stevenage Road, adjacent the site called 1-3 Ashbrook Cottages. Given the nature of the proposal and the distance from these properties I do not consider that there would be any material impact upon the amenities that these properties currently enjoy.

4.4 **Conclusion**

4.4.1 The application represents, in my opinion, an appropriate form of development in this Green Belt location and one that would satisfactorily maintain the general open character of the area. It would be for appropriate outdoor recreation activities and would have no adverse impact upon any nearby residential amenity. As a consequence I have no adverse comments to make and recommend that permission should be granted.

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 That planning permission be **GRANTED** subject to the following conditions:

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.

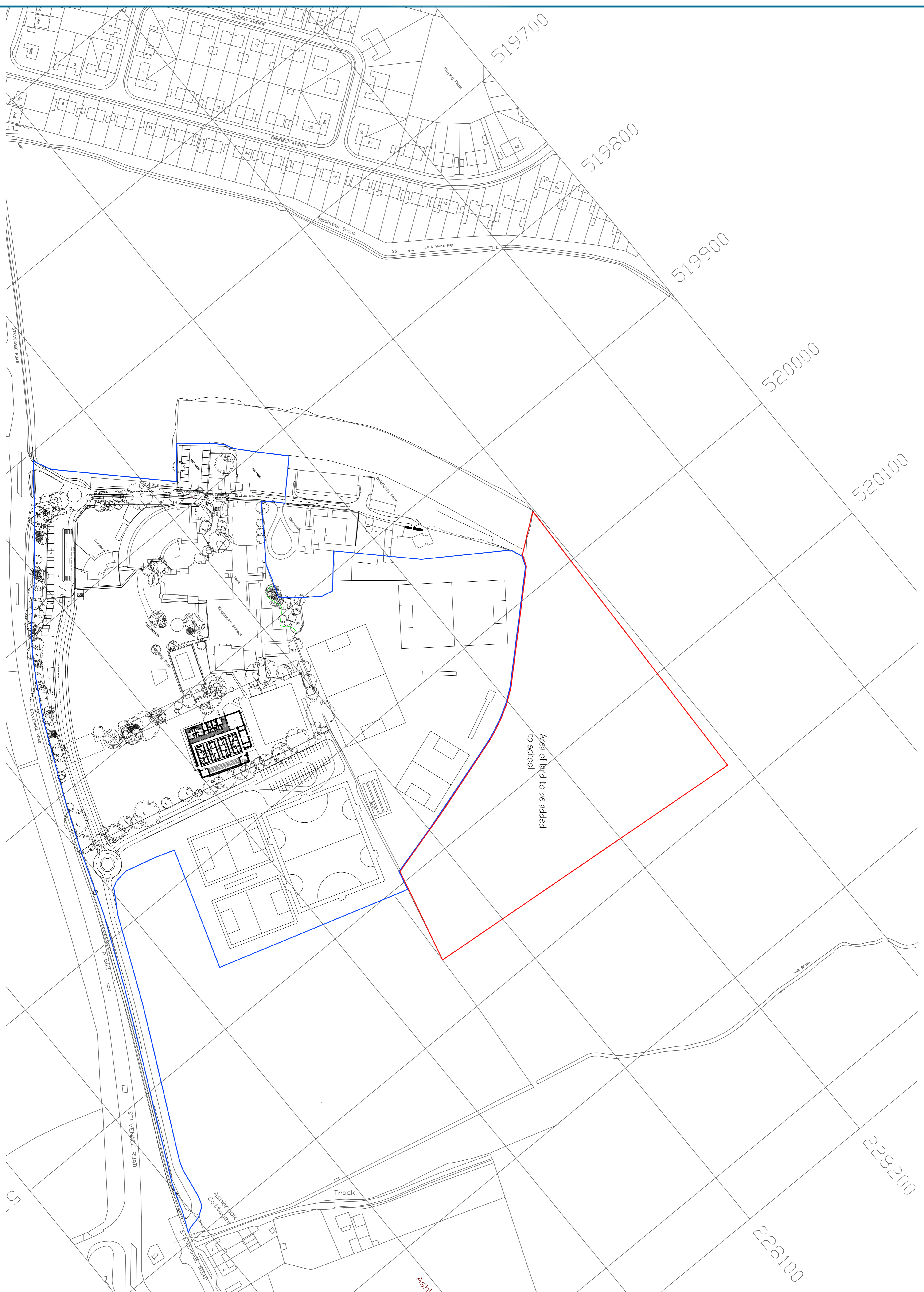
2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

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

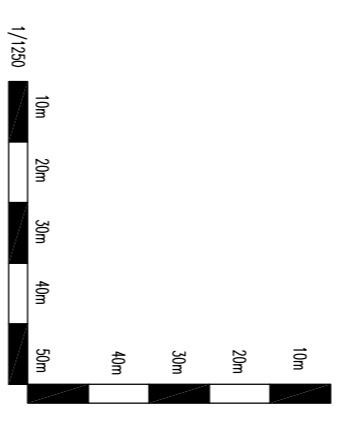
Proactive Statement

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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.

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DWG No.	PL10
SCALE	1/1250 @ A1
DATE	AUG 2017
DRAWN	MS
CLIENT	MS JUDITH LLOTT
KINGSHOTT SCHOOL ST. IPOLYTS HITCHIN SG4 7JX	
LOCATION PLAN	

Wastell & Porter
Architects Limited
SUITE 5, BANCROFT HOUSE
34 BANCROFT
HITCHIN
HERTFORDSHIRE
SG5 1LA

Email: contact@wastellporter.co.uk
Tel: 01462 422440
Fax: 01462 420403

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ITEM NO:	<u>Location:</u>	Starwood House, Avenue One, Letchworth Garden City, SG6 2HB
	<u>Applicant:</u>	Mr J Baxter
	<u>Proposal:</u>	Proposed and replacement security perimeter fencing and minor landscape works
	<u>Ref. No:</u>	17/02190/ 1
	<u>Officer:</u>	Richard Tiffin

Date of expiry of statutory period: 13 December 2017

Reason for Referral to Committee

As the site area is over 1.0ha this application needs to be determined by the Planning Control Committee under the Council's scheme of delegation.

1.0 Relevant History

1.1 None

2.0 Policies

2.1 **North Hertfordshire District Local Plan No.2 with Alterations**
Policy 36 Employment provision

Submission Local Plan
SP3 Employment

NPPF
7. Design

3.0 Representations

3.1 **Site publicity:** No responses received

4.0 Planning Considerations

4.1 Site & Surroundings

4.1.1 The application site occupies a prominent position between Avenue One and the Sainsbury's superstore to the east.

4.2 Proposal

4.2.1 The application seeks permission to erect a perimeter fence around the existing car park and to replace a fence around the building. The new/replacement fence is specified as a 3m green powder coated steel link enclosure. The scheme includes a 3m high sliding gate within the site and specifies the modest trimming back of established landscaping to accommodate the new fencing.

4.3 Key Issues

- 4.3.1 The only planning issue in my opinion centres on whether the erection of this new enclosure would be injurious to the visual amenities of the locality. Given that a 2m high fence could be erected without planning permission, I am of the view that there is no material grounds for objection to a 3m enclosure. This view is reinforced by the fact that the fence is appropriately detailed and will be set into the site and not immediately around perimeter.

4.4 Conclusion

- 4.4.1 That permission be **GRANTED** subject to standard conditions.

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 That planning permission be **GRANTED** subject to the following conditions:

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. **Prior to the commencement of any works associated with this permission, full details of all landscaping works necessary to implement the permission shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:**
 - **All trees and shrubs to be removed**
 - **Details of supplementary planting to offset those trees / shrubs to be removed**
 - **Any other landscaping works necessary to implement the permission**

The approved details shall be fully implemented within 6 months or in the first planting season following implementation whichever is sooner.

Reason: To safeguard the visual amenities of the area.

4. The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, 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.

Proactive Statement

Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. 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.

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#	REV	DATE	FIRST ISSUE	DESCRIPTION	DRN/CKD

STATUS: AMENDMENTS

CLIENT:

PROJECT NAME:

Starwood House

PROJECT ADDRESS:

Avenue One, Letchworth
Garden City SG6 2HB

DRAWING TITLE:

Existing Site Plan

JOB NO: 6188-17223

DIRG NO: P01

REVISION: #

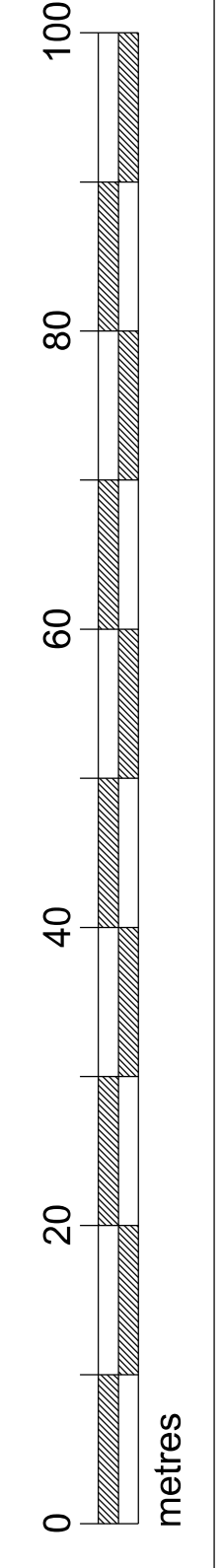
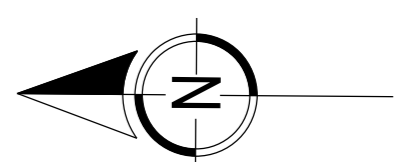
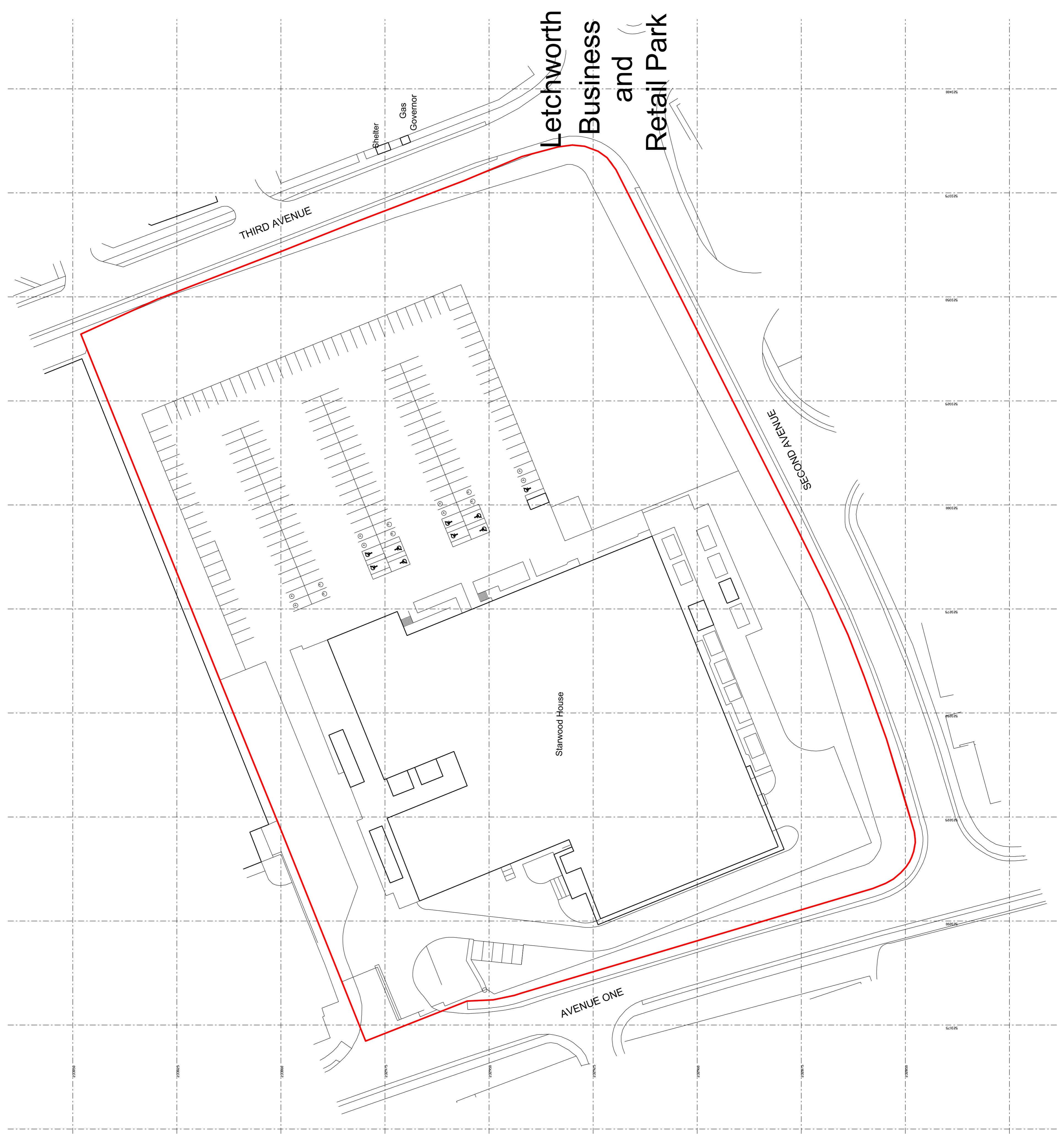
DATE: Aug 17

SCALE: 1:500

SHEET SIZE: A1



CRAVEN LODGE, VICTORIA AVENUE
HARRGATE, YORKSHIRE, HG1 9PX
WWW.S+SA-ARCHITECTS.CO.UK
T: 01423 866999



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