

# Public Document Pack

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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, 14TH DECEMBER, 2017 AT 7.30 PM**

Yours sincerely,



David Miley  
Democratic Services Manager

## **Agenda** **Part I**

<b>Item</b>	<b>Page</b>
<b>1. APOLOGIES FOR ABSENCE</b>	
<b>2. MINUTES - 9 NOVEMBER 2017</b> To take as read and approve as a true record the minutes of the meeting of this Committee held on the 9 November 2017.	(Pages 1 - 10)
<b>3. NOTIFICATION OF OTHER BUSINESS</b> 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.	
<b>4. CHAIRMAN'S ANNOUNCEMENTS</b> 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.	
<b>5. PUBLIC PARTICIPATION</b> To receive petitions and presentations from members of the public.	
<b>6. 17/02807/1DOC - LAND ADJACENT TO ELM TREE FARM, ELM TREE FARM CLOSE, PIRTON</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  Construction Management Plan & Traffic Management Plan - Condition 6 - Holwell route by CALA dated 2/11/17 Road Safety Appraisal by Mayer Brown dated 27th October 2017 (as Discharge of Condition of planning permission 15/01618/1 granted 25/05/2016)	(Pages 11 - 38)
<b>7. 17/02563/1- LAND OFF HOLWELL ROAD, PIRTON</b> REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  Outline planning application for the erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Holwell Road. All matters reserved except for means of access.	(Pages 39 - 62)

- |     |  |                         |
|-----|--|-------------------------|
| 8.  | <b>17/02500/1HH - 9 CHURCH LANE, KIMPTON, HITCHIN, SG4 8RR</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER   | (Pages<br>63 - 70)      |
|     | Part single and part two storey rear extension.  |                         |
| 9.  | <b>17/02501/1LB - 9 CHURCH LANE, KIMPTON, HITCHIN, SG4 8RR</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER   | (Pages<br>71 - 78)      |
|     | Demolition of rear single-storey lean-to and detached external WC building.<br>Part single and part two storey rear extension. Install roof light to north elevation, replace windows in east elevation and internal alterations.  |                         |
| 10. | <b>17/02602/1 - WYMONDLEY NURSING HOME, STEVENAGE ROAD, LITTLE WYMONDLEY, HITCHIN, SG4 7HT</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER   | (Pages<br>79 - 86)      |
|     | Two storey side extension including five dormer windows to west elevation and three dormer windows to east elevation to provide 15 no. additional bedrooms and en-suite bathrooms with associated residents & staff facilities. Alterations and extension of existing car park so as to provide parking for 31 cars and ancillary works. |                         |
| 11. | <b>17/01858/1 - 1A CHURCH VIEW, PORTMILL LANE, HITCHIN, SG5 1EU</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  | (Pages<br>87 - 94)      |
|     | Installation of 3 wall mounted air conditioning units on north (car park) elevation (as amended by plan nos. 010 Rev F and 011 Rev D received 02/11/17 and 14/11/17).  |                         |
| 12. | <b>17/02297/1 - 1A CHURCH VIEW, PORTMILL LANE, HITCHIN, SG5 1EU</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  | (Pages<br>95 - 100)     |
|     | Installation of 3no. retractable awnings (as amended by drawing 015A).   |                         |
| 13. | <b>17/02298/1AD - 1A CHURCH VIEW, PORTMILL LANE, HITCHIN, SG5 1EU</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER  | (Pages<br>101 -<br>106) |
|     | Installation of 3no. retractable awnings including integral advertisement logo's and text Logo's and text written.   |                         |
| 14. | <b>17/02008/1HH - 22 BROADMEAD, HITCHIN, SG4 9LU</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER   | (Pages<br>107 -<br>114) |
|     | Raising of roof to provide first floor and to facilitate conversion of single storey bungalow into a chalet bungalow with additional single storey side and rear side extension, following demolition of existing rear conservatory. (as amended by plan nos. 01SC and 01SP A received on 9/11/17).                                      |                         |

<b>15.</b>	<b>PLANNING APPEALS</b>	(Pages
	REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER	115 -
		162)

## NORTH HERTFORDSHIRE DISTRICT COUNCIL

### PLANNING CONTROL COMMITTEE

MEETING HELD IN THE SPIRELLA BALLROOM, ICKNIELD WAY, LETCHWORTH  
GARDEN CITY ON THURSDAY, 9TH NOVEMBER, 2017 AT 7.30 PM

#### MINUTES

**Present:** *Councillor David Barnard (Chairman), Councillor Fiona Hill (Vice-Chairman), John Bishop, John Booth, Paul Clark, Faye Frost (substitute), Jean Green, Cathryn Henry, Tony Hunter, Ian Mantle, Michael Muir, Val Shanley (substitute) and Adrian Smith.*

**In Attendance:**

*Simon Ellis (Development and Conservation Manager), Anne McDonald (Senior Planning Officer), Jo Cousins (Senior Planning Officer), Nurainatta Katevu (Property and Planning Lawyer) and Ian Gourlay (Committee and Member Services Manager)*

**Also Present:**

*At the commencement of the meeting Councillors Julian Cunningham and David Levett and approximately 40 members of the public, including 2 registered speakers and 2 Member Advocates (Councillors Claire Strong and Michael Weeks).*

#### 77 APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Bill Davidson, Mike Rice, Harry Spencer-Smith and Martin Stears-Handscorn.

Councillor Faye Frost was substituting for Councillor Davidson and Councillor Valentine Shanley was substituting for Councillor Rice.

#### 78 MINUTES - 28 SEPTEMBER 2017

**RESOLVED:** That the Minutes of the meeting of the Planning Control Committee held on 28 September 2017 be approved as a true record of the proceedings and signed by the Chairman.

#### 79 MINUTES - 12 OCTOBER 2017

**RESOLVED:** That the Minutes of the meeting of the Planning Control Committee held on 12 October 2017 be approved as a true record of the proceedings and signed by the Chairman.

#### 80 NOTIFICATION OF OTHER BUSINESS

There was no other business.

#### 81 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; and
- (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.

## **82 PUBLIC PARTICIPATION**

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

## **83 17/01781/1 - LAND NORTH OF, LUTON ROAD, OFFLEY**

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.

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

The Development and Conservation Manager advised that comments had been received from the Local Lead Flood Authority maintaining their objection to the application and recommending the following additional reason for refusal (No. 4):

“The Flood Risk Assessment carried out by MLM Consulting ref. 618538-MLM-ZZ-XX-RP-C-000 Rev 3, dated 27 September 2017, does not provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development as it does not demonstrate a feasible discharge location.”

The Development and Conservation Manager referred Members to Paragraph 4.4.1 of the report, and explained that the applicant had already lodged an appeal against non-determination of the application within the statutory time period. However, as the Local Planning Authority had not received confirmation from the Planning Inspectorate that the appeal had been registered, the Committee was able to make a decision on the application.

The Development and Conservation Manager reported that there was a potential changing policy context in relation to the application site. Under the saved policies of the current Local Plan, the site was located in the Rural Area Beyond the Green Belt, and therefore the

application was contrary to saved Policy 6 of that Plan. The submission Local Plan sought to change the designation of the site to Green Belt. This proposal to expand the Green belt could only be given limited weight, as the Local Plan Examination had not been completed, and until this was supported by the Examination Inspector and the Plan was subsequently adopted by the Council, the site would not become Green Belt.

The Development and Conservation Manager explained that the Local Planning Authority may therefore need to revise its position on this application at any future appeal depending on the outcome of the Local Plan Examination. These factors were outside of the Council's control, and so he could only offer Members his views and conclusions based on the existing policy position. Accordingly, his recommendation for refusal reflected that position.

Mrs Patricia Cowley (Offley Residents Action Committee) addressed the Committee in objection to application 17/01781/1.

Mrs Cowley advised that the application was seen by the residents of Offley as a purely speculative application, especially as the applicant carried out no public consultation with either Offley Parish Council or the people of Offley. The applicant and their agents had ample opportunity to bring this site forward for potential allocation as a site for development when the Council was asking landowners to do so as part of the Local Plan process.

Mrs Cowley stated that Offley had recently experienced a large development of 63 houses and flats (Garden Fields), and the granting of the current application would result in the further urbanisation of Offley, thereby eroding the whole concept of it being a village. This appeared to be happening in other areas of North Hertfordshire and in Central Bedfordshire.

Mrs Cowley referred to the negative comments on the application made by a number of consultees. The applicant had been silent on any matters to be covered by any potential planning obligation. A new retail outlet/shop formed part of the application, but the village already had a shop and post office, two pubs, a restaurant, Offley Place Hotel, a hairdresser, a recreation centre and a thriving village hall.

Mrs Cowley acknowledged that the site would provide some affordable housing (28 units), but there was no guarantee that anyone needing a house in Offley would be in line to rent nor purchase any of the new properties, as the cheapest home would be likely to be in the region of £300,000. The recent Garden Fields development saw the construction of expensive 4 and 5 bedroom houses, unlikely to meet the needs of any young Offley residents.

Mrs Cowley commented that there were few employment opportunities in Offley, which meant that the new residents would be driving in and out off Offley for employment and many other services. This would exacerbate the traffic situation in and around Lilley, Luton and Hitchin.

Mrs Cowley concluded by stating that the application was unwelcome, superfluous to needs and purely speculative. She asked the Committee to refuse the application.

The Chairman thanked Mrs Cowley for her presentation.

Councillor Claire Strong (Member Advocate) addressed the Committee in respect of application 17/01982/1.

Councillor Strong advised that the site was outside of the village, the proposed development was large, and its size would be very detrimental to the village. She asked Members to consider the addition of a further reason for refusal, namely given the size of the proposals, the development would have a detrimental impact on the village and its amenities and would be deemed as overdevelopment.

Councillor Strong reminded Members that the application site was not one of those allocated in the Local Plan. Offley had one site identified, which had been developed very early in the

process, namely the Garden Fields development referred to earlier. This site was located in the middle of the village and was seen as infill. However, it had impacted on the village in some respects. Over the years there had been a number of smaller developments in Offley on small plots of land, and there were still a number of similar plots in the village.

Councillor Strong commented that a well-attended public meeting held in the village to discuss the application had formulated a strongly expressed view to object to the proposals. The Council was awaiting for the Planning Inspector to make his decision on the Local Plan and she very much hoped that the Inspector would determine that the Plan was sound and therefore that there would be no need to look at alternative sites, such as the site of this application. She also hoped that the land would be re-designated as Green Belt. She asked Members to refuse planning permission.

The Chairman thanked Councillor Strong for her presentation.

The Planning and Conservation Manager was supportive to the suggestion made by one of the speakers regarding a further additional (fifth) reason for refusal in respect of overdevelopment of the site.

The Committee was mindful that the site had not been allocated in the emerging Local Plan and, moreover, was likely to be given further protection through the Local Plan Examination process, should the Planning Inspector be supportive of the proposal to re-designate the site as part of the Green Belt. The lack of a valid Section 106 obligation accompanying the application was also of concern to the Committee, particularly with regard to affordable housing, the proposed shop/retail outlet and re-location of the relocated allotments which it was currently proposed would occupy part of the site.

The Committee considered that development of the site was unsustainable. The proposed affordable housing element would not be affordable for most young people/families in the area, as was evidenced by the prices of the affordable houses on the nearby Garden Fields development. The application was unwanted and unnecessary and would adversely affect the ethos of Offley as a village.

The Committee was supportive of the recommendation to refuse planning permission, inclusive of the additional fourth and fifth reasons for refusal. Following a vote, it was therefore

**RESOLVED:** That application 17/01781/1 be **REFUSED** outline planning permission for the reasons set out in the report of the Development and Conservation Manager, and for the following additional reasons:

4. The Flood Risk Assessment carried out by MLM Consulting ref. 618538-MLM-ZZ-XX-RP-C-000 Rev 3, dated 27 September 2017, does not provide a suitable basis for an assessment to be made of the flood risks arising from the proposed development as it does not demonstrate a feasible discharge location.
5. In the opinion of the Local Planning Authority the proposed development would harm the character and appearance of the nearby village of Great Offley and rural area beyond by reason of over development of the site and poor layout in relation to the character and layout of the village. The proposal therefore conflicts with Policy 57 of the North Hertfordshire District Local Plan No. 2 - with Alterations and paragraph 64 of the National Planning Policy Framework (NPPF).

**84 17/01982/1 - KINGSFIELD, HADRIAN WAY, BALDOCK**

Erection of 6 x 2 bed single storey retirement dwellings including creation of vehicular access off of Hadrian Way, Baldock.



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

The Senior Planning Officer (AM) updated the Committee on a possible objection from Environmental Health and on responses received from six local residents.

The Senior Planning Officer (AM) reported that Environmental Health had submitted a late response on 1 November 2017, recommending refusal of the application based on unacceptable noise levels in the proposed rear gardens. However, the applicant submitted an updated Noise Assessment Report, also on 1 November 2017. Whilst this was forwarded to Environmental Health, it was not taken into account when they made their response. Environmental Health had been re-consulted, and asked to clarify based on the revised Noise Assessment Report, if they still wished to maintain their objection based on noise, or if they were now in a position to recommend approval subject to conditions. A response is still awaited.

The Senior Planning Officer (AM) advised that she had received the views of six neighbouring residents. Four had raised strong objection to the application on the basis that the land was Green Belt, and any development in this location would merge the towns of Letchworth and Baldock. Further objections were also raised on the basis of Hadrian Way not being able to cope with any more traffic, and that the noise from the motorway would put off anyone from wanting to move into the bungalows. Two views were in support, stating that they considered providing new bungalows for people wishing to downsize would be good.

The Senior Planning Officer (AM) stated that the application was seeking full planning permission for six, two-bedroom bungalows, on land formed from the side garden area of Kingsfield. This site was within the Green Belt. Green Belt policy was set out in the National Planning Policy Framework (NPPF), and this sets out the five purposes of Green Belt, as well as what type of new development was considered to be acceptable within Green Belt, or what development should be considered to be inappropriate development and therefore not permitted within Green Belt.

In respect of application 17/01982/1, the Senior Planning Officer (AM) concluded that, the proposal was considered to be inappropriate development within the Green Belt. This section of Green Belt formed an important green wedge between the towns of Letchworth and Baldock to stop them from merging together. The proposal would erode a large section of open land within this important wedge of Green Belt, and could be considered to be contrary to one of the main purposes of designating Green Belts, which was to stop towns from merging together.

The Senior Planning Officer (AM) noted that the applicant was arguing that this proposal was infill development on previously developed land, and therefore not inappropriate development. However, as set out in Paragraph 4.3.7 of her report, the NPPF stated that for infill development to be acceptable within Green Belts it must be within a village, which this site was not. The NPPF also sets out a definition of what land could be considered to be 'previously developed land'. This stated that the land must have been occupied by a permanent structure. In this instance, the permanent structure, Kingsfield itself, was outside of the application site, and the land had to be considered to be a greenfield site.

The Senior Planning Officer (AM) stated that the application was therefore recommended for refusal on the basis of it being inappropriate development in the Green Belt, that it would be harmful to Green Belt openness, and would erode this important section of Green Belt separating the towns of Letchworth and Baldock. However, any decision by the Committee would be subject to the further response from Environmental Health referred to above. If Members supported the recommendation and resolved to refuse the application, and if the objection from Environmental Health was maintained, an additional reason for refusal based on noise would be added. However, if Members resolved to grant planning permission, and if

the response back from Environmental Health was no objection, subject to conditions, then these conditions would also be added before the decision was dispatched. Or in the event that the Committee resolved to grant, but Environmental Health still objected, then the application would be brought back to the Committee.

Councillor Michael Weeks (Member Advocate) addressed the Committee in respect of application 17/01982/1.

Councillor Weeks advised that he lived in Hadrian Way, in fairly close proximity to the application site. Whilst the proposed development would directly affect very few residents, save for an additional 30 or so car movements on a very narrow access road, it was the wider impact of the proposal that was of concern to him.

Councillor Weeks stated that the site was tucked away, out of site, and little known to the wider public. However, the major issue was the precedent that would be set should development be allowed on this Green Belt site, which in turn would encourage the coalescence of the settlements of Baldock and Letchworth Garden City.

Councillor Weeks explained that he was aware of a developer who owned Green Belt land to the south of the site who, if access to this land was provided through the demolition of a building, would very likely promote an application for development of that site should a precedent be set in approving application 17/01982/1.

Councillor Weeks hoped that his fellow Baldock Town Ward Councillor who had called-in application 17/01982/1 would not wish to be associated with any move to join together the towns of Baldock and Letchworth Garden City. He referred to Section 9 of the National Planning Policy Framework (NPPF) which listed the purposes of the Green Belt, one of which sought the prevention of the merging of neighbouring towns.

Councillor Weeks commented that there were acknowledged exceptions to Green Belt Policy, as set out in Paragraph 4.3.5 of the Planning Officer's report, but that it was pertinent to note that the lack of bungalows in particular areas was not one of those exceptions. However, the potential downsizing issue for elderly residents to purchase the bungalows would not necessarily be the case, when it should be considered that the likely cost of the bungalows would be in the region of £500,000 each.

Councillor Weeks considered that if such bungalows were required in Baldock, then pressure should be brought to bear on the developers of the 3,800 new homes in the Local Plan proposed for the north-east of the town to provide these as part of that scheme.

In summary, Councillor Weeks felt that the proposed development was not appropriate in the Green Belt, was not an acceptable exception to Green Belt Policy, and would be detrimental to the current separation between Baldock and Letchworth Garden City. He urged the Committee to refuse planning permission.

The Chairman thanked Councillor Weeks for his presentation.

Mr Frazer Hickling (Applicant's Agent) addressed the Committee in support of application 17/01982/1.

Mr Hickling advised that he was from Phillips Planning Services Ltd and was attending to speak in support of the application for the erection of 6 single storey retirement dwellings at Kingsfield, Hadrian Way, Baldock. The proposal was situated on a vacant parcel of land associated with Kingsfield, a former religious and commercial office building that had recently been converted to 12 residential apartments, with ancillary out buildings being replaced by a further 3 chalet bungalows.

Leaving aside the acoustic matter raised by Environmental Health, which he believed could be resolved, Mr Hickling commented that the scheme was recommended for refusal for a single reason, namely the site's location within the Green Belt. However, an assessment against Green Belt policy was about making fine judgements on whether something could or could not be argued in a particular way.

Mr Hickling considered that the Committee could look at the proposed scheme in two ways, either as infilling and therefore appropriate within the Green Belt, or that there were a number of countervailing factors that cumulatively could be assessed as being very special circumstances.

In relation to infilling, Mr Hickling explained that the Courts had determined that assessing infilling was a matter of judgement against the facts of an individual case i.e. infilling a gap within a built-up area was not inappropriate. In this regard, the proposed development site was surrounded on three sides by existing development and built form, with development visible to the north. He felt that it could be argued as infill in this context.

Mr Hickling commented that further strength could be added to this case if it was accepted that the land was previously developed. The land was part of the Kingsfield site which had been developed. If it was acceptable as previously developed land then it specifically met the criteria and could be considered as not inappropriate development. He felt that this was a strong argument on its own and sufficient to enable approval.

Alternatively, Mr Hickling advised that there were a number of factors which cumulatively added up to "very special circumstances", outweighed any identified harm, and also complied with the principle of Green Belt policy. The applicant's assessment against harm was as follows:

- the site was contained by existing built form and made no contribution to containing a built-up area. There was no sprawl;
- the existing development surrounding the site already merged the settlements in the context of this location. It did not result in the merging of towns;
- the site is surrounded by development and is not open countryside;
- the site is not located within or adjacent to the conservation area of either Letchworth Garden City or Baldock, therefore protecting the special character of those towns;
- it was arguably the use of vacant developed land and is well related to both Baldock and Letchworth Garden City both physically and functionally.

Mr Hickling considered that the harmful impact of the development on the principle and function of the Green Belt would be limited, and he believed that there were other material considerations which amounted to "very special circumstances". These considerations were as follows:

- the site was in a highly sustainable location;
- the proposal is for the specific provision of retirement properties. Specific provision of these dwelling types were not being met elsewhere, and yet the Council's Strategic Housing Market Assessment had identified a growing need for this dwelling type. A condition could be employed to manage suitable occupation of these dwellings;
- the Council had a marginal 5-year housing land supply and the provision of 6 dwellings would make a valuable contribution to the delivery of housing;
- the proposal included a number of detailed improvements to the Access arrangements, including enhancement to the legibility for pedestrians and cyclists, thereby improving highway safety;
- Landscape and Bio-diversity enhancements would be delivered through the new layout and supplementary planting schemes.

Mr Hickling further considered that cumulatively these considerations would outweigh the harm (if any) which would result from the development of the site. He believed that the

provision of single storey retirement dwellings met an important need that was not being addressed elsewhere and this alone weighed substantially in favour of the proposal. For confirmation, the applicant raised no objection to the imposition of a restrictive occupancy condition.

Mr Hickling concluded that it had been demonstrated that the 'principle' of developing the site would not be contrary to Green Belt policy, and he therefore kindly requested that planning permission be granted.

The Chairman thanked Mr Hickling for his presentation.

Councillor Michael Muir declared that he had been advised that, having given the reasons for calling-in the application, it could be seen that he had pre-determined the matter in favour of approving the proposed development. He therefore advised that he would provide a statement regarding the application, prior to withdrawing from the meeting before the Committee debated and voted on the item.

Councillor Muir stated that he totally agreed with the findings of a letter sent by the applicant's agent and sent to all Members of the Committee regarding the argument in favour of infilling this gap within a built up area. He acknowledged the land to the north of Kingsfield and the application site was Green Belt in Letchworth Garden City.

In relation to the bungalows issue, Councillor Muir advised that there were 45 bungalows in North Hertfordshire owned by North Hertfordshire Homes and 3 owned by the Howard Cottage Society, a total of 48. There were a further 30 bungalows in Baldock in private ownership. He felt that this amounted to a shortage of bungalows in the town.

Councillor Muir referred to the aerial photograph of the site and adjoining area which he had circulated at the meeting. Looking west to east from the industrial area there was no Green Belt between Baldock and Letchworth Garden City. There were 27 properties located between the industrial area and the A1(M), including those in Hadrian Way.

Councillor Muir commented that Green Belt land started at the rear of Hadrian Way on the site of the recently converted convent (Kingsfield). The land to the north of the treeline which separated Baldock from Letchworth Garden City was Green Belt, adjacent to Works Road.

Councillor Muir considered that the proposal for infill of this open area to the east of Kingsfield was perfectly acceptable as it was "trapped" land between the A1(M) to the east and existing development to the south and west. If the Committee was minded to approve the application, then he hoped that a condition would be imposed restricting the occupation of the six bungalows to those aged 55 and over, preferably Baldock residents. He also wished to see a further condition retaining the trees on the north side of the site, which was the boundary between Baldock and Letchworth Garden City.

[At this point in the proceedings, Councillor Muir withdrew from the meeting for the remainder of this item.]

In response to the presentations, the Senior Planning Officer (AM) referred to the definition of previously developed land in the NPPF, namely that within built up areas, garden areas must be excluded from this definition. She added that the test of "very special circumstances" in the Green Belt should not result in decisions which could be readily be repeated elsewhere in the Green Belt. She circulated a larger scale plan of the Green Belt between Baldock and Letchworth Garden City, which clarified the precise boundary of the Green Belt in this area.

At the Chairman's request, the Planning and Conservation Manager further explained the provisions in the NPPF regarding the Green Belt, very special circumstances and previously developed land.

The Committee was supportive of the Senior Planning Officer's recommendation for refusal. Members were concerned about the precedent that would be set should the application be approved, particularly in relation to the potential development of the land to the south of Kingsfield. Members were not convinced by the infilling argument and were mindful that there had been no previous development on this garden area of Green Belt land. Members were against the increased coalescence of Baldock and Letchworth Garden City which would result should the application be approved, and acknowledged that it was intended in the emerging Local Plan that the site retained its Green Belt status.

Following a vote, it was therefore

**RESOLVED:** That, application 17/01982/1 be **REFUSED** planning permission for the reason set out in the report of the Development and Conservation Manager, and should an objection be maintained from Environmental Health, inclusive of an additional reason for refusal on the basis of unacceptable noise levels in the proposed rear gardens.

**85 17/02337/1 - BALDOCK SERVICES, GREAT NORTH ROAD, RADWELL, BALDOCK**

Increase parking provisions and alterations to existing parking layout.

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

In response to a Member's question regarding the lighting of the increased car park, the Senior Planning Officer (JC) advised that a lighting plan had been submitted by the applicant which showed that the lighting would be situated and directed in a manner which would not be detrimental to local residents in terms of light spillage.

**RESOLVED:** That application 17/02337/1 be **GRANTED** planning permission, subject to the conditions and reasons set out in the report of the Development and Conservation Manager.

**86 17/01998/1 - KINGSHOTT SCHOOL, STEVENAGE ROAD, HITCHIN**

Change of Use of agricultural land to additional soft play areas for school use (Class D1 Use).

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

The Senior Planning Officer (JC) advised that Paragraph 3.1 of the report stated that St.Ippolyts Parish Council had not made any comments on the application. The Parish Council had informed her that that had not been consulted on the application. On checking, this was correct due to an administrative error, and the Parish Council had now been formally consulted with a response date by 29 November 2017. She therefore advised that the recommendation to grant should be subject to no material planning considerations being raised by the Parish Council by the above deadline date.

In response to a Member's query, the Senior Planning Officer (JC) confirmed that the application site would not contain any structures, and that the application solely related to a change of use from agricultural land to additional soft play areas for use of the school.

**RESOLVED:** That, subject to no new material planning considerations being raised by St. Ippolyts Parish Council by 29 November 2017, application 17/01998/1 be **GRANTED** planning permission, subject to conditions and reasons set out in the report of the Development and Conservation Manager.

87 17/02190/1 - STARWOOD HOUSE, AVENUE ONE, LETCHWORTH GARDEN CITY

Proposed and replacement security perimeter fencing and minor landscape works.

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

The Development and Conservation Manager commented that the reason for the application was to provide improved security for the site.

**RESOLVED:** That application 17/02190/1 be **GRANTED** planning permission, subject to conditions and reasons set out in the report of the Development and Conservation Manager.

The meeting closed at 9.09 pm

Chairman

ITEM NO:	<u>Location:</u>	Land Adjacent To Elm Tree Farm, Elm Tree Farm Close, Pirton
<b>6</b>	<u>Applicant:</u>	Cala Homes
	<u>Proposal:</u>	Construction Management Plan & Traffic Management Plan - Condition 6 - Holwell route by CALA dated 2/11/17 Road Safety Appraisal by Mayer Brown dated 27th October 2017 (as Discharge of Condition of planning permission 15/01618/1 granted 25/05/2016)
	<u>Ref. No:</u>	17/02807/ 1DOC
	<u>Officer:</u>	Simon Ellis

**Date of expiry of statutory period:** 28 December 2017

### **Reason for Delay**

N/A. The statutory expiry date for the determination of this application is 28 December 2018.

### **Reason for Referral to Committee**

Under the Council's constitution and scheme of delegation the Development and Conservation Manager has full delegated powers to determine all applications for the discharge of details submitted pursuant to conditions of any planning permission. The Development and Conservation Manager does however have discretion to refer any decision to the Planning Control Committee where there has been significant public interest. Proposals relating to construction management and construction traffic routes associated with the proposed residential development on land at Elm Tree Farm, Pirton, is clearly an example of a proposal that has generated significant public interest, as is set out in the relevant sections of this report below. On that basis I have decided to refer this application to be determined by the Planning Control Committee rather than under powers delegated to me.

On a related point there is no requirement under relevant legislation and regulations to consult local residents on any application to seek discharge of a pre-commencement condition of planning permission.

However, given the level of public interest in this proposal officers decided to undertake a wide public consultation exercise enabling local residents to have three weeks to comment on this application as a minimum. This formal consultation period ended on 29 November 2017.

### **1.0 Relevant History**

- 1.1 At the meeting of the Planning Control Committee held on 17 December 2015 Members resolved to grant outline planning permission on this site for the following development proposal (ref. 15/01618/1):

**Outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description).**

- 1.2 Following the completion of the associated S106 Obligation outline planning permission was granted on 27 May 2016.
- 1.3 Condition no. 2 of this outline planning permission reads as follows:
- Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission, and the development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.**
- Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.**
- 1.4 Condition no. 6 of this outline planning permission reads as follows:
- Prior to the commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area of construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details construction vehicle routing to and from the site.**
- Reason: In the interests of maintaining highway efficiency and safety.**
- 1.5 At the meeting of the Planning Control Committee held on 25 May 2017 Members resolved to grant reserved matters approval for the following development proposal (ref. 16/02256/1):
- Reserved matters application for approval of access, appearance, landscaping, layout and scale to serve a residential development of 78 dwellings (31 affordable and 47 private), pursuant to outline planning application 15/01618/1 granted 27.5.16 (as amended).**
- 1.6 Following the Committee decision the reserved matters approval decision notice was issued on 30 May 2017. Referring back to the implementation time table outlined above (condition no. 2 of outline planning permission no. 15/01618/1) in order to keep this planning permission extant work on this development must now commence before 30 May 2019.
- 1.7 Rather than submit separate details of a Construction Management Plan under a separate application to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1, the applicant submitted the Construction Management Plan (CMP) as part of the reserved matters approval application (ref. 16/02256/1, received as a valid application on 3 October 2016). This meant that as well consulting local residents on the reserved matters application the Council also consulted local residents on the CMP.
- 1.8 During the determination process of the reserved matters application ref. 16/02256/1 officers advised the applicant that to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1 required a separate application to the reserved matters application. When considering applications for the approval of reserved matters, consideration of construction management arrangements are not material and it was therefore necessary to separate the two issues.



- 1.9 Following this advice the applicant then submitted a separate application to seek discharge of the requirements of condition no. 6 of outline planning permission no. 15/01618/1. This separate application was received on 9 February 2017 and was given the reference number 17/00335/1DOC. As is explained above there is no requirement under relevant legislation and regulations to consult local residents on applications which seek to discharge the requirements of conditions of planning permission. However, given that local residents had already inadvertently been consulted on the CMP by virtue of being consulted on the original reserved matters application (indeed many comments had already been received before the separate application was submitted), officers felt it was now clearly in the public interest to consult widely on the separate application to seek discharge of the requirements of condition no. 6 of outline planning permission no. 15/01618/1; and indeed to refer a decision on the application to the Planning Control Committee in the public interest at the discretion of the Development and Conservation Manager. The application was subsequently reported to the meeting of the Planning Control Committee held on 25 May 2017.
- 1.10 At that meeting Members resolved to defer a decision on application ref. 17/0335/1DOC:
- 1.11 To summarise the application contained 4 possible construction routes for Members to consider as follows:
1. Arrival and Departure via Holwell
  2. Arrival and Departure via Pirton
  3. Arrival via Pirton, Departure via Holwell
  4. Arrival via Holwell, Departure via Pirton
- 1.12 The reasons for deferral are complex. Essentially Members did not feel at the meeting that they could confidently grant approval for any of these options. They requested officers to liaise with the applicant and Hertfordshire County Council (Highways) to seek more clarification on highway safety issues relating to the CMP. Members also requested that consideration be given to other possible options, including the potential for a completely new road to access the site across open countryside, potentially from the A600 to the site to avoid conflict between construction traffic and other vehicles on the public highway.
- 1.13 Following the meeting officers, the applicant and Hertfordshire County Council (Highways) held discussions to attempt to address the concerns expressed by Members at the meeting and following these discussions a revised proposal was submitted under the same application proposing a construction traffic one-way through route entering Pirton from the south and exiting the site via Holwell to the A600. The idea behind this proposal was to spread the traffic across the two villages and by making the route one-way for all vehicles seeking to avoid conflict with other construction traffic on the public highway.
- 1.14 Another consultation exercise was undertaken in July 2017 and following formal advice from Hertfordshire County Council (Highways), the Hertfordshire and Middlesex Wildlife Trust and Hertfordshire Ecology officers sought further information from the applicant before being prepared to report this application back to the Planning Control Committee. The intention being to re-notify local residents again following the submission of the information requested.
- 1.15 This information was not forthcoming and on 10 August 2017 the applicant submitted a deemed discharge application to seek a decision on the application within 2 weeks (i.e. by 24 August 2017) or a deemed consent would follow.

**1.16 What is a deemed discharge consent application?**

Measures contained within the 2015 Infrastructure Act sought to speed up the process of discharging pre-commencement planning conditions with a view to improving efficiency of local planning authorities in decision making and to avoid unnecessary delays to development proposals. The Act enabled the Secretary of State to instigate a deemed discharge system which came into effect under the Town and Country Planning (General Permitted Development) Order 2015.

- 1.17 Article 27 of this order requires local planning authorities to determine all applications for the discharge of conditions within 8 weeks from receipt of such applications or within any agreed extension to this period between the applicant the local planning authority.
- 1.18 Article 28 of the order allows an applicant (for certain conditions) to apply for a deemed discharge application no earlier than 6 weeks from the date of submission.
- 1.19 Article 29 of the order gives the local planning authority 14 days within which to make a decision on the application (i.e. to either approve the details and discharge the requirements of the condition or refuse the details with clear reasons) within the 14 day period. Failure to make a decision within that period results in a deemed discharge which is effectively a default approval of the application and the applicant can rely on this non decision an effective discharge of the condition.
- 1.20 Whilst there was a scheduled meeting of the Planning Control Committee on 17 August 2017, following receipt of the deemed discharge application on 10 August there was not sufficient time to prepare a report for that meeting in order to seek Members decision on the whether or not to approve application ref. 17/00335/1DOC and discharge or not the requirements of condition no. 6 of planning permission no. 15/01618/1.
- 1.21 Officers advised the applicant that a decision to approve (or to allow a deemed discharge) of this application would not be made under delegated powers and it therefore needed to be referred to the Planning Control Committee for a decision. Officers also advised that it was not possible to organise a special meeting of the Planning Control Committee at such short notice and following this advice the applicant decided to withdraw application no. 17/00335/1DOC on 22 August 2017, two days before the deemed discharge deadline imposed on the local planning authority.
- 1.22 Members must be advised that the applicant has every right to apply for a deemed discharge application for these decisions under the legislation. The applicant clearly wants the Council to agree a CMP without delay so they can implement the planning permission.
- 1.23 The right to submit a deemed discharge application (giving the local planning authority 14 days to reach a decision) applies to this current application also (the subject of this report). The 6 weeks minimum period to submit a deemed discharge application runs from 12 December 2017 (after the completion of this report) and if such an application is made the Planning Control Committee will need to decide whether to grant the approval of details or refuse the application with reasons. If a deemed discharge application is submitted on the earliest date (12 December 2017) the local planning authority has until 26 December 2017 to reach a decision or a deemed discharge consent is effective from that date.

1.24 Members must also note that the right to submit a deemed discharge application remains from the minimum 6 week period (i.e. in this case 14 December 2017) right up until such time as the application is determined. Following such an application the local planning authority must make a decision within 2 weeks following the deemed discharge application.

1.25 As can be seen from the timing of this application (submitted on 31 October) it is essential that this application is determined at this Committee (i.e. 14 December) to avoid the deemed discharge risk from 28 December 2017.

1.26 **Updated Planning History**

At the Special Meeting of the Planning Control Committee held on 28 September 2017 Members resolved to refuse two separate Discharge of condition applications (ref. 17/02023/DOC and 17/02024/1DOC). Of these two applications the one that broadly matches the current application as it proposed a construction traffic route in from and out through Holwell (the subject of this report) was refused permission against officer recommendation for the following reason (ref. 17/02023/1):

**The Local Planning Authority does not consider that there could be a satisfactory or safe construction traffic route through Holwell. The proposed Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire District Submission Local Plan (2011-2031).**

1.27 The Council have been informed that the applicant has already lodged an appeal to the Planning Inspectorate (PINs) against this decision. However, at the time of writing PINs have not validated the appeal or given the Council a start date. Only when this happens can interested parties be informed of the appeal. Any updates on the appeal progress will be provided at the Committee meeting.

1.28 As well as the appeal the applicant has submitted two further applications to discharge the requirements of condition no. 6. This current application (the subject of this appeal) and an alternative CMP proposing the same construction traffic route but with more mitigation proposed (application ref. 17/02778/1DOC).

1.29 In relation to progress on the alternative application proposing a more detailed CMP the applicant has agreed to extend the determination period from the original date (26 December 2017) to 31 January 2018 to enable further discussion and negotiation with officer and Hertfordshire County Council (Highway Authority). By agreeing to extend the statutory determination period for the alternative application there is no risk of a deemed discharge application before the meeting of the January Planning Control Committee. However, given that discussions are on going I have decided not to report application no. 17/02778/1DOC to this meeting of the Planning Control Committee.

## **2.0 Policies**

2.1 **North Hertfordshire District Local Plan No. 2 - with Alterations (Saved Policies):**

No policies relevant to applications seeking discharge of conditions relating to construction management.

2.2 **National Planning Policy Framework (NPPF):**

Section 4 - Promoting Sustainable Transport

Section 11 - Conserving and Enhancing the Natural Environment (paragraph 123)

Paragraphs 203 - 206 - Planning Conditions and Obligations

2.3 **National Planning Policy Guidance (NPPG):**  
Use of Planning Conditions

2.4 **North Hertfordshire District Submission Local Plan (2011-2031):**  
Policy T1 - Assessment of Transport Matters

### **3.0 Representations**

3.1 **Hertfordshire County Council (Highways):**  
Recommend refusal of this discharge of condition application. Full text attached as **appendix 1**.

3.2 **Environmental Health (Noise):**  
Nothing received at the time of writing. Any comments to be updated.

3.3 **Environmental Health (Air Quality):**  
Nothing received at the time of writing. Any comments to be updated.

3.5 **Pirton Parish Council:**  
Object to the application. **Full text attached as appendix 2.**

3.6 **Pirton Neighbourhood Plan Steering Group:**  
The proposals deliberately withhold some of the mitigation features regarding road safety that have been a feature of previous applications. In short, in September 2017 an application to discharge Condition 6 was refused on safety grounds. This is a poorer application, relying for traffic management on the right for all types of traffic to use the roads. There being no change except for the worst as regards road safety, this application should be refused. We note, however, some improvements to the proposals regarding noise and dust pollution. We emphasise the need to keep security lighting to a minimum to preserve the dark night skies at this edge of the village.

3.7 **Holwell Parish Council:**  
Nothing received at the time of writing. Any comments to be updated

3.8 **Response to Local Residents consultation:**  
This application has generated significant public interest and Members are advised to read comments displayed on the Council's website which is updated regularly as comments are received. I set out below a high level summary of the issues raised:

\* **Highway safety** - the construction traffic route through Holwell is unsafe. There are insufficient passing places on narrow roads. Construction traffic, including HGVs will lead to conflict with other road users leading to a risk of highway safety in many instances, particularly during busy periods. Many properties do not have a footpath outside their front doors and risk to pedestrian safety will increase also. All the rural roads around this site are unsuitable and the temporary new road should be constructed from the A600 to enable construction.

\* **Congestion** - Construction is proposed to start at 9am therefore vehicles will be using these roads at peak periods adding to delays already caused by congestion, particularly on the Holwell Road/A600 junction which is already busy at peak periods. The construction project is due to last 3 years and the congestion will be disruptive for a considerable period.

### **Holwell Against CALA Traffic (HACT):**

This local action group have commissioned a Road Safety Appraisal from a transport consultant. The supplementary policy statement is also included in these appendices. Members have also been sent these documents direct. **This report and associated assessment is attached in full as appendix 3.**

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

4.1.1 The application site is located to the east of Royal Oak Lane, south of Holwell Road and north of Hambridge Way. It has a frontage onto Holwell Road of approximately 65 metres and approximately 140 metres along Hambridge Way. The depth of the site is approximately 400 metres. The area of the site totals approximately 4.4 hectares and consists of an open field area for the majority of the northern part of the site bounded by landscaping along its eastern boundary and an area of agricultural buildings to the south of the site with a paddock area to the rear of these buildings. Part of the western boundary of the site is located adjacent to the Pirton Conservation Area. Three new detached properties are now located adjacent the site, to the rear of 40 Royal Oak Lane.

4.1.2 The construction route is outside the application site and on the public highway.

### **4.2 Proposal**

4.2.1 The applicant seeks approval of the details required pursuant to condition no. 6 of outline planning permission no. 15/01618/1. The condition reads as follows:

**Prior to the commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area of construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details construction vehicle routing to and from the site.**

**Reason: In the interests of maintaining highway efficiency and safety.**

4.2.2 The application is accompanied by two supporting documents; a Road Safety Appraisal prepared by Mayer Brown Consultants and a Construction Management and Traffic Plan (Holwell Route only) submitted by CALA Homes. The key proposals can be summarised as follows:

- \* Materials to be stored on site in compounds away from neighbouring properties;
- \* Car parking for staff and visitors on hard standing area within the site during construction;
- \* On site signage for access arrangements to site during construction;
- \* Construction traffic into site separate from pedestrian areas;
- \* Screening and hoarding of works on site;
- \* Control of dust and noise;
- \* Wheel washing facility when leaving site;
- \* Sweepers to remove any mud from roads;
- \* Security lighting on site;
- \* Roof trusses, steel beams and pre-cast slabs to be delivered by rigid vehicles wherever possible;

- \* Mobile crane to be hired for installation;
- \* Condition survey of construction route and after and damage repaired;
- \* One way system within site;
- \* Hours of work on site between 0800 and 1730 Monday to Friday 0800 to 1300 on Saturday and no Sunday or Bank Holiday working;
- \* Site deliveries between Monday and Friday 0930 to 1500

4.2.3 I have sought clarification from the applicant on point 9 in the mitigation section of the CMP. It is not clear whether this more basic CMP actually proposes to provide the passing places along Waterloo Road that were proposed in the earlier versions of the CMP detailed above under the Planning History section. I have therefore sought clarification of the meaning behind point 9 set out in the mitigation section which reads as follows:

**'Use of remote passing bays for vehicles to wait prior to proceeding to site (again to avoid conflicts between construction traffic and local bus service).'**

4.2.4 The applicant's consultants have clarified that this is not a reference to new passing places being provided along the route from the A600 to the site. They have confirmed the following:

**'The reference is to remote passing bays in point 9 of the mitigation section refers to the use of existing holding bays on the A1 and roads around the village which could be used for a vehicle to stop in for a short period of time to prevent a conflict on the route. The reference does not suggest that new passing bays would be installed.'**

4.2.5 On this basis and following clarification the CMP itself does not detail proposed passing places unlike the earlier CMP.

4.2.6 However, to add further confusion paragraph 1.1.2 of the CMP under the introduction reads as follows:

**'The Construction Management Plan and Traffic Management Plan should be read in conjunction with Waterman's Construction Route Plan - Arrival and Departure via Holwell (dated October 2017)'**

4.2.7 Appendix 1 to the Waterman document includes clear reference to the creation of new passing places along the construction route. However, it was not submitted as part of this application (it is however attached to application ref. 17/02778/1DOC).

4.2.8 I have therefore again sought clarification from the applicant on this point and they have confirmed that paragraph 1.1.2 should have been omitted from this CMP. They are clearly stating therefore that this proposed CMP would not provide the passing places that were set out in the earlier versions of the CMP.

4.2.9 The associated road safety appraisal therefore assesses the safety of the route without any mitigating passing places can be summarised as follows:

- \* Construction route visited by appraiser on 24 October 2017;
- \* Inspection carried out from 1100hrs onwards;
- \* Traffic conditions on A600 recorded as light to moderate;
- \* Refers to official collision records on the Holwell Road recorded over a three year period up to March 2017;
- \* Five collisions were recorded in this period leading to slight injury in all cases;
- \* Four of the five were recorded on the Bedford Road / Holwell Road junction;
- \* The collisions do not form a pattern to suggest any remedial works are necessary;
- \* Conclude that the proposed route is not likely to result in a 'material increase in risk to road users'.

### 4.3 Key Issues

- 4.3.1 Taking account of the local and national planning policy guidance outlined above and all comments received from interested parties I consider the main issues to be considered in the determination of this application to discharge the requirements of condition no. 6 of outline planning permission no. 15/01618/1 are as follows:

Whether the measures set out in the CMP would be safe;

\* Whether any harm to living conditions, use of the highway and congestion would be acceptable;

\* What realistic and reasonable alternatives are available?;

\* Any other technical matters such as air quality and ecology issues must also be considered.

### 4.3.2 Highway Safety Matters

As is reported above at the special meeting of the Planning Control Committee held on 28 September 2017 when the previous application for a CMP detailing this same construction route (application ref. 17/02023/1DOC) the Committee concluded in refusing the application that:

**The Local Planning Authority does not consider that there could be a satisfactory or safe construction traffic route through Holwell. The proposed Construction Management Plan therefore conflicts with the requirements of Policy T1 of the North Hertfordshire District Submission Local Plan (2011-2031).**

- 4.3.3 As a response to this conclusion as part of this slimmed down and more basic CMP the applicant has submitted a Road Safety Appraisal which concludes that the proposed route is not likely to result in a 'material increase in risk to road users'.
- 4.3.4 As also explained above the applicant has already lodged an appeal against this decision and should this appeal proceed it will be for Committee Members to provide evidence as to why they consider that the Holwell route cannot be safe.
- 4.3.5 In this instance the Highway Authority do find fault with the proposed CMP largely relating to the lack of clear mitigation and insufficient information. It is on this basis that I frame a recommendation of refusal set out below. Importantly however I must advise Members that the Highway Authority do not conclude that the proposed Holwell route is unsafe in principle and I cannot therefore recommend that Members repeat their earlier and quite fundamental reason for refusal.
- 4.3.6 However, paradoxically if Members were minded to refuse this application and did not repeat their earlier refusal reason (i.e. that the route is unsafe) it would undermine the validity of the earlier refusal and clearly weaken the Committee's case at the forthcoming appeal.
- 4.3.7 Having said that as always my recommendation is based on the advice I have received from the highway authority and goes no further as I am not qualified to make a judgement on the highway safety of proposed construction traffic routes.
- 4.3.8 As I have explained under the proposals section of this report, despite clear reference to the Waterman assessment in paragraph 1.1.2 of the CMP the applicant has not submitted the Waterman document as part of this application so on that basis this CMP has less physical mitigation than the previous CMP which Members refused at the meeting of the Planning Control Committee.

- 4.3.9 Should Members be minded to refuse permission for this slimmed down version of the CMP and should a further appeal be lodged I am not sure that an appeal Inspector would necessarily agree that this CMP does not propose the earlier passing places as the reference to the Waterman document set out in paragraph 1.1.2 is clear and unambiguous that it should be read in a conjunction with the Waterman document. I suspect an appeal Inspector may well want to review the Waterman document and consider its content.
- 4.3.10 When the Highway Authority commented on this application on 28 November they were also not clear whether the passing places were proposed. I have therefore sought further clarification from them. I have asked the Highway Authority to provide their opinion on whether the proposed construction route into and out of Holwell would be safe in their judgement without the passing places? The answer I have received is as follows:
- 4.3.11 **'The answer is not exactly black and white. The passing paces have been proposed on the type of construction vehicles the applicant is seeking to use. The Highway Authority concerns relate to two larger vehicles being able to pass each other along the route and this is a concern of safety and operation, it was therefore requested that the applicant demonstrate that two vehicles can manoeuvre safely, which is when the proposed solution of passing places [was put forward]. The Highway Authority would not consider the route in itself to be unsafe as under normal operational conditions the information suggests that the network operates sufficiently. If the applicant decided to use transit vans for example they may not ultimately require passing places but this could cause other issues (please note that this has not been assessed and is an example only).'**
- 4.3.12 **Congestion and Living Conditions**  
Noise impacts on residents from traffic using the public highway is not capable of being a matter that can be addressed under noise nuisance powers contained within the Environmental Protection Act. In any event by restricting deliveries to the times set out and extended to 9.30am to 3.00pm I consider that noise from passing traffic would not be unduly detrimental to living conditions.
- 4.3.13 Construction noise on site can only take place in the hours set out above, no earlier than 8.00am and no later than 5.00pm with no construction on Sundays or bank holidays. In my view this is again reasonable and would not unduly harm the noise climate in the local area.
- 4.3.14 In terms of congestion, I understand concerns about increased journey times over the 3 year construction period. However, this must be considered in the context of the planned growth across the District that is needed to meet our Objectively Assessed housing Needs (OAN) set out in the submission Local Plan (15,950 homes from 2011-2031). The plan indicates that from 2022 approximately 1200 homes per annum will be constructed in the District (compared with recent annual figures of 300-400 homes per annum). If these figures are anywhere near realistic construction traffic across many roads in North Hertfordshire will be an every day reality for most communities.
- 4.3.15 The government recognises that development and construction of new development inevitably increases congestion, particularly in areas of high housing demand. The NPPF paragraph 32 argues that permission can only be refused on transport grounds when it can be demonstrated that a 'severe' impact would result.



- 4.3.16 In my view this policy position has relevance to this application and on that basis I do not consider that it can be realistically argued that any additional congestion would be a severe impact.
- 4.3.17 In terms of air quality at the time of writing I have not received comments from the Council's environmental protection officer. Any comments received will be updated.

#### 4.4 **Conclusion**

- 4.4.1 It is in my view disappointing that this application has been submitted as it proposes less mitigation than earlier versions of the CMP. I can fully understand the applicant's frustration that they are having enormous difficulty trying to secure an agreed CMP for this development scheme, to build much needed homes on a site that has planning permission. However, to propose a slimmed down CMP in full knowledge that it will be refused permission so as to present this to an appeal Inspector against the backdrop of earlier and more robust CMPs with clear mitigation is unfortunate in my view.
- 4.4.2 The applicant continues to work with Hertfordshire County Council (Highways) on the associated S278 agreement which includes details of all works to the highway associated with the wider development. As has been explained before this process is entirely outside the control and influence of the local planning authority. The S278 may contain the requisite passing places notwithstanding the content of the CMP. However, at this time the S278 agreement has not been completed and I can only judge the position at present. Therefore adopting a precautionary position within the recommended refusal reason set out below I include reference to passing places not being proposed.
- 4.4.3 Overall therefore this more basic CMP has a number of inadequacies according to Hertfordshire County Council (Highway Authority) and on that basis I can only recommend that Members refuse to discharge the requirements of condition 6 of outline planning permission no. 15/01618/1 for the reason 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 the details submitted pursuant to condition no. 6 of planning permission no. 15/01618/1 be **REFUSED** for the following reason and that the requirements of condition 6 are not discharged:

1. The proposed Construction Management Plan (CMP) contains insufficient information in relation to the following matters:

\* The proposed CMP does not explicitly propose new passing places along the route although reference is made to the Waterman document which has not been submitted in paragraph 1.1.2. New passing places as shown on the Waterman document and as proposed in earlier versions of the CMP are required;

\* Insufficient clarity and monitoring on car sharing requirements for contractors (the earlier CMP stated *“Contractors will be encouraged to car share and arrive in multi-occupancy vans where possible. CALA will record the daily journey details of our staff, operatives and delivery vehicles to the site to ensure the above arrangements are promoted throughout the construction period.”* This version merely 'encourages' car sharing;

\* Reference to Holwell Road route being the only route for construction traffic is not clear and needs to be clarified;

\* The document does not refer to a strike system or a gateman to monitor the direction of vehicles. This is required within the CMP;

\* The document refers to using rigid vehicles 'where practically possible' - the wording of practically possible is not acceptable, the use of alternative vehicles would need to be agreed with HCC as highway authority;

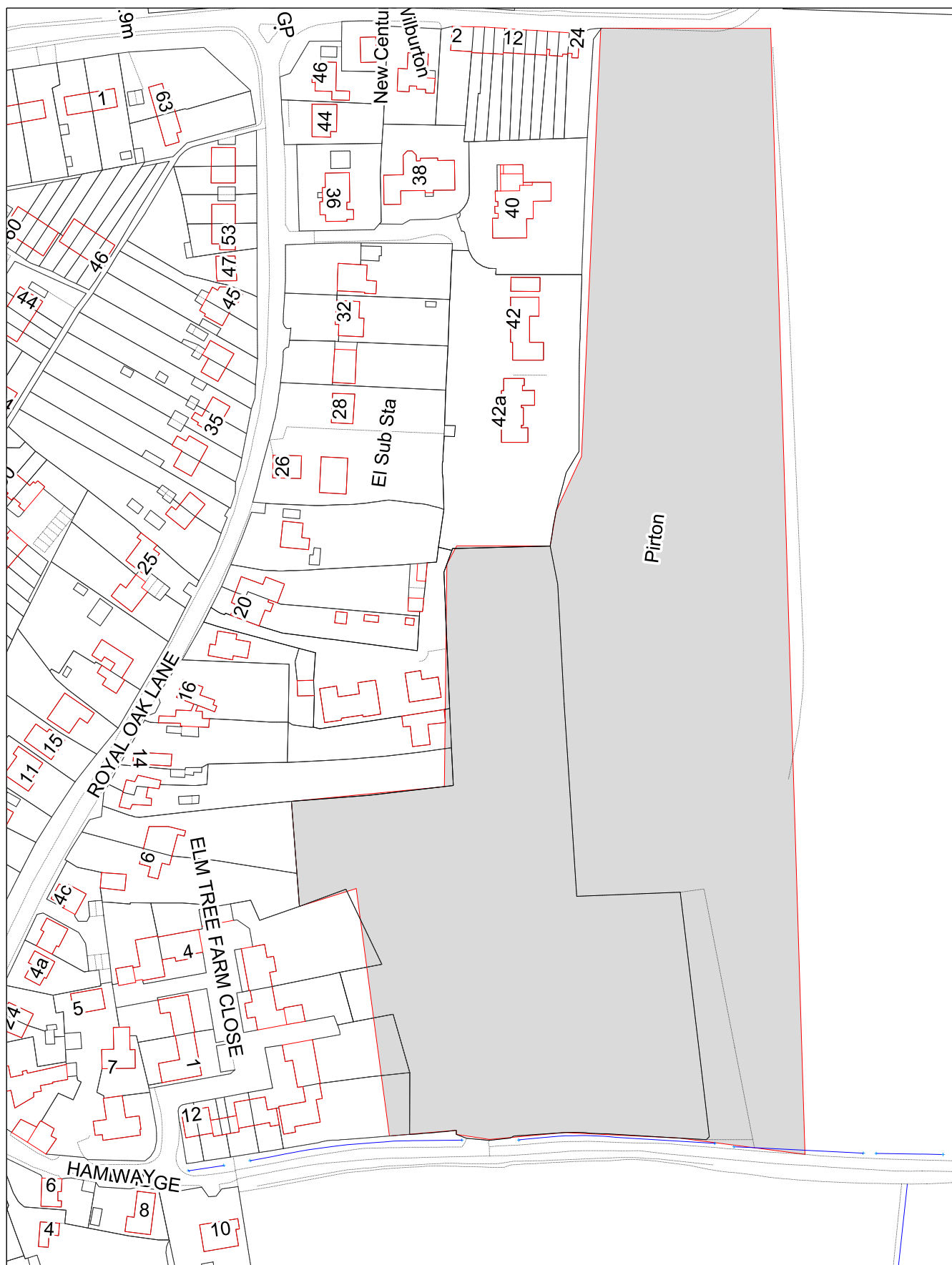
\* Previous CMPS included the following statement *“if for any reason a larger vehicle is required to make a delivery it will only be done so with prior consent from HCC as the Highway Authority at least a week before the delivery date. This will include certain pieces of plant such as a 360 excavator. The residents on Holwell Road will be notified at 24 hours before arrival and if necessary, a temporary traffic management order will be sought.”* This is omitted from this CMP and HCC recommends this is re provided ;

\* Reference to allowing additional time in the booking system where rigid vehicles are not used has been omitted. HCC recommends that this is re provided;

\* The condition survey is to be undertaken along the entire construction route West Lane onto Holwell Road ending at Bedford Road - further information is requested as to inclusion of West Lane;

\* As part of the CMP the following statement has been omitted *“Site deliveries are to be in accordance with the set delivery hours as detailed in this document. Delivery drivers will be told to contact the site manager prior to arrival on site so that the delivery can be made efficiently and with minimal disruption to the local highways.”* HCC would recommend that this statement is re-provided to ensure that deliveries do not occur outside permitted hours.

Due to these inadequacies the Local Planning Authority is unable to determine whether the proposed CMP is safe in relation to use of the public highway by construction vehicles associated with the development. The proposal therefore conflicts with Policy T1 of the North Hertfordshire Submission Local Plan (2011-2031).



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Mike Younghusband  
Head of Highways Operations & Strategy  
Hertfordshire County Council  
Postal Point CHN203  
County Hall  
Pegs Lane  
Hertford  
SG13 8DN

**Response to Planning application from Hertfordshire County Council (T and CP GDP Order 2015)**

**Head of Planning Services**

North Herts District Council  
Council Offices  
Gernon Way  
Letchworth  
SG6 3JF

District ref: 17/02807/1DOC  
HCC ref: NH/374/2017  
HCC received: 13/11/2017  
Area manager: Manjinder Sehmi  
Case officer: Danielle Shadbolt

**Location**

Land Adjacent To Elm Tree Farm  
Hambridge Way  
Pirton

**Application type**

Discharge Conditions

**Proposal**

Discharge of Conditions : Construction Management Plan & Traffic Management Plan - Condition 6 - Holwell route by CALA dated 2/11/17 Road Safety Appraisal by Mayer Brown dated 27th October 2017 (as Discharge of Condition of planning permission 15/01618/1 granted 25/05/2016)

**Decision**

Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority recommends that permission be refused for the following reasons:

Hertfordshire County Council (HCC) as Highway Authority requires additional information/clarification to be provided before they can support the discharge of condition as part of application 17/02807/1DOC.

The application has submitted a request for the discharge of condition associated with the planning application 17/02807/1DOC for the development at Elm Tree Lane, Pirton. The application seeks to discharge condition 6 which related to the provision of a Construction Traffic Management Plan.

As part of this application the following documents have been provided:

- Application Form;
- Construction Management Plan & Traffic Management Plan
- Road Safety Analysis.

The Construction Management Plan & Traffic Management Plan submitted as part of this application is dated 2.11.17 and HCC comments are below:

- The document refers to the Waterman's Construction Route Plan - Arrivals and Departures via Holwell document. It refers to a document dated 30th October. However, it is assumed this should be 31st October, as per previous submitted documents, although clarification is required;
- The references to contractors car sharing and arriving in multiple ?occupancy vans and the monitoring of this has been omitted in this version of the CMP - This was previously requested by HCC and should be re-provided in order to minimise vehicular trips;
- The references to the Holwell Road route being used to and from the site have been omitted and this was originally requested by HCC. This statement should be re-provided to ensure that vehicles do not use alternative routes;
- The document does not refer to a strike system or a gateman to monitor the direction of vehicles. - this was previously requested by HCC and was considered a non-negotiable in order to ensure that vehicles were monitored and prevent suppliers/contractor taking different routes;
- The document refers to using rigid vehicles 'where practically possible' - the wording of practically possible is not acceptable, the use of alternative vehicles would need to be agreed with HCC as highway authority;
- Previous CMPS included the following statement  
*"if for any reason a larger vehicle is required to make a delivery it will only be done so with prior consent from HCC as the Highway Authority at least a week before the delivery date. This will include certain pieces of plant such as a 360 excavator. The residents on Holwell Road will be notified at 24 hours before arrival and if necessary, a temporary traffic management order will be sought."* This is omitted from this CMP and HCC recommends this is reprovided;
- Reference to allowing additional time in the booking system where rigid vehicles are not used has been omitted. HCC recommends that this is reprovided;
- The condition survey is to be undertaken along the entire construction route West Lane onto Holwell Road ending at Bedford Road - further information is requested as to inclusion of West Lane;
- As part of the CMP the following statement has been omitted  
*"Site deliveries are to be in accordance with the set delivery hours as detailed in this document. Delivery drivers will be told to contact the site manager prior to arrival on site so that the delivery can be made efficiently and with minimal disruption to the local highways."* HCC would recommend that this statement is re-provided to ensure that deliveries do not occur outside permitted hours.

With regards to the Road Safety Analysis, my only comment is that the site inspection was on Tuesday 24th October which appears to have been within the school half term. Therefore, clarification as to the impact of the school holiday on the assessment is required for consideration.

**Signed**

**Date** 28/11/2017

# Pirton Parish Council



Parish Clerk:  
Mr Stephen Smith  
The Old Post Office, 6 Great Green, Pirton, Hertfordshire SG5 3QD  
Tel: 01462 712279  
Email [parishclerk@pirtonparishcouncil.org.uk](mailto:parishclerk@pirtonparishcouncil.org.uk)

~~~~~  
26<sup>th</sup> November 2017

Simon Ellis  
NHDC Planning and Development Control

Dear Mr Ellis,

**17/02807/1DOC: Application to Discharge Condition 6 to outline planning permission for Land adjacent to Elm Tree Farm Application No 15/01618/1.**

The Pirton Parish Council has read and considered the CTMP dated 2 November 2017, and the accompanying documents.

**We object to this application.** The proposals deliberately withhold some of the mitigation features regarding road safety that have been a feature of previous applications and remain in application 17/02778/1DOC. This is simply not acceptable. It appears to the Parish Council to be a cheap threat - unworthy of a national developer – to bully both the Planning Committee and the local community into accepting the proposals in application 17/02778/1DOC.

In short, in September 2017 an application to discharge Condition 6 was refused on safety grounds. This is a poorer application, relying for traffic management on the right for all types of traffic to use the roads. There being no change except for the worst as regards road safety, this application should be refused.

1. We note the absence of: phasing development; “2 strike rule”; gateman; reference to HCC before the use of larger vehicles. Although at 3.1.3 there is a reference to passing places, it is unclear where these are or how efficacious they may be.
2. We note that the proposals are consistent in the improvements to construction management contained in 17/02778/1DOC; plywood fencing to address noise and dust, noise and vibration controls to meet BS5228; sites security lighting to be away from residential properties. Nonetheless, we point out that the map at Annex IV still shows hedging being used for dust and noise control which is not consistent with para. 2.2.1 of the CTMP. There is also reference at 3.1.8 to “West Lane” which we believe is a reference to Pirton?
  - a. We seek confirmation that plywood fencing will meet BS5228 and that this standard covers noisy, penetrating reversing signals. We also seek confirmation that the proposed security lighting will be down lighting, and kept to a minimum to preserve the “dark skies” on this side of the village.
3. We remain concerned about blind bends in Waterloo Lane at each end of the lane, the narrowness of the lane itself, and overall safety issues, which are unmitigated and so should lead to the refusal of this application.

Yours sincerely,  
Pirton Parish Council

Alison Smither

Chair



## **Road Safety Appraisal**

**Holwell Road, Pirton; Waterloo Lane, Holwell; Pirton Road, Holwell and Holwell Road, Holwell.**

### **Introduction**

- 1.1 Focus RM were instructed to undertake a road safety appraisal of the section of road from the Cala Homes construction site in Holwell Road, Pirton, which runs eastwards via Holwell to the junction of the A600 Bedford Road.
- 1.2 For clarity, the route starts from the Holwell Road, Pirton at the 'Holwell Turn', proceeds east to Holwell and into the village via Waterloo Lane, along Pirton Road and onto Holwell Road to the A600 Junction. Walking appraisals were made in both directions.
- 1.3 The brief was not to restrict said appraisal to limited historic data such as road accidents that had been reported to the authorities, but to look forward and consider the implication of the proposed significant increase in HGV traffic (stated as 60 journeys per day or one every 6 minutes) if the Cala Homes proposal outlined in application 17/02807/1 and 17/02778/1 were approved by NHDC. We were also asked to comment on the likely behaviours of drivers when faced with significant delays and the impact this will have on safety, the local environment and infrastructure.
- 1.4 The author of this report together with a respected highly qualified highway safety engineer, an experienced fleet manager and a construction management consultant visited the proposed route on a number of occasions between May 2017 and November 2017. The visit times ranged from 9.30 to 15.30 weekdays and 8.00 to 1.30 on a Saturday morning. The weather varied from sunny and dry to rain.
- 1.5 The western section of Holwell Road, approximately half of the study length, is subject to the national speed limit. This section has a narrow carriageway and number of damaged verges and embankments caused by traffic usage and the inability of the road width to afford adequate passing space. Sections of carriageway alignment are inter-connected by sharp bends affording limited forward visibility.

- 1.6 The eastern section of Holwell road, through the developed area of Holwell itself, is subject to a 30 mph speed limit. This section is also provided with two alternate-priority shuttle points. Speed humps are present for part of Holwell Road, Holwell. Part of this section is also provided with street lighting along the section with residential frontage access.
- 1.7 In addition to visiting the route and observing traffic along the country roads and lanes, several interviews were conducted with Holwell residents. A few residents provided photographs showing what are reported as the daily vehicles conflicts that occur. Typical photos provided are shown in Appendix 1. While reports of traffic conflicts and collisions were numerous, one resident from Pirton reported that her car was written-off in 2016 on the blind bend of Waterloo Lane leading into Pirton Road. What became clear from our enquiries was that while many collisions had occurred, reporting to the relevant authorities was sparse as most felt that insurance companies were the primary point of contact after an accident.
- 1.8 It was brought to our attention that although Cala Homes propose to direct all its construction traffic via Holwell, no two-way tracking had been undertaken over the entire proposed route. It was further highlighted that Cala Homes submission data referenced in the NHDC Planning Control numbers shown in 1.3 above, confirm that of the measurements taken, there were at least nine (9) locations where road width did not meet the relevant national standards to allow two-way traffic of the type proposed by Cala Homes to pass in a recognised safe manner. Passing could, it appears, be achieved if vehicles reverse back round blind bends into on-coming traffic, which is an unacceptable manoeuvre.
- 1.9 A review of relevant proposed measures in documents submitted by Cala Homes under Planning Application numbers detailed in 1.3 above included references to passing places. Cala Homes are proposing to install passing places to alleviate some of the safety fears raised by their traffic proposal. In one application, there are six (6) passing places proposed – these are on the western side of the route, while their second application does not provide a reference to numbers or location of said passing places. The measures proposed by Cala Homes to limit or stop the proposed passing places being used as

temporary parking areas for car and van drivers rely on drivers reading the signs and complying with suggested restrictions. It is this authors considered opinion that once the passing places are established, they will be used as 'lunch spots' for van and car drivers just as a section of Holwell road to the A600 is at present. Notices would be ineffective as drivers remain in their vehicle and would simply drive off if approached by an enforcement office.

1.10 It is suggested in Cala Homes documentation that the proposed passing places (see 1.09 above) in Waterloo Lane are mitigation measures to aid traffic flow. The passing places will, in this authors considered opinion, do little to alleviate the vehicle conflict zones that will arise. For example, a vehicle leaving Pirton, via Holwell Road and turning the near 45-Degree bend up Waterloo Lane may be faced with a vehicle descending the hill. The vehicle would then need to reverse in a dangerous manner back round the bend, into oncoming traffic. This situation will arise as Cala Homes documentation indicate measured widths along Waterloo lane at a number of points do not meet acceptable standards.

1.11 Existing traffic flows in Holwell can be considered reasonably light. Nonetheless, the level of existing flows has still prompted the Highway Authority to introduce traffic-calming measures throughout the village. The imposition of further heavy vehicle activity appears counter to the objectives of the calming scheme that exists in Holwell. Cala Homes have documented the proposed numbers and type of construction vehicles operating during the building works, and these show a substantial increase on the existing flow. However, it does appear that they are a minimum. No figures are given for work trips, ancillary welfare trips and site visitors. The adoption of smaller vehicles (proposed by Cala Homes) to reduce the unacceptable impact of larger vehicles means that more vehicles journeys would be generated. Smaller vehicles are still of significant length and more importantly, of the same width.

On the estimate of Cala Homes, there would appear to be a substantial percentage increase in terms of heavy goods movements that cause the maximum impact and damage on the route through Holwell. The predicted additional traffic and type of traffic on what is a totally inadequate road system though Holwell would in this authors considered opinion have a marked disproportionate impact on the village and its main thoroughfare. It would put lives at risk and the measures suggested by Cala Homes appear to do little to alleviate

the safety risk for road users and the foreseeable potential impact of children playing along the proposed route during school holidays.

### **Summary and Conclusions**

- 1.12 Traffic transiting via Holwell already poses a risk to residents as many instances of vehicle/vehicle collision and conflicts occur daily. The suggested rise in construction vehicles will in this author's considered opinion place undue burden on the Holwell road system and significantly increase the safety risk for Holwell residents and those using the Holwell road system.
- 1.13 There is a significant gap in the analysis of road safety data. This gap relates to the lack of two-way tracking along the entire Holwell route. It is concluded that if two-way tracking were available, it would indicate the substantial shortcomings in the proposal by Cala Homes regarding road safety risk and the viability of the route.
- 1.14 Measures proposed by Cala Homes to make the route safe for residents and road users would not achieve their goal. The proposed passing places (where their location is known) would have no impact on road safety over the route and would if anything, only allow for increased speeding along the route into Holwell from Pirton.
- 1.15 Faced with long delays, due to the foreseeable vehicle conflicts that will occur if Holwell is used by construction vehicles, the frustration of many road users will likely result in person to person verbal conflict and unsafe driving as delayed drivers proceed at speed to try and make up lost time.
- 1.16 It is therefore considered that the substantial increase of heavy construction traffic using the Holwell route will place an unacceptable burden on the local infrastructure and significantly increase the risk to road users and residents of Holwell; particularly children during Saturday mornings and school holidays.

Ken Jordan Bsc CMIOSH MIEMA CEnv

**Director of Safety and Environment**

**28<sup>th</sup> November 2017**



## Appendix 1



**Photo 1.0** – Taken November 2017 by Holwell resident. Described as typical occurrence in Pirton Road when trucks encounter each other. It would appear that Cala Homes proposal do not address the situation in Pirton Road, Holwell.



**Photo 2.0** – Taken by a Holwell resident September 2017. Example of traffic reversing back round bend from Waterloo Lane into Pirton Road, Holwell.



**Photo 3.0.** - Taken by a Holwell resident November 2017. A large truck and transit van meet each other in Pirton Road, Holwell. The author was informed that the van and following cars had to reverse approximately 50 metres into a farm entrance to allow the truck to pass.

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**Summary – Legal, Policy and accepted UK Guidance that will be overridden should Cala Homes Construction traffic be allowed to transit via Holwell**

**FACT - 58 % of road fatalities in the UK occur on rural roads- far greater than Urban Road and Motorways. More cyclists are killed each year on rural roads than urban roads - ROSPA Fact sheet – February 2017.**

**Summary**

The 8 points below highlight the legal; Policy and HCC accepted guidance breaches that will occur if Condition 6 is discharged via the Holwell in/out route. Submission 17/02807/1 should not be discharged via Holwell on the grounds of 'Safety and Efficiency'.

- 1. Failure to undertake 2-way tracking** - Section 6.5.8 of MfS (MfS - *The Department for Transport's Manual for Streets - technical guidance to assist relevant parties meet existing government policy and legal requirements – Supported by HCC - they state in their 3<sup>rd</sup> Edition Highways in Herts, Policy, Section 1.2. 'HCC supports the MfS approach..'*) states that Swept-path analysis is the mechanism to determine the ability of streets to accommodate large vehicles. The MfS states ' *The level of provision required for the movement of buses should consider the frequency and the likelihood of two buses travelling in opposite directions meeting each other on a route*' – this is no difference between two bus and two HGV's meeting each other, similar widths – the requirement is to undertake 2-way Tracking. **CONCLUSION - Failure to undertake 2-way tracking of the entire route is to abrogate a recognised duty to ensure an acceptable level of highway safety.**
  
- 2. Road width below accepted minimum standards** - Road widths in the 9 places measured by Cala in Holwell are below 4.8 m (suggested standard for residential roads) and are well below 6.75 M (standard for road distribution network to allow passing heavy vehicles). Reference - MfS ((The Department for Transport's Manual for Streets (MfS)). **CONCLUSION - Holwell roads do not meet minimum government policy standards for high volumes of HGV's - regardless of road classification!**
  
- 3. Failure to comply with NHDC Local Plan Submission 2011-2031 – Policy T1.**  
Policy T1 is clear, it states '*Planning permission will be granted where:*  
*a. Development would not adversely impact upon highway safety; and d. ....safe, direct and convenient routes for pedestrians and cyclists will be provided.'*  
  
It is clear that to discharge Condition 6 via the Holwell in/out route will severely, 'adversely impact' the residents of Holwell and road users if approval is given.  
**CONCLUSION – NHDC Policy T1 will be breached if two-way HGV traffic from the Cala site is allowed through Holwell via the Discharge of Condition 6.**



#### 4. Breach of Section 16 – the Traffic Management Act 2004.

Under s16 of the Traffic Management Act 2004, Section (1) and Section (1) (A).. there is a duty placed on the local traffic authority to *‘manage their road network with a view to achieving, so far as is reasonably practicable’*:

*‘.....the expeditious movement of traffic on the authority's road network...’.*

Under Section (2)(b) *‘The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing - ...*

*‘...the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network....’*

The Cala CMP/TMP proposal will significantly increase pressure on the Holwell road system, in addition to creating huge danger to road users.

**CONCLUSION** - Allowing two-way HGV traffic from the Cala site to transit via Holwell turning the village into a transport corridor and putting lives at risk is contrary to Section 16, 1(a) and 2(b) of the Traffic Management Act 2004, on the basis that this situation is Reasonably Practicable to avoid. Avoidance is via the Non-discharge of Condition 6 via the Holwell route.

5. Non-compliance with ‘HCC - Roads in Hertfordshire - January 2011: A Design Guide, 3rd Edition, Information and General Guidance Chapter, Policy – Section 1.4’, Document states that HCC support compliance with the *Department for Transport’s Manual for Streets (MfS) – the accepted guide to ensuring highway safety*.

Chapter 7 (of the HCC document): Transport Assessments, states the following:

*‘7.3. Transport Assessment A Transport Assessment (TA) will be required where a development has more significant transport implications. A TA is a comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies what measures will be taken to deal with the anticipated transport impacts of the scheme.’*

**CONCLUSION** Given the HCC position that it supports compliance with the MfS, it would follow that failure to ask Cala Homes for a robust assessment of the entire route to determine if it meets the standards reflected in the MfS, is a failure to comply with its own Policy! HCC will be in contempt of its own Policy if it recommends a scheme without robust Highway safety data!

6. (National Planning Policy Framework) paragraph 35 states *‘Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities, create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones...’*
- The frequency of heavy construction traffic along Howell’s narrow rural roads that will result from the proposed construction route, will discourage pedestrians and cyclists from using



these narrow roads for a period of 3 years or more and will be contrary to NPPF paragraph 35. **CONCLUSION** - Failure to heed the NPPF.

**7. NPPF duty** - For NHDC to ignore the implications of traffic passing through Holwell and allow known potentially dangerous highway conditions to arise, constitutes an abrogation of duty. It is the duty of the LPA to approve the discharge of Condition 6 if it can be sure that the safety of residents has not been put at an unacceptable level of risk. The Cala CMP&TMP documents show an absence of any measures to reduce the risk to Holwell residents without destroying the nature of the village, which in turn is not a sustainable option and contrary to the NPPF! **CONCLUSION** - Failure to heed the NPPF.

**8. Failure to meet Condition 6** - The Cala CMP/TMP states: *The purpose of the document is to ensure potential impacts that may arise from the Construction Works approved by the Council in relation to Holwell Road are actively identified, managed and minimised in accordance with Condition 6 of the outline planning permission (application reference 15/01618/1).* Condition 6 of the planning permission states the following:

*“Prior to commencement of the development full details of a Construction Management Plan shall be submitted to the Local Planning Authority for approval in writing. The Construction Management Plan shall contain the program of works on site, area for construction vehicle parking, storage and delivery of materials within the development site, construction vehicles wheel washing facilities, and details of construction vehicle routing to and from the site.”*

**CONCLUSION** - Points 1 to 7 have not been adequately addressed to any recognised standard, it therefore follows that Condition 6 cannot be discharged on the grounds of Safety and Efficiency.

Ken Jordan Bsc CMIOASH MIEMA CEnv  
Chartered Safety Practitioner  
Chartered Environmentalist  
OSHCR Registered Consultant

On Behalf of HACT – Holwell Against Cala Traffic.

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|                 |                   |                                                                                                                                                                                                                                                      |
|-----------------|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM NO:</b> | <u>Location:</u>  | <b>Land off Holwell Road, Pirton</b>                                                                                                                                                                                                                 |
| <b>7</b>        | <u>Applicant:</u> | Mr Gladman Developments Limited                                                                                                                                                                                                                      |
|                 | <u>Proposal:</u>  | <b>Outline planning application for the erection of up to 85 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Holwell Road. All matters reserved except for means of access.</b> |
|                 | <u>Ref. No:</u>   | <b>17/02563/ 1</b>                                                                                                                                                                                                                                   |
|                 | <u>Officer:</u>   | <b>Tom Rea</b>                                                                                                                                                                                                                                       |

**Date of expiry of statutory period:** 08 January 2018

**Reason for Delay**

N/A

**Reason for Referral to Committee**

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

**1.0 Relevant History**

- 1.1 15/01543/1: Outline planning application for the erection of up to 99 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Holwell Road. All matters reserved except for means of access.

Application refused planning permission on 18th September 2017 for the following reasons:

1) By reason of its siting beyond the built limits of Pirton; the location with open farmland within the Pirton Lowlands Landscape Character Area (218); and the heavy use of planting to screen the largely open site, 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. 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, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework. The development would also be contrary to Policy CGB1 of the North Hertfordshire Emerging Local Plan 2011 - 2031.

2) Given the lack of essential services in the vicinity of the site, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In addition to this, the land on which the site is located is Grade 3A agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 SP6 and SP9 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.

3) The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of 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 geophysical survey or 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.

4) The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing 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 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)

The applicant has submitted an appeal against this decision. There has been no official start date for this appeal and therefore interested parties have not been informed of the appeal by the Council. Any updates on this matter will be reported at the Committee.

## 1.2 Other relevant planning history

Land Adjacent To Elm Tree Farm, Hambridge Way, Pirton

15/01618/1: Outline application (all matters reserved) for residential development of up to 82 dwellings with associated infrastructure, public open space and planting (amended description). Planning permission granted 27<sup>th</sup> May 2016

16/02256/1 : Reserved matters application for approval of access, appearance, landscaping, layout and scale to serve a residential development of 78 dwellings (31 affordable and 47 private), pursuant to outline planning application 15/01618/1 granted 27.5.16 (as amended). Planning permission granted 30<sup>th</sup> May 2017.

## **2.0 Policies**

- 2.1 **North Hertfordshire District Local Plan No. 2 with Alterations** (Saved policies September 2007)  
Policy 6: Rural area beyond the Green Belt  
Policy 14: Nature Conservation  
Policy 16: Areas of archaeological significance and other archaeological areas  
Policy 26: Housing proposals  
Policy 29: Rural housing needs  
Policy 51: Development effects and planning gain  
Policy 57: Residential Guidelines and Standards
- 2.2 **National Planning Policy Framework**  
Paragraph 14: Presumption in Favour of Sustainable Development  
Paragraph 17: Core planning principles  
Section 4: Promoting sustainable transport  
Section 6. Delivering a wide choice of high quality homes  
Section 10 Meeting the challenge of climate change, flooding and coastal change  
Section 11. Conserving and enhancing the natural environment  
Section 12. Conserving and enhancing the historic environment
- 2.3 **North Hertfordshire District Local Plan – 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 CGB1: Rural areas beyond the Green Belt  
Policy D1: Sustainable Design  
Policy T1: Assessment of Transport Matters  
Policy T2: Parking  
Policy NE1: Landscape  
Policy HS2: Affordable Housing  
Policy HE1: Designated heritage assets  
Policy HE4: Archaeology  
Policy HS3: Housing mix
- 2.4 **Supplementary Planning Documents**  
  
Planning obligations SPD  
  
Vehicle Parking at New Development SPD (September 2011)
- 2.5 **Pirton Neighbourhood Plan**  
  
The Pirton Neighbourhood Plan has been prepared in line with the emerging Local Plan. The policies in the submission draft of the neighbourhood plan focus on the design of development and how development will integrate into the village whilst respecting the character, biodiversity and heritage assets of the village.  
  
Planning Practice Guidance makes it clear that an emerging neighbourhood plan may be a material consideration – alongside paragraph 216 of the NPPF. Consultation on the proposed submission neighbourhood plan took place earlier in the year and the Council is working with the Parish Council to appoint an independent examiner. It is anticipated that the examination of the neighbourhood plan will take place in the autumn.

### **3.0 Representations**

- 3.1 **Highway Authority (Hertfordshire County Council)** – Any comments will be reported at the meeting
- 3.2 **Hertfordshire Ecology** – Any comments received will be reported at the meeting
- 3.3 **Herts & Middlesex Wildlife Trust**  
Any comments will be reported at the meeting
- 3.4 **Environment Agency** - Any comments received will be reported at the Planning Committee meeting.
- 3.5 **Lead Local Flood Authority** – Confirm that they have no objection in principle on flood risk grounds and advise the Local Planning Authority that the proposed development site can be adequately drained and mitigate any potential existing surface water flood risk if carried out in accordance with the overall drainage strategy. Recommends a Surface Water Drainage scheme.
- 3.6 **Anglian Water** – Any comments will be reported at the meeting.
- 3.7 **Hertfordshire Property (Development Services)** - seek the following planning obligation project contributions:
- Primary Education towards the expansion of Pirton Primary School (£184,875)
  - Secondary Education towards the expansion of The Priory Secondary School, Hitchin from a 6 form of entry to 7 forms of entry (£27,145)
  - Library Service towards Hitchin library for the development of a meeting room available for the local community e.g. meeting training, event or activity (£12,161)
  - Youth Service towards equipment for expansion of outreach service provision in North Herts villages, including Pirton (£2,460)
- 3.8 **NHDC Housing Supply Officer** –

Within the 40% affordable housing requirement (34 affordable dwellings based on the provision of 85 dwellings overall) a 65% rented (22 units) / 35% intermediate affordable housing (12 units) tenure split is required, in accordance with the proposed submission Local Plan and the council's Planning Obligations SPD, supported by the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update.

All the affordable homes should be allocated to applicants with a local connection to Pirton, in the first instance.

Any issues of viability should be proven using a recognised financial toolkit and will be independently tested at full expense to the applicant.

- 3.9 **Environmental Health (contaminated land and air quality)** –

Noise – With reference to the submitted Noise Screening Report advises that compliance with the relevant internal and external noise guidelines will be confirmed at the detailed design stage. No detailed noise assessment is required at the outline stage. Applicant is advised that any noise assessment should consider both existing traffic noise (including the new housing development adjacent to the site) and the increase in traffic noise associated with the proposed development should comply with WHO guidelines.

Contamination – Requests a land contamination condition, a Residential Travel Plan condition and a EV Recharging Infrastructure condition. Travel Plan to include a commitment to support Ultra Low Emission Vehicles (ULEV).

- 3.10 **NHDC Waste Management** – Recommends conditions regarding details of waste and recycling storage facilities for the new dwellings and full details of the circulation route for refuse collection vehicles.

- 3.11 **NHDC Community Development Officer:** – Any comments will be reported at the meeting

- 3.12 **Hertfordshire County Council Historic Environment Officer:**

Advises that the submitted Desk Based Assessment (DBA) is inadequate for planning purposes – the HER search is out of date and does not mention the presence of comparatively significant Late Bronze Age/Early Iron Age archaeology in the adjacent field to the west.

DBA concludes that there is low potential for prehistoric, Anglo-Saxon and medieval remains within the proposed development area. However recent investigations in advance of a housing development in the field to the west of the proposed development site (to the rear of Elm Tree Farm) have identified comparatively significant later prehistoric remains, including human cremations, a post-built circular structure, a large number of pits containing pottery and some animal bone, and a boundary ditch (HER nos. 31348 & 31349; Headland Archaeology 2015; 2017). Specialist analysis of the pottery indicates that this site was occupied in the Late Bronze Age and/or Early Iron Age.

Considers that there is a likelihood of prehistoric archaeology in the proposed development area given its close proximity, similar topography and land use at the adjoining site where remains have been found.

Given the potential for the presence of archaeological features and the large scale nature of the proposal, HCC consider that 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. At present, not enough information is available to determine whether remains of such importance are likely to be present.

At present not enough information is available to determine whether remains of archaeological importance are likely to be present. Recommends the following investigations should be undertaken prior to determination to describe the type, scale and quality of heritage assets likely to be affected by the proposal:

Recommend that the following investigations should be undertaken predetermination (NPPF, para. 128) to describe the type, scale, and quality of heritage assets likely to be affected by the proposal:

1. The updating of the geophysical survey report to include a plot of raw/minimally processed data that has not been destaggered or subject to zero mean traverse. It may be grid balanced using a process such as zero mean grid.
2. an archaeological trial trenching evaluation.

- 3.13 **NHDC Parks and Countryside manager** – Any comments will be reported at the meeting.

- 3.14 **Landscape and Urban Design Officer** – Does not support the proposed development for several reasons including:
- Cumulative impact when taken with new dwellings constructed and/or approved since 2011 could put stress on the community and infrastructure of the village which may find it difficult to accommodate the increase in population, traffic and services.
  - Pressure on transport, open space and the countryside
  - Contrary to Policy 6 and emerging Policy SP5 and CGB1
  - Loss of hedgerow which forms part of an approved scheme
  - Adverse impact on the character of Hambridge Way
- 3.15 **Hertfordshire County Council (Fire & Rescue Service)**  
 Advises that Fire Hydrants should be provided in accordance with HCC's Planning Obligations Toolkit
- 3.16 **Pirton Parish Council:**  
 Object to the proposed development in the strongest terms. Considers that as the application is similar to 17/01543/1 the suggested reasons for refusal of this application are the same. Comments can be summarised as follows:
- The development is not sustainable and contrary to the NPPF and adopted and emerging local plan policies
  - The Local Plan EiP is underway and it is clear the Council can demonstrate a 5-year land supply
  - Pirton Neighbourhood Development Plan is at an advanced stage
  - The Submission Local Plan is also at an advanced stage
  - Site not identified for housing and is outside of the village boundary
  - Application should be refused on prematurity, lack of sustainability, impact on significant heritage assets and harm to the village arising from cumulative impact from the adjoining approved residential development
  - NHDC should consult Historic England
  - Development should not be approved just to avoid a costly appeal
  - Agree with CPRE view that a small reduction in housing numbers does not alter the previous grounds for refusal
  - Landscape Visual Appraisal is flawed - first reason for refusal not addressed
  - No change made to address lack of sustainability
  - A full archaeological assessment is required
  - Acknowledge that applicant has attempted to address S106 reason for refusal
  - Application should be refused permission in absence of identified construction traffic route
  - Development does not promote walking, cycling or public transport
  - Bus services to/from Pirton overstated
  - Recommend refusal on same grounds as 17/01543/1.
- 3.17 **Pirton Neighbourhood Plan Steering Group:**  
 Object to the proposed development. Comments can be summarised as follows:
- Land outside current and prospective village boundary
  - Overdevelopment
  - NHDC has a five-year housing supply
  - Loss of high quality agricultural land
  - Does not maintain and enhance wildlife provision
  - Poor quality unreliable application reports
  - Detailed assessment of archaeology on site must be carried out before determination
  - Poor connectivity and safety



- Adverse impact on the character and setting of Pirton
- Adverse impact on Hambridge Way
- Negative cumulative impacts
- Premature given outstanding matters on adjacent site

**3.18 Shillington Parish Council :**

Advise that the Parish Council's comments are the same as for previous similar applications.

Shillington suffers from many of the same issues which Pirton does - narrow residential roads not suitable for large construction vehicles, on road parking which narrows the available road width and also issues of vehicles travelling above the speed limit. Shillington Parish Council is concerned as to how increased traffic from the above development will affect residents living in Shillington. New housing is planned for Shillington in the next year or so and the traffic generated by that work and potential traffic generated from this and other applications in Pirton will greatly impact on residents of Shillington.

**3.19 Holwell Parish Council:**

Object in the strongest terms to this application. An overdevelopment at the highest level. Comments are summarised as follows:

- fierce local opposition
- area around Pirton and Holwell is rural with narrow lanes and limited bus service
- site outside Pirton village boundary
- proposed affordable homes will not be affordable
- local infrastructure cannot cope with more development
- adverse impact on Chilterns AONB
- increased traffic/ congestion / road traffic accidents
- local residents views are important
- application must be refused

**3.20 Site Notice / Press Notice and Neighbour consultation –** In response to publicity the Local Planning Authority has received a considerable amount of response from local residents, overwhelmingly opposed to the application. For a full understanding of all comments received Members can inspect the relevant pages on the Council's website. Set out below is a summary of responses for ease of reference:

Summary of responses against the development

- application does not differ significantly from the previously refused application
- previous reasons for refusal not addressed
- changes from application ref: 17/01543/1 are slight and do not alter objections
- site beyond the defined village boundary;
- not part of the district or Pirton neighbourhood plan
- local infrastructure cannot cope with this development
- local road network is narrow and totally unsuitable for such an increase in traffic
- will lead to more traffic congestion and road traffic accidents / road safety issues
- no emergency exit
- transport assessment contrary to NPPF
- the school cannot accommodate more pupils at present / local schools are oversubscribed
- further pressure on local facilities such as GP surgeries in Hitchin
- Out of scale/ an overdevelopment of a rural area / too many houses for the village
- changes the rural setting of Holwell and Pirton

- concern at competency of highway department
- will increase the size of the village by 32% which is not sustainable or proportionate
- the village will grow too quickly destroying the identity, culture and feel of the village
- will not integrate with the village / isolated from the village / residents would not walk into village
- school access already difficult
- would exacerbate travelling into Hitchin
- loss of view / adverse impact on the Chiltern Hills and an Area of Outstanding Natural Beauty
- Inadequate local road network to accommodate construction traffic / will add to congestion in the village
- too many properties
- application does not address concerns of the wider village as documented in the Pirton local plan
- disproportionate to the needs of the community
- breaches emerging policy on density
- no development should be approved until the neighbourhood plan is in place
- development will not integrate with the existing community
- adverse impacts significantly and demonstrably outweigh the benefits
- no workable traffic management plan / access inadequate
- archaeology may be of national importance and has not been researched sufficiently
- utilities cannot cope with additional housing
- detrimental to health of local residents
- existing small construction sites in Pirton / Holwell already causing amenity / highway issues
- NHDC has a five year land supply – therefore no justification to build beyond the village boundary
- dwellings will not be affordable
- previous development at Holwell Turn for 20 dwellings was refused
- substantial increase in car use and pollution
- accompanying reports out of date / inaccurate
- loss of agricultural land
- detrimental to conservation areas
- a different access to take traffic away from Pirton & Holwell is required
- noise and light disturbance
- the approved development more than meets Pirton's housing need
- developers only interest is in profit
- significant overall environmental damage
- cycling to Hitchin not realistic
- a construction management plan should be submitted
- would create an island of housing separated from the village
- Statement of Community Involvement bears no relationship with responses received
- Pirton pumping station will need to be replaced
- Developer is disregarding the archaeological evidence

### 3.21 Other comments

#### North Hertfordshire Archaeological Society :

Refer to previous comments (see below)

- The Submitted desk based archaeological assessment report is inadequate and does not refer to local finds and local mapping
- The potential for new archaeological discoveries is extremely high
- Recent finds suggest prehistoric and roman religious sites
- A Pre-determination archaeological field determination is required including geophysical surveys and trial trenching

Additional comments:

- the geophysical survey undertaken is inadequate

### 3.22 CPRE Hertfordshire

Objects to the development

- Does not consider that the submission of an appeal is a legitimate way to proceed with the consideration of planning balance
- Planning statement does not respond to the reasons for refusal of application ref: 17/01543/1
- The reduction in houses does not alter the grounds for refusal which equally apply to this application
- CPRE's previous objections still apply

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 The application site comprises 6.45 hectares of Grade 3A agricultural land, roughly rectangular in shape and lying to the west of Pirton village separated from the village boundary by an existing agricultural field which has planning permission for residential development (see refs: 15/01618/1 and 16/02256/1). The site is immediately to the north of the Icknield Way Trail (Hambridge Way) which runs along the southern boundary of the site. Adjacent to the northern boundary is a residential property ('Northmead') and just beyond the north east corner is Holwell Road.

The eastern boundary of the site is defined by an established mature hedgerow along its entire length whilst the western (approximately two thirds) boundary is also defined by a hedgerow.

The site is located within the Rural Area beyond the Green Belt and is beyond the defined village boundary. The site lies adjacent to two areas of archaeological interest.

## 4.2 Proposal

4.2.1 The proposal is an outline application for the erection of up to 85 dwellings with all matters reserved except means of access. The site itself has no boundary to a highway however the means of access is to be shown to be proposed through the adjoining site to the west (presently undeveloped) which itself is to be served off Holwell Road. The application is accompanied by a 'Development Framework Plan (drawing no. 6647-L-103 A) which illustrates the potential site layout with landscape buffer planting to the north and east of the main built development and a an area of open space to the south which includes a surface water attenuation area. The submitted Development Framework Plan identifies the built up residential area to be 3.56 hectares (85 dwellings at 24 dwellings per hectare).

4.2.2 The application is supported by the following documents:

- Design and Access statement
- Landscape and Visual Impact Assessment
- Transport Assessment and Framework Travel Plan
- Ecological Appraisal
- Arboricultural Assessment
- Phase 1 Preliminary Risk Assessment
- Flood Risk Assessment and Foul Drainage Analysis Report
- Air Quality Screening report
- Noise Assessment
- Archaeological Desk Based Assessment
- Utilities Appraisal
- Statement of Community Involvement
- Affordable Housing Statement
- Socio-Economic Report
- Built Heritage Statement
- Draft Head of Terms for Section 106 Agreement

The applicants planning statement makes the following statement at (iii) :

*'This resubmission application responds to the reasons for refusal and offers North Hertfordshire District Council the opportunity to reconsider the application in light of a forthcoming appeal. If the resubmission application was approved, this may negate the need for the appeal to continue thereby saving time and resources for both the Council and the applicant'*

The applicants state that the application site represents a suitable and sustainable location for housing, well located to the existing urban area. The proposal will deliver

- *local benefits through investment in the local community*
- *district wide benefits, in terms of making a strategically important contribution to housing supply and economic objectives and,*
- *national objectives in boosting the supply of new homes and delivering sustainable development*

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

- Provision of up to 85 new homes
- 40% policy compliant affordable housing
- Council tax payments of approximately £1,300,000 over 10 years
- 204 new residents with 126 economically active
- Generation of total gross expenditure of £2,424,000 annually
- Support 83 FTE construction jobs over 3 years and 90 FTE indirect jobs in associated industries
- Delivery of £3.3m of direct GVA over the build period and
- Pedestrian improvements and increased connectivity between Hambridge Way and Holwell Road

#### 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;
- loss of agricultural land;
- highway considerations;
- archaeology;
- 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: North Hertfordshire District Local Plan No. 2 with Alterations (adopted 1996), the emerging Local Plan 2011 - 2031 Submitted for Examination to the Secretary of State 9th June 2017, and the National Planning Policy Framework. In addition consideration should be given to the Pilton Neighbourhood Plan. The weight that should be attributed to these policies and documents are considered below.

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 is claiming that the North Hertfordshire District Local Plan No. 2 with Alterations cannot demonstrate a five year housing supply, and so policies in that plan relating to the supply of housing are out-of-date. Policy 6 - Rural Areas beyond the Green Belt, in so far as it deals with the supply of housing, is it is considered out of date. However, it largely seeks to operate restraint in the Rural Area for the purpose of protecting the intrinsic character and beauty of the countryside and for this purpose it is in accordance with paragraph 17 of the NPPF.

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 insofar as it relates to countryside protection.

4.3.6 The applicant considers that the local plan does not meet the requirements of paragraph 47 of the NPPF to provide objectively assessed need and therefore Policy 6 carries reduced weight. 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 District's own full objectively assessed needs for housing and additionally makes positive contributions towards the unmet housing needs of its neighbouring authorities such as Luton and Stevenage. The emerging local plan achieves all of this without the need to allocate the application site for housing.

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 will clearly not maintain the existing countryside and the character of the village of Pirton by reason of its location, adverse visual impact on the landscape, scale and density of development contrary to the aims of Policy 6.

4.3.7 Emerging Local Plan 2011 - 2031

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).'*

- 4.3.8 Where local planning authorities cannot demonstrate a five year land 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 Examination in Public (EiP) which commenced on 13th 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 insofar as it argues that the Council can demonstrate a five year supply of deliverable housing sites. On this basis I assess this application on the basis that the Council cannot at this stage claim to have a five year supply of deliverable housing sites, applying the presumption in favour of sustainable development set out in paragraph 14 of the NPPF. This precautionary approach has recently been supported at appeal.
- 4.3.9 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. Policy CGB1 -Rural Areas beyond the Green Belt is a policy of general restraint in the countryside and is in accordance with paragraph 17 of the NPPF, as it seeks to retain the intrinsic character and beauty of the countryside. The proposed development at Pirton does not meet any of the criteria to permit development as set out in CGB1. Significantly the applicant does not make any reference to CGB1 as being relevant and considers that the emerging policies should not carry decisive weight at this stage. On the other hand the applicant acknowledges the emerging plan in so far as it directs additional residential growth to Category A villages such as Pirton and seeks to justify the development as natural extension of the village.
- 4.3.10 The development is not for a proven local need for community facilities, services or rural housing (in compliance with Policy 29 of NHDLP or Policy CGB2 in emerging LP. 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.
- 4.3.11 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 be 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 and shall consider the proposal under these paragraphs and consider whether the development is sustainable and whether the adverse impacts of the development would significantly outweigh the benefits.
- 4.3.12 Pirton Neighbourhood Plan  
The Pirton Neighbourhood Plan is at an advanced stage of preparation. Consultation has been undertaken on the proposed submission neighbourhood plan and the Council is in the process of appointing an independent examiner in conjunction with the Parish Council. The Neighbourhood Plan has been prepared broadly in line with the emerging Local Plan and the defined village boundary in the plan reflects the village boundary in the emerging Local Plan. In general, there has been a significant amount of support from the community in respect of the neighbourhood plan and for the proposed village boundary.

The proposal would be contrary to policies in the proposed submission version of the Neighbourhood Plan, in particular Policy PNP1: Meeting Local Need. This policy seeks to restrict development to sites within the village boundary and there are no more than 30 dwellings on any one site. There are a number of objections to this policy and it is anticipated that this policy will be considered in detail by an independent examiner.

Although at an advanced stage of preparation the Neighbourhood Plan has to still to be examined and a referendum held before it can be 'made' by the District Council. As such the weight that can be attached to it in terms of planning decisions at this stage has to be limited.

#### 4.3.13 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.

4.3.14 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 of Pirton in the rural area beyond the Green Belt where the Council intends to operate a policy of restraint. The development would be contrary to Policies SP5 and CGB1 of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.15 The applicants submissions concerning the Council's five year housing land supply are acknowledged. However even if the Council could not demonstrate a five year land supply I consider that the proposal would fail to provide a sustainable form of development for which there is a clear national and local imperative as set out in the NPPF, the NPPG and the emerging local plan. Therefore the presumption in favour of granting planning permission in paragraph 14 of the NPPF would not apply as in my view this harm and other harm identified below in my view clearly and demonstrably outweighs the benefits of delivering new homes on this site.

4.3.16 The applicant continues to accept that the proposal would conflict with the Development Plan in relation to policies concerning developments in the open countryside and settlement boundaries (Saved Policies 6 and 7 of the North Hertfordshire District Local Plan). However the applicant considers that the principle of the development is acceptable and that there are no circumstances under which permission should be restricted as a result of a specific policy within the Framework.

#### 4.3.17 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.

4.3.18 **Economic role** – it is recognised that the construction of the development would provide some employment for the duration of the work contributing to a strong responsive and competitive economy. There would be a loss of high quality agricultural land and therefore some loss to the agricultural 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.



4.3.19 **Social role** – the development would provide housing to assist in meeting the needs of existing and future generations including badly needed affordable housing. It would also support community facilities such as the school and churches as well as potentially contributing towards recreational facilities and their improvement. Additional public open space will be provided within the site and some improvement in connectivity between Hambridge Way and Holwell Road.

4.3.20 **Environmental role** –the development would not be environmentally sustainable for several reasons. The facilities of Pirton consist of a primary school, two public houses, village hall, two churches, a recreation ground and a village shop which contains a post office. The shop has limited opening hours particularly on weekends. There is no doctors surgery, or other healthcare facilities and no secondary school. Employment opportunities are extremely limited. There are no proposals in the emerging local plan to allocate any employment, retail or community facilities within the village. There are 8 buses a day to Hitchin / Henlow Camp Monday to Fridays, 6 buses on a Saturday and no service on Sundays or Bank Holidays.

Holwell village has very little in the way of facilities and has no shop, pub, school or post office.

In the absence of a reasonable range of community facilities within the village or in nearby Holwell and the lack of any significant employment opportunity in the immediate locality, it is likely that the occupiers of the new development would heavily rely on private transport. As such I consider that the development would be contrary to Section 4 (Promoting Sustainable Transport) of the NPPF and in particular paragraph 34 which requires new development that generate significant movement to be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

The landscape impact of the development will be severe in my opinion with the urbanising of the rural environment, encroachment into open countryside and loss of rural views across the site and on approaches to the village particularly from the east.

Insufficient evidence has been submitted to demonstrate that the development will not affect the historic environment particularly with regard to assets of archaeological interest.

The development will result in the loss without replacement of grade 3A agricultural land.

4.3.21 Summary on sustainability

In summary I consider that given the significant environmental impacts the **overall** balance of sustainability would be against this development. The development would be contrary to Policies D1 (Sustainable Design) and SP9 (Design and Sustainability) of the North Hertfordshire District Council Submission Local Plan 2011 – 2031.

4.3.22 The applicant considers that there is no justification for the Council to resist the development because it has granted planning permission for housing on the adjacent site in similar circumstances and conditions. However the applicant points out that unlike the proposed scheme the approved development on land to the west has been included as a proposed allocation site for residential development in the emerging plan (paragraph 1.3.6 of Planning Statement).

- 4.3.23 The applicant refers to the officers committee report for application ref: 15/01618/1 where the officer accepts the economic and social benefits of that housing development. However the applicant fails to also include reference to the officers less favourable environmental assessment of that proposal where he writes:

*'for services such as medical facilities and anything more than small scale retail residents would be likely to travel to other larger towns by private car. Taking account of this I consider that this development proposal would not be wholly environmentally sustainable. On this basis I consider there to be some limited harm as a result of this proposal in relation to the three roles of sustainable development in that the development would not be wholly environmentally sustainable'.*

The applicant's Planning Statement is silent on the cumulative adverse environmental impact arising from the approved scheme on the adjacent site and the proposed additional 85 houses.

- 4.3.24 The applicants Sustainability Statement (prepared by 'Rural Solutions Ltd') lists (p.8, 41 & 42) the economic and social benefits of the proposals but fails to list any environmental benefits. This is contrary to the principles of sustainable development as set out in paragraph 8 of the NPPF which states:

*'....to achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system'.*

- 4.3.25 The sustainability statement refers several times to the bus service from Pirton to Hitchin (the nearest main rail station, employment and service centre) however the service is limited with no services to Hitchin available after 14.33 or returning to Pirton from Hitchin after 18.27. Walking and cycling to and from the village along the main roads is not an attractive, safe or viable option for most families as there are no lit footpaths or cycleways along these routes.

- 4.3.26 There is a limited range of services within the village to sustain an additional 200 plus residents that would be generated by this proposal. With an absence of frequent public transport, doctors surgery, health centre, dentists, bank, secondary school or significant shopping facilities Pirton lacks the infrastructure to accommodate the level of housing growth that is proposed when taken cumulatively with approved development in the village.

The reduction in the number of dwellings from the previously refused development is acknowledged however there remain significant sustainability issues that have not been overcome in my opinion.

- 4.3.27 **Character and Appearance of the Countryside**

The site lies within the Pirton Lowlands Landscape Character Area (218) and is described as a "large scale open, flat farming landscape given over predominantly to arable production." The site is mostly open in character, although there are hedgerows around some of the perimeter. It is particularly open to public view from Holwell Road and the Hambridge Way. There are longer views of the site, including the approach road into the village from Holwell and from across the fields to footpath 006 south of Holwell.

- 4.3.28 The approaches to the village from the west would provide angled views across the site towards the proposed housing. Substantial planting is indicated along all of the site boundaries to ensure screening of the houses from the longer views as well as close by. I consider this would significantly change the distinctive open plateau character of the site and its contribution within the landscape. This would still occur even with the reduction in the number of dwellings to a maximum of 85 units.

4.3.29 The erection of dwellings on the site and the introduction of the associated infrastructure 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 over approximately one quarter 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 eastward encroachment of the development into the countryside would appear incongruous in the wider views of the settlement which the landscaping would not successfully overcome, to the significant detriment of the character of the landscape.

4.3.30 The upgrading of at least the section of the Hambridge Way westwards towards the village from the site is inevitable as this would be the main pedestrian route into the centre of the village (in addition to the approved development on the adjoining site under ref: 15/01618/1). This in itself would alter the character of the Hambridge Way and give the perception of the village expanding eastwards into the countryside as a large field is lost. A similar effect would occur for those approaching the village along the Hambridge Way where the perception of approaching the settlement would be experienced much earlier than at present. I consider these impacts would cause a detriment to the visual amenity provided by the Hambridge Way.

4.3.31 Summary on character and appearance

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

The applicant states that the landscape character reason for refusal of the previous application (17/01543/1) has been addressed through the reduction in the developable area to reduce the landscape impact of the scheme.

I do not consider that a 10 percent reduction in the developable site area by 0.44 hectares (1.08 acres) and the reduction in the number of proposed houses by 14 units makes any material difference to the significantly adverse landscape impact that this development will have.

The previous reason for refusal relating to landscape character has not been overcome.

4.3.32 Agricultural Land

The application site is Grade 3a agricultural land. Paragraph 112 of the NPPF states:

*"Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land, Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality."*

The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations. There is no evidence to demonstrate that the use of high quality agricultural land for housing and public open space is necessary.

4.3.33 Summary on loss of Agricultural land

The development would result in the loss of high grade agricultural land and would therefore be harmful to the natural environment and contrary to the NPPF, paragraph 112 and to Planning Practice Guidance - Natural Environment para 026.

The applicants consider that the application site is sub-grade 3a agricultural land with heavy topsoil and sub-soil drainage that causes wetness limitations to agriculture. However the submitted Design and Access statement states that the site is currently used as arable land therefore it would appear to have some beneficial agricultural use.

**4.3.34 Highway Considerations**

The means of access to this development would be via Holwell Road and through the approved development of 78 dwellings on the immediately adjoining site. The District Council has approved a new Y – junction at Holwell Turn to serve the 78 unit scheme. This development will therefore access the site through this same new junction.

4.3.35 The Highway Authority have yet to provide detailed comments and analysis of this revised application in terms of the highway impact of this proposed development having regard to the submitted Transport Assessment. Previously, however, when commenting on the 99 unit scheme the Highway Authority was satisfied with the parameters used to anticipate traffic flows from the development and considers that the Multi-model trip generation figures produced in the TA to be acceptable and which can be accommodated on the existing highway network. The Authority considered the relevant junction capacity modelling provided and have concluded that the previous development would not have a severe impact on the highway network. The comments of the Authority on this revised application will be reported to the Committee meeting.

4.3.36 Although the Council is yet to receive the full comments of the Highway Authority in relation to this revised scheme my view at this stage is that the proposed development would not cause harm that can be sustained by way of objective evidence in terms of highway impacts.

**4.3.37 Summary on Highway issues**

Subject to the detailed comments of the Highway Authority, taking into account their previous comments I can see no sustainable planning objections on highway grounds. However, a S106 Agreement is required to secure a Construction Traffic Management Plan and Travel Plan. The submitted Heads of Terms refers to contributions to highway measures however the means of access to Holwell Road will rely on third party land and this will need to be resolved through the S106.

**4.3.38 Archaeology**

The proposed development site lies adjacent to two areas of archaeological significance which has been documented as containing prehistoric / Roman / Anglo-saxon remains. The village also has three Scheduled Monuments. The County Archaeologist has advised that recent field investigations on the immediately adjoining site to the west of the application site has identified significant later prehistoric remains and therefore there is reason to suggest that the application is also likely to contain features of archaeological interest.

Given the archaeological potential of the site, the County Archaeologist recommends that investigations should be undertaken prior to determination. An informed decision can then be made with reference to the impact of the proposal on the historic environment. Where archaeology is identified, but does not meet NPPF para 139, an appropriate level of archaeological mitigation can then be secured by negative condition (NPPF, para 141).

4.3.39 The submitted desk based archaeological assessment is still the same document as submitted with the previous application (i.e. Archaeological Desk Based Assessment, February 2017, WYG) which concludes that the site has a generally low archaeological potential and that the 'modest archaeological interest of the site can be secured by an appropriately worded condition' The comments received from the County Council's Historic Environment Advisor would appear to place a much greater importance on the archaeological potential of the site especially in view of the inadequacies of the recent geophysical survey.

4.3.40 Summary on archaeology matters

At present not enough information is provided to demonstrate the archaeological significance of the site and therefore the proposed development would be contrary to Section 12 of the NPPF.

The applicants have stated in their revised Planning Statement that 'it is anticipated that this matter can be dealt with by way of suitably worded condition'. The Historic Environment Advisor requires an updated geophysical survey and trial trenching 'pre-determination' of this application. The applicant has not therefore addressed the issue of archaeology with this revised application.

4.3.41 Section 106

The applicant has included a short Heads of Terms document with this application listing the following Heads of Terms :

- Affordable Housing
- Education
- Open Space
- Community Facilities
- Rights of Way upgrades
- Highways

Officers have acted pro actively on this issue and prepared a more detailed draft Heads of Terms document and provided this to the applicants. However at this stage a satisfactorily completed S106 obligation agreement has not been completed and therefore this forms a separate recommended reason for refusal as set out below.

4.3.42 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. Apart from some limited progress on the S106 discussions by the applicants there remain fundamental planning objections.

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.

4.3.43 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.'*

- 4.3.44 The Council now claims to be able to demonstrate an up to date five year land supply of deliverable housing sites. However the Council's Submission Local Plan is still under scrutiny at the Local Plan Examination in Public which will not conclude until March 2018. I have therefore 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.
- 4.3.45 This planning application proposes up to 85 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.
- 4.3.46 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 particularly in the supporting Sustainability Statement.
- 4.3.47 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.
- 4.3.48 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 cumulatively harmful impact of the development when taken with recently approved new development in the village.
  - If the recent planning permission at Elm Tree Farm is not implemented this current proposal would be completely divorced from the village and isolated completely as not adjoining the current village boundary and on this basis would be further injurious to the character of the countryside
  - The development would be unsustainable due to its location, the lack of community infrastructure to serve the development and likely high dependence of the occupiers of the new development on the private car
  - The development would result in the loss of grade 3A agricultural land
  - A revised pre-determination archaeological survey and trial trenching have not been carried out.
- 4.3.49 The application is also unacceptable because a Section 106 Agreement, necessary to mitigate the impact of the development on local infrastructure, has not been satisfactorily completed.
- 4.3.50 In my view the environmental harm arising from the proposed development significantly and demonstrably outweighs the benefits of delivering new homes on this site.
- 4.3.51 The applicant has not overcome the four reasons for refusal set out with the previous application (17/01543/1)

#### 4.4 Conclusion

- 4.4.1 The benefits of allowing the development do not outweigh the harm and, as such, planning permission should be refused.

#### **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 reasons:

1. By reason of its siting beyond the built limits of Pirton; the location with open farmland within the Pirton Lowlands Landscape Character Area (218); and the heavy use of planting to screen the largely open site, 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. 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, Paragraph 17, 109, 116, 156 of the National Planning Policy Framework. The development would also be contrary to Policy CGB1 of the North Hertfordshire Emerging Local Plan 2011 - 2031.
2. Given the lack of essential services in the vicinity of the site, the occupiers of the proposed dwellings would be heavily dependent on services provided outside of the immediate area, giving rise to a significant reliance on private transport. In addition to this, the land on which the site is located is Grade 3A agricultural land, which constitutes the best and most versatile land. As well as being harmful to the natural environment, this would amount to development of the land which is both environmentally and economically unsustainable. In the absence of any realistic measures or other reasons which may offset this unsustainable impact, the proposal would be contrary to the objectives of the National Planning Policy Framework, generally and specifically Paragraphs 14, 49 and 112, and to Policies SP1 SP6 and SP9 of the Emerging Local Plan 2011 - 2031, and to Planning Practice Guidance - Natural Environment para. 026.
3. The proposed development lies within an Area of Archaeological Significance. Records in close proximity to the site suggest it lies within an area of 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 suitable geophysical survey or 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.

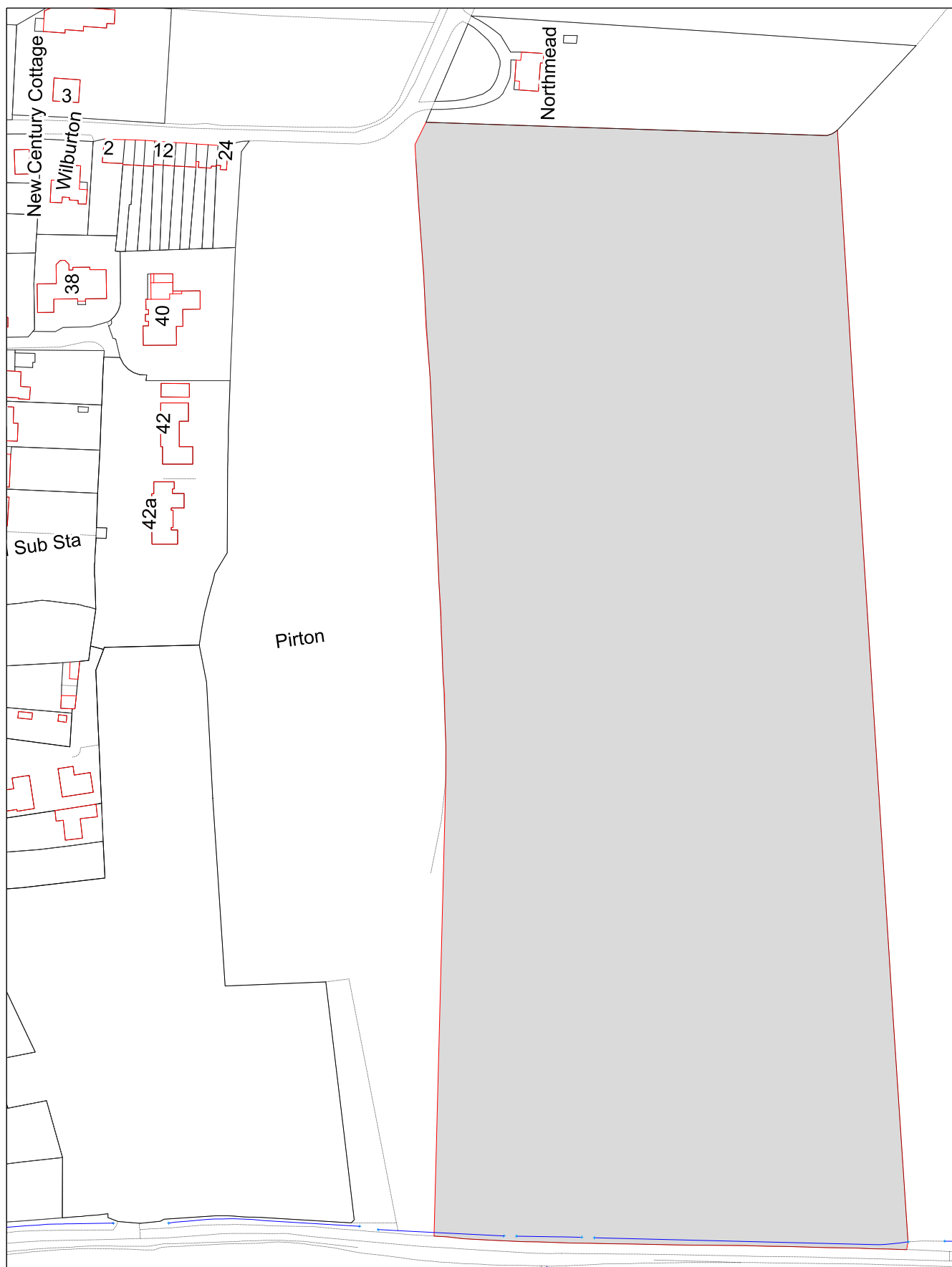
4. The submitted planning application has not been accompanied by a valid legal undertaking (in the form of a Section 106 Obligation) securing the provision of 40% affordable housing and other necessary obligations as set out in the Council's Planning Obligations Supplementary Planning Document (SPD) (adopted November 2006) and the Planning obligation guidance – toolkit for Hertfordshire: Hertfordshire County Council's requirements January 2008. The secure delivery of these obligations 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 of 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 acted proactively through positive engagement with the applicant in an attempt to narrow down the reasons for refusal but fundamental objections could not be overcome. 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.



17/02563/1 Land off Holwell Road, Pirton



Scale: 1:1989  
Date: 21:11:17

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|          |                   |                                                |
|----------|-------------------|------------------------------------------------|
| ITEM NO: | <u>Location:</u>  | 9 Church Lane, Kimpton, Hitchin, SG4 8RR       |
| <b>8</b> | <u>Applicant:</u> | Mr & Mrs Cole                                  |
|          | <u>Proposal:</u>  | Part single and part two storey rear extension |
|          | <u>Ref. No:</u>   | 17/02500/ 1HH                                  |
|          | <u>Officer:</u>   | Kirstie Hough                                  |

**Date of expiry of statutory period:** 29 November 2017

**Reason for Delay** (if applicable)

Extension of time agreed until 19 December 2017

**Reason for Referral to Committee** (if applicable)

Kimpton Parish Council objection contrary to Officer recommendation and Councillor agreement with the Parish Council objections.

## **1.0 Relevant History**

- 1.1 14/00668/1HH- Part single and part two storey rear extension WITHDRAWN  
14/00682/1LB- Part single and part two storey rear extension following demolition of rear single-storey lean-to and detached external WC building WITHDRAWN
- 1.2 15/00043/1HH- Part single and part two storey rear extension WITHDRAWN  
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- 1.3 15/01822/1HH- Part single and part two storey rear extension WITHDRAWN  
15/01823/1LB- Part single and part two storey rear extension following demolition of rear single-storey lean-to and detached external WC building WITHDRAWN
- 1.4 Three previous applications for differing designs of single and two storey rear extensions - all withdrawn due to unacceptable design or impact upon neighbouring property.
- 1.5 17/00328/1HH- Part single and part two storey rear extension REFUSED  
17/00329/1LB- Part single and part two storey rear extension following demolition of rear single-storey lean-to and detached external WC building REFUSED
- 1.6 These most recent applications were REFUSED for the following reason:  
*1. The pedestrian to vehicle inter-visibility associated with the new vehicle access to the new parking space has not been clearly demonstrated. The recommended visibility splay of 2.0 metres x 16 metres along the footway along Church Lane to each direction from the parking space, has not been demonstrated as being achievable. This vehicle to vehicle inter-visibility is to provide adequate visibility for approaching pedestrians and drivers leaving the site. This would lead to vehicles leaving the site coming into conflict with pedestrians along Church Lane, which would be prejudicial to general provisions of highway safety and convenience, contrary to the National Planning Policy Framework - Paragraph 35 and contrary to the minimum sightline provision along the street edge contained in Manual for Streets, Section 7.8.3.*

## **2.0 Policies**

### **2.1 North Hertfordshire District Local Plan No.2 with Alterations 1996**

Policy 16 - Areas of Archaeological Significance and other Archaeological Areas  
Policy 28 - House Extensions  
Policy 55- Car Parking Standards

### **2.2 National Planning Policy Framework**

Section 7. Requiring good design  
Section 12. Conserving and enhancing the historic environment

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

The North Hertfordshire Draft Local Plan 2011-2031 has been submitted to the Secretary of State for examination and the EiP is underway. The Policies of the submission Local Plan therefore carry limited weight at this stage however, the policies are to be afforded increased weight and consideration at each stage of the process up until full adoption. The policies of relevance in this instance are as follows:

#### Strategic Policies:

SP9: Design and sustainability

SP13: Historic Environment

#### Development Management Policies

Policy D1 Design and Sustainability

Policy D3 Protecting Living Conditions

HE1: Designated heritage assets

## **3.0 Representations**

### **3.1 Local Residents / Site Publicity Notice** - Objections received from 14 residents in Church Lane, Parkfield Crescent and The Green stating:

- Impact upon the residential amenities of No. 5.
- Issues relating to the drains serving terrace properties.
- Harmful impact upon character of the listed building.
- Harmful impact upon character of Conservation Area.
- Loss of historic outbuildings would harm the character of the dwelling and area.
- Loss of privacy for neighbouring gardens.
- Out of proportion with host property.
- Harmful impact upon views from the Church.

### **3.2 Kimpton Parish Council** - Objection stating:

*" Kimpton Parish Council objects to this planning application and listed building consent for 9 Church Lane, Kimpton due its adverse impact on neighbouring properties and overbearing nature within a Conservation Area.*

*It is a small site of three connecting cottages so the second storey proposal has a significant effect on the locality. The huge baulk of the proposal is totally unsuitable for this sensitive central village location and will overshadow the neighbourhood. The new layout will be out of proportion with the two attached cottages.*

*The side elevation will be out of proportion when viewed from the east by the Grade 1 Listed St Peter and St Paul Church that is situated on higher ground. The planning officer should complete calculations for the light values for neighbours to ensure that there is not a loss of sunlight nor a loss of privacy from the second storey.*

*Historic outbuildings are to be removed thereby devaluing our local heritage. We ask that the planning officer checks whether the development will require the removal of the pitched roof of the cottage that could be of 17th Century heritage. The plans are not sympathetic for this listed building.*

*There is no provision for recycling bins as required to be used by residents within NHDC area.*

*The application form details that they will not be connecting to the drainage system. Could the planning officers satisfy themselves that water run-off from the roof will not be disgorged into Church Lane leading to localised flooding at the junction with the High Street. A local resident has expressed concern on the extension being built over shared drainage and this should be satisfactorily catered for within the build process.*

*The proposed parking space will not be sufficient for the occupation of a 3 bedroom house in a rural village setting with limited public transport. Church Lane is narrow and heavily congested with parked cars due to the old cottages not having parking within their curtilage.*

*Care must be exercised in the consideration of vehicular access and highway safety for all residents.*

*In conclusion the street scene within our Conservation Area will be diminished by the loss of character of this historic building and the modifications proposed. Surrounding neighbours will be affected by a loss of residential amenity. Kimpton Parish Council is opposed to this proposal."*

3.3 **Conservation Officer** – Does not raise an objection.

3.4 **County Archaeology** - Recommend an archaeological condition for investigation works.

3.5 **Highway Authority** – Raise no objection.

#### **4.0 Planning Considerations**

##### **4.1 Site & Surroundings**

4.1.1 No. 9 Church Lane is an end of terrace grade II listed dwellinghouse set adjacent to Church Lane and on a prominent corner of the road. The property is adjoined to No. 7 to the west, with No. 13 set to the north at the end of and adjacent to, the rear boundary of the application site. The Parish Church of St Peter and St Paul is set to the east of the site.

4.1.2 The site is located within the Kimpton Conservation Area and many properties in the locality have no on site parking, meaning the road can be congested with parked cars.

4.1.3 Applications for the same two storey rear extension were recently refused, on Highway grounds due to the unacceptability of a proposed parking space within the curtilage of the site (reason for refusal as set out above in the History section).

##### **4.2 Proposal**

4.2.1 Following these recent refusals (for planning permission and listed building consent), the parking space has been removed from the scheme.

- 4.2.2 The same two storey rear extension is now proposed once again, which would measure 3.3 metres in maximum depth, full width, with a hipped roof. The addition would provide for a relocated kitchen and family room at ground floor and a relocated bedroom at first floor (the property would remain as a 3 bedroom dwelling). Materials are proposed to match the existing dwelling for brickwork and roof tiles, with conservation rooflights.

#### 4.3 **Key Issues**

- 4.3.1 The key issues are the size and design in relation to the host listed property and to the Kimpton Conservation Area, the impact upon the living conditions of any neighbouring properties and parking provision.

##### 4.3.2 Size and design

The form, proportions and appearance of this extension have been the subject of all the previous applications. The three earlier applications were withdrawn due to objections raised in conservation and Policy 28 terms, which related to the inappropriate size and design of the extension and the subsequent adverse impact upon the character and appearance of the listed building.

- 4.3.3 The size at 3.3 metres maximum depth and the hipped roof design with set down ridge height, was in the most recent applications, and is now still considered to be appropriate for this property and in this prominent context on a corner of the road and with the grade I listed Church opposite the site.

- 4.3.4 The Conservation Officer commented that Nos.5, 7 & 9 Church Lane are, together, grade II listed and are located within the Kimpton Conservation Area. Overall, it is considered that the demolition of the rear single-storey lean-to would not harm the listed building or the conservation area and the demolition of the detached external WC building would, likewise, not harm the character or appearance of the Kimpton Conservation Area. The proposed extension would not harm the listed building's special character. After careful consideration, it is considered that the two-storey extension would not harm the setting of the listed terrace of which no.9 forms part and would not, therefore, harm the character or appearance of the Kimpton Conservation Area. Consequently, no objection is raised on the basis that the proposals will satisfy the provisions of Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Sections 7 and 12 of the NPPF.

##### 4.3.5 Impact upon neighbouring property

It was previously considered to be the case and is still the view that this addition presents no issues with any overlooking of adjacent property, dominance, loss of privacy or loss of light. This is due to the addition being adjacent a rear projection of the adjoining dwelling (No. 7), which minimises any impact of dominance to this side. No. 5 has a lengthy single storey rear addition and a shallower lean-to addition adjacent to this, along the boundary with No. 7.

- 4.3.6 The north-westerly facing rear gardens of Nos. 5, 7 and 9 means that the neighbouring properties would not be significantly impacted by a loss of sunlight. The lowered and hipped roof form of the addition would angle the roof away from the adjacent properties and reduce bulk.

- 4.3.7 Privacy would be retained for the property to the rear as no rear elevation windows are proposed at first floor level, with only one rear rooflight proposed on the existing dwelling and one rooflight on the side of the proposed roof, facing west.

Outlook for the first floor bedroom would be provided via a side elevation window facing the road and church. There would therefore be no material adverse impact incurred for the residential amenity of any neighbouring property in my opinion.

#### 4.3.8 Parking provision

With regard to on-site parking provision, there is none provided at present and this proposal does not increase the bedroom number of the property, and as such the current deficiency in parking would not be worsened by the proposal. Therefore the proposal is not contrary to Policy 55 of the Local Plan.

- 4.3.9 Although the concerns made in the representations received are understood, given that there is a lack of off road parking for the properties along this road, the Council would not be able to sustain a reason for refusal on Highway grounds given that the property is remaining as a three bedroom dwelling.

#### 4.3.10 Archaeology

The County Archaeologist has commented that the proposed development lies within Area of Archaeological Significance no. 179, as identified in the Local Plan. This covers the historic village of Kimpton (Historic Environment Record no. 2695) which is recorded in the Domesday Book (1086) as 'Kamintone'. The medieval and later village runs along High Street with the parish church on slightly higher ground 100m north of the road.

- 4.3.11 9 Church Lane is Grade II listed, one of a terrace of three cottages dating to the 17<sup>th</sup> century or earlier. The building was cased in red brick in the late 18<sup>th</sup> century, but still retains many of its original fixtures and fittings, including the door and window frames, and a likely original tile roof.

- 4.3.12 They are of the view that this proposal should be regarded as likely to have an impact on heritage assets of archaeological interest and as such recommend that planning conditions are attached to any permission.

#### 4.3.13 Other matters

The Parish Council have also raised a concern about bin storage at the property. A side gate is proposed to access the rear garden and there is sufficient space for bins to be stored in the rear garden area.

- 4.3.14 With regard to water run off which was also raised, the agent has been asked to provide. At the time of writing this update has not been received but will be reported at the Committee.

#### 4.4 **Conclusion**

- 4.4.1 Due to the history of applications at the site and the most recent refusal of planning permission being only on the grounds of the unacceptable parking space proposed within the curtilage of the site which is now removed, it is recommended that planning permission be granted. There are no objections to raise with regard to impact upon the character or appearance of the listed building, Conservation Area or upon neighbouring properties.

#### **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. **A** No demolition/development shall take place/commence until an Archaeological Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of archaeological significance and research questions; and:
  1. The programme and methodology of site investigation and recording
  2. The programme for post investigation assessment
  3. Provision to be made for analysis of the site investigation and recording
  4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  5. Provision to be made for archive deposition of the analysis and records of the site investigation
  6. Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.

**B** The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition **(A)**

**C** The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition **(A)** and the provision made for analysis and publication where appropriate.

### **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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|-----------------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM NO:</b> | <b><u>Location:</u></b>  | <b>9 Church Lane, Kimpton, Hitchin, SG4 8RR</b>                                                                                                                                                                                       |
|                 | <b><u>Applicant:</u></b> | <b>Mr &amp; Mrs Cole</b>                                                                                                                                                                                                              |
|                 | <b><u>Proposal:</u></b>  | <b>Demolition of rear single-storey lean-to and detached external WC building. Part single and part two storey rear extension. Install roof light to north elevation, replace windows in east elevation and internal alterations.</b> |
|                 | <b><u>Ref No:</u></b>    | <b>17/02501/ 1LB</b>                                                                                                                                                                                                                  |
|                 | <b><u>Officer:</u></b>   | <b>Kirstie Hough</b>                                                                                                                                                                                                                  |

**Date of expiry of statutory period:** 29 November 2017

**Reason for Delay** (if applicable)

Extension of time agreed until 19 December 2017

**Reason for Referral to Committee** (if applicable)

Kimpton Parish Council objection contrary to Officer recommendation and Councillor agreement with the Parish Council objections.

## **1.0 Relevant History**

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- 1.2 15/00043/1HH- Part single and part two storey rear extension WITHDRAWN  
15/00044/1LB- Part single and part two storey rear extension WITHDRAWN
- 1.3 15/01822/1HH- Part single and part two storey rear extension WITHDRAWN  
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- 1.5 17/00328/1HH- Part single and part two storey rear extension REFUSED  
17/00329/1LB- Part single and part two storey rear extension REFUSED
- 1.6 More recent applications REFUSED for the following reason:  
*1. The pedestrian to vehicle inter-visibility associated with the new vehicle access to the new parking space has not been clearly demonstrated. The recommended visibility splay of 2.0 metres x 16 metres along the footway along Church Lane to each direction from the parking space, has not been demonstrated as being achievable. This vehicle to vehicle inter-visibility is to provide adequate visibility for approaching pedestrians and drivers leaving the site. This would lead to vehicles leaving the site coming into conflict with pedestrians along Church Lane, which would be prejudicial to general provisions of highway safety and convenience, contrary to the National Planning Policy Framework - Paragraph 35 and contrary to the minimum sightline provision along the street edge contained in Manual for Streets, Section 7.8.3.*

## **2.0 Policies**

### **2.1 National Planning Policy Framework**

Section 12. Conserving and enhancing the historic environment

### **2.2 North Hertfordshire Draft Local Plan 2011-2031 'Preferred Options Consultation Paper' and Proposals Map**

The North Hertfordshire Draft Local Plan 2011-2031 has been submitted to the Secretary of State for examination and the EiP is underway. The Policies of the submission Local Plan therefore carry limited weight at this stage however, the policies are to be afforded increased weight and consideration at each stage of the process up until full adoption. The policies of relevance in this instance are as follows:

SP13: Historic Environment

HE1: Designated heritage assets

## **3.0 Representations**

### **3.1 Kimpton Parish Council - Objection stating:**

*" Kimpton Parish Council objects to this planning application and listed building consent for 9 Church Lane, Kimpton due its adverse impact on neighbouring properties and overbearing nature within a Conservation Area.*

*It is a small site of three connecting cottages so the second storey proposal has a significant effect on the locality. The huge baulk of the proposal is totally unsuitable for this sensitive central village location and will overshadow the neighbourhood. The new layout will be out of proportion with the two attached cottages.*

*The side elevation will be out of proportion when viewed from the east by the Grade 1 Listed St Peter and St Paul Church that is situated on higher ground. The planning officer should complete calculations for the light values for neighbours to ensure that there is not a loss of sunlight nor a loss of privacy from the second storey.*

*Historic outbuildings are to be removed thereby devaluing our local heritage. We ask that the planning officer checks whether the development will require the removal of the pitched roof of the cottage that could be of 17th Century heritage. The plans are not sympathetic for this listed building.*

*There is no provision for recycling bins as required to be used by residents within NHDC area.*

*The application form details that they will not be connecting to the drainage system. Could the planning officers satisfy themselves that water run-off from the roof will not be disgorged into Church Lane leading to localised flooding at the junction with the High Street. A local resident has expressed concern on the extension being built over shared drainage and this should be satisfactorily catered for within the build process.*

*The proposed parking space will not be sufficient for the occupation of a 3 bedroom house in a rural village setting with limited public transport. Church Lane is narrow and heavily congested with parked cars due to the old cottages not having parking within their curtilage.*

*Care must be exercised in the consideration of vehicular access and highway safety for all residents.*

*In conclusion the street scene within our Conservation Area will be diminished by the loss of character of this historic building and the modifications proposed. Surrounding neighbours will be affected by a loss of residential amenity. Kimpton Parish Council is opposed to this proposal."*

3.2 **Conservation Officer** –Raises no objection.

#### **4.0 Planning Considerations**

##### **4.1 Site & Surroundings**

4.1.1 No. 9 is an end of terrace grade II listed dwellinghouse adjoined to No. 7 and located on a prominent corner of Church Lane. The site is located within the Kimpton Conservation Area.

##### **4.2 Proposal**

4.2.1 Listed building consent is sought for the demolition of the rear single-storey lean-to and detached external WC building, a part single and part two storey rear extension, the installation of a roof light to north elevation, replacement of windows in the east elevation and internal alterations.

4.2.2 The two storey rear extension would measure 3.3 metres in maximum depth, full width, with a hipped roof. The addition would provide for a relocated kitchen and family room at ground floor and a relocated bedroom at first floor. Materials are proposed to match the existing dwelling for brickwork and roof tiles, with conservation rooflights.

##### **4.3 Key Issues**

4.3.1 The key issue is the impact of the works upon the special character of the listed building.

4.3.2 The Conservation Officer has commented that Nos.5, 7 & 9 Church Lane are, together, grade II listed and are located within the Kimpton Conservation Area. The list entry reads: ***Terrace of 3 cottages. C17 and Probably earlier. Cased in red brick late C18. Plain tile roof, hipped on E, and with slightly lower pitch on W (Nos 5 and 7). 2 storeys. 6 wood casements, segmental headed to ground floor. Doors and windows to Nos 7 and 9 with pegged oak frames. Large square chimney stack of C16/17 origin on ridge where two roofs join.***

4.3.3 The tiled, lean-to rear addition that also projects forward of the host building's east building is not considered to be of sufficient interest to merit retention and whilst the triple WC block is of some interest this, once again, is also not considered to be of sufficient interest to merit retention.

4.3.4 The Conservation Officer has considered the following matters raised by Kimpton Parish Council:

***Huge bulk of proposal will be out of proportion with the two attached cottages.***

The proposed extension will have a similar overall footprint when compared with that of the rear lean-to and WC outbuilding. It is, however, acknowledged that the main extension is over two floors. The main extension measures 3300mm deep x 4500mm wide which, accounting for wall construction will result in an internal floor space measuring 3000mm x 3900mm.

4.3.5 ***Side elevation will be out of proportion when viewed from the east by the grade I listed St Peter and St Paul Church.***

As stated above, the two-storey extension is relatively modest in depth and is also set back almost 2m from the east end of the main property. When the trees that marked the boundary of the churchyard are in leaf the extension would have minimal impact when viewed from the churchyard. Even when the trees are not in leaf, the impact upon the setting of the grade I listed church is considered to be less than significant.

4.3.6 ***Historic outbuildings are to be removed thereby devaluing local heritage.***

Whilst the rear lean-to and WC outbuilding are of some age, their contribution to local heritage is seen as limited. In fact, the removal of both structures and repositioning the extension set in from the principle building's east facing hipped end could be seen as improving the existing streetscene and relatively tight configuration when turning north further into Church Lane passed no.9.

4.3.7 Overall, the Conservation Officer considers that the demolition of the rear single-storey lean-to would not harm the listed building or the conservation area and the demolition of the detached external WC building would, likewise, not harm the character or appearance of the Kimpton Conservation Area. The proposed extension would not harm the listed building's special character. After careful consideration, it is considered that the two-storey extension would not harm the setting of the listed terrace of which no.9 forms part and would not, therefore, harm the character or appearance of the Kimpton Conservation Area. Consequently, no objection is raised on the basis that the proposals will satisfy the provisions of Sections 16 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and as supported by the aims of Sections 7 and 12 of the NPPF.

#### 4.4 **Conclusion**

4.4.1 With no concern to raise regarding the impact of the proposal upon the character or appearance of the listed building, it is recommended that listed building consent 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 Listed Building Consent be **GRANTED** subject to the following conditions:

1. The work to which this consent relates shall be begun by not later than the expiration of the period of 3 years from the date of this notice.

Reason: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The roof for the two-storey extension roof shall be covered with 'handmade' clay plain tiles, a sample of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that part of the development hereby approved.

Reason: To safeguard the special character of the listed building.

3. A sample brick panel for the extensions hereby approved and indicating brick type, bond and mortar mix shall be erected on site and shall be approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved.

Reason: To safeguard the special character of the listed building.

4. Window joinery sections at a metric scale (including glazing bar profiles at 1:1 scale) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that part of the development hereby approved.

Reason: To safeguard the special character of the listed building.

5. Details of the precise size and type of conservation roof light proposed shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that part of the development hereby approved.

Reason: To safeguard the special character of the listed building.

6. All new rainwater goods shall be black-painted cast-iron as set out in the submitted application form unless otherwise agreed and approved in writing by the Local Planning Authority.

Reason: To safeguard the special character of the listed building.

7. Details of all new internal doors shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of that part of the development hereby approved.

Reason: To safeguard the special character of the listed building.

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|----------------------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>ITEM NO:</b><br><br><b>10</b> | <u>Location:</u>  | <b>Wymondley Nursing Home, Stevenage Road, Little Wymondley, Hitchin, SG4 7HT</b>                                                                                                                                                                                                                                                                  |
|                                  | <u>Applicant:</u> | Mr Kelsall<br>Wymondley Nursing Home Ltd.                                                                                                                                                                                                                                                                                                          |
|                                  | <u>Proposal:</u>  | <b>Two storey side extension including five dormer windows to west elevation and three dormer windows to east elevation to provide 15 no. additional bedrooms and en-suite bathrooms with associated residents &amp; staff facilities. Alterations and extension of existing car park so as to provide parking for 31 cars and ancillary works</b> |
|                                  | <u>Ref. No:</u>   | <b>17/02602/ 1</b>                                                                                                                                                                                                                                                                                                                                 |
|                                  | <u>Officer:</u>   | <b>Kate Poyser</b>                                                                                                                                                                                                                                                                                                                                 |

**Date of expiry of statutory period:** 08 December 2017

## **Reason for Delay**

Extension of time agreed until 19th December 2017.

## **Reason for Referral to Committee**

As the site area is greater than 0.5ha and this application is for residential development under the Council's constitution and scheme of delegation this planning application needs to be determined by the Planning Control Committee.

### **1.0 Relevant History**

- 1.1 Permission granted in October 2000 for a two storey front extension to provide 15 replacement bedrooms with en-suite facilities, 2 day rooms, nurse stations, communal bathrooms and wc's and staff room with locker room. Storage, staff rest room and 2 wc's in roof space. Three dormer windows to side (west) elevation. (app no. 00/01019/1).
- 1.2 Permission for the renewal of the permission referred to at paragraph 1.1 was granted in 2005. (app no. 05/01295/1)
- 1.3 Permission granted in 2007 for a Section 73 application to remove Condition 3 of planning application no. 05/01295/1, which restricted the number of residents to 59. (app no. 07/01411/1).
- 1.4 Permission for the renewal of the permission referred to at paragraph 1.3 was granted in both 2010 (app no. 10/00656/1) and 2013 (app no. 13/01132/1).
- 1.5 Permission granted in November 2016 for a two storey side extension including three dormer windows to west elevation to provide 15 no. additional bedrooms and en-suite bathrooms with associated residents & staff facilities. Alterations and extension of existing car park so as to provide parking for 31 cars and ancillary works (app no. 16/01891/1).

## **2.0 Policies**

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

Policy 2 - Green Belt

Policy 55- Car Parking

### **2.2 National Planning Policy Framework**

Section 9 - Protecting Green Belt land.

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

The North Hertfordshire Draft Local Plan 2011-2031 has been submitted to the Secretary of State for examination and the EiP is underway. The Policies of the submission Local Plan therefore carry limited weight at this stage however, the policies are to be afforded increased weight and consideration at each stage of the process up until full adoption. The policies of relevance in this instance are as follows:

SP5: Countryside and Green Belt

## **3.0 Representations**

3.1 **Wymondley Parish Council** – Raise no objection.

3.2 **Highway Authority** - Do not wish to restrict the grant of permission subject to the imposition of conditions, as set out below in my recommendation.

3.3 **Environmental Health** – Raise no objection.

3.4 **Site Notice/ Local Residents**- No comments received.

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

4.1.1 The nursing home stands in grounds of 0.8ha and is located beyond the eastern village boundary of Little Wymondley. Access to the site is situated approximately 100m to the east of the Kings Cross - Edinburgh railway bridge which runs over the Stevenage Road. The building itself is set back approximately 80m to the north of the entrance to the site. To the east of the application site are open fields so that views of the site and building can be glanced from the elevated A1 (M) to the east and the junction of Stevenage Road with Chantry Lane to the south-east.

### **4.2 Proposal**

4.2.1 This application seeks permission to erect a two storey front extension to the south east corner of the nursing home building. The footprint of the proposed extension is the same as that approved in the 2016 application. The changes relate to the roof, such that in the 2016 application it stepped down twice whereas it is now proposed to remove the first step so the majority of the roof is at the same height. In addition the extension approved in 2016 accommodated three dormer windows in the western roof slope closest to the existing extension whilst this application proposes 5 dormer windows spread across the western roof slope and three dormer windows spread across the eastern roof slope. Further to this, a lift tower is proposed to be positioned close to the existing building and which would not extend higher than the roof.

- 4.2.2 A Design and Access Statement has been submitted in support of this application, which states that *'Wymondley Nursing Home has taken advice and the current market requirements are for bedrooms of 15.000 sq.m, and above, with en-suite wet rooms. This application re-visits the plan and all resident's bedrooms will have a minimum area of 15.000 sq.m, or above. This has all been provided within the framework of the previously approved building. To enable this, the full extent of the roof void has been utilised thus requiring a further 5 No. Dormer windows, the amendment of the stair enclosure on the South Elevation, and the provision of a small lift tower so that all floors can be serviced by the additional lift.'*
- 4.2.3 As previously approved in the 2016 application it is still proposed to alter and extend the existing car park area to increase the number of car park spaces to provide parking for a total of 31 cars.

### 4.3 Key Issues

- 4.3.1 There are three key issues to the determination of this application. Firstly, whether the proposal constitutes an appropriate form of development within the Green Belt and, if not, whether "very special circumstances" exist to allow a relaxation of the normal Green Belt policy. Secondly whether the proposed development is acceptable in terms of sustainability issues set out in the National Planning Policy Framework (NPPF) and thirdly whether it is acceptable in terms of highway and car parking issues.
- 4.3.2 With regard to the first issue it has previously been accepted that the proposed extension did not accord with any of the definitions constituting an appropriate form of development in the Green Belt as set out in Section 9 of the NPPF. This is also the case with regard to the proposed alterations to the car park area to serve the site, so as to provide parking for a total of 31 cars.
- 4.3.3 Accordingly, for the application to be acceptable and allow a relaxation of the normal policy presumption against "inappropriate development" it needs to be accompanied by "very special circumstances". In this case the applicant has provided a Design and Access Statement setting out these circumstances which, under the heading "exceptional circumstances" states as follows:
- 4.3.4 ***"It is understood that any development is restricted with the green Belt. However, it is important to protect what little employment that is available within these areas, especially, with the additional residential sites being identified in the Wymondley area in the proposed District Local Plan.***

***Wymondley Care Home is an established care home, however, it has to accommodate ever changing requirements and standards. Although the Care Standards Regulations 2001 no longer currently require enlarged bedroom facilities with en-suites for homes that were operating before 31st March 2002, all new and extended/converted homes must comply with these new requirements. As a consequence, the demands of the market-place are gradually having an influence on all homes, especially those registered pre-31st March 2002.***

***Of course, when residents were only choosing between homes that complied with the old standards, there was only a modest amount of pressure to upgrade facilities. However, as time passes, with new homes being commissioned and existing homes voluntarily upgrading their facilities, residents are naturally tempted to choose a home that offers larger rooms with en-suite facilities.***

***Whilst this is undoubtedly raising standards, it does mean that in the long-term all homes will eventually have to provide rooms with higher specifications, or else become unprofitable due to lower occupancy rates. It is in recognition of this that the permission was renewed in its current form in 2010. This latest application will have all new rooms built to the latest Care Standards and will provide the capacity for the existing home to be upgraded to the latest standards in time.***

***We believe that the provision of this extension will secure the long term viability of the home protecting, not only, the service, but much needed local employment. "***

- 4.3.5 These circumstances provide similar reasoning as have been made on the previous applications for the proposed extension. I consider that since similar factors have previously been accepted as providing the necessary "very special circumstances" for allowing the proposed development there is no planning basis for reaching a different conclusion upon this application. The additional dormer windows, the minimal raising of the roof and the addition of the lift tower are not significant changes to the scheme previously approved in my opinion. In addition, the car parking area as proposed has not changed from that approved in the 2016 application.
- 4.3.6 Turning to the second issue the proposal needs to be considered in terms of sustainability criteria set out in the NPPF, which relate to economic, social and environmental roles. In this respect I consider that the proposed development would give rise to both economic and social gains to the community, given the existing use of the site and limited mobility of the residents, insofar as travel options are concerned. Furthermore, I do not consider the environmental impact would be significant since this would largely be mitigated by the existing mature landscaping within the grounds and by proposed additional planting, which is subject to control by the condition set out in my recommendation and which would lead to long term environmental enhancement of the site.
- 4.3.7 Finally, members will note that insofar as highway matters are concerned the Highway Authority does not wish to restrict the grant of permission subject to the imposition of the 4 conditions set out in my recommendation. With regard to parking matters the previous permission in 2016 proposed the same car park layout and provision of spaces as is proposed in this application. As a result it is considered that the proposed car park layout and car parking provision to allow for 31 cars to be parked within the new car park area, is unobjectionable.

#### **4.4 Conclusion**

- 4.4.1 Given the previous planning history relating to the proposed development, which included "very special circumstances" for allowing the extension (and which have again been put forward in support of this application), that the extension as now proposed with changes to the roof and addition of the lift tower would not cause any significant harm to the openness of the Green Belt, that sustainability criteria set out in the NPPF are satisfied and that the Highway Authority do not raise any highway grounds for objection, I consider this application to be acceptable.

#### **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 approved details of landscaping, as shown on drawing no 298.1, shall be carried out before the end of the first planting season following either the first occupation of any of the bedrooms 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. Prior to occupation of the development the access shall be reconfigured as identified on drawing number 1612/01 revision A 5.5 metres wide and the kerb radii shall be 2.0 metres to the north side and 4.0 metres to the south side of the existing access. To the current specification of Hertfordshire County Council and to the local Planning Authority's satisfaction.

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

5. Before the improved access is first brought into use vehicle to vehicle visibility splays of 2.4 metres by 40 metres in both directions, shall be provided and permanently maintained. Within which there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

6. The access shall be constructed in a hard surfacing material for the first 6 metres from the edge of the carriageway.

Reason: To prevent loose material from passing onto the public highway which may be detrimental to highway safety.

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

The Construction Management Plan/Method statement shall address the following matters

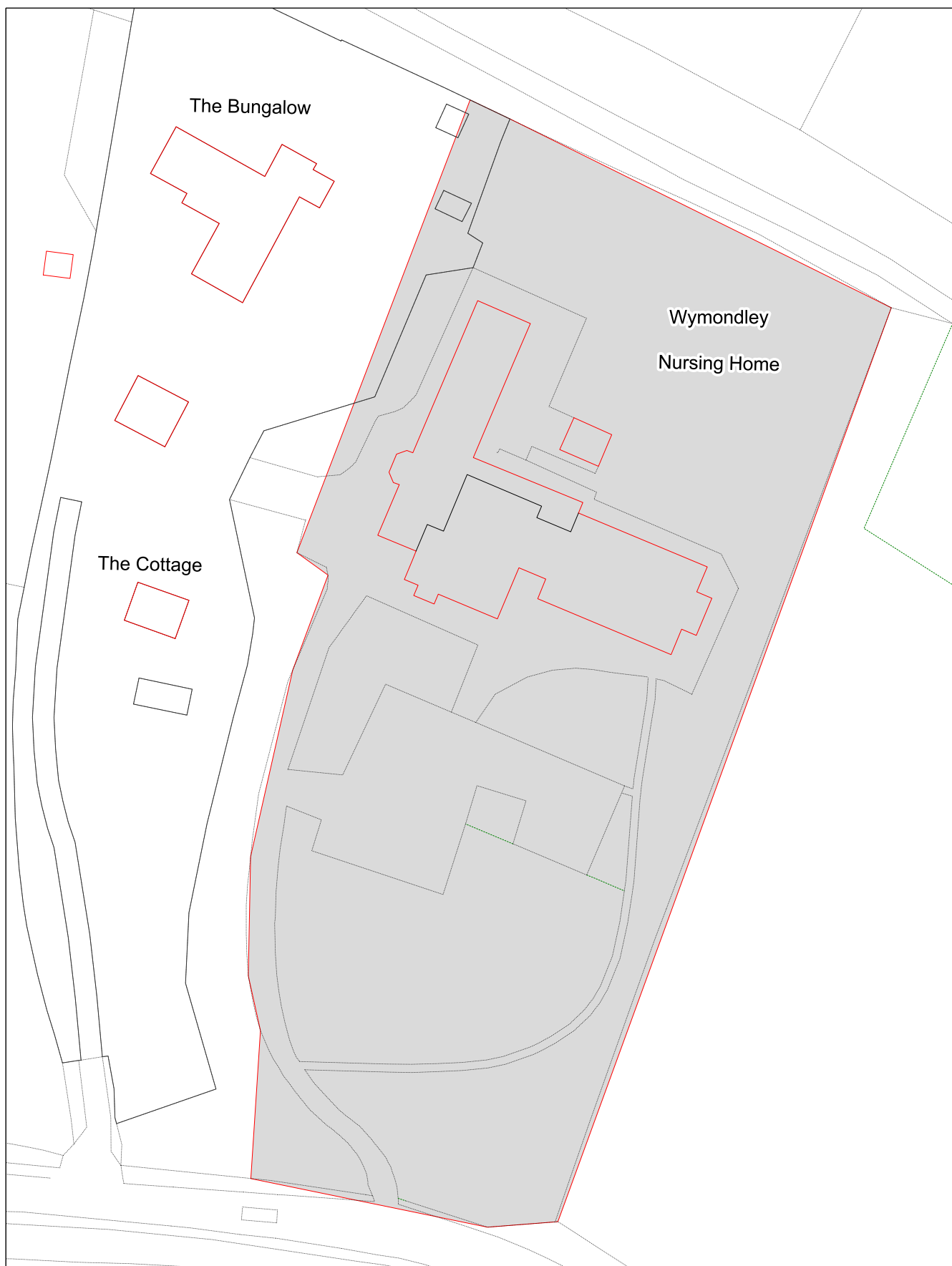
- (i) Details of a construction phasing programme (including any pre-construction or enabling works);
- (ii) Hours of construction operations including times of deliveries and removal of waste;
- (iii) Site set up and general arrangements for storing plant including cranes, materials, machinery and equipment, temporary offices and other facilities, construction vehicle parking and loading/unloading and vehicle turning areas;
- (iv) Access and protection arrangements around the site for pedestrians, cyclists and other highway users;
- (v) Details of provisions for temporary car parking during construction;
- (vi) The location of construction traffic routes to and from the site, details of their signing, monitoring and enforcement measures;
- (vii) Screening and hoarding details
- (viii) End of day tidying procedures;
- (ix) Construction and storage compounds (including areas designated for car parking);
- (x) Siting and details of wheel washing facilities;
- (xi) Cleaning of site entrances, site access roads and the adjacent public highway and;
- (xii) Disposal of surplus materials.

Reason: To minimise the impact of construction vehicles and to maintain the amenity of the local area.

#### **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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|-----------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ITEM NO:  | <u>Location:</u>  | 1A Church View, Portmill Lane, Hitchin, SG5 1EU                                                                                                                      |
| <b>11</b> | <u>Applicant:</u> | Mr Pinchin                                                                                                                                                           |
|           | <u>Proposal:</u>  | Installation of 3 wall mounted air conditioning units on north (car park) elevation (as amended by plan nos. 010 Rev F and 011 Rev D received 02/11/17 and 14/11/17) |
|           | <u>Ref. No:</u>   | 17/01858/ 1                                                                                                                                                          |
|           | <u>Officer:</u>   | Tom Rea                                                                                                                                                              |

**Date of expiry of statutory period:** 14 September 2017

## **Reason for Delay**

N/A

## **Reason for Referral to Committee**

Councillor Clark has requested that this application be considered by Committee in the wider public interest, if issues remain unresolved between the applicants and residents of Church View.

## **1.0 Relevant History**

- 1.1 13/02151/1:  
Demolition of all existing structures at the Former Royal Mail Delivery Office and Post Office site and redevelopment of the site to provide: 20 x 2 bedroom flats; 4 x 1 bedroom flats; flexible permission for 390 sqm of Class A1/A2/A3 use along the Hermitage Road frontage; flexible permission for Class A1/A3 (cafe only) use at the corner of Portmill Lane and River Hiz Walkway; 2295 sqm for Class C1 use comprising a 60-bedroom hotel incorporating a restaurant; two vehicular entrances to the site and a new loading bay along the Portmill Lane frontage; with enhancement of the River Hiz and the adjacent River Hiz Walkway (as amended by site plan no. 3001 39 Revision A received 10th October 2013)

Granted planning permission 30th January 2014. The development was completed by October 2016.

## **2.0 Policies**

### **2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**

Policy 43 - Shopping Areas in Town Centres

Policy 57 - Residential Guidelines and Standards.

### **Supplementary Planning Documents.**

Design SPD

Vehicle Parking Provision at New Development SPD.

### **2.2 National Planning Policy Framework**

Section 1 - Building a strong, competitive economy.

Section 7 - Requiring good design.

Section 12 - Conserving and enhancing the historic environment

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

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy SP3 'Employment'

Policy SP4 'Town and Local Centres'

Policy SP9 'Design and Sustainability'

Policy D1 Sustainable Design'

Policy D3 'Protecting Living Conditions'

The Examination in Public (EiP) in connection with the Submission Local Plan commenced on 13th November 2017.

### **2.4 National Planning Practice Guidance**

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

## **3.0 Representations**

### **3.1 NHDC Environmental Health officer:**

Considers that the proposed air conditioning units and extract fan would not have an adverse impact on residents and considers the proposed mitigation measures satisfactory. Recommends a condition requiring the air conditioning units and extract fan to be installed in accordance with the submitted noise report.

### **3.2 Site Notice / Adjoining residents:**

A number of letters have been received from the occupiers of flats within Church View. Several concerns are raised including the following matters:

- A breach of the lease / tenant covenants
- Noise / vibrations / damage and disturbance to flats
- Inconvenience and danger to pedestrians
- Breach of right to comfort / enjoyment of residential properties
- Echoed sound in car park area and pollution
- Poor visual impact and would create a precedent
- Concern over location of extractor grill / lack of detail
- Concern at unpleasant cooking smells
- Request consideration be given to small multi-split unit to reduce noise/ vibration/ smells nuisance
- Concern at possible use of premises as a restaurant and bar contrary to the planning permission for the building
- Concern at impact on future values of the apartments
- Application should be delayed under change of ownership completed
- Fire risk
- Would impact on bike storage area
- No specifications / dimensions on drawings
- A/C units would not fit within the space

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 No. 1A Church View is a ground floor unit within the Church View development located on the north side of Portmill Lane. The unit was granted permission for an A1 (retail) or A3 (Cafe only) use as part of a larger mixed use development for residential apartments, a hotel, an enhanced riverside walkway and retail units approved by the Local Planning Authority in January 2014. The development was fully completed by October 2016.

No. 1A has an L-shaped floor plan comprising approximately 170 sqm and has a frontage onto both Portmill Lane and the riverside walk. It is currently vacant and yet to be fitted out.

The site is within the Hitchin Conservation Area.

#### **4.2 Proposal**

4.2.1 The proposal, as amended, is for the siting of three air conditioning units to be located on an external wall which faces into an undercroft parking area at the rear of the building. The units would be each 700mm wide, 300mm deep and 500mm in height. They are grouped together and are to be covered with an acoustic louvre. All associated pipework from the A/C units is to be routed into the A1 / A3 unit through trunking at low level which is to be colour coded to match the existing brickwork.

4.2.2 The application is supported by a manufacturers specifications document on the A/C units and an acoustic report in respect of mechanical services plant to serve the proposed unit which is to be a cafe / delicatessen.

4.2.3 The proposed location of the A/C units has been revised since the submission of the application from the external wall of the building facing the riverside walk to the rear undercroft car park wall.

#### **4.3 Key Issues**

4.3.1 The key issues are design and impact on the character and appearance of the area and the impact on the residential amenity of the adjacent residential occupiers.

##### **4.3.2 Design and character and appearance**

The original location of the A/C units was not considered acceptable due to their generally utilitarian and unattractive appearance on what is a very publically visible part of the Church View development i.e. the ground floor eastern elevation facing the riverside walk. The revised location as now proposed on the undercroft car park wall is far less prominent and a more secure elevation. Glimpses of the units may be possible through the secure metal fencing of the car park however in my opinion their impact on the character and appearance of the building and the area generally is far less intrusive than the original location. The additional louvered screening also provides further visual mitigation. The trunking containing the associated cabling is at a low level (less than 1 metre above ground level). Overall I consider that the development would have no significant visual impact and would not be harmful to the character and appearance of the area.

##### **4.3.3 Impact on residential amenity**

It is acknowledged that residents within Church View have raised a number of concerns with regard to this proposal and a meeting has taken place on site with the residents and applicant present so that these concerns could be understood and addressed.

This application is for the siting of air conditioning units only. The use of the ground floor premises at No. 1 A Church View is not a material consideration with this application. Concerns that the use of the premises may turn out not to be in accordance with the authorised use of the premises as set out in the original planning permission are recognised however this can only be assessed and monitored as and when the use of the premises commences.

The submitted drawings show a very small extract grill (200mm square) on the east elevation which, it is understood from information provided by the agent, to form part of a fresh air supply and extract system located internally within the unit. The extract grill as shown on the external wall is considered to be De Minimis in my opinion - that is, because of its relatively small scale and size it constitutes minor works which do not have a material effect on the appearance of the building and by any reasonable definition is development which does not require planning permission. Nevertheless the grill has been shown on the submitted plans for information, its purpose and internal use has been explained by the applicant and shown on detailed drawings and its operation has been considered by the Environmental Health officer.

- 4.3.4 Noise and vibration from A/C units can be disruptive to residential amenity in certain circumstances and in this case, because of the flats above the unit, a noise survey was requested and has been submitted. The noise survey has been assessed by the Council's Environmental Health officer (EHO) as being 'very robust and thorough' and that all relevant noise sources have been identified and assessed. The officer has also noted that the extract fan, although part of a light duty general ventilation system, is fitted with a silencer internally. Overall, the Environmental Health officer is satisfied that the proposed development should not have an adverse impact on residents. A suitable worded condition, restricting the installation of the A/C equipment to be in accordance with the noise survey and the mitigation measures set out therein, is recommended.
- 4.3.5 In view of the alternative car park location of the A/C units, the mitigation measures proposed and the comments of the Environmental Health officer, I consider that the proposed development will not have a significantly adverse impact on adjoining residents amenity so as to raise a sustainable planning objection.

#### 4.4 **Conclusion**

- 4.4.1 It is considered that the proposed development is acceptable in planning and environmental terms.

### **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 installation and maintenance of the proposed air conditioning units hereby permitted shall be in accordance with the manufacturers specifications and the proposed mitigation measures set out in the submitted acoustic report by Philip Acoustics Ltd, reference 17213-002 dated October 2017. The mitigation measures therein shall be implemented prior to the plant becoming operational.

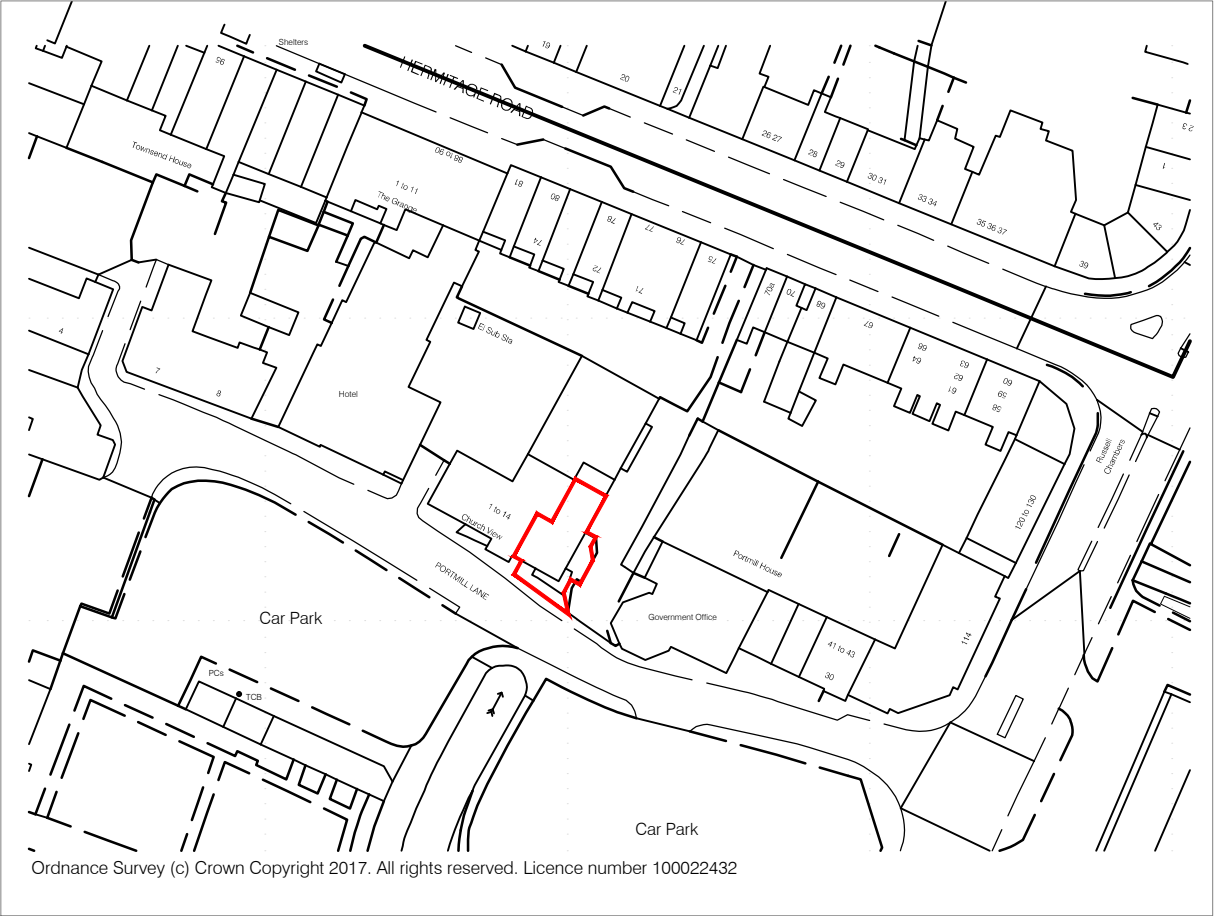
Reason: To protect the amenities of existing residential occupiers.

**Proactive Statement**

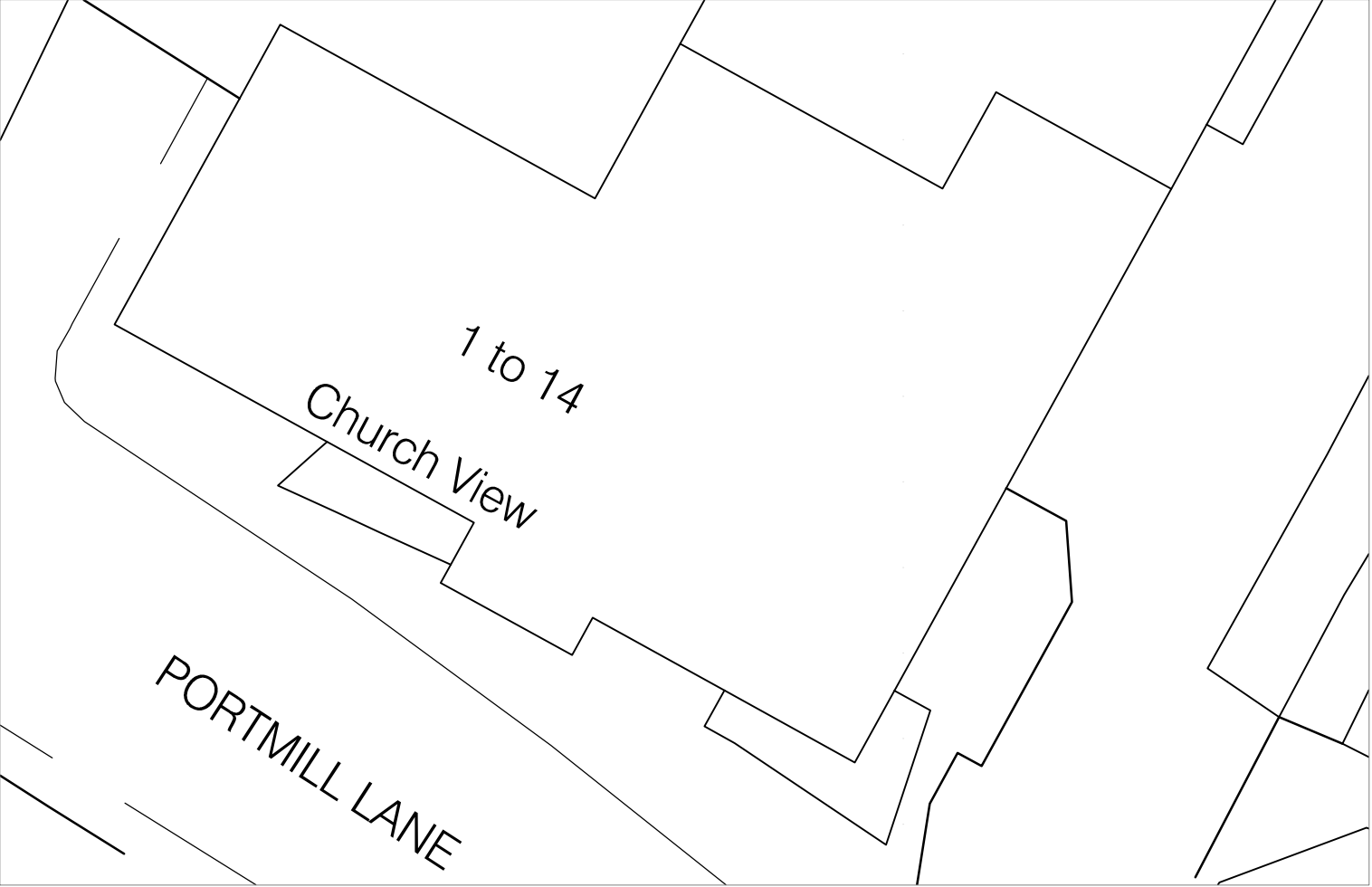
Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraphs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

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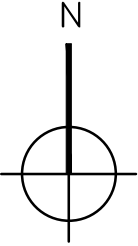




Site Location Plan  
scale 1:1250



Block Plan  
scale 1:200



Notes:

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This drawing is to be read in conjunction with all other drawings, relevant specifications and preliminary / general conditions associated with the project.

All materials and workmanship to comply with Approved Document 7 to support Regulation 7 2013 edition of the Building Regulations 2010.

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PRELIMINARY

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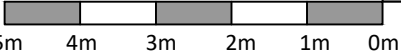
CLIENT  
Mr A Pinchin

PROJECT  
New coffee shop / deli accommodation  
1A Church View, Portmill Lane  
Hitchin  
Herts SG5 1EU

DRAWING TITLE  
Site location & block plans

|            |               |                |     |          |
|------------|---------------|----------------|-----|----------|
| SCALE      | as shown @ A3 | DRAWING NUMBER | 001 | REVISION |
| DATE       | Jul 2017      |                |     |          |
| DRAWN      | AJF           |                |     |          |
| JOB NUMBER | 0177          | CHECKED BY     |     |          |

Scale @ 1:100



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|           |                   |                                                                        |
|-----------|-------------------|------------------------------------------------------------------------|
| ITEM NO:  | <u>Location:</u>  | 1A Church View, Portmill Lane, Hitchin, SG5 1EU                        |
| <b>12</b> | <u>Applicant:</u> | Mr Pinchin                                                             |
|           | <u>Proposal:</u>  | Installation of 3no. retractable awnings (as amended by drawing 015A). |
|           | <u>Ref. No:</u>   | 17/02297/ 1                                                            |
|           | <u>Officer:</u>   | Tom Rea                                                                |

**Date of expiry of statutory period:** 03 November 2017

## **Reason for Delay**

N/A

## **Reason for Referral to Committee**

Councillor Clark has requested that this application be considered by Committee in the wider public interest, if issues remain unresolved between the applicants and residents of Church View.

## **1.0 Relevant History**

### **1.1 13/02151/1:**

Demolition of all existing structures at the Former Royal Mail Delivery Office and Post Office site and redevelopment of the site to provide: 20 x 2 bedroom flats; 4 x 1 bedroom flats; flexible permission for 390 sqm of Class A1/A2/A3 use along the Hermitage Road frontage; flexible permission for Class A1/A3 (cafe only) use at the corner of Portmill Lane and River Hiz Walkway; 2295 sqm for Class C1 use comprising a 60-bedroom hotel incorporating a restaurant; two vehicular entrances to the site and a new loading bay along the Portmill Lane frontage; with enhancement of the River Hiz and the adjacent River Hiz Walkway (as amended by site plan no. 3001 39 Revision A received 10th October 2013)

Granted planning permission 30th January 2014. The development was completed by October 2016.

## **2.0 Policies**

### **2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**

Policy 43 - Shopping Areas in Town Centres

Policy 57 - Residential Guidelines and Standards.

### **Supplementary Planning Documents.**

Design SPD

Vehicle Parking Provision at New Development SPD.

### **2.2 National Planning Policy Framework**

Section 1 - Building a strong, competitive economy.

Section 7 - Requiring good design.

Section 12 - Conserving and enhancing the historic environment

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

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy SP3 'Employment'

Policy SP4 'Town and Local Centres'

Policy SP9 'Design and Sustainability'

Policy D1 Sustainable Design'

Policy D3 'Protecting Living Conditions'

The Examination in Public (EiP) in connection with the Submission Local Plan commenced on 13th November 2017.

### **2.4 National Planning Practice Guidance**

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

## **3.0 Representations**

### **3.1 Hertfordshire Highways:**

The highway authority raise no objections. Recommends a condition if permission is granted.

### **3.2 Site Notice / Adjoining residents:**

Several letters have been received from the occupiers of flats within Church View and the following concerns are raised :

- Awnings not included in the Retail Unit Lease
- Colour of awnings will be an eyesore / will clash with the decor of the main building
- Limited space beneath existing balcony to fit awnings
- Obstruction to the view and light at present enjoyed by flat 6
- Unsightly / detrimental impact on the entire building
- Will dominate the conservation area

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 No. 1A Church View is a ground floor unit within the Church View development located on the north side of Portmill Lane. The unit was granted permission for an A1 (retail) or A3 (Cafe only) use as part of a larger mixed use development for residential apartments, a hotel, an enhanced riverside walkway and retail units approved by the Local Planning Authority in January 2014. The development was fully completed by October 2016.

No. 1A has an L-shaped floor plan comprising approximately 170 sqm and has a frontage onto both Portmill Lane and the riverside walk. It is currently vacant and yet to be fitted out.

The site is within the Hitchin Conservation Area.

## **4.2 Proposal**

- 4.2.1 The proposal, as amended, is for the erection of three retractable awnings to the ground floor shop/ cafe unit at No. 1A.

Two awnings are proposed along the east elevation at 4.3 metres and 5.4 metres wide respectively, each projecting 2.5 metres from the main wall of the building. A third awning would be located along the Portmill Lane (south) elevation and would be 7.0 metres wide projecting 2.0 metres from the main wall. The submitted drawings state that the awnings would be of a 'superior quality Recasens Vermillion Red 100% acrylic fabric'. The awnings would retract into a 200mm aluminium cover hood.

## **4.3 Key Issues**

- 4.3.1 The key issues are design and impact on the character and appearance of the area and the impact on the residential amenity of the adjacent residential occupiers.

### **4.3.2 Design and character and appearance**

The provision of awnings to shopfronts in this town centre location is not unusual and there are several examples nearby e.g. in Hermitage Road. In this case the awnings are of a traditional design and located at a low level with a very shallow profile thus limiting their impact in the street scene (as noted from the south and east elevations on drawing 015 A).

The Vermillion Red colour of the awnings contrasts with the white and grey finish to the main building however there is some co-ordination with the red brick finish to the central staircase on the Portmill Lane frontage as well as with the red brick elevations of the adjacent hotel and listed buildings at Nos 7 - 9 Portmill Lane.

I consider that the low level, simple design and contrasting colour scheme for the awnings is appropriate for this modern building and active frontage along Portmill Lane and the riverside walkway. The scale of the surrounding buildings and variety of external materials and finishes in the locality are such that I do not consider that the proposed awnings are out of keeping, proportion or scale with the host building nor will they detract from the historic setting of the Conservation area in my view. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area.

### **4.3.3 Impact on residential amenity**

It is acknowledged that residents within Church View have raised concerns with regard to the size and colour of the awnings. For the reasons set out above I consider that the colour of the awnings is not objectionable. However the applicant has agreed to reduce the projection of the main awning along Portmill Lane to 2 metres to reduce its impact. Taking into account that the adjacent flats on this part of the building are above the awnings and have their own projecting balconies I do not consider that there will be any significant and demonstrably adverse impact on the residential amenities of the occupiers of the flats.

## **4.4 Conclusion**

- 4.4.1 It is considered that the proposed development is acceptable in planning and highway terms.

## **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.

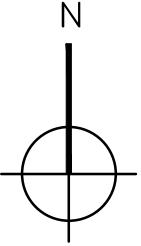
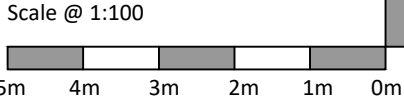
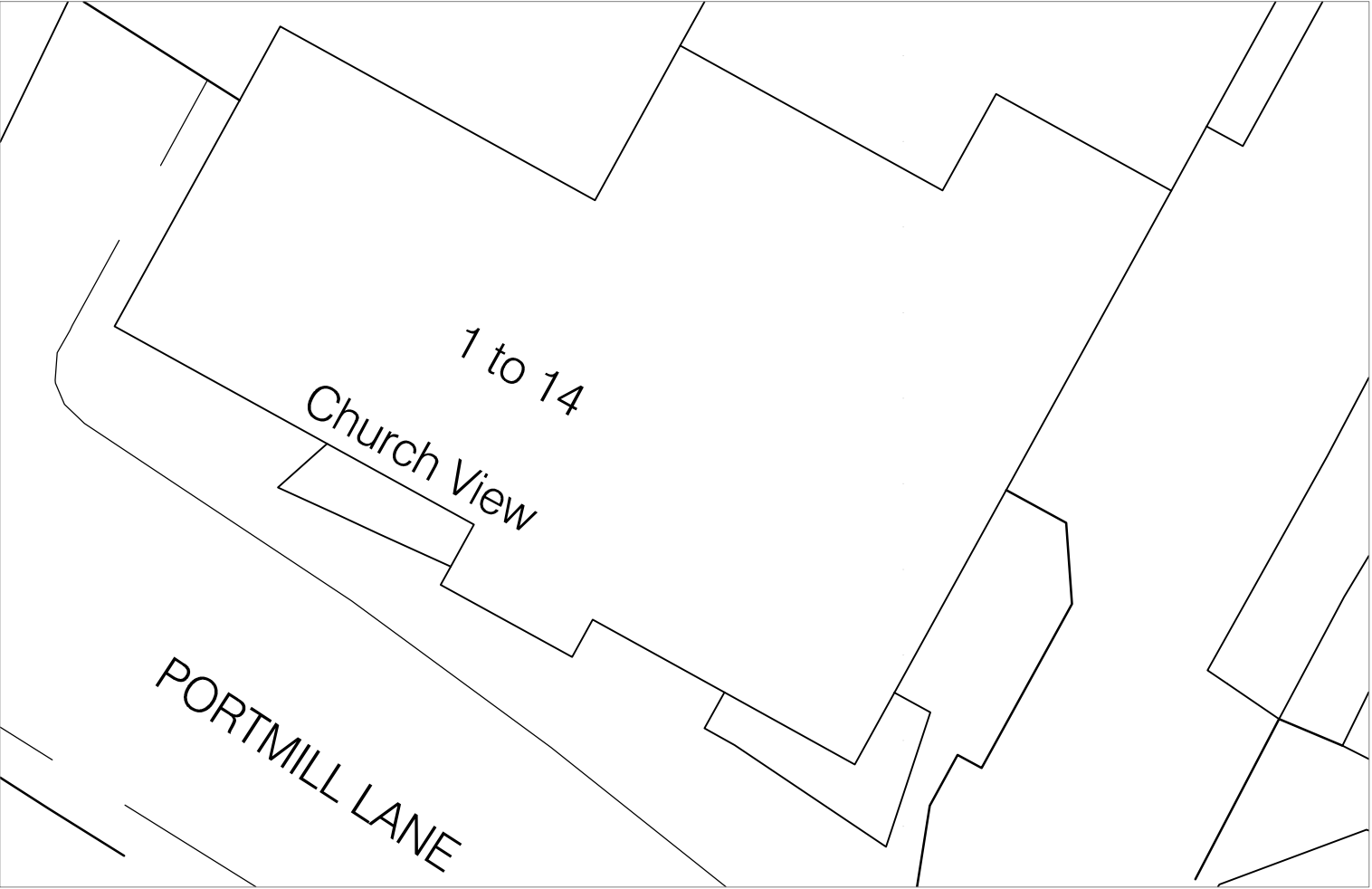
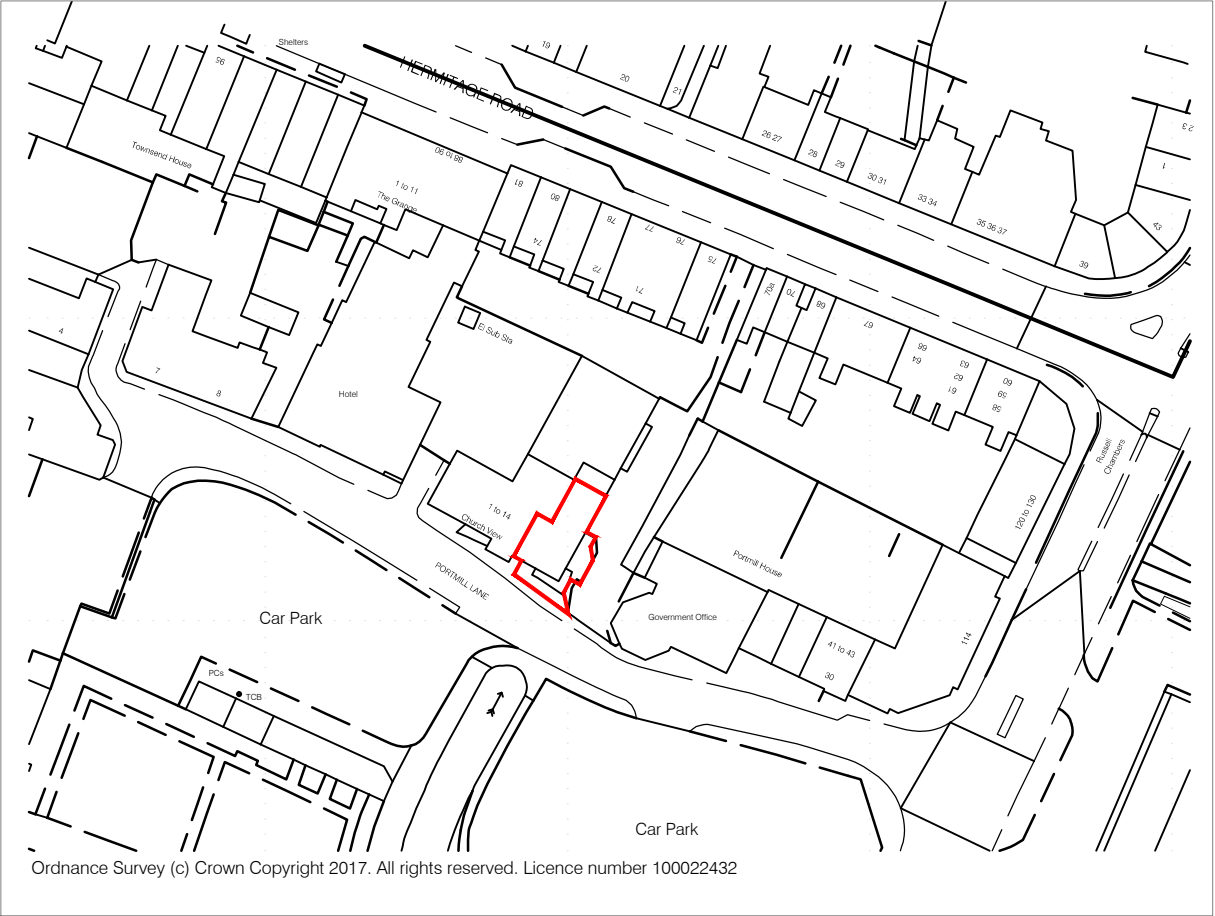
Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. All parts of the awning overhanging the adjacent public footway along Portmill Lane must be at a height of, or greater than 2.6 m vertically above the footpath and no less than 500mm horizontally from the edge of the adjacent carriageway.

Reason: To ensure the safety of highway users and indemnify the County Council against any claims arising from the awning over the public highway.

### **Proactive Statement**

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



Notes:

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CLIENT  
Mr A Pinchin

PROJECT  
New coffee shop / deli accommodation  
1A Church View, Portmill Lane  
Hitchin  
Herts SG5 1EU

DRAWING TITLE  
Site location & block plans

| SCALE      | as shown @ A3 | DRAWING NUMBER | REVISION   |
|------------|---------------|----------------|------------|
| DATE       | Jul 2017      | 001            |            |
| DRAWN      | AJF           |                |            |
| JOB NUMBER | 0177          |                | CHECKED BY |

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|           |                   |                                                                                                                       |
|-----------|-------------------|-----------------------------------------------------------------------------------------------------------------------|
| ITEM NO:  | <u>Location:</u>  | 1A Church View, Portmill Lane, Hitchin, SG5 1EU                                                                       |
| <b>13</b> | <u>Applicant:</u> | Mr Pinchin                                                                                                            |
|           | <u>Proposal:</u>  | Installation of 3no. retractable awnings including integral advertisement logo's and text<br>Logo's and text written. |
|           | <u>Ref. No:</u>   | 17/02298/ 1AD                                                                                                         |
|           | <u>Officer:</u>   | Tom Rea                                                                                                               |

**Date of expiry of statutory period:** 03 November 2017

## **Reason for Delay**

N/A

## **Reason for Referral to Committee**

Councillor Clark has requested that this application be considered by Committee in the wider public interest, if issues remain unresolved between the applicants and residents of Church View.

## **1.0 Relevant History**

- 1.1 13/02151/1:  
Demolition of all existing structures at the Former Royal Mail Delivery Office and Post Office site and redevelopment of the site to provide: 20 x 2 bedroom flats; 4 x 1 bedroom flats; flexible permission for 390 sqm of Class A1/A2/A3 use along the Hermitage Road frontage; flexible permission for Class A1/A3 (cafe only) use at the corner of Portmill Lane and River Hiz Walkway; 2295 sqm for Class C1 use comprising a 60-bedroom hotel incorporating a restaurant; two vehicular entrances to the site and a new loading bay along the Portmill Lane frontage; with enhancement of the River Hiz and the adjacent River Hiz Walkway (as amended by site plan no. 3001 39 Revision A received 10th October 2013)

Granted planning permission 30th January 2014. The development was completed by October 2016.

## **2.0 Policies**

- 2.1 **North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies)**  
Policy 43 - Shopping Areas in Town Centres  
Policy 57 - Residential Guidelines and Standards.

### **Supplementary Planning Documents.**

Design SPD

Vehicle Parking Provision at New Development SPD.

- 2.2 **National Planning Policy Framework**  
Section 1 - Building a strong, competitive economy.  
Section 7 - Requiring good design.  
Section 12 - Conserving and enhancing the historic environment

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

Policy SP1 'Sustainable Development in North Hertfordshire'

Policy SP3 'Employment'

Policy SP4 'Town and Local Centres'

Policy SP9 'Design and Sustainability'

Policy D1 Sustainable Design'

Policy D3 'Protecting Living Conditions'

The Examination in Public (EiP) in connection with the Submission Local Plan commenced on 13th November 2017.

### **2.4 National Planning Practice Guidance**

Provides a range of guidance on planning matters including flood risk, viability, design and planning obligations.

## **3.0 Representations**

### **3.1 Hertfordshire Highways:**

The highway authority raise no objections.

### **3.2 Site Notice / Adjoining residents:**

Several letters have been received from the occupiers of flats within Church View. Concerns have been raised with regard to the colour of the awnings and the advertisements which announce the business as a 'deli & wine' establishment when there has been no alcohol licence granted.

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 No. 1A Church View is a ground floor unit within the Church View development located on the north side of Portmill Lane. The unit was granted permission for an A1 (retail) or A3 (Cafe only) use as part of a larger mixed use development for residential apartments, a hotel, an enhanced riverside walkway and retail units approved by the Local Planning Authority in January 2014. The development was fully completed by October 2016.

No. 1A has an L-shaped floor plan comprising approximately 170 sqm and has a frontage onto both Portmill Lane and the riverside walk. It is currently vacant and yet to be fitted out.

The site is within the Hitchin Conservation Area.

### **4.2 Proposal**

- 4.2.1 The proposal is for the display of three adverts on the three awnings proposed to be attached to the south and east elevations of the building. The adverts include the text 'MERCADO - DELI & WINE' and an M logo on the top of the awnings. No illumination of the signage is proposed.

### **4.3 Key Issues**

- 4.3.1 The key issues are design and impact on the visual amenity of the area.

#### 4.3.2 **Design and visual amenity**

The advertisements are straightforward and low key. The advertisements are not illuminated and the text and logos are not excessive nor do they add unnecessary clutter to the elevations of the shop unit in my view. The overall level of advertisements is limited and in proportion to the size of the shopfront on these two elevations. In my judgement there would be limited, if any, impact on the visual amenity of the area.

The issue of the advertisements displaying information relating to the sale of alcohol without a current licence is a matter for the applicant to resolve through an application to the Licensing Authority.

#### 4.4 **Conclusion**

- 4.4.1 It is considered that the proposed advertisement is acceptable in planning and highway terms.

### **5.0 Legal Implications**

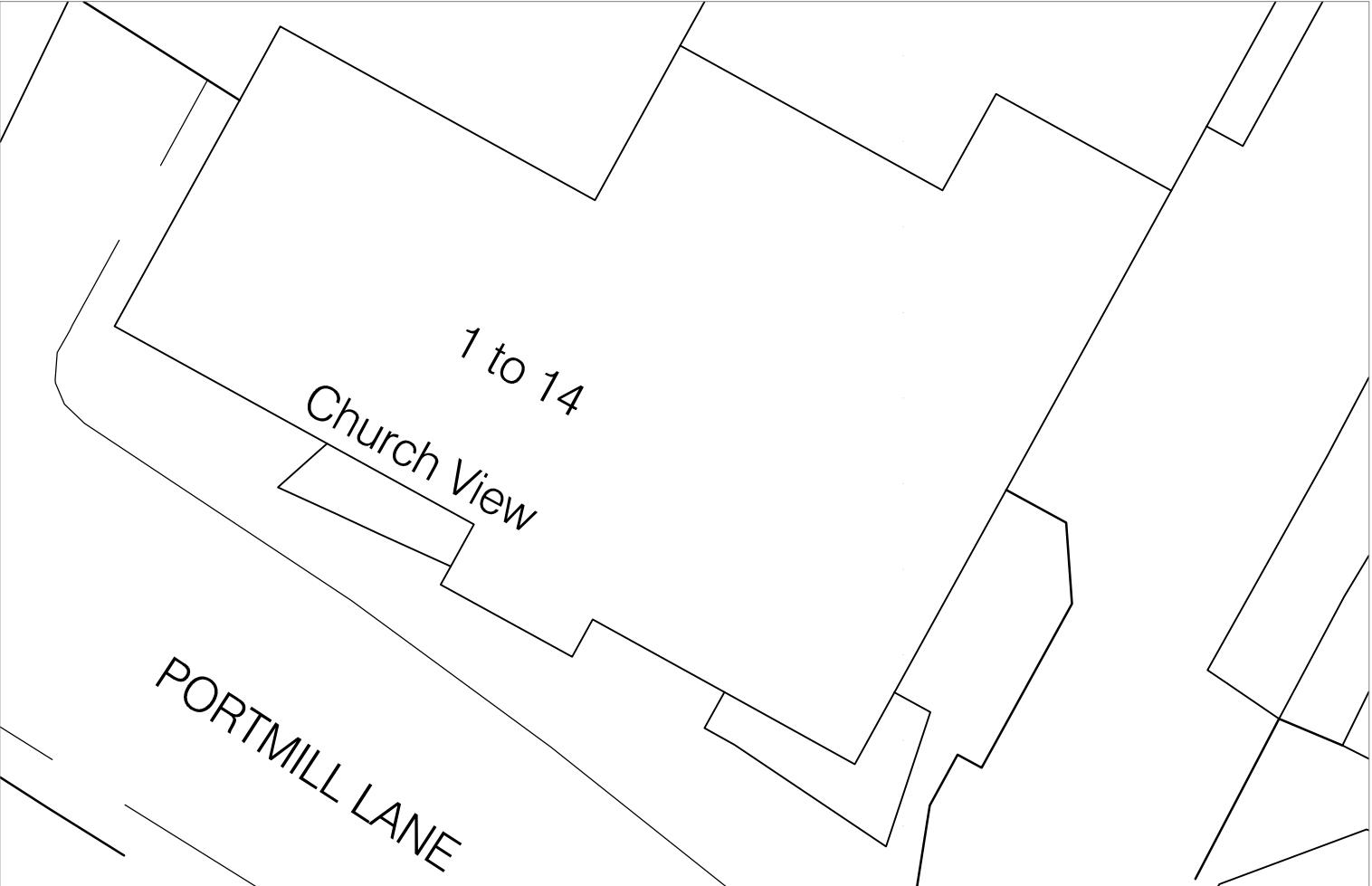
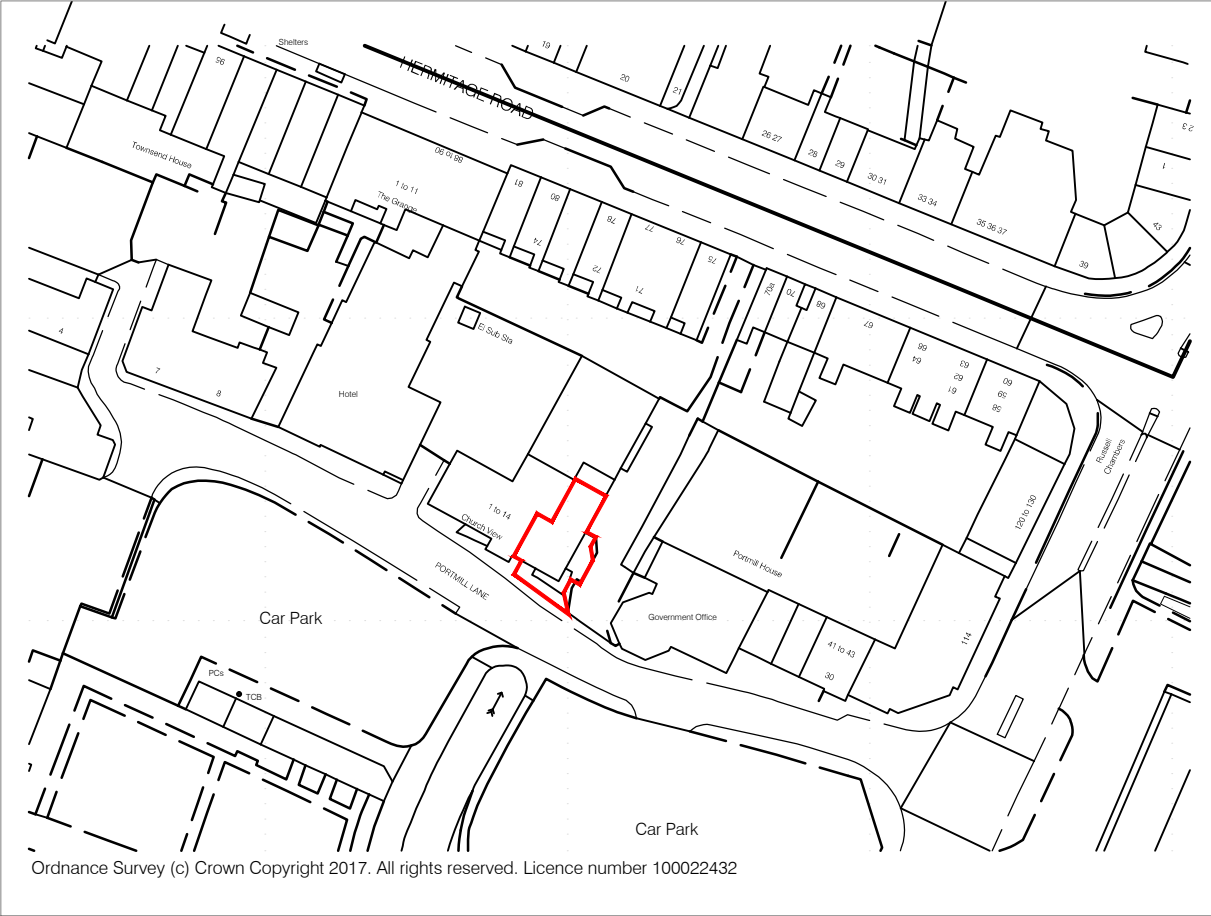
- 5.1 In making decisions on applications submitted under the Town and Country Planning legislation, the Council is required to have regard to the provisions of the development plan and to any other material considerations. The decision must be in accordance with the plan unless the material considerations 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**

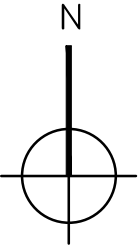
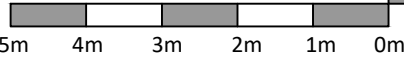
- 6.1 That Advertisement Consent be **GRANTED** subject to the following conditions:
1. (a) No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.
  - (b) No advertisement shall be sited or displayed so as to-
    - (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
    - (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
    - (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
  - (c) Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.
  - (d) Any structure or hoarding erected or used principally for the purpose of displaying advertisements, shall be maintained in a condition that does not endanger the public.
  - (e) Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: As imposed by regulation within the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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Notes:

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CLIENT  
Mr A Pinchin

PROJECT  
New coffee shop / deli accommodation  
1A Church View, Portmill Lane  
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DRAWING TITLE  
Site location & block plans

| SCALE      | as shown @ A3 | DRAWING NUMBER | REVISION   |
|------------|---------------|----------------|------------|
| DATE       | Jul 2017      | 001            |            |
| DRAWN      | AJF           |                |            |
| JOB NUMBER | 0177          |                | CHECKED BY |

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|-----------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ITEM NO:  | <u>Location:</u>  | 22 Broadmead, Hitchin, SG4 9LU                                                                                                                                                                                                                                                                     |
| <b>14</b> | <u>Applicant:</u> | Mrs Cleland                                                                                                                                                                                                                                                                                        |
|           | <u>Proposal:</u>  | Raising of roof to provide first floor and to facilitate conversion of single storey bungalow into a chalet bungalow with additional single storey side and rear side extension, following demolition of existing rear conservatory. (as amended by plan nos. 01SC and 01SP A received on 9/11/17) |
|           | <u>Ref. No:</u>   | 17/02008/ 1HH                                                                                                                                                                                                                                                                                      |
|           | <u>Officer:</u>   | Tom Rea                                                                                                                                                                                                                                                                                            |

**Date of expiry of statutory period:** 18 October 2017

**Reason for Delay**

N/A

**Reason for Referral to Committee**

This application has been called in to Committee by Councillor Clark in the wider public interest.

**1.0 Relevant History**

- 1.1 Single storey side and rear extensions, granted 6/12/76

**2.0 Policies**

- 2.1 House Extensions  
**North Hertfordshire District Local Plan No.2 with Alterations**  
 Policy 28 - House Extensions  
 Policy 57 - Residential Guidelines and Standards
- 2.2 **National Planning Policy Framework.**  
 Section 7 - Requiring good design.
- 2.3 **Submission Local Plan Local Plan 2011-2031**  
 Policy D2 - House Extensions, replacement dwellings and outbuildings.  
 Policy D3 'Protecting Living Conditions'

**3.0 Representations**

- 3.1 **Site Notice / Adjoining residents:**  
 Letter received from the occupier of No. 24 Broad Mead raising the following concerns:
- description as a chalet bungalow not correct
  - overdevelopment from a small 3 bedroom bungalow
  - other conversions have not raised the roof but kept within the loft space with dormer windows

- as noted from the street scene it will dominate the properties on either side
- roof raised by 4 metres above No. 22
- loss of light to living room
- loss of privacy to back garden

The occupiers of No. 22 advise that they are not against any extension proposals and would ask that more negotiation takes place to consider using the existing loft space for the additional accommodation.

## **4.0 Planning Considerations**

### **4.1 Site & Surroundings**

- 4.1.1 The application site is located on the southern side of Broadmead with the dwelling being a hipped roof bungalow built of yellow brick with a brown tiled roof. A 2.2 metre depth conservatory has been erected to the rear elevation of the dwelling, as indicated on the existing floor plan and elevation plans. No 20 to the west of the application dwelling is a hipped roof bungalow with flat roof dormers to the rear and side roof slopes (which at the point of the proposed single storey side extension is built on land approximately 0.85 metres higher than the application site), whereas No 24 is a gable end roof bungalow with a flat roof dormer window to the rear roofslope. There are two high level obscure glass windows in the side elevation of No 24 Broadmead, which serve to provide light to the lounge of this property. The one to the front is smaller and has a window pane depth of 0.15 metres, whilst the one to the rear of the lounge has a pane depth of 0.56 metres. There is a 1.9 metre high close boarded fence to the boundary with No 24 Broadmead. The road is characterised by bungalows with different styles and sizes of dormer windows.

Although the vast majority of properties in Broadmead are bungalows there are four two storey properties located at the junction with Whitehorse Lane.

### **4.2 Proposal**

- 4.2.1 This application, as amended, seeks permission to raise the roof of the existing bungalow to create a one and half storey dwelling with the provision of first floor accommodation comprising three bedrooms and a bathroom. In addition a flat roofed single storey rear and side extension is also proposed.

As a result of the works the eaves height of the dwelling would be raised from 2.4m to 4.0 metres and the ridge height from 5.6m to 7.3m.

Two dormer windows would be set within the eaves at the front and rear elevations together with two side elevation rooflights. The external materials would comprise of matching brickwork and roof tiles with existing tiles re-used where possible.

The proposed single storey side would extend back from the existing garage for a depth of 7.5 metres, whilst the rear extension would extend back 3.3 metres from the original rear wall of the dwelling.

### **4.3 Key Issues**

- 4.3.1 The key issues to the determination of this application relate to the visual impact that would result from the change from a bungalow to a one and half storey dwellinghouse to the character and appearance of the locality, the impact of the development upon the residential amenity of the neighbouring dwellings and parking provision.



#### **4.3.2 Character and Appearance**

As noted above the majority of houses in Broadmead are bungalows, many with roof accommodation with dormer windows. There are detached and semi-detached bungalows and there is some variety of loft window design. In raising the eaves height by 1.6 metres the proposed development would introduce a form of development that would, in this particular part of the road, be at odds with the prevailing form of development that is dwellings with single storey eaves height. That said, I consider that there are factors that would mitigate the impact of this development and these are as follows:

- 1) There is a significant fall in levels from the carriageway down to No. 22 (by 1.8 metres) so that the additional height of the dwelling would not have a dominating impact in the street scene
- 2) No. 22 is set back 10 metres from the front boundary with the pavement and 19 metres from the carriageway (on account of the very wide verge) and therefore the extended property would not be dominant or obtrusive
- 3) There are mature trees growing within the grassed verge which reduce views of the dwelling.
- 4) The hipped roof form of the existing dwelling is repeated with the replacement roof

I consider that as a consequence of these factors the additional harm to the visual amenities of the locality through the additional height and massing of the dwelling is minimised to the extent that I consider on balance that the development would not be demonstrably harmful to the character and appearance of the area.

#### **4.3.3 Impact on residential amenity of adjacent occupiers**

There is a significant fall in levels from west to east so that No. 20 Broadmead is located on higher ground than No. 22 (by approximately 0.5m). No. 20 has also been extended to the side. The proposed single storey side and rear extension although very deep would by reason of the difference in levels and its flat roofed design have little impact on the residential amenity enjoyed by the occupiers of No. 20. Equally, the additional height of No. 22 is set back from the boundary with No. 20 by the width of the side garage and proposed living room/ kitchen and this together with the fall in levels results in a limited impact on No. 20 in my view.

- 4.3.4 No. 24 Broadmead is a detached bungalow with loft rooms set slightly further back from No. 22. The property has a ground floor sitting room which has two side windows facing No. 22 - this room also has a large window facing the road. The occupier of No. 24 is concerned at the loss of light to this room as a result of the raising of the flank wall of No. 22 by 1.6m. I have visited the property and inspected the current light levels inside this room. Light into this room is already restricted as a result of the rear extension constructed at the property in 2002. The occupier is concerned at the loss of light to the side windows however the room does have an alternative light source from the main front window and therefore while there may be some loss of light I do not consider that it would be so significant so as to adversely affect the living conditions of the occupiers of No. 24 to an unacceptable degree.

4.3.5 The occupier of No. 24 is also concerned at loss of privacy arising from the proposed rear dormer and views into the rear garden of No. 24. Rear dormer windows are not uncommon in the rear elevations of properties in this part of Broadmead. In this case the dormer window nearest to No. 24 is to a bathroom and I have recommended a condition that this window be obscure glazed should permission be granted. The second rear dormer window is to a bedroom however views from this window would be over the more distant parts of the back gardens of adjoining properties including No. 24's garden and would not overlook into the more private rear garden areas immediately behind the adjoining dwellings. In my opinion there would be no material loss of privacy arising from the insertion of rear dormers into the proposed new roof to No. 22.

#### 4.3.6 **Parking**

No. 22 has a drive and front garden that could accommodate two cars off street and therefore the parking provision has potential to meet current standards as set out in the Council's Supplementary Planning Document on parking. The existing garage is to be reduced in size and could not accommodate a vehicle. The submitted drawings do not show sufficient detail regarding parking therefore I would recommend a condition requiring a parking layout to be submitted and agreed by the local planning authority prior to the completion of the development.

#### 4.4 **Conclusion**

4.4.1 Taking into account the above analysis of this application I consider that on balance there would be no significant and demonstrable harm arising from this development proposal and therefore I recommend approval subject to 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. The proposed dormer window on the rear elevation of the proposed development nearest to No. 24 Broadmead (i.e. the proposed en-suite) shall be permanently glazed with obscure glass.

Reason: To safeguard the privacy of the occupiers of the adjacent dwelling.

4. **Prior to the completion of the development hereby permitted full details of the car parking layout for the proposed extended dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.**

**Reason: To ensure that sufficient parking provision is made available within the curtilage of the property to meet the parking requirements of occupiers of the extended dwelling.**

**Proactive Statement**

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

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| <b>*PART 1 – PUBLIC DOCUMENT</b> | <b>AGENDA ITEM No.</b><br><b>16</b> |
|----------------------------------|-------------------------------------|

**TITLE OF REPORT: PLANNING APPEALS**

**REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER**

Five planning appeals have been lodged and eight planning appeal decisions have been received.

Details are attached.

## PLANNING APPEALS LODGED

| APPELLANT         | Appeal Start Date | DESCRIPTION                                                                                                                                                                          | ADDRESS                                                 | Reference    | PROCEDURE               |
|-------------------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|--------------|-------------------------|
| Roy A Rowe        | 31 August 2017    | First floor rear extension                                                                                                                                                           | 148 High Street, Barkway, Royston, SG8 8EG              | 16/03125/1HH | Written Representations |
| Roy A Rowe        | 31 August 2017    | First floor rear extension and internal alterations.                                                                                                                                 | 148 High Street, Barkway, Royston, SG8 8EG              | 16/03126/1LB | Written Representations |
| Mr & Mrs Profit   | 4 September 2017  | Three bedroom detached dwelling with basement garage/room following demolition of existing dwelling and garage. Additional access off Church End. (Amended plans received 17/02/17). | Kestrels, Church End, Barley, Royston, SG8 8JN          | 16/02141/1   | Written Representations |
| Mr & Mrs Andrews  | 11 September 2017 | Four 4 x bedroom detached dwellings, associated car parking, access road and 'Wildlife Garden' with public footpath adjacent to Danesbury Park Road.                                 | Land between Gragil And 29, Danesbury Park Road, Welwyn | 17/00320/1   | Written Representations |
| Mr and Mrs T Camp | 19 September 2017 | Change of use of annexe to one bedroom dwelling with associated parking spaces.                                                                                                      | 1 Coronation Row, Crow Lane, Reed, Royston, SG8 8AD     | 17/00217/1   | Written Representations |



## PLANNING APPEAL DECISIONS

| APPELLANT            | DESCRIPTION                                                                              | SITE ADDRESS                                    | REFERENCE  | APPEAL DECISION                        | COMMITTEE/ DELEGATED | COMMENTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----------------------|------------------------------------------------------------------------------------------|-------------------------------------------------|------------|----------------------------------------|----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| c/o Rumball Sedgwick | Erection of 3 x 2 bed terrace dwellings with associated access, parking and landscaping. | Land Adjacent To Ash Mill, High Street, Barkway | 16/02588/1 | Appeal Dismissed on 11 September 12017 | Delegated            | The Inspector concluded that the living conditions of future occupiers would be significantly affected by odours as a result of the proximity to the existing poultry farm. The development would therefore be in conflict with Policies 6 (Rural area beyond the green belt), 26 (Housing proposals) and 57 (Residential Guidelines and standards) of the North Hertfordshire District Local Plan No. 2 and Section 6 of the Framework which seek to ensure that development proposals take into account the site and are acceptable in that location with regard to the environment and its surroundings. |

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# PLANNING APPEALS LODGED

PLANNING CONTROL COMMITTEE

DATE: 14 December 2017

| APPELLANT        | Appeal Start Date | DESCRIPTION                                                                                                                                                                                                                                                    | ADDRESS                                                                   | Reference    | PROCEDURE                  |
|------------------|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------|----------------------------|
| Mr Iliev         | 1 November 2017   | Development A: Front porch and front and side roof canopy. Development B: Two storey rear extension following demolition of existing outbuildings. (as amended by drawing ILW/1 Revision 01, ILW/3 Revision 01, ILW/4 Revision 01 received 15/05/2017)         | 32 Lammas Way,<br>Letchworth Garden City, SG6 4LW                         | 17/00812/1HH | Householder Appeal Service |
| Mr D Guerrier    | 3 November 2017   | Raise roof of existing detached double garage and store by 1 metre, insert front dormer window, replace garage doors with windows and additional windows and door to facilitate conversion to one 2 x bedroom dwelling. Single storey side attached log store. | Half Moon Lodge,<br>Lawrence End Road,<br>Peters Green, Luton,<br>LU2 9QD | 17/00464/1   | Written Representations    |
| Mr & Mrs Kennard | 6 November 2017   | First floor side and rear extension                                                                                                                                                                                                                            | 1 Chiltern Road,<br>Hitchin, SG4 9PL                                      | 17/01302/HH  | Householder Appeal Service |
| Mr & Mrs Walton  | 7 November 2017   | Outline application for the erection of one dwelling (all matters reserved except access, layout and scale)                                                                                                                                                    | 2 Oakfields Avenue,<br>Knebworth, SG3 6NP                                 | 17/01705/1   | Written Representations    |

## PLANNING APPEALS LODGED

|                                |                  |                                                                                                                                                                                                                                                                                                                                |                                   |            |                |
|--------------------------------|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------|----------------|
| Gladman<br>Developments<br>Ltd | 23 November 2017 | 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. | Land north of, Luton Road, Offley | 17/01781/1 | Public Inquiry |
|--------------------------------|------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|------------|----------------|

# PLANNING APPEAL DECISIONS

## PLANNING CONTROL COMMITTEE

DATE: 14 December 2017

| APPELLANT           | DESCRIPTION                                                                                                                                                                                                                                                                                                                                                                                              | SITE ADDRESS                                                               | REFERENCE    | APPEAL DECISION                     | COMMITTEE/ DELEGATED | COMMENTS                                                                                                                                                                                                                                                                                                                                                                               |
|---------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|--------------|-------------------------------------|----------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Pigeon Land Limited | Residential development for 41 dwellings comprising 25 open market houses ( 5 two bed dwellings, 6 three bed dwellings, 6 three bed bungalows, 5 four bed dwellings, 2 four bed bungalows and 1 five bed dwelling) and 16 affordable dwellings (6 one bed dwellings, 7 two bed dwellings and 3 three bed dwellings), associated parking, cycle storage, refuse storage, pumping stations and open space. | Land to the south of Bendish Lane and adjacent to 2-12 Cresswick, Whitwell | 15/02555/1   | Appeal Allowed on 27 October 2017   | Committee            | The Inspector stated that the area of greenspace around the western and southern parts of the site considerably minimises the impact of the proposal on the surrounding rural area and concluded that the adverse impacts of the development do not significantly and demonstrably outweigh its benefits.                                                                              |
| Roy A Rowe          | First floor rear extension                                                                                                                                                                                                                                                                                                                                                                               | 148 High Street, Barkway, Royston, SG8 8EG                                 | 16/03125/1HH | Appeal Dismissed on 7 November 2017 | Delegated            | The Inspector concluded that the proposals would result in harm to the special architectural interest of the property and thereby its significance and would not therefore preserve the Grade II listed building. Consequently the proposal would conflict with policy 28 (House Extensions) of the saved policies of the District Local Plan No.2 with alterations adopted 1996 which |

## PLANNING APPEAL DECISIONS

|                 |                                                                                                                                                                                      |                                                |              |                                     |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|--------------|-------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                 |                                                                                                                                                                                      |                                                |              |                                     |           | requires that house extensions should be sympathetic to the existing house. The Inspector also concluded that the proposed extension would result in material harm to the appearance of the building and thereby the conservation area within which it would be visible. The proposal would therefore not preserve the appearance of the conservation area.                                                                                                                                                                |
| Roy A Rowe      | First floor rear extension and internal alterations.                                                                                                                                 | 148 High Street, Barkway, Royston, SG8 8EG     | 16/03126/1LB | Appeal Dismissed on 7 November 2017 | Delegated | See Above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Mr & Mrs Profit | Three bedroom detached dwelling with basement garage/room following demolition of existing dwelling and garage. Additional access off Church End. (Amended plans received 17/02/17). | Kestrels, Church End, Barley, Royston, SG8 8JN | 16/03141/1   | Appeal Dismissed on 9 November 2017 | Delegated | The Inspector concluded that the proposal would fail to preserve the character and appearance of the Barley Conservation Area and that the proposal would sit uncomfortably within the same view as the more traditional appearance of the Fox and Hound Public House and as a result adversely affect its setting. The Inspector also concluded that the proposal would conflict with Policy 57 (Residential Guidelines and Standards) of the North Hertfordshire District Local Plan No 2 with Alterations adopted 1996. |

## PLANNING APPEAL DECISIONS

|                 |                                                                                                                                                                                                                                                    |                                                                        |              |                                      |           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|--------------|--------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ms G Adamson    | One detached 3 bedroom dwelling with associated parking and new access off Payne End.                                                                                                                                                              | Wootton Cottage, Payne End, Sandon, Buntingford, SG9 0QU               | 16/02890/1   | Appeal Dismissed on 16 November 2017 | Delegated | <p>The Inspector concluded that the proposal would be potentially harmful to the character or appearance of the Conservation Area and also the setting of the listed building. This would materially conflict with the aims and requirements of Policy 7 (Selected Villages beyond the Green Belt) of the North Hertfordshire District Local Plan No 2 with Alterations adopted 1996, relevant advice within the National Planning Policy Framework regarding heritage assets and also its design objectives.</p> <p>Note: The associated application for costs was refused.</p> |
| Mr & Mrs Matson | Single storey rear extension.                                                                                                                                                                                                                      | 1 DeClare Mews, High Street, Baldock, SG7 6BF                          | 17/01127/1HH | Appeal Allowed on 17 November 2017   | Delegated | The Inspector concluded that the development would not be harmful to the design of the host dwelling and would preserve the character and appearance of the conservation area.                                                                                                                                                                                                                                                                                                                                                                                                   |
| Mr J Connors    | 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, | Land At Junction Of Pottersheath Road And, Danesbury Park Road, Welwyn | 16/02460/1   | Appeal Withdrawn on 20 November 2017 | Committee |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

## PLANNING APPEAL DECISIONS

|           |                                                                                                                                                          |                                          |            |                                      |           |                                                                                                                |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|------------|--------------------------------------|-----------|----------------------------------------------------------------------------------------------------------------|
|           | 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) |                                          |            |                                      |           |                                                                                                                |
| Ms Roymon | Outline application for 1 two bed dwelling (all matters reserved).                                                                                       | 1 Ryder Way, Ickleford, Hitchin, SG5 3XL | 17/00918/1 | Appeal Dismissed on 20 November 2017 | Delegated | The Inspector concluded that the appeal proposal would be harmful to the character and appearance of the area. |



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# Appeal Decision

Site visit made on 19 June 2017

**by Chris Forrett BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 27<sup>th</sup> October 2017**

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**Appeal Ref: APP/X1925/W/17/3168114**

**Land to the south of Bendish Lane and adjacent to 2-12 Cresswick, Whitwell, Hertfordshire SG4 8HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Pigeon Land Limited against the decision of North Hertfordshire District Council.
  - The application Ref 15/02555/1, dated 30 September 2015, was refused by notice dated 23 August 2016.
  - The development proposed was originally described on the application form as the erection of 41 new homes, traditional office accommodation, extensive open space and associated infrastructure.
- 

## Decision

1. The appeal is allowed and planning permission is granted for the residential development for 41 dwellings comprising 25 open market houses (5 two bed dwellings, 6 three bed dwellings, 6 three bed bungalows, 5 four bed dwellings, 2 four bed bungalows and 1 five bed dwelling) and 16 affordable dwellings (6 one bed dwellings, 7 two bed dwellings and 3 three bed dwellings), associated parking, cycle storage, refuse storage, pumping stations and open space at land to the south of Bendish Lane and adjacent to 2-12 Cresswick, Whitwell, Hertfordshire SG4 8HX in accordance with the terms of the application, Ref 15/02555/1, dated 30 September 2015, subject to the conditions set out in the schedule to this decision letter.

## Application for costs

2. An application for costs was made by Pigeon Land Limited against of North Hertfordshire District Council. This application is the subject of a separate Decision.

## Procedural matters

3. During the course of the consideration of the application by the Council, the proposed development was amended which included the removal of the office accommodation and changes to the types of residential units proposed. Consequently the description of the development also changed. The Council determined the application on the basis of those amended plans, including the amended description of the development, and I have determined the appeal on this basis.
4. The Application form identifies the site as 'Whitwell West' whereas the Council have used a more descriptive address (Land to the south of Bendish

Lane and adjacent to 2-12 Cresswick, Whitwell). The Council's site address more accurately describes the location of the site (and that the application and appeal publicity have also utilised this address) I have utilised this to identify the site in my decision.

### **National Planning Policy Background**

5. The Council have confirmed that they do not have a five year housing land supply. It follows that, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework), the housing supply policies in the North Hertfordshire District Local Plan No.2 with alterations (1996) (LP) are out of date.
6. Consequently the fourth bullet point of paragraph 14 of the Framework comes into force. This makes clear that where development plan policies are out of date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

### **Main Issues**

7. The main issues are the effect of the development on the character and appearance of the area and infrastructure requirements.

### **Reasons**

#### *Character and appearance*

8. The appeal site is located on the west side of the village of Whitwell and is in the region of 5.9 hectares in size. The site is largely bordered by existing residential properties on its north-east, east and south side with open fields to the west beyond the public footpath. To the north, on the opposite side of Bendish Lane, is a primary school and playing field.
9. The site generally rises from Bendish Lane towards the south, although there is an area of the site to the rear of the Creswick properties which is lower than the existing road level. The site is currently an arable field with hedgerows and trees around its boundaries.
10. The proposed development would include a total of 41 new dwellings and associated facilities, including two ponds which form part of the overall drainage strategy for the site. The developable area would extend to around 3.13 hectares and would be on the lower lying parts of the site. The remainder of the site would be provided as open space which would be generally towards the southern and western parts of the site.
11. The Council's concern relates to the amount of landscape and earthworks required to implement the flood risk mitigation measures (as opposed to the residential development) and the resultant impact on the character and visual quality of the countryside. However, very little detail is given on the exact nature of this concern.
12. From the submitted details it is clear that the two ponds would involve re-grading of the existing land levels with pond one being in the region of 2.2 metres in depth. Pond two would also be of a similar depth. However, in respect of pond one the topography of the site would mean that the increase in land levels to the south would give a perception of a greater depth.

13. My attention has also been drawn to other areas of water in the locality such as the pond at Chalkleys Wood, the watercress beds at Whitwell and the River Mimram.
14. To my mind, the level of earthworks and regrading of the land to form the two ponds would not result in an excessive of works, especially given the overall development proposed. The provision of the two ponds would not be out of character with the wider area which also features ponds and the River Mimram.
15. In addition to the concerns from the Council, numerous representations have been received raising concern over the wider impact of the development on the rural landscape quality of the area including views across the valley and from the Chiltern Way and other footpaths in the area.
16. As I understand it the site lies outside of any defined village development boundary and, in planning policy terms, is located in the countryside. Given the undeveloped nature of the site, and the open countryside to the west (and to a lesser extent the north and south beyond the existing development), it has a rural feel to it.
17. The new dwellings would be generally located on the lower parts of the site with a significant amount of greenspace around the western and southern parts. This level of greenspace would significantly reduce the impact of the development on the rural character of the area. Notwithstanding this, the development would still have an adverse impact on the open character of the area by extending development along Bendish Lane beyond the existing village.
18. For the above reasons, I conclude that the dwellings would lead to some harm to the rural character and appearance of the area contrary to the provisions of saved Policy 6 of LP which amongst other matters seeks to maintain the existing countryside and villages and their character.

#### *Infrastructure*

19. Whilst the development was not refused on the basis of a lack of infrastructure requirements the Council, in their Officers report to committee, identified a number of infrastructure matters which should be delivered through a section 106 agreement including affordable housing, education contributions, library service contributions, fire hydrants, a waste collection and recycling contribution, open space management and maintenance arrangements, and a play space contribution.
20. The Appellant has considered these matters, and in the absence of a bilateral agreement with the Council, has provided a Unilateral Undertaking (dated 22 June 2017). However, following comments from St Pauls Walden Parish Council (the PC), the Council, and the County Council a revised Unilateral Undertaking (dated 12 September 2017) has also been submitted.
21. However, the second undertaking does not take effect unless (amongst other matters) the Owners complete a Deed of Variation prior to the commencement of development and that the Council and County Council execute the Deed within 12 weeks of receipt. In the event that this is not executed by the Council the revised undertaking would terminate with

immediate effect. In the event that this does not take place, the original undertaking would still be in effect.

22. The justification for the financial contributions comes from the Planning Obligations Supplementary Planning Document and Policy 51 of the LP. However, full details of these have not been provided to me.
23. Regulation 122(2) of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
  - (a) necessary to make the development acceptable in planning terms;
  - (b) directly related to the development; and
  - (c) fairly and reasonably related in scale and kind to the development.
24. Notwithstanding that, the County Council has provided a detailed justification for the education and library contributions. From the evidence before me, these requirements are necessary to make the development acceptable in planning terms. The County Council have confirmed that there are less than 5 specific planning obligations that have been entered into with respect to these matters. Consequently, I consider that these requirements accord with the provisions of the CIL Regulations.
25. I have also had regard to the trigger points for payment in the undertaking. Given the nature of the financial payments, I consider that the payment trigger point of occupation of any dwelling is a reasonable timescale for payment to be made. Whilst I appreciate that the County Council seeks the earliest possible trigger point for payment, to my mind, this is not essential in this case.
26. In respect of fire hydrants I am not convinced that this needs to be part of the undertaking. Whilst I consider that such provision is necessary, given that it would need to be provided on site, this can be achieved through a suitably worded planning condition. Therefore, there is no requirement for this to form part of any legal agreement and I therefore give this element no weight in my decision.
27. Turning to matters which favour the (District) Council, very limited evidence has been provided to me in respect of the financial contributions requested towards waste and recycling facilities, and towards the enhancement and maintenance of play space at Bradway Recreation Ground.
28. Consequently, I am unclear on how the financial amount of any of the suggested contributions has been arrived at or how the development impacts on any of these financial requirements. Furthermore, it is unclear whether there have been any other developments which also contribute to such enhancement and maintenance of the Bradway Recreation Ground facilities. As such I cannot be certain that these requests accord with the CIL Regulations and I therefore give these matters no weight in my decision.
29. The Undertakings also make provision for the delivery of affordable housing, although between the two undertakings the trigger points differ.
30. The revised undertaking provides for the delivery of four affordable homes prior to the occupation of the 12<sup>th</sup> open market dwelling, with the remaining 12 affordable dwellings being delivered prior to the occupation of the 19<sup>th</sup>

open market dwelling. To my mind, these trigger points represent a reasonable period to deliver the much needed affordable housing whilst also providing an incentive to the developer to deliver all of the open market housing.

31. The development includes a sizable amount of open space and the provision and maintenance of such is an important aspect to the overall development. Whilst the original undertaking made some provisions in this respect, following the concerns raised by the Council and the PC the revised undertaking does not make any provision for this, with the Appellant indicating that this could be dealt with by planning conditions.
32. Given that all of this open space is located within the application site, I am satisfied that the provision of the open space, and the subsequent management and maintenance of this area can be adequately controlled by means of suitably worded planning conditions. I also consider that the sustainable drainage aspects to the open space area (and other areas within the overall site) could also be adequately controlled by means of planning conditions and therefore it is not necessary for these matters to be included within a legal agreement.
33. Both undertakings also make provision for a sustainable transport contribution towards the costs of improvements to both of the existing bus stops in Whitwell at the top of Horn Hill. Whilst I have been provided with very limited details of this, I am conscious that the appeal site is not the most accessible in relation to public transport provision. Consequently, improvements to the existing public transport facilities in the area would help to encourage the future occupiers of the development to use alternative means of transport to the private motor vehicle. Therefore, given this, I consider that this contribution is necessary to make the development acceptable in planning terms.
34. In addition to the above, the UU also provides for a contribution of £28,000 towards the community centre facilities at Fellowship Hall in Whitwell. However, this is not mentioned in the Council's report to Committee nor has this requirement been justified in any subsequent appeal documentation. Consequently I give this no weight in the determination of this appeal.
35. In summary, I find that the provision of affordable housing, education and library and sustainable transport contributions are all necessary and meet the tests in the CIL regulations. All other contributions and infrastructure provision has either not been justified or can be delivered through suitably worded planning conditions.

#### *Other matters*

36. I have also had regard to the concerns raised in the significant amount of representations from the Council's consultation period on the application and through the appeal consultation period. The principle issues raised include matters relating to flood risk and drainage, highway safety, the emerging Local Plan, the need for the development and its location, future development proposals and the effect on wildlife.
37. From the evidence before me the appeal site is located in Flood Zone 1 as defined by the Environment Agency. Consequently, there is no requirement

for a sequential test to be undertaken. Notwithstanding that, a revised Strategic Flood Risk Assessment has identified that parts of the site have the potential for surface water flooding. The appeal application was supported by a site specific Flood Risk Assessment (SSFRA), which was updated during the course of the application.

38. Flood risk matters were also considered by the Lead Local Flood Authority who, subject to conditions, came to the view that the development would not pose significant flooding issues or be at excessive risk of flooding.
39. Notwithstanding that, I have had regard to the JBA review (on behalf of the PC) of the updated SSFRA. JBA acknowledge that this review is not a detailed Flood Risk Assessment. The JBA review is consistent with large parts of the Appellant's own SSFRA and drainage strategy, although there are differences in relation to surface water and run-off.
40. However, I consider that these matters are sufficiently addressed in the SSFRA and the Appellants comments on the JBA review. The JBA does not provide any compelling evidence to demonstrate that the SSFRA and drainage strategy would not be fit for purpose and provide for a suitable means of drainage and flood protection measures for the development.
41. It is acknowledged that the development would include pumps to allow the site to be drained and concern is raised if these pumps fail. Whilst this does raise some concern, the proposal includes two pumps and I am satisfied that further details in relation to ongoing maintenance and management could be addressed through a suitable worded planning condition.
42. Turning to potential highway issues, the site access would be located close the primary school access and opposite an area which has been surfaced to allow for parking at the side of the road. However, the access would be constructed to design standards and would have adequate visibility in both directions. Given the nature of the existing highway, and the likely traffic generation from the development, I consider that the proposal would create a safe and suitable access to the site and would not result in any significant highway safety issues to the existing network, including the proximity of the school access and layby. It is also noted that the Highway Authority came to a similar conclusion subject to the imposition of certain planning conditions.
43. Reference has also been made to the emerging Local Plan where the site has been put forward for residential development (known as site SP2). However, it is noted that objections on the allocation of the site have been received which given the unexamined nature of the emerging Local Plan severely limits the weight I can attach to such an allocation.
44. Notwithstanding that, the site is located on the edge of the existing village and concern has been raised over its separation from the existing development. However, it is noted that the new residential properties are generally located at the northern and eastern parts of the site adjoining the existing development along Bentish Lane. Furthermore, the proposal would extend the existing pedestrian footway to link into the sites access road, and provide a dedicated footway to the public footpath to the west. To my mind, this provides a sufficient link to the village.



45. The development would provide 41 new dwellings which would clearly represent a sizable increase in the number of dwellings in the village. However, this is not a reason in itself to withhold planning permission. Concern has also been raised in respect of further development proposals on the site. However, each application must be considered on its individual merits.
46. In respect of the effect of the development on wildlife, the proposal would involve the loss of a greenfield site. However, the site is currently used for agricultural purposes with no trees or bushes within the main parts of the site. The proposal retains the vast majority of the trees and hedgerows around the edge of the site and would provide a large area of greenspace which would have wildlife benefits. It is also noted that the ecological surveys did not identify any significant issues in respect of protected species or wildlife in general.
47. It is also suggested that the development of the site would have an impact on potential mineral extraction. However, the site is located within the buffer zone (rather than the Minerals Resource Block) as is much of the village, with the mineral source being on the opposite side of the village to the appeal site. With that in mind, I consider that the development of this site would not have any significant impact to future mineral extraction in the area.
48. Finally, the appeal site abuts the western extremities of the Whitwell Conservation Area which includes St Mary's Chapel. Plots 1 and 11 of the proposed development abut the Chapel boundary. Notwithstanding my finding of harm to the rural character and appearance of the area, given the nature of the development and the very limited amount of development adjacent to the Conservation Area boundary, there would be little restriction on views into and out of the Conservation Area. I therefore conclude that its setting would not be harmed. Therefore, I find that the proposal would accord with the conservation aims of the Framework.

#### *Planning balance*

49. I have found that the proposed development would give rise to some harm to the character and appearance of the area and would conflict with the LP. This factor weighs against allowing the proposed development. The limited amount of public transport in the area also weighs slightly against the development. I also acknowledge that the lack of infrastructure contributions (such as financial contributions towards improvements at Bradway Recreation Ground and Fellowship Hall) may have some limited impact on the provisions of services.
50. From the evidence before me, it is unclear what the current shortfall in the Council's five year housing land supply is. However, the provision of 41 additional dwellings, including 16 affordable dwellings, would undoubtedly contribute to the reduction of the deficit. This would also have some social benefits to the area. I also consider that the extensive areas of open space around the southern and western parts of the site would greatly assist in blending the development in to the surrounding area and help the transition from a built up village to rural undeveloped land. These are significant benefits of the scheme.

51. The dwellings would also provide some economic benefits to the area during the construction process and would have ongoing benefits to the local economy as additional residents would help to support local facilities. The economic benefits are also in favour of the development.
52. Taking all of these factors into account given that the area of greenspace around the western and southern parts of the site considerably minimises the impact of the proposal on the surrounding rural area, to my mind, the adverse impacts of the development do not significantly and demonstrably outweigh its benefits. I therefore consider that the development is sustainable development when considering the Framework taken as a whole.

### **Conditions**

53. The Officers report to committee detailed a number of conditions which the Council would have imposed had it granted planning permission. I have also had regard to the additional suggested conditions which the Appellant has put forward. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the suggested wording and combined conditions as appropriate.
54. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. Although not requested by the Council, in the interests of the character and appearance of the area a condition relating to external materials of the new dwellings is required.
55. In the interests of highway safety, conditions are necessary in respect of the construction of the first part of the access from Bendish Lane (including its width, kerb radii and gradient), construction of the footway and pedestrian crossing points, and vehicular visibility splays to the new access road.
56. A construction method statement (with traffic management aspects as well) is also necessary to ensure that the construction process does not affect highway safety and the amenity of other road users and local residents. For environmental reasons, conditions which make provision for dealing with potential contaminated land issues are also necessary.
57. To ensure that the site has suitable drainage, and does not have undue risk of flooding (including increasing the risk of flooding elsewhere), or give rise to unacceptable pollution, conditions relating to surface water drainage, details of the underground storage tank, pollution risks, a restriction on penetrative foundations and flood risk are required.
58. Conditions relating to landscaping and biodiversity, including on-going maintenance and management, are also necessary in the interests of the character and appearance of the area and for environmental reasons.
59. Given the possibility of archaeological remains conditions are also required to ensure that any findings are properly recorded. As noted above, in the interests of fire safety, a condition requiring fire hydrant(s) is also necessary.
60. With the exception of the initial section of the access road, construction method statement, contaminated land, drainage details (including surface



water drainage, the underground tank and sewerage pumping station) and archaeological investigations, it is not necessary for any of the suggested conditions to be agreed pre-commencement.

61. It is necessary for these matters to be agreed prior to any works commencing as the archaeological and contaminated land investigations relate to matters below ground level and should be resolved before any ground disturbance works occur. In respect of the construction method statement, this needs to be agreed prior to any works so that the development does not create any unacceptable problems during the entire construction period. In respect of the drainage details, the additional details required will invariably involve works at the early stages of the construction process.
62. The initial section of access road is required to ensure that there is a safe access and egress to the site for the construction process particular given the proximity of the school on the opposite side of Bendish Lane.
63. The Officers report also recommended conditions relating to pedestrian visibility splays on each side of the driveways to the new properties. However, whilst desirable, I consider that this is not necessary to make the development acceptable in planning terms. In respect of the need for a noise assessment to take account all proposed plant this would appear to relate to the plant associated with the pumping station. In this respect I consider that such a condition is not necessary.

### **Conclusion**

64. Taking all matters into consideration I conclude that the appeal should be allowed.

*Chris Forrett*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule below.
- 3) Prior to the commencement of the construction of the external surfaces of each dwelling details and samples of the materials to be used in its external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not commence until the proposed access has been constructed for at least 30 metres from the highway boundary on Bendish Lane.
- 5) Prior to the first occupation of the first dwelling, the footway and pedestrian crossing points shall be completed on each side of the new access road including connections to the adjacent village footways.
- 6) With the exception of the construction of the first 30 metres of the new access road, the development shall not commence until vehicle to vehicle inter-visibility splays of 2.4 metres by 80 metres in both directions has been provided with no obstruction to visibility between 0.6 metres and 2.0 metres above the carriageway level (when taken from the intersection of the centre line of the new road with the edge of the existing carriageway. The visibility splays shall be maintained as such for the life of the development.
- 7) The gradient of the new access from Bendish Lane shall not be steeper than 1 in 20 for the first 15 metres from the edge of the existing carriageway.
- 8) Notwithstanding the submitted details, the access road shall be 5.5 metres wide with a kerb radii of 8.0 metres complete with tactile crossing features (as indicated on drawing number WHI-05-01 revision H).
- 9) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The method statement shall include :
  - i. the number of construction vehicles and the routing of construction traffic;
  - ii. construction and storage compounds (including areas designated for car parking);
  - iii. the siting and details of wheel washing facilities;
  - iv. cable trenches within the public highway that affect traffic movement of existing residents;
  - v. cleaning of the site entrance and the adjacent public highway; and
  - vi. the disposal of surplus materials.

The construction works shall only be carried out in accordance with the approved Plan
- 10) Prior to the commencement of the development a scheme that includes the following components to deal with the risks associated with contamination of the site shall be submitted to and approved, in writing, by the local planning authority. The scheme shall include:

- i. a preliminary risk assessment which has identified:
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors; and
  - potentially unacceptable risks arising from contamination at the site.
- ii. a site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- iii. the results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- iv. a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The approved scheme shall be implemented in full.

- 11) No dwelling shall be occupied until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation have been submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.
- 12) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise first agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 13) Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall only be carried out in accordance with the approved details.
- 14) No development shall take place until a detailed surface water drainage scheme for the site (to include details of safeguarding measures for the proposed ponds during periods of flood) based on the approved FRA and sustainable drainage principles, a detailed assessment of ground water levels, and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in

writing by the local planning authority. The scheme shall only use infiltration systems where it can be demonstrated that they will not pose a risk to groundwater quality. The drainage strategy should demonstrate the surface water run-off generated up to and including 1 in 100 year + climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall include:

- i. detailed engineered drawings of the proposed SuDS features including their size, volume, depth and any inlet and outlet features including any connecting pipe runs; and
- ii. a detailed management plan to include arrangements for the management and maintenance of the approved surface water drainage scheme, and including a plan identifying the sections of the surface water system to be maintained and arrangements for the ongoing maintenance of the SuDs elements of the surface water system for the lifetime of the development.

The development shall only be implemented, and subsequently maintained, in accordance with the approved scheme.

- 15) Prior to the commencement of development a scheme to install and maintain the underground tank (and associated equipment) shall be submitted to and approved in writing by the local planning authority. The scheme shall include the full structural details of the installation (including details of the excavation works, the tank(s), tank surround and associated pipework and monitoring systems). The approved scheme shall be fully implemented and maintained as such for the life of the development unless alternative measures are first agreed in writing by the local planning authority.
- 16) Prior to the commencement of development a scheme to manage the pollution risks associated with the operations of the proposed sewage pumping station and drainage system shall be submitted to and approved in writing by the local planning authority. The scheme shall include and address the following components:
  - i. the location and design of groundwater monitoring boreholes comprising of at least one up hydraulic gradient and two down gradient boreholes, one of these to be located down gradient of the sewage pumping station; and
  - ii. the frequency of monitoring and reporting to relevant regulatory authority and the suite of substances that will be tested in each groundwater sample from the site. These boreholes must be constructed in a manner that ensures they do not provide a pathway for contaminants to enter the ground or groundwater from the site surfacing.
- 17) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment carried out by Fairhurst dated September 2015 reference 109490/0052/R1/4 and the Drainage Statement reference 109490/0052 R5.1 dated April 2016 unless details required by other conditions in this permission supersede the requirements of the Flood Risk Assessment or Drainage Statement. The mitigation measures shall be fully implemented in accordance with a timing/phasing plan which shall be submitted to and approved in writing prior to the first occupation of any part of the development.

- 18) Notwithstanding the submission of the Landscape and Visual Appraisal and Appendix E of that report (drawing no CSa/2631/107G), prior to the first occupation of any part of the development a landscape and ecological design strategy shall be submitted to and approved in writing by the local planning authority, detailing how it is planned to incorporate biodiversity as part of the development and how the habitats within the site boundary will be managed to maintain long term biodiversity objectives. This strategy shall include the following:
- i. purpose and conservation objectives for the proposed works;
  - ii. detailed design(s) and/or working method(s) to achieve stated objectives;
  - iii. extent and location/area of proposed works on appropriate scale maps and plans;
  - iv. the type and source of materials to be used where appropriate, e.g. native species of local provenance;
  - v. a timetable for implementation;
  - vi. persons responsible for its implementation;
  - vii. details of initial aftercare and long-term maintenance; and
  - viii. details for monitoring and remedial measures.

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

- 19) Prior to the first occupation of any part of the development, a detailed landscape scheme (to generally accord with drawing no CSa/2631/107G and clearly indicating such details to the rear boundaries of properties in Cresswick and St Marys Chapel, together with any fencing) shall be submitted to and approved in writing by the local planning authority. The scheme shall include an implementation plan for the landscaping works (including the areas of open space). The approved landscaping shall be implemented in accordance with the approved details (including the implementation plan). Any trees or plants which, within a period of 5 years of it planting, 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.
- 20) No dwelling shall be occupied until a scheme for the ongoing maintenance and management of all of the open space has been submitted to and approved in writing by the local planning authority. The scheme shall include provisions to ensure that it is available for public use.
- 21) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and
- i. the programme and methodology of site investigation and recording as suggested by the archaeological evaluation;
  - ii. the programme for post investigation assessment;
  - iii. the provision to be made for analysis of the site investigation and recording;
  - iv. the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v. the provision to be made for archive deposition of the analysis and records of the site investigation;

- vi. the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 22) The development shall be undertaken in accordance with the programme of archaeological works and no dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme as set out in the Written Scheme of Investigation approved under condition 21.
- 23) No dwelling shall be occupied until a scheme for the provision of fire hydrant(s) within the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any dwelling.

**---END OF SCHEDULE OF CONDITIONS---**

### **SCHEDULE OF APPROVED PLANS**

- Location plan;
- Masterplan layout WHI-03-04 H;
- Affordable housing WHI-03-07 G;
- Building heights WHI-03-05 G;
- Residential boundary WHI-03-09 B;
- Extent of residential area WHI-03-08 B;
- Roof plan WHI-04-01 G;
- Boundary Key Plan and Parking WHI-05-01 H;
- Cross Sections A-A, B-B & C-C WHI-27-01 A;
- Pumping Station enclosure plan and elevations – WHI-08-01;
- Street Scenes – WHI-28-01 A;
- Street scene along Bendish Lane – WHI-28-02;
- Type C - elevations WHI-10-01 A;
- Type C - floor plans WHI-10-02 A;
- Type D1 - elevations and floor plans WHI-11-01 A;
- Type D2 - elevations and floor plans WHI-12-01 A;
- Type D3 - elevations and floor plans WHI-13-01 A;
- Type E - elevations and floor plans WHI-14-01 A;
- Type E1 - elevations and floor plans WHI-15-01 A;
- Type D4 - elevations and floor plans WHI-18-01 A;
- Type K - elevations and floor plans WHI-19-01 A;
- Type D6 - elevations and floor plans WHI-20-01 A;
- Type F - elevations WHI-21-01 B;
- Type F - floor plan WHI 21-02 B;
- Type G - elevations and floor plans WHI-23-01 A;
- Type H - elevations WHI-24-01 A;
- Type H - floor plans WHI-24-02 A;
- Garages - elevations and plans WHI-25-01 A;
- Refuse and cycle stores - elevations and floor plans WHI-25-02 A;
- Boundary treatments WHI-26-01;
- Type L - elevations WHI-29-01 B;
- Type L - floor plan WHI-29-02 B;
- Type M - elevations WHI-30-01 B;
- Type M - floor plan WHI-30-02 B;
- Type N - elevations WHI-31-01 A;
- Type N - floor plan WHI-31-02 A;
- Type P - elevations WHI-32-01 A;
- Type P - floor plan WHI-32-02 A;
- Type Q - elevations WHI-33-01;
- Type Q - plans WHI-33-02.

**---END OF SCHEDULE OF APPROVED PLANS---**

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## Appeal Decisions

Site visit made on 23 October 2017

**by Kenneth Stone BSc Hons DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7<sup>th</sup> November 2017.**

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### **Appeal A: APP/X1925/W/17/3180364**

#### **148 High Street, Barkway, Hertfordshire SG8 8EG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Roy Rowe against the decision of North Hertfordshire District Council.
  - The application Ref 16/03125/1HH, dated 6 December 2016, was refused by notice dated 18 May 2017.
  - The development proposed is described as 'first floor rear extension and alterations'.
- 

### **Appeal B: APP/X1925/Y/17/3177066**

#### **148 High Street, Barkway, Hertfordshire SG8 8EG**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr Roy Rowe against the decision of North Hertfordshire District Council.
  - The application Ref 16/03126/1LB, dated 6 December 2016, was refused by notice dated 18 May 2017.
  - The works proposed are described as 'first floor rear extension and alterations'.
- 

## **Decisions**

### **Appeal A**

1. The appeal is dismissed.

### **Appeal B**

2. The appeal is dismissed.

## **Procedural matters**

3. The application was submitted on a single application form seeking planning permission and listed building consent for alterations, extension or demolition of a listed building. I have taken the description of the proposed development and works from the application form as this reasonably describes the proposed development and works.

## **Main Issues**

4. The main issues in these appeals are:

- in relation to both appeals A and B, whether the proposals would preserve the Grade II listed building known as 148 High Street or any features of special architectural interest that it possesses; and
- in relation to appeal A only, whether the proposed development would preserve or enhance the character or appearance of the Barkway Conservation Area.

## Reasons

### *Listed building*

5. The property the subject of this appeal is a two storey detached cottage located at the southern end of Barkway, a small, Hertfordshire, village. The building, which is grade II listed, is an early 18<sup>th</sup> century timber framed property with a steeply pitched thatched roof. The building was originally 2 dwellings and has been altered in the 19<sup>th</sup> century and more recent modern additions have been added including an octagonal garden room and a single storey rear extension with a mono pitched roof. The property derives its significance from its architectural quality as an 18<sup>th</sup> century vernacular cottage. The cottage retains to a large extent the integrity of its proportions, shape, form and materials. The steeply pitched thatched roof across the narrow range provides for upper rooms having windows to the front and the rear thatched roof slope having lower eaves and no original fenestration. Whilst there has been a first floor rear thatched roof extension and single storey additions constructed in the past the proportions, form and dimensions of the original property are still readily discernible. This is further emphasised by the internal arrangement of the upper floor with the access for the rooms set to the rear with the rooms all fronting onto the front of the building. This layout has been somewhat disrupted by the later first floor rear addition which extends the master bedroom across towards the rear.
6. The proposed extension would result in the construction of a first floor rear extension similar to the existing first floor extension. It would be provided with a thatched roof, three pain casement window in the rear elevation and two small windows in the south elevation. It would be clad in wood boarding to match such materials on the other first floor extension and the flank elevations of the main building. Internally the introduction of a stud partition would along with the extension, create an additional bedroom.
7. The proposed extension would result in the insertion of an addition into the rear roof slope of the building. This would result in the loss of part of the existing rear roof slope and historic wood frame at this point. The extension would significantly reduce the appearance of the clear thatched roof slope which, in association with the ground floor extensions and octagonal garden room, would dominate the rear of the building. The original form, proportions, and simple vernacular appearance would be cluttered with modern additions and insertions which cumulatively would make the original form and appearance of the building less easily distinguishable.
8. Internally the changes to the room proportions and general plan form of the existing bedroom would compromise the original internal layout of the building and the single aspect plan form of the original property.

9. For the above reasons I conclude that the proposals would result in harm to the special architectural interest of the property and thereby its significance and would not therefore preserve the Grade II listed building known as 148 High Street or any features of special architectural interest that it possesses. Consequently the proposal would conflict with policy 28 of the saved policies of the District Local Plan No.2 with alterations originally adopted April 1996 (2007) which requires that house extensions should be sympathetic to the existing house.

#### *Conservation Area*

10. The property the subject of this appeal is located towards the southern end of the conservation area, which is generally a linear village frontage with buildings fronting onto the High Street. Properties consist of a variety of ages and styles and the conservation area's significance derives from the intimate village form, concentration of listed buildings and general quality and age of the buildings.
11. The appeal property fronts onto the High Street and although detached sits reasonably close to the neighbouring property to the south. This would restrict views of the flank of the proposed extension to limited close range views. The extension would not be seen when approaching from the north given the position on the building and the existing extension. To the rear of the building there is a modern bungalow that is not within the conservation area and there would be no public views of the extension from the rear. However the extension would still be visible from the adjoining properties which would be within the conservation area. Given that I have concluded that there would be harm to the Listed Building this harm is also evident in the context of the conservation area as the site is still appreciated from within the conservation area and visible from properties within it. Whilst this would be limited there is harm as the conservation area would not be preserved.
12. For the reasons given above I conclude that the proposed extension would result in material harm to the appearance of the building and thereby the conservation area within which it would be visible. The proposal would therefore not preserve the appearance of the conservation area. Consequently the proposal would conflict with policy 28 which seeks to ensure extensions are sympathetic to the existing house.

#### **Other matters**

13. The appellant has drawn attention to alterations and extensions to a listed building at 130 High Street, and to the existing extension on the appeal building, to demonstrate that the Council has previously found such alterations acceptable. However these extensions were permitted some time ago and since which time the Framework has been published. The building is not identical to that the subject of this appeal and there are significant differences in terms of the existing extensions that are present on the appeal building. Each application or appeal should be considered on its merits and on the basis of the policies and facts pertaining at that time and that is how I have approached this decision.

#### **Overall Conclusions**

14. The harm that I have identified to the Listed Building and to the Barkway Conservation area, both designated heritage assets, would be less than

substantial in the context of the National Planning Policy Framework (the Framework). Paragraph 134 of the Framework advises that where proposals would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

15. The appellant has not identified any public benefit associated with the proposals however has drawn attention to noise issues. Concern has been expressed that increased heavy goods vehicle movements along the High Street are causing significant disturbance and the proposal would enable sound proofing partitioning to be installed and create a bedroom to the rear of the building away from the noise. It is noted that the existing master bedroom is fitted with two sets of double glazing units behind the original single pain sash window glazing. This is a private interest of the occupier however it could be that if the affect rendered the property uninhabitable resolution of the problem could safeguard the property and thereby be a public interest, this however has not been contended. I have not been provided with any acoustic data to define the extent of the problem and note that only the existing main bedroom is treated, the other two existing bedrooms are not. Moreover there is no assessment as to whether other less intrusive alterations would be able to address the issue. The property is a single dwelling and it has not been contended that it would not remain so and therefore it is retained in its viable use. On this basis the harm that I have identified to the Listed Building and the harm to the Conservation Area, which are less than substantial, are not out-weighed by the public benefits of the proposals.
16. The proposal results in less than substantial harm to designated heritage assets which is not outweighed by public benefits and the proposal conflicts with the development plan and there are no material considerations to indicate a decision otherwise should be taken.
17. For the reasons given above I conclude that both appeals should be dismissed.

*Kenneth Stone*

INSPECTOR



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## Appeal Decision

Site visit made on 31 October 2017

**by R A Exton Dip URP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 9<sup>th</sup> November 2017**

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**Appeal Ref: APP/X1925/W/17/3178886**

**Kestrels, Church End, Barley, Hertfordshire SG8 8JN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Profit against the decision of North Hertfordshire District Council.
  - The application Ref 16/03141/1, dated 15 December 2016, was refused by notice dated 11 April 2017.
  - The development proposed is described as replacement dwelling and demolition of existing 2 storey dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposal on
  - i. the Barley Conservation Area, having special regard to the desirability of preserving or enhancing its character or appearance;
  - ii. the grade II listed Fox and Hounds public house, having special regard to the desirability of preserving its setting. ; and
  - iii. the living conditions of occupiers of No 2 Church End.

### Reasons

*Conservation area and listed building.*

3. Kestrels is a modern chalet style bungalow situated on the northern side of Church End, within the Barley Conservation Area ('the BCA'). It is set back from the road in a substantial plot containing many mature trees and other vegetation. Nearby development forms the central area of the village.
4. Whilst trees and vegetation provide a degree of screening, there are clear views of Kestrels from both the western end of Church End, and from High Street, across the car park to the Fox and Hounds Public House ('the FHPH'). In the case of the latter, Kestrels is viewed in the same context as the FHPH. Due to its siting and the degree of screening I consider that Kestrels has a neutral effect on the character and appearance of the BCA and the setting of the FHPH.

5. The proposal would be sited closer to Church End than Kestrels and would also be around 1.9m taller to its highest point. Even taking account of the existing trees and vegetation and the presence of the permitted dwelling in the car park of the FHPH, the proposal would appear much more prominent than Kestrels in views described above.
6. An individual contemporary design is proposed for the dwelling. It would incorporate innovative use of materials including large areas of glazing and vertical thatch. Although the National Planning Policy Framework ('the Framework') states that planning decisions should not stifle innovation, originality or initiative, it does recognise it is proper to seek to promote or reinforce local distinctiveness. In this case it is the character and appearance of the BCA and the setting of the FHPH that forms the local distinctiveness.
7. Elements of the proposal, including use of a steeply pitched roof, dark coloured gables and thatch are evident elsewhere in the village. However their combination and scale within the proposal would not reflect the character and appearance of the surrounding BCA. As a result, from the view points on Church End and High Street where the proposal would be highly prominent, it would not integrate well with existing development. Taking account of the weathering of the thatch over time described by the appellants would not make a significant difference to the effect. As such it would fail to preserve the character and appearance of the BCA.
8. When viewed in the same context as the FHPH, the proposal would also be highly prominent for the same reasons described above. It would sit uncomfortably within the same view as the more traditional appearance of the FHPH and as a result adversely affect its setting.
9. As the proposal would fail to preserve character and appearance and harm setting, but not result in the total loss of heritage assets, I consider the harm would be less than substantial. In this instance the Framework requires that the harm should be weighed against the public benefits of the proposal. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that substantial weight is given to the presumption in favour of preservation of character and appearance in respect of the BCA and setting in respect of the FHPH.
10. Whilst the proposal would result in a more energy efficient home, this would not outweigh the lack of preservation of character and appearance and harm to setting I have identified. No other public benefits have been identified.
11. In light of the above I conclude that the proposal would fail to comply with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Sections 7 and 12 of the Framework.

#### *Living conditions*

12. Whilst the proposal would not be sited significantly closer to the shared boundary with No 2 Church End than Kestrels, it would be sited closer to Church End. As such it would cover a large proportion the area of garden immediately to the rear of No 2. Although the appeal site sits at a lower level than No 2, the greater height of the proposal, compared to Kestrels, and its siting with ridge parallel to the shared boundary would result in an overbearing effect on the occupiers of No2.

13. Although the siting of the proposal may also result in some reduction in the level of light received to the garden area immediately to the rear of No2h, I consider this would not be significantly greater than that caused by Kestrels and existing trees and vegetation.
14. On the issue of living conditions I conclude that the proposal would conflict with Policy 57 of the North Hertfordshire District Local Plan No 2 with Alterations adopted 1996 ('the Local Plan'). This requires new housing development to relate to its surroundings. Policy 30 of the Local Plan relates to dwellings in the countryside and so does not appear to be relevant. In respect of effect on living conditions set out in the Council's second reason for refusal I find no conflict with paragraph 64 of the Framework which relates to the requirement for good design. I do however find conflict with paragraph 17 of the Framework which requires a good standard of amenity for all existing occupiers of land and buildings.

*Other matters*

15. I note interested parties, including Barley Parish Council's concerns including those relating to flood risk, parking and highway safety issues. However, given my conclusion, it is not necessary for me to consider these further.

**Conclusion**

16. For the above reasons I conclude that the appeal should be dismissed.

*Richard Exton*

INSPECTOR

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# Appeal Decision

Site visit made on 20 October 2017

**by Timothy C King BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 November 2017**

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**Appeal Ref: APP/X1925/W/17/3177669**

**Wootton Cottage, Payne End, Sandon, Herts SG9 0QU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Georgina Adamson against the decision of North Hertfordshire District Council.
  - The application Ref 16/02890/1, dated 15 November 2016, was refused by notice dated 31 January 2017
  - The development proposed is described as a '*3 bedroom, 1 and 1/2 storey detached dwelling*'.
- 

## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mrs Georgina Adamson against North Hertfordshire District Council. This application is the subject of a separate decision.

## Preliminary Matter

3. I note that the design of the intended development has been significantly changed from a scheme previously put forward for a larger dwelling at the site, and the appellant refers to reductions in both width and height made in respect of the dwelling now proposed. Whilst this may be the case I am required to assess the current scheme on its own merits and potential impacts and to reach my decision, accordingly.

## Main Issue

4. The main issue is the proposal's effect on the character and appearance of the surrounding area, with particular regard to its conservation area location, and also the setting of the nearby listed building, Moss Rose Cottage.

## Reasons

5. The appeal site currently comprises side garden space within the curtilage of Wootton Cottage, a two-storey Victorian dwelling in Sandon Village. It is screened from the street by heavy verdure. In common with the other properties on the north side of Payne End and also Moss Rose Cottage, opposite, the site lies within the Sandon Conservation Area. In this regard, I agree with the Council that this designated area is largely characterised by its openness and also the plethora of vegetation within the spaces between

- buildings. Certainly, this is true of the relationship between Wootton Cottage and Mickelfield, the nearest dwelling to the west.
6. Moss Rose Cottage is a colour-washed thatched cottage, and enjoys Grade II listed status. It is set off the junction with Payne End and Dark Lane and its garden is demarcated from the highway by a lengthy stretch of mature hedgerow. Land levels rise as one proceeds eastwards along Payne End, and with the dwellings on its north side set back from the street on elevated land, as would be the proposed new dwelling, they are afforded a degree of prominence. In this context the proposed dwelling would directly look down towards Moss Rose Cottage, although I note an intention to retain the shrub and hedgerow to the front of the appeal site.
  7. Policy 7 of the North Hertfordshire District Local Plan No 2 with Alterations (LP) indicates that within selected villages, of which Sandon is one, the Council will normally permit development proposals subject to certain provisos which requires that for sites in conservation areas the scheme would ensure the positive preservation or enhancement of its character. In this particular instance there is little before me to promote the scheme, save for the Design and Access Statement (DAS) submitted along with the application. Indeed, I find the DAS somewhat limited on such information and there is little detail or annotation on the submitted drawings Nos PL203 and PL204 to allow for proper assessment in this regard.
  8. Despite the Conservation Area setting and the site's proximity to the statutorily listed Moss Rose Cottage, opposite, I have not had sight of any Heritage Statement, any description of the significance of the heritage assets affected, the contribution of the setting thereto or, moreover, the impact of the proposal on such significance. The DAS merely mentions that the proposal would complement the Conservation Area and that the setting of the listed building would be preserved and enhanced. Further, the point made in the appellant's Statement that the design ethos was not to stand out and make a major design statement so as not to be in competition with adjacent properties does little to justify the proposal.
  9. The absence of such detail is a clear impediment when applying the statutory tests under both s66 and s72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990. In the circumstances, I am not convinced that the appellant has demonstrated the relationship that would result between the proposal and the setting of the nearby listed building, nor how it would preserve or enhance the character or appearance of the Sandon Conservation Area. As regards the latter, although the harm might be less than substantial, there are insufficient public benefits arising from the scheme as to outweigh my findings on this proposal.
  10. The appellant has mentioned that the Council is unable to demonstrate a five year housing supply and also refers to planning permission granted across the street for new residential development. I have not been provided with full details of either but, even so, these points are insufficient in themselves to confirm the acceptability of the development. In light of my findings, consequent upon the limited information and detail before me, I find that the benefits of an additional dwelling would not significantly and demonstrably outweigh the potential harm to the character and appearance of the surrounding area. As regards the Council's approach in determining the

application, and consistency in its decision making, I do not consider that this has any direct bearing on the merits of the proposal before me. As such, I shall deal with this matter in the Costs application letter.

11. I therefore conclude, in the absence of compelling information to the contrary, that the proposal would be potentially harmful to the character or appearance of the Conservation Area and also the setting of the listed building. This would materially conflict with the aims and requirements of LP Policy 7, relevant advice within the National Planning Policy Framework regarding heritage assets and also its design objectives.
12. For the above reasons, and having had regard, to all matters raised, the appeal does not succeed.

*Timothy C King*

INSPECTOR

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## Costs Decision

Site visit made on 20 October 2017

**by Timothy C King BA(Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 November 2017**

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### **Costs application in relation to Appeal Ref: APP/X1925/W/17/3177669 Wootton Cottage, Payne End, Sandon, Herts SG9 0QU**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Georgina Adamson for a full award of costs against North Hertfordshire District Council.
  - The appeal was against the refusal of planning permission for a '*3 bedroom, 1 and ½ storey detached dwelling.*'
- 

### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. Paragraph 030 of the government's planning guidance advises that costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
3. One of the two main points put forward by the applicant in this costs application is her belief that the Council, in refusing planning permission for the above scheme, acted inconsistently after having recently granted permission for new residential development nearby. In this regard, two separate planning permissions are cited; a 3-bed house fronting Dark Lane (Ref 15/01020/1) and 2 x 3-bed houses on the opposite side of Payne End (15/02255/1). Both sites adjoin the curtilage of Moss Rose Cottage, a Grade II listed building. Another planning permission, for several dwellings, apparently granted permission in 2008, pre-dates the National Planning Policy Framework (the Framework) and, due to its age, I consider it of little relevance.
4. Although I can understand the applicant's grievance in this respect, there are material differences in the above development proposals and that of the current appeal scheme. First, neither of the two nearby sites, unlike the dwellings on the north side of Payne End, lie within the Sandon Conservation Area. Second, the appeal dwelling would be sited on significantly higher ground due to the topography of the land. I have not been supplied with plans relating to either of the schemes for which the Council had previously granted planning permission, although Drawing No PL.210, submitted with the application at appeal, does show the footprints of the approved dwellings. From my site visit, I noted that, although the land starts to rise eastwards the flank wall of the nearest of the two new semi-detached dwellings would be

considerably distanced from the facing wall of Moss Rose Cottage. The single dwelling around the corner would be similarly distanced and on level ground.

5. I have not been provided with the case reports relating to the above decisions and, therefore, any indication of why the Council itself felt that planning permission should be granted in both instances. However, it is not for me to revisit these decisions and apply comment or reassessment. Instead, the appeal turned on the lack of detail and supporting illustrative information which, given the heritage assets involved - the conservation area location and the proximity to the setting of the listed building - one could have reasonably expected to refer to. The proposed dwelling would be sited on elevated ground and their frontages would almost face one another, yet no Heritage Statement was produced to aid the decision maker as to any resultant impact.
6. The applicant's second point relates to advice within the Framework. Paragraph 49 thereto comments that 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. The applicant has indicated that the Council is unable to demonstrate this and the Council has not disputed this assertion. However, although paragraph 14 goes on to say that where the development plan is out-of-date planning permission should be granted, this is subject to stated provisos. Firstly, any adverse impacts of doing so should not significantly and demonstrably outweigh the benefits and, secondly, that specific policies in the Framework do not indicate that development should be restricted. On these points my reasoning was predicated on the potential impact to the designated heritage assets. This reflected the view of the Council.
7. I note the applicant's assertion that the Council did not act on its earlier advice and failed to enter into any dialogue as to its intention to refuse planning permission. However, the Council is not bound by any pre-application advice given and it is ultimately a matter for an applicant or agent to promote their own development proposals.
8. For the reasons given above I conclude that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the planning guidance, has not been demonstrated. I therefore refuse the application for an award of costs.

*Timothy C King*

INSPECTOR

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# Appeal Decision

Site visit made on 13 November 2017

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 17<sup>th</sup> November 2017.**

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**Appeal Ref: APP/X1925/D/17/3185205**

**1 DeClare Mews, High Street, Baldock, Herts, SG7 6BF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Anthony and Joan Matson against the decision of North Hertfordshire District Council.
  - The application Ref 17/01127/1HH, dated 27 April 2017, was refused by notice dated 27 July 2017.
  - The development proposed on the application form is a single storey rear extension and ancillary development.
- 

## Decision

1. The appeal is allowed and planning permission is granted for a single storey rear extension and ancillary development at 1 DeClare Mews, High Street, Baldock, Herts, SG7 6BF in accordance with the terms of the application, Ref 17/01127/1HH, dated 27 April 2017, subject to the conditions set out in the attached schedule.

## Procedural matters

2. My determination of this appeal is against the saved policies of the Local Plan<sup>1</sup>. However, the Council's report and appellant's statement of case also make reference to a number of policies from the emerging Local Plan<sup>2</sup>. Although at an advanced stage of preparation, this document has not yet been fully assessed following examination. Given the uncertainties regarding the outcome of that process, I have given the emerging Local Plan limited weight and in any event, Policies HE4, D2 and D3 would not have altered my conclusions.

## Main issue

3. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is considered to be whether the proposed development would preserve or enhance the character and appearance of the host dwelling and conservation area.

## Reasons

4. The appeal site lies within the Baldock Conservation Area<sup>3</sup> and contains a modern end-of-terrace 3 bedroom property finished in red brick and black timber weatherboarding. This has a modest courtyard garden to the rear with

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<sup>1</sup> District Local Plan No 2 with Alterations, September 2007, North Hertfordshire District Council

<sup>2</sup> Local Plan 2011-2031, Proposed Submission, October 2016, North Hertfordshire District Council

<sup>3</sup> Baldock Conservation Area, Designation Amendments, 17 June 2003

an enclosed and private character, being hemmed in by brick boundary walls and a brick-built carport with pitched roof. A 2-storey commercial building lies to the south-east of the site, with retail units forming part of the High Street to the north-east, and residential dwellings to the south-west and north-west.

5. The surrounding area is characterised by its wide High Street, historic buildings, fine urban grain and high density. The appeal property forms part of a small mews development and has a discreet, subservient character, being accessed via a narrow gap in the High Street's strong built frontage. The conservation area constitutes a designated heritage asset and so in accordance with Paragraph 131 of the Framework<sup>4</sup>, I have taken account of the desirability of sustaining and enhancing its significance.
6. The development would occupy a substantial proportion of the rear courtyard garden and extend its entire depth. As a consequence, the Council states that it would constitute a cramped form of development that would be harmful to the design of the dwelling and character and appearance of the conservation area. However, given the extremely dense character of Baldock's historic town centre and the prevalence of rear extensions in restricted spaces, I am satisfied that the development would not appear out of place or cramped against this context. It would also retain a subservient character to the host dwelling as it does not extend the full-width of the property.
7. I have given modest weight in my assessment to the fall-back position of the appellant constructing a 3 metre deep single storey rear extension across the full width of the property under permitted development rights. Although this would have a slightly smaller footprint and be topped with a pitched roof, it would nonetheless have the disadvantage of being clearly visible when entering the mews, whereas the appeal proposal would be almost entirely screened from public view by the boundary wall/fence to the rear of No 14b High Street, the existing house, its side boundary fence/gate, and the carport.
8. Representations have been made raising concerns that the flue could give rise to fumes and air-quality issues. However, I am satisfied that this matter properly falls to other authorities and legislation to control during and after the construction process. Other concerns have also been raised in respect of the potential impact upon the foundations of adjacent buildings. However, the National Planning Practice Guidance states that planning is concerned with land-use in the public interest and not the protection of purely private interests. There is no evidence that the proposal would incur structural damage to neighbouring buildings and in any event, this would be a private civil matter.
9. Representations have also been made raising concerns that the close proximity of the extension to the commercial building to the rear could give rise to noise complaints. However, the extension would not actually abut this building and its openings would face away from it, in direct contrast to the existing rear elevation. In view of this, and the lack of any expert opinion indicating that occupants would be likely to experience undue noise and disturbance in the extension, there is insufficient evidence to warrant refusal on this issue. I have also noted the Council's concerns in respect of precedent, but each proposal must be considered on its own merits.

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<sup>4</sup> National Planning Policy Framework, Communities and Local Government, March 2012



10. In view of the above, I have concluded that the development; (a) would not be harmful to the design of the host dwelling; and (b) that it would have a neutral impact upon the conservation area, which would as a consequence preserve its character and appearance<sup>5</sup>. The scheme would therefore comply with Policy 28 of the Local Plan which seeks to ensure that extensions are sympathetic to the design and scale of the host dwelling. Furthermore, it would also comply with Paragraph 64 of the Framework in that its modern contemporary design would improve the way the existing dwelling functions and interacts with outdoor space.
11. The Council has suggested conditions which I have considered in the light of the National Planning Practice Guidance. I have made some small amendments to clarify certain details. A condition requiring development to be in accordance with the plans is needed for the avoidance of doubt and in the interests of proper planning. A condition relating to external materials is also necessary to ensure a high standard of development and preserve the character and appearance of the conservation area.

### **Conclusion**

12. I have found that the development would not be harmful to the design of the host dwelling and would preserve the character and appearance of the conservation area. In view of this and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Robert Fallon*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: - Drawing No JD/201640.1 Rev A
- 3) No development shall commence until details /samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details /samples.

### **End of schedule**

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<sup>5</sup> S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

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# Appeal Decision

Site visit made on 13 November 2017

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20<sup>th</sup> November 2017.**

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**Appeal Ref: APP/X1925/W/17/3178822**

**1 Ryder Way, Ickleford, SG5 3XL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Ms Suzanne Roynon against the decision of North Hertfordshire District Council.
  - The application Ref 17/00918/1, dated 31 March 2017, was refused by notice dated 2 June 2017.
  - The development proposed on the application form is a new two bedroom house.
- 

## Decision

1. The appeal is dismissed.

## Procedural matters

2. The proposal seeks outline planning permission, with all matters reserved for future consideration. Accordingly, I have treated the submitted plans as illustrative only.
3. My determination of this appeal is against the saved policies of the adopted Local Plan<sup>1</sup>. However, the Council's report and appellant's statement of case also make reference to a number of policies from the emerging Local Plan<sup>2</sup>. Although at an advanced stage of preparation, the assessment of this document by an Inspector has not yet been completed following examination. Given the uncertainties regarding the outcome of that process, I have assigned the emerging Local Plan limited weight and in any event, Policies SP1, SP2, D1, D3, D4, HS3, SP8, SP9 and T2 would not have altered my conclusions.
4. The Council and appellant both agree that the site is located within the built-up limits to the village where the principle of residential development is considered acceptable and I see no reason to take a different view.

## Main issue

5. Within the context of the Council's reason for refusal and the evidence in this case, the main issue is considered to be the effect of the proposed development on the character and appearance of the area.

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<sup>1</sup> District Local Plan No 2 with Alterations, 23 April 1996, North Hertfordshire District Council

<sup>2</sup> Local Plan 2011-2031, Proposed Submission, October 2016, North Hertfordshire District Council

## Reasons

### *Appeal site context*

6. Ryder Way is an attractive road characterised by mature 2-storey semi-detached houses, generous open gaps between properties, large gardens, expansive corner plots and its verdant appearance. Although the properties slightly vary in design, they are unified by their rendered off-white finished, plain tiled hipped roofs, dominant chimneys and front facing gables. The highway is lined with mature front boundary hedges, grass verges and established trees.
7. The appeal site contains one half of a pair of semi-detached properties at the southern end of the road that backs onto open countryside ('No 1'). It is set on a triangular shaped corner plot which tapers away from its compact rear garden towards the Ryder Way/Westmill Lane highway junction. This has resulted in a wide, spacious and prominent corner plot, enclosed by a mature boundary hedge.
8. To the south-west of the site lies Nos 14 and 16 Westmill Lane, a more recently constructed post-war pair of gable-roof semi-detached properties finished in brick that are positioned at a tangent to the road. Although these have a very different appearance to No 1, their sympathetic orientation contributes to the spacious character of its corner plot and the legibility of the junction as an entrance to Ryder Way.

### *Character and appearance*

9. Although the submitted plans are illustrative only, they do nonetheless provide a realistic appraisal of how the dwelling might be positioned given existing site constraints and the need to accommodate 2 bedrooms. The layout shown is also consistent with the appellant's design and access statement.
10. The plans illustrate the proposed dwelling being positioned parallel to No. 14 Westmill Lane, with a small gap between both properties. Although this would result in a larger gap between the appeal scheme and No 1 at the front of the site, the triangular shape of the plot would substantially reduce this towards the rear where it would become quite narrow.
11. As a consequence, the majority of the gap would be lost and the corner plot would lose its sense of spaciousness, which would be harmful to the area's locally distinctive character. The site would also look quite different to the corresponding corner plot on the opposite side of the road at No 2 Ryder Way, which would have a much larger gap between it and No 12 Westmill Lane.
12. The scheme would also result in very small rear gardens to the proposed dwelling and No. 1 and necessitate a large proportion of the front garden to the new dwelling being hard surfaced for off-road parking. This reinforces my view that there is insufficient space to accommodate a new dwelling and protect the character and appearance of the area.
13. I acknowledge that the illustrated siting of the proposed dwelling has been led by the desire to maximise the gap between it and No 1. However, the fact that this is not sufficient demonstrates the constrained nature of the site and that the proposal is not compatible with the settlement pattern and character of the area.

14. The submitted plans also illustrate the dwelling projecting beyond the main front elevation of Nos 14 and 16 Westmill Lane with a different gable roof orientation. It would therefore appear substantially different to this pair of dwellings and not as a continuation of them as the appellant maintains. The development would, as a consequence, not be compatible with the character of both sets of neighbouring properties at Nos 14 and 16 and No 1.
15. The public views of the development would be clearly visible when approaching in both directions on Ryder Way and from the east on Westmill Lane, which would intensify the scheme's harmful impact. Furthermore, I remain unconvinced on the basis of my site visit and the evidence before me that it would be possible to design an alternative scheme at the reserved matters stage to address the issues identified.
16. In view of the above, I have concluded that the development would be harmful to the character and appearance of the area. The proposal would as a consequence conflict with Core Policies 5, 26 and 57 (Guidelines 1 and 2) of the adopted Local Plan which seek to ensure that new development protects locally distinctive features and is compatible with the established character of an area.

*Other matters*

17. The appellant has referred to a 2-storey extension granted permission in 2010 that they feel helps to justify the current scheme. However, because this has now lapsed and I cannot be certain that it would be approved again, I have given it limited weight in my assessment. Nevertheless, even if that were not the case, there would be a considerable difference in impact between a subservient 2-storey side extension and a 2-storey detached or attached dwelling. I do not therefore consider that the former would set any kind of precedent for the latter.
18. I do not agree with the appellant that the development would be on brownfield land as the site falls within the built-up area of an existing village. In view of this, and in accordance with the glossary definition at Annexe 2 of the Framework<sup>3</sup>, the site would not constitute previously developed land.
19. The appellant states that the scheme should be allowed because Paragraph 65 of the Framework advises Councils to not refuse sustainably located buildings because of their incompatibility with the townscape. However, I have concluded that this policy is not applicable because the appeal scheme's location in a village with limited facilities would not promote 'high levels of sustainability' as referred to by the policy. Nevertheless, even if that were not the case and it did promote 'high levels of sustainability', it has not been demonstrated that the incompatibility of the scheme with the existing townscape has been mitigated by good design.
20. The appellant has raised concerns that No 14 Westmill Lane was granted permission to extend by the Council despite it encroaching into the gap between both properties. However, I am not aware of the particular circumstances where planning permission was granted for this and in any event, I must consider the appeal scheme on its own merits. The existence of this other development does not therefore justify the harm I have identified.

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<sup>3</sup> National Planning Policy Framework, Communities and Local Government, March 2012

### *Planning balance*

21. The Council has acknowledged on the basis of its adopted Local Plan that it does not have a 5 year housing land supply as required by Paragraph 47 of the Framework. In view of this, and in accordance with Paragraph 49 of The Framework, I have concluded that; (a) the relevant policies for the supply of housing are out-of-date; and (b) that the shortfall in housing supply is sufficient to trigger the presumption in favour of sustainable development as outlined by Paragraph 14 (bullet point 4) of the Framework. In particular, I have considered whether the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
22. Paragraphs 56, 60 and 64 of the Framework state that; (a) good design is a key aspect of sustainable development; (b) it is proper to reinforce local distinctiveness; and (c) poorly designed development which fails to take the opportunity to improve the character and quality of an area should be refused. For the reasons above, I have concluded that the development would fail to comply with these requirements and that the resultant adverse environmental harm would significantly and demonstrably outweigh the social and economic benefits of providing one additional dwelling in a sustainable location towards the Council's housing land supply shortfall and to a lesser degree, helping to sustain local community facilities and the provision of local employment opportunities during construction.

### **Conclusion**

23. I have found that the appeal proposal would be harmful to the character and appearance of the area. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should accordingly be dismissed.

*Robert Fallon*

INSPECTOR