

# Public Document Pack

4 January 2019

Our Ref Planning Control Committee  
Your Ref.  
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To: Members of the Committee: Councillors Mike Rice, Michael Muir, Daniel Allen, Ruth Brown, Paul Clark, Bill Davidson, Sarah Dingley, Jean Green, Cathryn Henry, Mike Hughson, Tony Hunter, Ian Mantle, Sue Ngwala, Harry Spencer-Smith and Michael Weeks

Substitutes: Councillors David Barnard, Val Bryant, Faye Frost, Gary Grindal, Ben Lewis, Val Shanley and Terry Tyler

You are invited to attend a

## **MEETING OF THE PLANNING CONTROL COMMITTEE**

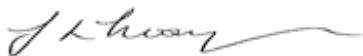
to be held in the

**COUNCIL CHAMBER, COUNCIL OFFICES.  
GERNON ROAD, LETCHWORTH GARDEN CITY**

On

**WEDNESDAY, 16TH JANUARY, 2019 AT 7.30 PM**

Yours sincerely,



Jeanette Thompson  
Service Director – Legal and Community

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

| <b>Item</b>  | <b>Page</b>       |
|--|-------------------|
| <b>1. APOLOGIES FOR ABSENCE</b>  |                   |
| <b>2. MINUTES - 13 DECEMBER 2018</b><br>To take as read and approve as a true record the minutes of the meeting of this Committee held on the 13 December 2018.<br><br>These minutes are to follow.  |                   |
| <b>3. NOTIFICATION OF OTHER BUSINESS</b><br>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.<br><br>The Chairman will decide whether any item(s) raised will be considered.   |                   |
| <b>4. CHAIRMAN'S ANNOUNCEMENTS</b><br>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, wished to exercise a 'Councillor Speaking Right', must declare this at the same time as the interest, move to the public area before speaking to the item and then must leave the room before the debate and vote. |                   |
| <b>5. PUBLIC PARTICIPATION</b><br>To receive petitions and presentations from members of the public.   |                   |
| <b>6. 18/01726/FP LAND WITHIN, RUSH GREEN MOTORS, LONDON ROAD, LANGLEY, HERTFORDSHIRE</b><br>REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER<br><br>Erection and use of a concrete batching plant together with associated infrastructure and access.   | (Pages 1<br>- 28) |

7. **18/00747/OP LAND OPPOSITE HEATH FARM, BRIARY LANE, ROYSTON, HERTFORDSHIRE** (Pages 29 - 74)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

Outline planning application for the erection of up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. All matters reserved except for means of main site access.

8. **17/04355/FP MANOR FARM, CHURCH LANE, BYGRAVE, BALDOCK, HERTFORDSHIRE, SG7 5EE** (Pages 75 - 84)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

Installation of slurry lagoon.

9. **PLANNING APPEALS** (Pages 85 - 102)  
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

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|-------------------|--|
| <b>ITEM NO:</b>   |  |
| <u>Location:</u>  | <b>Land Within<br/>Rush Green Motors<br/>London Road<br/>Langley<br/>Hertfordshire</b>                       |
| <u>Applicant:</u> | <b>Breedon Southern Ltd</b>  |
| <u>Proposal:</u>  | <b>Erection and use of a concrete batching plant together<br/>with associated infrastructure and access.</b> |
| <u>Ref. No:</u>   | 18/01726/FP  |
| <u>Officer:</u>   | <b>Tom Donovan</b>   |

### **Date of expiry of statutory period**

28<sup>th</sup> February 2019

### **Submitted Plan Nos.**

17088-11 Rev.P5; 17088-12 Rev.P4; 17088-13 Rev.P3; 17088-14 Rev.P1

### **Reason for Delay**

Extension of time to allow consideration of supplementary documentation. Deferral from December Planning Control Committee.

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

Councillor Paul Clark has 'called-in' the application in the wider public interest.

This item was deferred by members at the December Planning Control Committee due to the correspondence received from Housing, Communities and Local Government (HCLG) on Thursday 13<sup>th</sup> December. The correspondence received sets out the requirement that, if members are minded to approve, the Council should refer the decision to the Secretary of State for Housing and not issue the decision until the Secretary of State has confirmed in writing whether he wishes to call-in the application. HCLG has confirmed that the Council is not able to refer the application to the Secretary of State in the absence of a resolution to grant planning permission. If members are minded to refuse planning permission there is no need to refer the decision to the Secretary of State.

## 1.0 **Site History**

- 1.1 05/00510/1EUD – A certificate of lawful development was granted in 2005 to establish the lawful use of the site for 'storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers'.
- 1.2 16/03171/1 - planning permission was granted in February 2017 for a 10MW battery storage facility just to the north-west of the application site but within the Rush Green complex.

## 2.0 **Relevant Planning Policy**

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

Policy 2 - Green Belt  
Policy 36 – Employment Provision  
Policy 55 – Car Parking Standards

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

Section 2 – Achieving sustainable development  
Section 4 – Decision-making  
Section 6 – Building a strong competitive economy  
Section 8 – Promoting healthy and safe communities  
Section 9 – Promoting sustainable transport  
Section 12 – Achieving well designed places  
Section 13 - Protecting Green Belt land  
Section 14 – Meeting the challenge of climate change, flooding and coastal change  
Section 15 - Conserving and enhancing the natural environment  
Section 16 – Conserving and enhancing the historic environment

### 2.3 **North Hertfordshire Draft Local Plan 2011-2031**

The policies of relevance in this instance are as follows:

#### **Strategic Policies**

SP1: Sustainable development in North Hertfordshire  
SP5: Countryside and Green Belt  
SP6: Sustainable transport  
SP9: Design and sustainability  
SP10: Healthy communities  
SP11: Natural resources and sustainability  
SP13: Historic environment

### Development Management Policies

ETC2: Employment development outside Employment Areas

T1: Assessment of transport matters

T2: Parking

D1: Sustainable design

D3: Protecting living conditions

D4: Air quality

NE1: Landscape

NE7: Reducing flood risk

NE8: Sustainable drainage systems

NE9: Water quality and environment

NE10: Water Framework Directive and wastewater infrastructure

NE11: Contaminated land

HE1: Designated heritage assets

HE4: Archaeology

## 3.0 **Representations**

### 3.1 **Public Notice/ Local Residents**

Objections have been received from local residents, local interest groups and other parish councils and these can be found in full on the website. The following is a summary of issues raised:

- Inappropriate development in Green Belt;
- Site is not previously developed;
- Harm to the appearance of the Green Belt and reduction in openness;
- Visual impact;
- Environmental impact;
- Impact on air quality and the Stevenage Road Air Quality Management Area;
- Impact on human health due to vehicle emissions, dust etc;
- Impact on highway safety and the capacity of the highway network;
- Suitability of road for the type of traffic proposed;
- Impact on pedestrians and cyclists;
- HGV noise and vibration;
- Dust, noise and vibration from the plant;
- Potential land contamination issues;
- Potential damage to the highway;
- Harm to neighbour amenity;
- Impact on the water supply;
- Inappropriate location for such a plant;
- Impact on wildlife/ecology.

### 3.2 **Langley Parish Council**

Objection received and can be found on the website. The following is a summary of the issues raised:

- Highways safety and capacity concerns;
- Damage to the road;
- HGV emissions and dust;
- Impact on water supply;
- Harm to the rural area and the Green Belt.

### 3.3 **Letter from Bim Afolami MP**

The MP outlined his opposition to the construction of the plant on the basis that the proposed development would have an adverse impact on the safe operation of the highway, is unnecessary and not appropriate in the Green Belt. The MP concluded his letter by asking the Council to highlight the requirement of the plant. The requirement or otherwise of the proposed plant is not a matter that is able to be considered by the decision maker as our position with relation to the proposal is to consider its acceptability in line with relevant planning policy and guidance.

### 3.4 **Hertfordshire County Council Highways**

No objection subject to recommended conditions 8-17. Members to note that the Highways Authority have considered the cumulative effect of the existing and proposed development and have concluded that the proposal would not lead to a severe impact (see 4.2.1-4.3.1).

### 3.5 **Environmental Protection (contaminated land and air quality)**

No objection subject to recommended conditions regarding contamination and fleet emissions.

### 3.6 **Environment Agency**

No objection subject to recommended condition regarding surface water disposal.

### 3.7 **Environmental Health (noise and other nuisance)**

No objection subject to recommended condition regarding the operating hours of the proposed plant.

### 3.8 **Herts Ecology**

No objection subject to recommended conditions regarding ecological mitigation measures.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

- 4.1.1 The application site is located on the northern part of the Rush Green Motors site which is located to the east side of the B656 (London Road). The site is located within the parish of Langley and the village of Langley is located a few hundred metres to the south of the application site. The site is located approximately 6km to the south of Hitchin and 2.5km to the west of Stevenage.



- 4.1.2 Rush Green Motors is noted on its website as being a 'commercial vehicle specialists' although a lawful development certificate granted by this Council in 2005 (05/00510/EUD) described the authorised use as follows:

*“Storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers”*

A number of former agricultural and portable office buildings are located on the site and appear to be used in association with the authorised use of the site.

- 4.1.3 The Rush Green Motors site extends a significant distance along the boundary of the B656 whilst the site also extends several hundred metres to the east. The site is bounded to the north-west by the Rush Green Airfield and to the north, north-east, and east by agricultural fields. Dyes Farm borders/is incorporated into the south-east of the site. Several residential properties are located within the frontage of the site.
- 4.1.4 The B656 London Road is primarily a 60mph speed-limit road that links the south-western edge of Hitchin with the northern edge of Codicote whilst providing access with the villages to the south/south-west. To the north the B655 joins up with the Three Moorhens Roundabout in Hitchin which then provides road links towards Stevenage, Letchworth, Luton and Bedford. To the south the B656 runs through the Codicote High Street before eventually discharging onto the Welwyn By-Pass Roundabout and provides road links to south and north junctions of the A1M, the B197 towards Knebworth and the A1000 towards Welwyn.
- 4.1.5 The Phase I Ecological Survey Report that has been submitted in support of the application confirms that the application site does not contain, adjoin or include any statutorily designated sites of ecological interest, such as Sites of Special Scientific Interest (SSSI), National Nature Reserves, Special Protection Areas (SPAs), Special Areas of Conservation (SACs) or other sites designated under UK or European Directives. The closest SSSI is the Knebworth Woods SSSI which is 1.5km from the site.
- 4.1.6 The Rush Green Airfield Local Wildlife Site (ref. 29/019) is located approximately 60m to the north-west of the application site. The LWS contains a wide diversity of habitats within a relatively small area including moderately species-rich neutral grassland, with a narrow strip of damp grassland with good species diversity along the eastern side associated with a winterbourne (which is derived from the piped small stream underlying the Site). In the SE corner of the LWS are 2 small areas with species-rich damp grassland, a pond and drainage ditch and in the SW corner is a small fenced off area of grassland, semi-improved in character with several grassland indicators. The LWS also includes hedgerow habitat and some areas of broad-leaved plantation woodland.

4.1.7 The application site extends across Flood Risk Zone (FRZ) 1 through to 3.

## 4.2 **Proposal**

### 4.2.1 Overview

Erection of concrete batching plant together with associated infrastructure and access.

### 4.2.2 What is a concrete batching plant?

Concrete batching is an industrial process which involves combining various ingredients like aggregates, sand, water, and cement to make ready-made concrete. The process would require raw materials to be imported onto the site before the final product is exported by road via truck-mixers. The operation of mixing the materials is largely a computerised operation. It is anticipated that the plant would produce approximately 30,000m<sup>3</sup> of concrete annually.

### 4.2.3 Vehicular access

An existing, but not currently used, vehicular access point is proposed to be upgraded and used as the sole point of access for the concrete batching plant. Other existing vehicular access points will be retained and presumably used in association with the existing operations at Rush Green Motors.

### 4.2.4 Construction of the plant

- The site will need to be cleared before any preparatory works begin;
- A large sub-base/concrete surface to be laid along with drainage and surface water infrastructure;
- The concrete batching plant will arrive on site part-assembled and will be constructed on site;
- Site office is pre-fabricated and will be delivered to the site and installed in position;
- Aggregate storage bays to be delivered and installed;
- Remainder of infrastructure is delivered and installed.

### 4.2.5 The plant

The structures/buildings proposed as part of the concrete batching plant are as follows:

- Mixing plant with conveyor;
- Aggregate feed hoppers;
- Site office;
- Recycled water butt;
- Recycle bay/wedge pit/waste bay;
- Water tank;
- Batch cabin;
- GGBS (ground granulated blast furnace slag) station;
- OPC (Ordinary Portland Cement) station;
- Aggregate bays;
- Substation and storage.

#### 4.2.6 Operations of the plant

- The importation and storage of aggregates, sand, cement, limestone fines and other raw materials via heavy good vehicles (HGV's) via the access road.
- The movement of those materials by loading shovel within the site.
- The production process for concrete, mortars and screeds.
- Ancillary welfare and sales offices, vehicle parking and the onward transfer of finished products from the Site via the access road and the wider highway network.

NB. More detail regarding the operations can be found in Chapter 3 of the Planning Application and Supporting Statement.

#### 4.2.7 Vehicle movements

Across a 12 month period a daily average of 52 HGV movements (26 in/26 out) Monday to Friday and 26 HGV movements (13 in/ 13 out) Saturday are proposed to occur. On the basis that the plant would operate for 5.5 days per week for 48 weeks per year this would result in 13,728 HGV movements per year.

NB. Were the plant to operate for 51 weeks per year (taking into account of holiday periods and Sundays) the plant would attract a total of 14,443 HGV movements per year.

#### 4.2.8 Hours of operation

Operating hours are proposed to be 0700-1900 Monday to Friday and 0700-1300 Saturday.

NB. See section 4.3.35 of my Committee Report which outlines that operating hours are to be restricted by condition to 0730-1900 Monday to Friday and 0730-1300 Saturday

#### 4.2.9 Lighting

External lighting will be required. Details have not been submitted as part of this planning application and as such this matter is to be subject of a condition requiring full details to be submitted and agreed prior to the installation and use of any lighting.

### 4.3 **Key Issues**

#### 4.3.1 The key issues for consideration are as follows:

- Whether the proposal would be inappropriate development in the Green Belt and whether any harm by reason of inappropriateness (if it is found to be so), and any other harm, would be clearly outweighed by other considerations.;
- The effect on the character and appearance of the area;
- The effect on the safe operation and capacity of the highway network.
- The effect on the living conditions of neighbouring properties.
- The effect on the environment with particular regard to air quality, contamination and flood risk.
- The effect on the ecological value of the area

--The effect on the historic environment.

#### 4.3.2 Green Belt: Inappropriate development

##### *Policy background*

Paragraph 145 of the NPPF (the Framework) states that new buildings in the Green Belt are inappropriate development, with certain exceptions contained within paragraphs 145 and 146 of the Framework. Paragraph 143 states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Moreover, paragraph 144 states that substantial weight should be given to any harm to the Green Belt and that 'very special circumstances' will not exist unless the potential harm to the Green Belt is clearly outweighed. Policy 2 of the saved Local Plan states that development will be granted for proposals that are appropriate in Green Belt and which do not result in 'significant visual impact'. Emerging Policy SP5 largely defers to the provisions of the Framework.

#### 4.3.3 *Previously developed land*

The first key issue to consider is whether the site is rightly regarded by the applicant as being 'previously developed'. The Framework defines 'previously developed land' as "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*"

4.3.4 A number of permanent structures are present within the Rush Green Motors site whilst a Lawful Development Certificate (LDC) was granted by this Council in 2005 that established the lawful use of the site for the '*storage, sale crushing and recycling of vehicles, trailers, plant and machinery. Metal fabrication and manufacture of trailers, shot blasting and spraying. Haulage of vehicles, plant and machinery. Repair, servicing and cleaning of vehicles, plant and trailers. Hire of trailers*'.

4.3.5 The circumstances of the site do not appear to have changed since the LDC was granted in 2005 and I am therefore satisfied that the site still operates under the terms of the LDC. Moreover, a number of permanent structures are present within the Rush Green Motors site together with a significant amount of hard-surfacing. To be clear, the key issue here with respect to this issue is the status of the land at determination and it is quite clear to me that the Rush Green site as a singular planning unit is, at the point of determination, previously developed in line with the definition in the Framework.

4.3.6 As the site is previously developed, paragraph 145 bullet-point 'g' of the Framework is activated and therefore the partial or complete redevelopment of the site would not be inappropriate development provided that the new development would not have a greater impact on the openness of the Green Belt than the existing development.

4.3.7 *The existing development*

The key issue for consideration is therefore whether the proposed development would have a greater impact on the openness on the Green Belt than the existing development. First of all it is important to establish the current situation on the site and therefore I can confirm that I observed the following when I visited:

--The site contained large numbers of scrap vehicles and vehicle parts spread out across almost the full extent of the site. Vehicles varied in size from small cars to large HGV's.

--Scrap vehicles and cars are typically piled on top of each other and I would estimate the height in places to be up to around 6-7m.

--A number of porta-cabins and buildings of a similar scale are situated within the site.

--A large pile of soil was observed and this has a height of approximately 6-7m.

--Numerous cranes are littered across the site and these have a height in excess of 8m.

--Metal palisade fencing has been erected around the boundary of the site.

4.3.8 *The proposed development*

The proposed development would include the full clearance of the site as defined by the red line on drawing number 17088-12 P4, the formation of a new vehicular access road and the erection of the several structures required to form the concrete batching plant. The first thing to note is that the footprint of the proposed development is less than the footprint of the existing development and would moreover present a much tidier arrangement. However, some of the proposed structures are arguably of a more permanent nature than the existing development and indeed several of the proposed structures would have a height of between approximately 6 and 8 metres. Moreover, it should be recognised that some aspects of the proposed development are much smaller than the existing development measuring no more than approximately 3m in height. I would therefore argue that, whilst some parts of the plant proposed may exceed the height of existing structures currently in position on the site, the overall development would not have a materially greater impact on the openness of the Green Belt than the existing development. Indeed, one could even go so far as to suggest that the proposed development would have a reduced impact on the openness of the Green Belt than the existing development.

4.3.9 Based on the above considerations it is my view that the proposed development would not have a materially greater impact on the openness of the Green Belt than the existing development. Thus it is my view that the proposed development would not be inappropriate development.

#### 4.3.10 *Saved Policy 2*

Policy 2 of the Saved Local Plan states that permission will be granted for proposals that are 'appropriate' in the Green Belt and if 'significant visual impact' would not result. In line with the conclusions reached in paragraph 4.3.9 of this report, I consider that the proposal would not be inappropriate development and is thereby 'appropriate' for the purposes of applying Saved Policy 2. I will return to the matter of visual impact in more detail in a later section of this report.

#### 4.3.11 *Emerging Plan*

The Emerging Plan has yet to be adopted but the Examination in Public (EiP) has been undertaken and the site is proposed to remain in the Green Belt. Whilst the Council is yet to receive the Inspector's Report and is not expected to therefore adopt the Plan until mid-2019, Policy SP5 is largely consistent with the aims of the Framework and therefore I consider that the proposal is not inappropriate development in accordance with the provisions of SP5 and the Framework.

#### 4.3.12 *Green Belt conclusions*

It is my view that the proposed development would involve the partial redevelopment of previously developed land and that said development would not have a materially greater impact on the openness of the Green Belt than the existing development. Consequently the proposed development would not be inappropriate development and would accordingly comply with the provisions of Section 13 of the Framework, Saved Policy 2 and Emerging Policy SP5.

#### 4.3.13 Visual impact

##### *Policy background*

The Framework (para.170) places value on protecting and enhancing valued landscapes and advises LPA's to recognise the intrinsic character and beauty of the countryside. Saved Policy 2 is a Green Belt policy which has already been discussed in this report. However, the Policy states that permission will only be granted where it is appropriate (which I have already addressed) and where significant visual impact would not result. Emerging Policy SP12 relates to 'Green infrastructure, biodiversity and landscape' with criterion 'c' stating that the Council will 'consider and respect landscape character and locally sensitive features'. Emerging Policy NE1 relates to 'Landscape' and expands on the strategic aims of Policy SP12 ultimately aiming to ensure that new development would respect the landscape character area in question and not harm the appearance of the immediate area.

#### 4.3.14 *The Landscape and Visual Impact Assessment*

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) in support of their application. Paragraph 2.6 of the LVIA states that the LVIA should consider:

- i) Landscape effects i.e. the effects on the landscape as a resource; and*
- ii) Visual effects i.e. the effects on views and visual amenity.*

Paragraph 2.7 of the LVIA states that *“both landscape and visual effects are dependent upon the sensitivity of the landscape resource or visual receptors and the magnitude of impact.”*

4.3.15 The North Hertfordshire Landscape Assessment (NHLA) has analysed and allocated the district into Landscape Character Areas. The site is within Landscape Character Area (LCA) 214 ‘Langley Valley’. LCA 210 ‘Langley Scarp’ is to the west on the other side of the B656 with LCA 209 ‘Almshoe Plateau’ is located to the east and borders the edge of Stevenage.

4.3.16 I am not quite in agreement with paragraph 5.4.2 of the LVIA which I feel slightly misrepresents the conclusions of the NHLA. Overall LCA 214 is considered by the NHLA to be of ‘moderate sensitivity’ but considered to be of ‘moderate to high sensitivity in visual terms’. Openness is considered to be a particular aspect of value but the overall value of the LCA is diminished due to the lack of remoteness and general human influence. Overall the landscape is considered to be of ‘moderate low landscape value’ and I am not in disagreement with this conclusion.

4.3.17 The existing lawful use of the site undoubtedly has a negative impact on the landscape and this presumably feeds into the conclusion of the NHLA that the Langley Valley LCA has only a moderate low landscape value. However, as discussed in earlier sections of this report, the scrapyards are a lawfully established use and thus there is little prospect that the appearance of the site will change for the better. The proposed development would be contained within the existing development area and not extend further into the countryside. Moreover, a large part of the site will need to be cleared to enable the development thereby possibly having a positive impact on the landscape.

4.3.18 The Rush Green Motors site as a whole is large and has a significant impact on the landscape. However, the development site is itself only a relatively small section of the overall site and, in any case, due consideration must be given to the visual impact of the proposal in reference to the existing scale of development. I have identified several locations near to the site which the proposal may affect.

- Public Right of Way 4 is located south-east of the application site essentially cutting through the site indicating the boundary between Rush Green and Dyes Farm. View towards the application site from PROW4 would be long-range largely across the existing scrapyards. Accordingly, the proposal would have limited impact on PROW4.
- Public Right of Way 25 is located a significant distance beyond the northern boundary of the application site linking White Lane to the west with PROW4 discussed above. The application site is visible from several viewpoints along PROW25 but due to the distances involved the impact of the proposed development on PROW25 would be limited.

- The B656 is located closely adjacent to the front of the site and at this point has a 60mph speed limit. The plant itself would be located to the rear of the site and would therefore have limited impact from the road. At worst it would have a marginally greater impact than the existing development due to slight increase in height but this part of the site fairly well screened whilst the landscape value from the B656 is low at this point.

#### 4.3.19 *Landscape - conclusions*

Overall, when considered against the existing situation, I would conclude that the proposed development would have a neutral impact on the landscape value of the area and would therefore be compliant with the Framework and Emerging Policies SP12 and NE1. The proposal would not have significant visual impact and thus I consider that the proposal would be compliant with Saved Policy 2.

#### 4.3.20 Impact on the safe operation of the highway

##### *Key issues*

Due to the nature of the proposed development, the key issue in the consideration of the application is the impact that the movement of heavy goods vehicles (HGV's) would have on the safe operation of the highway network in terms of both the safety of the access and the impact on the safety and capacity of the wider highway network.

#### 4.3.21 *Policy background*

Paragraph 108 of the Framework advises that, in assessing development proposals, a) opportunities to promote sustainable transport modes are taken up; b) safe and suitable access to the site can be created for all users; and c) any significant impacts on the transport network (capacity and congestion) or on highway safety can be mitigated to an acceptable degree.

4.3.22 Paragraph 109 of the Framework states that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*”

4.3.23 Emerging Policies SP6, T1 & T2 are largely consistent with the aims of the Framework ultimately all therefore requiring new development to, inter-alia, promote sustainability, have an acceptable impact on the capacity and safety of the network, and provide a satisfactory amount of car parking.

#### 4.3.24 *Sustainable transport*

The application site is located in a fairly remote location with the closest settlement of Langley being classed by the Local Planning Authority in its Emerging Local Plan as a Category C village and thus the proposal is unlikely to attract significant sustainable transport benefits. That said, the Framework advises that ‘opportunities to promote sustainable transport modes’ should be taken up and I am not convinced that this development proposal twinned with its location would present any particular opportunities in this regard.



#### 4.3.25 *Safe and suitable access*

The proposal would include improvements to an existing vehicular access that is currently not used. To clarify, the access is not currently used by the site owner but not due to any highways safety reasons as far as I am aware. The Highways Authority has commented on the proposal and considers that the improvements to the access would be acceptable in principle. The finer details of the proposed vehicular access are to be secured through several appropriately worded conditions and through a Section 278 Agreement that the applicant/developer would need to enter into with the Highways Authority. Accordingly, subject to the full agreement of the Highways Authority I am satisfied that the proposed improvements to the access would be acceptable in highway safety terms.

#### 4.3.26 *Impact on the network (capacity and congestion)*

The proposal would involve an average of 54 HGV movements Monday-Friday 0730-1900 and an average of 26 HGV movements 0730-1300 on Saturdays thus equating to approximately 4/5 HGV movements per hour, per day.. The applicant anticipates that, due to market distribution and the location of the site, traffic associated with the development would likely be split equally between the northern and southern routes although clearly this will be dictated by demand.

4.3.27 The Highways Authority has considered the information submitted with the application including the Transport Assessment (TA) and considers that, subject to a number of recommended conditions, the number of additional HGV movements proposed by the development would be able to be safely accommodated by the local highway network with regard given to the cumulative impacts.

4.3.28 The majority of the local concern with relation to the impact that the proposed development would have on the capacity and congestion of the highway network centres on three particular areas: 1) the Hitchin Hill roundabout/Park Way/Stevenage Road in Hitchin; 2) Codicote High Street/B656 through Welwyn towards the A1 (M); and 3) through Langley village. The Highways Authority accept that the demands on the network are greater at the rush-hour periods which have been identified as being 0730-0900 and 1630-1800 Monday-Friday. Accordingly, it is recommended that the number of the HGV movements allowed between these two times is limited to 14 daily. This condition is deemed to be sufficient to ensure that the impact on the network at the busiest times of the day would be kept to an acceptable level. Overall the Highways Authority has considered that the additional vehicle movements proposed to be generated in association with the proposed development would not lead to severe impacts on the network.

#### 4.3.29 *Car parking*

The proposed development would have ample parking provision for all vehicles proposed to use the site.

#### 4.3.30 *Highway impacts - conclusions*

As I reach my conclusion on this issue I am minded to keep in mind paragraph 109 of the Framework which advises the decision maker that permission should be only be refused for development that has a severe impact on the transport network. Each issue has been considered in turn by the Highways Authority and ultimately it is considered that, subject to the conditions set out below, the proposed development would be acceptable in highway safety terms and would not have a significant impact on the capacity or congestion of the local highway network. Accordingly, the proposal would not have a severe impact on the highway network and therefore I do not advise that planning permission is refused on this basis.

#### 4.3.31 Impact on neighbouring properties

Residential properties nearby to the application site are few in number. However, a property called 'Trees' has been noted as likely being affected most by the proposal development; albeit it is located approximately 250m from the application site. 'Trees' fronts the B656 with the Rush Green Motors site wrapping around the rear and flank boundaries of the curtilage of the property.

4.3.32 Due to the nature of the proposed development, I have asked the Senior Environmental Health Officer to consider the proposal together with the Noise Assessment Report by WBM Acoustic Consultants dated 9<sup>th</sup> July 2018 (ref 4759). It should be noted that the EHO considers that the criteria and methodology is appropriate and therefore the basis of the assessment is considered to be sound.

4.3.33 The Noise Assessment Report predicts that the noise level experienced at 'Trees' will be 1dB (A) above the existing background noise levels due to the operations of the proposed development. This is not excessive but it is some way short of the Council's requirement of achieving at least 5dB (A) below the existing background noise levels. However, factoring the authorised use of the main site and the limited exceedance, it is not considered that the proposed development would give rise to such significant noise impacts as to materially affect the living conditions of current or future occupants of 'Trees'.

4.3.34 Consideration has been given to ways of potentially mitigating the limited noise exceedance that has been identified. However, an acoustic fence is the only realistic way in which this issue could be tackled and it is not considered that the erection of an acoustic fence along the boundary of the application site would provide any more than a modest reduction in the noise levels experienced at 'Trees'. Accordingly, this possibility has been discounted. However, it has been recommended that the operating hours of the plant are restricted slightly to 0730hrs-1900hrs Monday to Friday and 0730hrs-1300hrs Saturday.

4.3.35 Based on the specialist advice received from the Senior Environmental Health Officer and my own professional consideration the proposed development would not cause material harm to the living conditions of 'Trees'. Other neighbouring properties would not be significantly affected by the proposed development.

4.3.36 Environmental protection: noise

As part of his considerations, the Senior Environmental Health Officer requested that the noise consultant's model noise levels from HGV's entering and leaving the site. This work has been undertaken and is contained within the Noise Technical Note submitted 15/10/2018. It is considered that this demonstrates that HGV noise will not cause a significant noise nuisance.

4.3.37 Environmental protection: dust

Dust is another matter for which I have asked for specialist input from the Senior Environmental Health Officer. The advice I have received is that the nearest neighbouring property is a sufficient distance away from the source to ensure that no harm would occur as a result of any dust in association with the operation of the site. Moreover, an Environmental Permit will be required for this type of operation under the Environmental Permitting Regulations 2010 and therefore matters relating to dust are best dealt with under this Legislation.

4.3.38 Environmental protection: contaminated land

Land contamination issues have been identified within the GCC Phase I and II environmental risk assessment reports submitted by the applicant. However, it is considered that the issues and recommendations that have been identified are able to be overcome through the submission of a Site Investigation Report (Phase II environmental risk assessment), Remediation Method Statement and Verification Report if/as required.

4.3.39 In accordance with the above, I am satisfied that land contamination issues are able to be appropriately addressed prior to the commencement of the proposed development and thus the proposal is compliant with Section 15 of the Framework and Emerging Policies SP11 and NE11.

4.3.40 Environmental protection: air quality

The application site is not in or closely adjacent to an Air Quality Management Area (AQMA). However, it is recognised that the proposed development could have an impact on the Hitchin Hill Roundabout at the west end of the Stevenage Road AQMA in Hitchin. Moreover, it is recognised that, whilst unlikely, one should not discount the possibility that there are occasions whereby all HGV movements travel north along the B656 and thus potentially affect the AQMA. Accordingly, the applicant has submitted an Air Quality Assessment (AQA) authored by WYG which models a number of different scenarios in order to predict the likely impact on the AQMA.

4.3.41 The Air Quality Assessment concludes that any impact from the development's road traffic is predicted to be negligible and to result in concentrations of air pollutants at the receptors that are lower than the concentrations that were measured in 2016. The Environmental Protection Officer (EPO) has considered the information submitted in the AQA and is in agreement with its findings. However, the air quality assessment does predict an air pollution contribution from the traffic generated by the proposed development and therefore, even though the scale of impact of the emissions on the air pollutant concentrations at receptors within the existing AQMA are negligible, the development is nonetheless failing to contribute

towards compliance with the Air Quality Objective for which the AQMA was designated. Therefore, the opportunity to mitigate the impacts of the development should be taken, with guidance on the type of mitigation to be used taken from the air quality management plan for that AQMA.

4.3.42 In light of the above, a condition is recommended that requires the submission of a Fleet Emission Improvement Strategy which should address the following points:

- . Establishment of current baseline of the operator's HGV fleet and an understanding of the HGV fleets of the operator's suppliers and customers
- . Means of increasing the proportion of the operator's heavy goods vehicle fleet that comply with Euro 5 and Euro 6 over an agreed timescale,
- . Approach to influencing the make-up of the HGV fleet of the operators suppliers and customers
- . Annual reporting on the progress with the implementation of this Strategy.

The condition is considered to off-set the negligible impact that is predicted to occur and ensure that the proposed development would not cause additional harm to the Stevenage Road AQMA. I consider that the condition would result in mitigation measures which are both reasonable and proportionate given the limited scale of the predicted impact.

4.3.43 Environmental protection: flood risk

The application site has been identified as being at risk of flooding and the Environment Agency agree with the methodology used by the consultants appointed by the applicant to determine the validity of the flood zone and are satisfied that the proposed development would not reduce the capacity of the floodplain in this area. Accordingly the proposal would be compliant with Section 14 of the Framework and Emerging Policies SP11 and NE7.

4.3.44 Environmental protection: surface water

The Environment Agency believes that the site investigation and risk assessment are sufficient to preclude any further assessment of the site. However, as the applicant is yet to conclude on the discharge option for surface water drainage, the EA recommend that a scheme for surface water disposal is submitted to and approved by the Local Planning Authority prior to the commencement of the development. I am satisfied that the proposed condition would ensure that surface water is able to be disposed of in an acceptable manner and thus the proposal is compliant with Section 15 of the Framework and Emerging Policies SP11 and NE8.

4.3.45 Ecology

The application site is a brownfield site occupied by industrial / commercial uses and there is limited ecological value associated with it. However, the Rush Green Airfield is located approximately 78m north-west of the site and Herts Ecology has raised some concerns regarding the impact that dust dispersion in association with the operations of the plant could have. However, mitigation measures that have been suggested such as appropriate buffering/ fencing of the small stream in the northern corner and tree root protection area; timing of site clearance to avoid

impact to nesting birds; production of a CEMP to reduce air and ground pollution impacts, and the erection of a 2m high hedge and fence with dense membrane to add protection to the north-western boundary. These mitigation measures are all considered to be appropriate and necessary to ensure that the proposal would not cause harm to the LWS and I have recommended conditions accordingly.

#### 4.3.46 Historic environment

The application site is located several kilometres from designated or non-designated heritage assets and there would not be any inter-visibility between the site and said assets. Accordingly, the proposed development would not have an impact on the setting or significance of any designated historic assets.

#### 4.3.47 Land use

##### *Policy background*

The Framework is supportive of planning helping to create the conditions in which businesses can invest, expand and adapt (para.80) and encourages the growth and expansion of all types of businesses in rural areas (para. 83). In essence I would regard the Framework of being supportive of proposals which support economic growth. Saved Policy 36 (Employment Provision) states that, outside of Employment Areas, planning permission will be granted for proposals for development to meet the needs of the available labour supply and changes in the local economy where it is appropriate in land use, highway, and settlement character and amenity terms. Emerging Policy SP3 (Employment) states the Council will support B-class uses in appropriate locations outside of designated employment areas with Emerging Policy ETC2 expanding on this point stating that employment uses outside of allocated Employment Areas will be granted where they are located in sustainable locations, are appropriate to the area in terms of their size, scale, function, catchment area and historic/architectural character, and have no significant adverse impact on living conditions.

#### 4.3.48 *Saved Policy 36*

The proposed development would appear to meet the needs of the available labour supply and the local economy due to the fact that the applicant presumably deems the proposal to be commercially viable. Moreover, due consideration has been given to the proposal and it is considered that the proposal would be appropriate in land use, highway, and settlement character and amenity terms. Accordingly, the proposed development is considered to be compliant with Saved Policy 36.

#### 4.3.49 *Emerging Policies*

Policy SP3 is broadly supportive of B use classes outside of designated employment areas in appropriate locations. As discussed in the above paragraph, it is considered that the proposal would be appropriate in land use, highway, and settlement character and amenity terms and would therefore be compliant with Emerging Policy ETC2.

#### 4.3.50 *Land use – conclusions*

It is considered that the proposed development would be acceptable in land use terms and would therefore be compliant with Section 6 of the Framework, Saved Policy 36 and Emerging Policies SP3 and ETC2.

#### 4.3.51 Environmental Impact Assessment

The proposed development is neither Schedule 1 development nor does it exceed the threshold set out in Part 5(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Accordingly, there is no requirement for the development to be screened by the Local Planning Authority and an Environmental Impact Assessment is not automatically required.

4.3.52 However, Paragraph 18 (ref ID: 4-018-20170728) of the Planning Practice Guidance states that *“it should not be assumed that developments above the indicative thresholds should always be subject to assessment, or those falling below these thresholds could never give rise to significant effects, especially where the development is in an environmentally sensitive location. Each development will need to be considered on its merits.”*

4.3.53 Firstly, the application site is not located in an environmentally sensitive location in accordance with the 2017 Regulations. Secondly, based on the consultation responses I have received from Environmental Health and the Environment Agency I do not consider that the proposed development would give rise to significant effects and thus I am satisfied that an Environmental Impact Assessment is not required.

#### 4.4 **Conclusion**

4.4.1 The proposed development would not be inappropriate development in the Green Belt and the proposal would be compliant with Section 13 of the Framework, Saved Policy 2 and Emerging Policy SP5. The proposal would be acceptable in broad land use terms.

4.4.2 No objections have been raised by the Highways Authority and thus it is considered that the proposal would have an acceptable impact on the safe operation and capacity of the local road network subject to a number of appropriately-worded conditions. Moreover, technical matters related to noise, air quality, dust, contamination, flood risk et.al. have all been considered and there are no objections, again subject to a number of suitably-worded conditions.

4.4.3 Ultimately there are no sustainable reasons to maintain any objection to the proposed development and accordingly my recommendation is that planning permission is **GRANTED** subject to referral to the Secretary of State for Housing.

#### 4.5 **Alternative options**

4.5.1 Not applicable.

#### 4.6 **Pre commencement conditions**

4.6.1 All agreed.

5.0 **Recommendation**

5.1 Planning permission is resolved to be **GRANTED** subject to referral to the Secretary of State for Housing.

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 development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:

- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
- (ii) The results from the application of an appropriate risk assessment methodology.

(b) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (a), above; has been submitted to and approved by the Local Planning Authority.

(c) This site shall not be occupied, or brought into use, until:

(i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

(ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

(d) Any contamination, other than that reported by virtue of condition (a) encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health, the built and natural environment and controlled waters.

4. Development shall not begin until a scheme for surface water disposal has been submitted to and approved in writing by the Local Planning Authority. Infiltration systems shall only be used where it can be demonstrated that they will not pose a risk to groundwater quality. The development shall be carried out in accordance with the approval details.

Reason: To protect and prevent the pollution of controlled waters from potential pollutants associated with current and previous land uses in line with the National Planning Policy Framework (NPPF), paragraphs 170, 178, 180 and The Environment Agency's Approach to Groundwater Protection.

5. Prior to the first use of the concrete batching plant hereby permitted, details of a Fleet Emission Improvement Strategy shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures within the Fleet Emission Improvement Strategy shall be implemented within an agreed timetable set out in the Strategy, unless otherwise agreed in writing by the Local Planning Authority. As a minimum, the following matters should be addressed in the Strategy:
  - o Establishment of current baseline of the operator's HGV fleet and an understanding of the HGV fleets of the operator's suppliers and customers
  - o Means of increasing the proportion of the operator's heavy goods vehicle fleet that comply with Euro 5 and Euro 6 over an agreed timescale,
  - o Approach to influencing the make-up of the HGV fleet of the operators suppliers and customers
  - o Annual reporting on the progress with the implementation of this Strategy

Reason: In the interests of promoting sustainable transport and minimising the impact on local air quality

6. The site shall not be artificially illuminated except during the permitted hours of working and no lighting fitment shall be installed or at any time operated on the site from which the source of light is directed towards a public highway or nearby dwellings. Full details (including specification, drawings and location) of any external lighting proposed to be installed shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such equipment.

Reason: In the interests of the safe operation of the highway and to protect the amenities of the area.



7. No operations authorised or required under this permission shall take place except between the hours of 0730hrs to 1900hrs Mondays to Fridays inclusive and 0730hrs to 1300hrs on Saturdays. No working, including the maintenance of vehicles, plant and machinery shall take place on a Sunday or Public Holiday.

Reason: To protect residential amenity.

8. The development hereby permitted shall not commence until the proposed access has been constructed to base course construction for the first 12 metres and the join to the existing carriageway has been constructed to the current specification of Hertfordshire County Council and to the satisfaction of the Local Planning Authority.

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

9. The development hereby permitted shall not commence until the proposed access has been widened to 7.3 metres wide and the kerb radii shall be 10 metres to the current specification of Hertfordshire County Council and to the satisfaction of the Local Planning Authority.

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

10. The gradient of the access shall not be steeper than 1 in 20 for the first 12 metres from the edge of the carriageway.

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

11. Prior to commencement of the development as defined on Proposed Site Plan SK01, detailed drawings of all highway works shall be submitted and approved in writing by the Highway Authority.

Reason: To ensure that all work undertaken on the public highway is constructed to acceptable standard.

12. Before the access is first brought into use, as defined on Proposed Site Plan SK01 revision P1, vehicle to vehicle visibility splays of 2.4 metres by 215 metres to both directions shall be provided and permanently maintained. Within which, there shall be no obstruction to visibility between 600 mm and 2.0 metres above the carriageway level. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.

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

13. The development hereby permitted shall not commence until details are submitted showing an appropriate turning area for use by vehicles likely to enter turn around and egress the site in forward gear the turning facility shall thereafter be kept free from obstruction and available at all times and shall therefore be retained as provided until completion of the works.

Reason: So that vehicles may enter and leave the site with the minimum of interference to the free flow and safety of other traffic on the highway and for the convenience and safety of pedestrians and disabled people.

14. There shall be no more than 52 Heavy Goods Vehicle (HGV) movements entering or leaving the site for any purpose per day Monday to Friday when taken as a daily average over a calendar year and no more than 14 of these shall occur between the hours of 07:30am and 09:00am and no more than 14 between the hours of 16:30pm and 18:00pm Monday to Friday. There shall be no more than 26 HGV movements entering or leaving the site for any purpose per day on Saturdays when taken as an average over one calendar year. A record shall be kept of all HGV movements referred to in this condition by listing the vehicle registration of all HGV's entering and leaving the site and the record shall be kept at the site available for inspection on request during permitted working hours. For the purpose of this permission a HGV is defined as any vehicle over 7.5 tonnes.

Reason: In the interests of highway safety and amenity.

15. Construction of the approved development shall not commence until a Construction Traffic Management Plan has been submitted and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include construction vehicle numbers/routing such as prohibition of construction traffic being routed through any of the country lanes in the area and shall be carried out as approved.

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

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

The Construction Method Statement shall address the following matters:

- a. Phasing plan for the work involving the new access
- b. Operation times for construction vehicles.
- c. Construction and storage compounds (including areas designated for car parking).
- d. Siting and details of wheel washing facilities.
- e. Cable trenches.
- f. Foundation works.
- g. Substation/control building.
- h. Cleaning of site entrance and the adjacent public highways.

i. Disposal of surplus materials.

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

17. Prior to the commencement of the development hereby approved details of wheel washing facilities for construction traffic connected with the development hereby permitted shall be submitted to and approved by the Local Planning Authority and shall be installed all before the development is first commenced, and once installed such facilities shall be used to prevent mud and other debris being deposited on the highway during the construction of and operation of the development hereby permitted.

Reason: To ensure that the proposed development does not prejudice the free flow of traffic or the conditions of general safety along the neighbouring highway.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any amendment or re-enactment thereof, no buildings, moveable structures, works, plant or machinery, required temporarily in connection with or for the duration of the development hereby permitted shall be provided on the land without the prior written consent of the Local Planning Authority.

Reason: In the interests of the character and amenity of the area.

19. Prior to the first operation/use of the development hereby permitted, the ecological mitigation measures proposed in Section 4.2 of the Phase 1 Ecological Survey Report May 2018 authored by Susan Deakin shall be implemented on site. The stipulated mitigation measures will be maintained in perpetuity.

Reason: To ensure that the development would not cause harm to the value of the Rush Green Airfield Local Wildlife Site.

20. Prior to the first operation/use of the development hereby permitted full details of the 2m dense-mesh fence proposed for the north-western boundary of Rush Green Motors, and the native-species hedgerow proposed for the inner south-eastern boundary of Rush Green Airfield Local Wildlife Site, shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the first operation/use of the development hereby permitted and maintained in perpetuity.

Reason: To ensure that the development would not cause harm to the value of the Rush Green Airfield Local Wildlife Site.

21. A copy of this decision with approved plans and any approved documents shall be kept at the site office at all times and the terms and conditions of them shall be made known to supervising staff on site.

Reason: To ensure that staff are aware of the terms of this consent.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Informative/s:

1) Construction standards for works within the highway:

The applicant is advised that in order to comply with this permission it will be necessary for the developer of the site to enter into an agreement with Hertfordshire County Council as Highway Authority under Section 278 of the Highways Act 1980 to ensure the satisfactory completion of the access and associated road improvements. The construction of such works must be undertaken to the satisfaction and specification of the Highway Authority, and by a contractor who is authorised to work in the public highway. Before works commence the applicant will need to apply to the Highway Authority to obtain their permission and requirements. Further information is available via the website <https://www.hertfordshire.gov.uk/services/transtreets/highways/> or by telephoning 0300 1234047.

2) Internal Road:

It is advisable that the internal road should be designed and built to adoptable standards.

3) Condition Survey:

Prior to commencement of the development the applicant is advised to contact the North Herts Highways Network Team [NM.North@hertfordshire.gov.uk] to arrange a site visit to agree a condition survey of the approach of the highway leading to construction access likely to be used for delivery vehicles to the development. Under the provisions of Section 59 of the Highways Act 1980 the developer may be liable for any damage caused to the public highway as a result of traffic associated with the development considering the structural stability of the carriageway. The County Council may require an Officer presence during movements of larger loads, or videoing of the movements may be considered.

4) S278 Requirements:

The requirement as part of the offsite s278 works includes the widening of the existing access and reconfiguration of the radii kerbs.

5) Construction Code of Practice:

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

6) Construction Hours:

During the construction phase no activities should take place outside the following hours: Monday to Friday 08:00-18:00hrs; Saturdays 08:00-14:00hrs and Sundays and Bank Holidays: no work at any time.

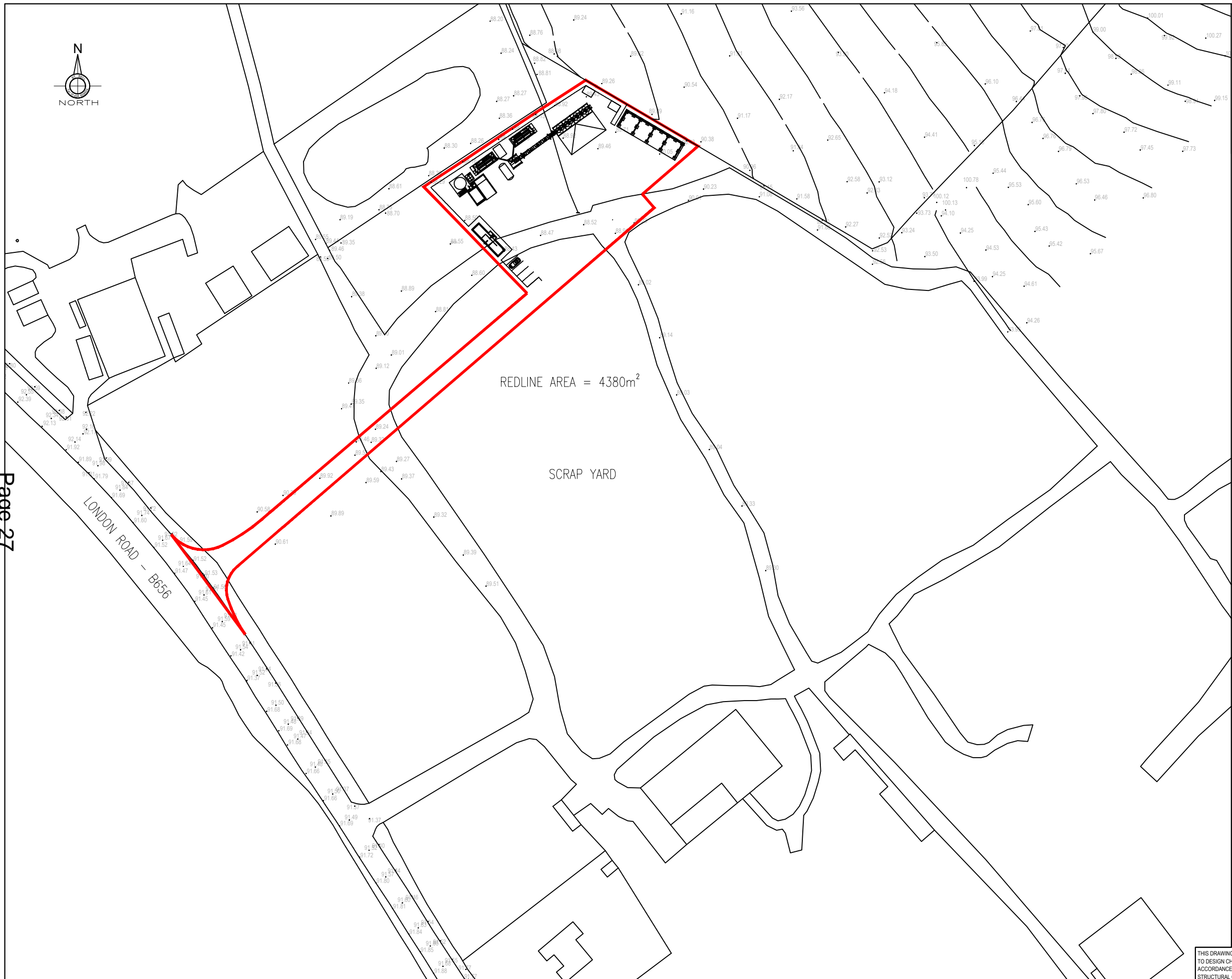
7) Local Authority Pollution Prevention Control - Environmental Permitting Regulations (EPR) 2010:

The proposed development will be a Part B process pursuant to the Environmental Permitting Regulations 2010, meeting the description in Section 3.1B(b) of Part 2 to Schedule 1 of the EPR 2010 namely the blending, packing, loading, unloading and use of bulk cement.

As such the operator must apply for a Part B Permit from either the NHDC Environmental Protection and Housing Team or the Environment Agency (EA) and have that application permitted before being able to operate regardless of any planning permission that may be granted.

As a result of the application site already holding a Waste Management Licence, which is permitted and enforced by the Environment Agency (EA) it is possible for the intended operator of the activity to request that the site as a whole, including the cement batching activity, is regulated by the EA. However, it should be recognised that the likelihood of EA regulation is considered low primarily because the cement batching activity does not appear to be linked to the waste management aspects of the existing operations on the wider site.

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CDM REGULATIONS  
SIGNIFICANT OR UNUSUAL HAZARDS ARE HIGHLIGHTED BELOW:  
THERE ARE NO RISKS UNFAMILIAR TO A COMPETENT CONTRACTOR.

NOTE: SAFE METHODS OF WORK ARE THE RESPONSIBILITY OF THE CONTRACTOR AND ARE TO BE IDENTIFIED IN THE HEALTH AND SAFETY PLAN

- NOTES:
1. ALL DIMENSIONS IN MILLIMETERS UNLESS NOTED OTHERWISE.
  2. DO NOT SCALE FROM THIS DRAWING. IF IN DOUBT ASK.

LEGEND

 SITE BOUNDARY

|    |          |     |                     |     |     |
|----|----------|-----|---------------------|-----|-----|
| P4 | 11/06/18 | MTP | BELLMOUTH UPDATED   | MPB | BTB |
| P3 | 25/05/18 | MTP | UPDATED TO COMMENTS | MPB | BTB |
| P2 | 10/05/18 | MTP | ROAD ADDED.         | MPB | BTB |
| P1 | 02/05/18 | MTP | FOR PLANNING        | MPB | BTB |

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CLIENT:  
BREEDON AGGREGATES

PROJECT:  
STEVENAGE CONCRETE PLANT

TITLE:  
SITE LOCATION PLAN

THIS DRAWING HAS BEEN CHECKED TO DESIGN CHECK LEVEL (DCL) 2 IN ACCORDANCE WITH BT BELL STRUCTURAL CHECKING PROCEDURE

|          |              |           |             |              |       |
|----------|--------------|-----------|-------------|--------------|-------|
| DATE:    | DESIGNED BY: | DRAWN BY: | CHECKED BY: | APPROVED BY: | SHEET |
| 02/05/18 | MTP          | MTP       | MPB         | BTB          | A3    |

STAGE:  
**FOR PLANNING**

DRAWING NUMBER: 17088-12  
REVISOR: P4

SITE LOCATION PLAN  
1:1250



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|                   |  |
|-------------------|--|
| <b>ITEM NO:</b>   |  |
| <u>Location:</u>  | <b>Land Opposite Heath Farm<br/>Briary Lane<br/>Royston<br/>Hertfordshire</b>  |
| <u>Applicant:</u> | <b>Mr S Barker</b>   |
| <u>Proposal:</u>  | <b>Outline planning application for the erection of up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. All matters reserved except for means of main site access.</b> |
| <u>Ref. No:</u>   | <b>18/00747/OP</b>   |
| <u>Officer:</u>   | <b>Melissa Tyler</b>   |

**Date of expiry of statutory period:** 17/01/2019

**Reason for Delay**

Extension of time given to resolve planning issues and reconsultation of amended scheme

**Reason for Referral to Committee**

Due to the site size of over 5 ha's means it must be referred to Planning Committee

**Submitted Plan Nos**

Location Plan; 7407-L-03 C; 7407-L-02 F

1.0 **Policies**

1.1 **National Planning Policy Framework**

In general and with regard to:

- Section 2 – Achieving sustainable development
- Section 5 – Delivering a sufficient supply of homes
- Section 8 - Promoting healthy communities
- Section 9 - Promoting sustainable transport
- Section 11 – Making effective use of land
- Section 12 – Requiring good design
- Section 15 - Conserving and enhancing the natural environment

**1.2 North Hertfordshire District Local Plan No.2 with Alterations (Saved 2007)**

Policy 6 - Rural Areas beyond the Green Belt  
Policy 9 - Royston's development limits  
Policy 14 – Nature Conservation;  
Policy 21 - Landscape and Open Space Patterns in Towns  
Policy 26 - Housing Proposals;  
Policy 29a – Affordable Housing for Urban Local Needs  
Policy 51 - Development Effects and Planning Gain  
Policy 55 – Car Parking (SPD Car parking);  
Policy 57 – Residential Guidelines and Standards.

**1.3 Supplementary Planning Document.**

Design SPD  
Vehicle Parking at New Developments SPD  
Planning Obligations SPD

**1.4 North Hertfordshire District Local Plan 2011-2031 'Submission Local Plan and Policies Map – Modification Report received**

Policy SP1 Sustainable Development in North Hertfordshire  
Policy SP2 Settlement Hierarchy and Spatial Distribution  
Policy SP5 Countryside and Green Belt  
Policy SP6 Sustainable Transport  
Policy SP7 Infrastructure Requirements and Developer Contributions  
Policy SP8 Housing  
Policy SP9 Design and Sustainability  
Policy SP10 Healthy Communities  
Policy SP11 Natural Resources and Sustainability  
Policy SP12 Green Infrastructure, landscape and biodiversity  
Policy CGB1 Rural Areas beyond the Green Belt  
Policy T1 Assessment of Transport Matters  
Policy T2 Parking  
Policy HS2 Affordable Housing  
Policy HS3 Housing Mix  
Policy HS5 Accessible and adaptable housing  
Policy HE4 Supported, sheltered and older persons housing  
Policy D1 Sustainable Design  
Policy D3 Protecting living conditions  
Policy D4 Air Quality  
Policy NEx Strategic green infrastructure  
Policy NE1 Landscape

Policy NEx Biodiversity and geological sites  
Policy NE4 Protecting open space  
Policy NEx New and improved open space  
Policy NE6 Designated Biodiversity and geological sites  
Policy NE7 Reducing Flood Risk  
Policy NE8 Sustainable Drainage Systems  
Policy NE9 Water Quality and Environment  
Policy NE10 Water conservation and Wastewater Infrastructure  
Policy NE11 Contamination land  
Policy NE12 Renewable and low carbon energy development  
Policy HE4 Archaeology

## 2.0 **Site History**

- 2.1 **18/02797/SO (screening opinion)** Residential development for the erection of up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from Briary Lane. The screening opinion concluded as follows:

***“The Local Planning Authority recognises that the EIA Planning Practice Guidance states that only a very small proportion of Schedule 2 development will require an assessment. The Planning Practice Guidance (2014), states that the exclusive thresholds offer only a broad indication of the scale of development which is likely to be a candidate for EIA, but that the requirements need to be considered on a case-by-case basis. In terms of urban development projects (Column 1 10 (b)) the guidance states that EIA assessment is unlikely unless the new development is on a significantly greater scale than the previous use or the types of impact are of a markedly different nature. In this case, although the proposed development would be on a greater scale than the existing agricultural use and would be of a markedly different nature, it would not be of a scale or a nature to justify the need for an EIA. This view is reinforced by the sub threshold nature of the number of dwellings (significantly less than 150) and the limited extent of the built form (less than 5 Ha). The requirement for screening rests solely on the amount of open space included within the application red line area.”***

- 2.2 **16/02109/1PRE** Residential development including diversion of existing bridleway. This advised in Dec 2106 as follows (summary):

***“In accordance with the provisions of paragraph 216 of the NPPF, the determination of an application on this site will likely centre, primarily, on its compliance with the Submission Local Plan. Policy CGB1 of this plan is a rural restraint policy drafted to protect the countryside, beyond settlement boundaries, from development of type proposed except in the case of rural needs housing which can be shown to meet the requirements of Policy CGB2.***

*However, in the event that the Council will not be able to demonstrate a 5 year supply of housing land after Spring 2017, an argument for development on this site may be available under paragraph 14 of the NPPF. However, it is my view that the environmental harm of developing this site as proposed would be likely to significantly and demonstrably outweigh the benefits, as the proposed development would have an adverse impact on the rural character of the area. Given the proximity of the site to Therfield Heath SSSI and following consultation with Natural England on any application it may be the case that specific policies in the NPPF relating to sites designated as SSSI indicate that development should be restricted (paragraph 118).”*

### 3.0 Representations

#### Statutory Consultees

### 3.1 Royston Town Council

Members of Royston Town Council raised an **OBJECTION** to this application for the following reasons:

- *The land is outside both existing and proposed development boundaries.*
- *Achieving a suitable access is a major issue in addition to developing an acceptable scheme with the topography as well as the potential impact on Therfield Heath SSSI and the proximity to Therfield Heath.*
- *The pinch point in the access road is in the wrong location and would cause access problems.*
- *Lack of connection between the site and adjoining land uses for pedestrians. The site is a considerable distance from the station and town centre.*
- *Existing landscape, character and value and visual sensitivity.*
- *Visual impact of any form of development on the site.*
- *The gradient of the slope is of concern and is a danger to users.*
- *The application is incorrect stating that the access will be off Briary Lane when it will in fact be off Wicker Hall.*

### 3.2 North Herts Planning Policy

Policy context outlined in relation to the Nation Guidance (NPPF) and both the saved and emerging local plans

### 3.3 North Herts Environmental Heath – Contamination

Conditions and informatives recommended.

*There is no objection to the proposal in terms of land contamination and local air quality. However, planning conditions will be necessary should permission be granted.*

3.4 **North Herts Environmental Health – Noise**

*“I reviewed the Environmental Health’s records pertinent to this proposed development and I have no objections to make in relation to this application. I have read the report by Wardell Armstrong LLP dated 6<sup>th</sup> March 2018 which provides commentary on potential noise impacts for prospective occupiers of the dwellings and I agree with everything that has been said. I do not think there are any significant noise sources and London Road is a sufficient distance away such that noise mitigation measures will very likely not be required. The developer is welcome to submit a noise assessment at the reserved matters stage although it is not something I will be requiring.”*

3.5 **North Herts Affordable Housing Officer – S106 Heads of Terms**

*“Based on 107 dwellings overall and a 40% affordable housing requirement, in accordance with the Proposed Submission Local Plan, this equates to the provision of 43 affordable dwellings.*

*Within the overall 40% affordable housing requirement a 65%/35% rented/ other intermediate tenure (including affordable home ownership) split is required, in accordance with the council’s Planning Obligations SPD and the 2016 Stevenage and North Hertfordshire Strategic Housing Market Assessment (SHMA) Update. Therefore of the overall 43 affordable units: 28 rented units and 15 intermediate tenure units should be provided to meet housing need.”*

3.6 **North Herts Waste**

Further details required through recommended condition if permission is granted.

3.7 **Landscape Consultant appointed by North Herts – Landscape Partnerships**

*“The revised proposals submitted in September 2018 as assessed in the LVA and set out in the DAS respond to comments made by TLP in their report of June 2018. The quantum of development has reduced from up to 120 to 107 dwellings and additional areas of open space and planting to help counterbalance the effects of introducing residential development on the relatively sensitive sloping site on the scarp slopes have been included.*

*On balance TLP consider that in landscape and visual terms the proposed development would still result in some localised significant adverse effects. Effects on landscape character would be most notable on the Site and immediate area extending up to Therfield Heath (c 250m distance). Notable visual effects in the medium term from Year 15 are from Therfield Heath (Viewpoint 10) and along Briary Lane /Bridleway Royston 13. These effects result from placing built development at an elevation higher than the adjacent residential areas. However, the scheme includes a generous provision of open space that would be accessible to the public and provide for green infrastructure benefits. The proposed planting*

*would also help to assimilate the development in the medium to long-term from the adversely affected locations on Briary Lane and Therfield Heath.*

*Notwithstanding the information provided within the DAS due to the sensitive location on the upper scarp slopes there is still a good case for a more innovative design solution to the design for the units to help assimilate a scheme within the landscape setting, while still respecting the parameters set out in the DAS relating to the extent, height and mass. “*

### 3.8 HCC Highways

*“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:*

*There are no bus stops within 400m of the proposed development and to be considered sustainable any new or re-routed service to the proposed housing must have a good chance of being commercially viable after developer pump-priming contributions have been exhausted. The Highway Authority has examined the options for servicing the development route by route in order to establish the viability of the public transport options in the longer term. It has concluded that it is unlikely that a satisfactory route would be available in the longer term. Accordingly, it is considered that the proposed development would be unlikely to benefit from a satisfactory bus service beyond the short term with residents being denied access to high quality public transport contrary to the aims of the NPPF, Policy T1 (assessment of transport matters) of the Local Plan and HCC’s Local Transport Plan 4.”*

### 3.9 HCC Rights of Way

*“At present the access route to the development is Royston bridleway 13, which has no public rights for vehicles. In order to adopt Royston Bridleway 13, to all-purpose highway, agreement will need to be made with the underlying landowner, as recorded through Land Registry Title deeds. At present there is no landowner recorded with Land Registry.*

*The additional width required to widen the access route to all-purpose highway, includes part of the land of the common land on the corner of Sun hill. This common land, has been the subject of a Public Inquiry regarding its de-registration.*

***Where width is available, the non-vehicular provision should be more than the minimum specified for “Roads in Hertfordshire”, in particular, from the access into the development land, north to the boundary with Therfield Heath.***

***The parking bay which is used adjacent to Royston Bridleway 13, within the common land boundary, will not be retained as part of this development. Equivalent parking should be made available to the public within the development site, for access to the Heath and the Bridleway.”***

**3.10 HCC Planning Obligations – Education**

Seeks contributions in line with SPD. See S106 section below (4.3.76)

**3.11 HCC Historic Environment Advisory Team – No objection**

Full survey required pre-determination - Geophys/Trenching completed August 2018

***“I can confirm that the trial trenching report submitted by the applicant is of a satisfactory standard and provides sufficient information for me to comment further on the application.***

***It is apparent from the results of the evaluation that no archaeological features that may be of equivalent significance to a Scheduled Monument are present. The evaluation has also sampled enough of the proposed development area (just over 3%) for me to comment on whether or not any archaeological mitigation will be required.***

***In this instance the few archaeological features that have been revealed are not of sufficient importance or density to require any form of archaeological mitigation. Therefore I have no comment to make on this application.”***

**3.12 HCC Ecology**

**S106 contributions required to off set loss of biodiversity areas**

Full comments can be read on website and the representation has been discussed below in sections 4.3.55 and 4.3.65.

**3.13 HCC Fire & Rescue**

***“Based on the information provided to date we would seek the provision of fire hydrant(s), as set out within HCC's Planning Obligations Toolkit.***

***The operational fire crew from Royston went to go and have a look as to whether they are happy with the access and they have not raised any concerns to us regarding the access.”***

3.14 **HCC Fire Protection Unit**

***“Access for fire fighting vehicles should be in accordance with The Building Regulations 2000 Approved Document B (ADB), Section B5, Sub-section 11.***

***Access routes for Hertfordshire Fire and Rescue Service vehicles should achieve a minimum carrying capacity of 19 tonnes***

***Turning facilities should be provided in any dead-end route that is more than 20 m long. This can be achieved by a hammer head or a turning circle designed on the basis of Table 8 in Section B5”***

3.15 **Natural England**

Holding objection subject to NE being reasonably assured that the development can take place without impacting on the notified features of the Site of Special Scientific Interest ('SSSI').

***“As submitted, the application could have potential significant effects on Therfield Heath Site of Special Scientific Interest ('SSSI'). Natural England requires further information in order to determine impacts on the designated site.***

***In your email of the 16th of November 2018 you advised that the proposed access to the application site falls within the boundary of the SSSI. We also note from the Arboricultural Assessments that there may also be impacts upon trees within the SSSI as a result of the road construction. There is no acknowledgement of this within in the Ecological Appraisal or within a separate SSSI Impact Assessment and we therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed.***

***Note that any permanent land take from the SSSI is likely to elicit an in principle objection from Natural England.”***

3.16 **NHS England (East)**

Seeks S106 contributions to mitigate impact of Healthcare facilities

***“The proposed development is likely to have an impact on the services of 1 main branch surgery operating within the vicinity of the application site. The GP practices do not have resource capacity for the additional growth resulting from this development and cumulative development growth in the area.***

***The proposed development will be likely to have an impact on the NHS funding programme for the delivery of primary healthcare provision within this area and specifically within the health catchment of the development. NHS England would therefore expect these impacts to be fully assessed and mitigated.”***



3.17 **NHS Clinical Commissioning Group**

Supports the comments raised by NHS England

3.18 **Environment Agency**

Conditions recommended if planning permission is granted

***“The site is located in a Source Protection Zone 1 (SPZ1) and is considered to be of high sensitivity so could present potential pollutant/contaminant linkages to groundwater. According to the submitted documents, the current and former use of the site is predominantly agricultural with two unknown structures noted to have been previously present at the site. The proposed surface water drainage strategy involving infiltration could present a risk to the underlying groundwater. Being located in an SPZ1 (Inner Zone) means the site lies within the immediate catchment of a groundwater abstraction used for public water supply. The groundwater abstraction boreholes are located in close proximity of the site. The site is therefore vulnerable to pollution as contaminants entering the groundwater at the site may contaminate the protected water supply.***

Following queries raised by neighbours:

***Having re-reviewed the details of the application we remain confident that the proposed development will be acceptable subject to the planning conditions we recommended in our letter of 13 April 2018. Without these conditions we would object to the proposal in line with paragraph 109 of the National Planning Policy framework (NPPF) because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.***

***Any unexpected contamination found while the development is taking place is covered in the unexpected contamination condition (condition 1 of our letter of 13 April 2018).***

***Our recommended condition on surface water disposal (condition 2 of our letter dated 13 April 2018) requests that an appropriate plan will need to be provided and approved by the Local Planning Authority.***

***We have also provided advice to the applicant on the design of SuDS on site, which should be followed to provide further protection to the controlled waters.***

***With regards to the flood risk concerns raised, the site falls within flood zone 1 (a low risk fluvial flood zone) and as such we don't have any comments to make on fluvial flood risk. The risk from surface water flooding will be looked at by the Lead Local Flood Authority (Herts County Council).”***

3.19 **Lead Local Flood Authority – No objection – Conditions recommended**

*“Following a review of the Flood Risk and Surface Water Drainage Assessment carried out by MLM reference 618540-MLM-ZZ-XX-RP-C-0001 Rev 3 dated March 2018, we can confirm that we the Lead Local Flood Authority (LLFA) have no objection in principle on flood risk grounds and can advise the Local Planning Authority (LPA) that the proposed development site can be adequately drained and can mitigate any potential existing surface water flood risk if carried out in accordance with the submitted drainage strategy.*

*The proposed drainage strategy is based on infiltration and infiltration tests have been carried out to ensure the feasibility of the proposed scheme. We note that there are watercourses or public sewers within the vicinity of the site. A number of infiltration basins have been proposed across the site with an assumption of 55% of developable area to be impermeable. We note that total contribution area will be confirmed at reserved matters stage. As the site is split by a ridge line the drainage networks have been split into two catchments; area 1 (north) which falls to the north-west and area 2 (south) which falls to the south east. The northern area shows two attenuation basins, while the southern area shows one, these basins have been utilised to achieve the discharge of surface water via infiltration.*

*As the proposed scheme for Outline permission has yet to provide the final detail and in order to secure the principles of the current proposed scheme we recommend the following planning conditions to the LPA, should planning permission be granted.”*

3.20 **Anglian Water**

**Wastewater Treatment**

*The foul drainage from this development is in the catchment of Royston Water Recycling Centre that will have available capacity for these flows.*

**Foul Sewerage Network**

*The sewerage system at present has available capacity for these flows. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. We will then advise them of the most suitable point of connection.*

**Surface Water Disposal**

*From the details submitted to support the planning application the proposed method of surface water management does not relate to Anglian Water operated assets. As such, we are unable to provide comments on the suitability of the surface water management. The Local Planning Authority should seek the advice of the Lead Local Flood Authority or the Internal Drainage Board. The Environment Agency should be consulted if the drainage system directly or indirectly involves the discharge of water into a watercourse. Should the proposed method of surface water management change to include interaction*

***with Anglian Water operated assets, we would wish to be re-consulted to ensure that an effective surface water drainage strategy is prepared and implemented.”***

3.21 **Affinity Water**

***“You should be aware that the proposed development site is located within an Environment Agency defined groundwater Source Protection Zone (GPZ) corresponding to Therfield Heath Pumping Station. This is a public water supply, comprising a number of Chalk abstraction boreholes, operated by Affinity Water Ltd.***

***The construction works and operation of the proposed development site should be done in accordance with the relevant British Standards and Best Management Practices, thereby significantly reducing the groundwater pollution risk. It should be noted that the construction works may exacerbate any existing pollution. If any pollution is found at the site then the appropriate monitoring and remediation methods will need to be undertaken.***

***For further information we refer you to CIRIA Publication C532 "Control of water pollution from construction - guidance for consultants and contractors".***

**Other Representations from non-statutory consultees**

3.22 **CPRE**

Campaign to Protect Rural England object to the proposed development

- Inappropriate residential development
- Outside settlement boundary
- Common land judgement should be taken into consideration
- Conflicts with policy
- High agricultural value land
- Landscape features - will change due to development
- Upgrading of bridleway – significant value and upgrade is inappropriate

3.23 **Icknield Way Association**

***“Although not encroaching directly onto the Path and Trail the proposed development would, nevertheless, butt up to it in one corner, adversely affecting the character and environment of this historic route.***

***Should planning permission for this development be granted, it is the view of the Icknield Way Association that it must carry a formal requirement to preserve the ability of walkers and riders to pass freely along the route at all times during the building process and that screening work should be instituted to preserve the health and safety of both human and animal users of the Icknield Way Path/Trail. Any screen planting along the edge of the development should consist of substantial native hedgerow species and mature trees and should take place early in the construction schedule, rather than at the end.***

***Should a temporary diversion of the Icknield Way Path/Trail prove to be necessary during the actual construction works, reinstatement of the original route must occur as soon as that construction work is finished. The Association would also wish to be consulted on any proposals for temporary re-routing of the Path/Trail during construction works.”***

### 3.24 **The Conservators of Therfield Heath and Greens**

***“The additional footfall from the proposed development of up to 120 houses in proximity to Therfield Heath will further increase the pressure on Therfield Heath to the detriment of the heath and the SSSI. If the Application were to be approved, the Conservators of Therfield Heath and Greens request significant S106 provision to mitigate the effects. The 106 provision to be used towards upkeep of the Heath and visitor facilities.”***

### 3.25 **Neighbour Representations**

All consultation responses are available on our website.

**At the time of writing we have received 257 Objections, 1 Supports and 2 comments.**

The issues raised by neighbours and the Say No to Gladmans Action Group have been summarised below:

- Site not identified in the Local Plan
- Outside the town boundary
- Negative impact on the Heath
- Impact on the SSSI – access goes through SSSI
- Visual impacts from the Heath and surrounding areas
- Impact on trees along proposed access route
- Water source risking contamination - Major Aquifer
- Water supply issues
- Flooding and sewage risks - gradient of the site
- Topography – steep scarp
- Detrimental impact on wildlife/ecology - skylarks/grey partridge/brown hares/leverets/lizards/butterflies
- Access is currently a bridleway
- Ownership issues of the Bridleway
- Impact on Highway – extra traffic use and road safety issues and pedestrian routes
- Car park is an important feature for users of the bridleways
- Infrastructure in Royston not able to cope with new dwellings
- Access for emergency services will be impeded
- Loss of privacy /overlooking – noise and pollution

- Dominance on dwellings in Echo Hill
- Impact on heritage assets - Wimpole Hall/Royston Cave

#### 4.0 **Planning Considerations**

##### 4.1 **Site and Surroundings**

4.1.1 The site is located on the edge of the current settlement boundary to the south of Royston. The site is currently arable fields with an area of approximately 9 hectares. There is a residential area, Echo Hill, to the north of the site, with Layston Park to the north east and a residential road, Royse Grove, to the east of the site.

4.1.2 The site is close to Therfield Heath, which is a SSSI, to the west. A Bridleway (public right of way) runs along the western and southern boundaries of the site and the proposed access is currently the bridleway leading from Briary Lane which is part of the SSSI. The section of Bridleway that would be subject to the upgrade to public highway is approximately 200 metres long. A number of car parking spaces are located on the Bridleway and used by people using the Heath and the Common Land on the corner of Briary Lane and Sun Hill.

4.1.3 A pumping station is located in the south-western corner and not part of the application site. Layston Park is covered by a group TPO which includes the boundary trees along the north east section of the site. Hedgerows border the site on the, north, south and west and a section through the site. A number of trees flank the east boundary.

##### 4.2 **Proposal**

4.2.1 Outline planning permission is sought for up to 107 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point from Briary Lane. All matters are reserved except for means of main site access.

4.2.2 Means of access covers accessibility for all routes to the site, as well as the way they link up to other roads and pathways outside the site.

4.2.3 An indicative layout plan has been submitted outlining the areas of housing, internal roads, and the illustrating the extent of the open space provision.

4.2.4 The following documents have been submitted alongside the application that are to be considered as part of the application:

- Illustrative Master plan
- Development Framework Plan
- Planning Statement
- Socio-Economic Report
- Sustainability Appraisal
- Affordable Housing

- Design and Access Statement
- Landscape Appraisal
- Ecology Report/Reptile Report and Mitigation Strategy/Bat Report
- Arboricultural Report an Site Investigation Report
- Heritage and Archaeology Report
- Soils and Agricultural Quality
- Flood Risk Assessment
- Foul Drainage Analysis
- Utilities Appraisal
- Air Quality Assessment
- Noise Report
- Transport Assessment and Travel Plan

#### 4.3 Key Issues

4.3.1 The key planning considerations have been divided into the following sections:

- Policy background and principle of development
- Planning issues – discussing the range and harm and benefit of each planning issue
- Planning balance and conclusion

#### **Policy Background and Principle of Development**

4.3.2 The application site has not been identified in the emerging local plan (ELP) as a housing site.

4.3.3 The application site lies within the rural area beyond the green belt and is identified under Saved **Policy 6** and **21** of the Saved Local Plan 2007 and Policy **CGB1** of the emerging (submission) Local Plan (ELP). Part of the access to the site lies within the Therfield Heath SSSI. Paragraph 48 of the NPPF advises that the emerging plan can be afforded weight according to:

***a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);***

***b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and***

***c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)***

- 4.3.4 The ELP is now well advanced and the local plan Inspector has issued modifications which do not substantively challenge the key policies in this case, notably **CGB1** and its related policies (**SP5, NE1**), aimed at recognising and protecting the intrinsic value of the countryside. Further, Saved **Policy 6** (Rural Area beyond the Green Belt) and **Policy 21** (Landscape and Open Space Patterns in Towns) are broadly compliant with the NPPF, specifically but not exclusively paragraph 170 (b) in its aim to promote this principle and paragraph 127 as it relates to design principles and the need to respect landscape setting. Given this general alignment with the NPPF and the advanced stage of ELP preparation (modification), significant weight is attached to both saved Policy 6 and 21 and the equivalent ELP policies in this regard. This conclusion is reinforced in three recent appeal decisions in which the respective Inspectors placed significant weight on policies (emerging, saved and NPPF) seeking to recognise and protect the intrinsic value of the countryside. It should be noted that while recent, none of these decisions post-dates the issue of modifications now published (19<sup>th</sup> Nov, 2018). Accordingly, ELP policies now attract increased weight in the planning balance.

***25. Concluding on this main issue, the development would have a negative effect on the character and appearance of the surrounding area. Therefore, it would not accord with ALP Policy 6 as it would not maintain the character of the existing countryside. It would conflict with ELP Policies SP5 and NE1, which recognise the intrinsic value of the countryside, require proposals to respect the sensitivities of the relevant landscape character area, and seek to avoid detrimental impacts on the appearance of the immediate surroundings and landscape character unless there are suitable mitigation measures.***

***26. The development would also conflict with NPPF paragraph 170(b) which recognises the intrinsic character and beauty of the countryside, NPPF paragraph 124 which seeks high quality places, and NPPF paragraph 127(c) which requires proposals to be sympathetic to local character, including the surrounding built environment and landscape setting. The Council also considers there to be conflict with NPPF paragraph 20(d), but this relates primarily to plan-making.***

*(Barkway, 25 dwellings, APP/X1925/W/18/3194048)*

***7. The appellant indicates that Policy 6 is out of date and inconsistent with the NPPF and so should be afforded little weight. The NPPF states at paragraph 170, amongst other things, that planning decisions should contribute to and enhance the natural and local environment, including recognising its intrinsic character and beauty. In my judgement, when taken with other policies in the LP, Policy 6 is consistent with this part of the NPPF and would enable a balanced view of sustainable development to be undertaken. I therefore attach weight to it. In addition, I note that the general aim is taken forward in SLP Policy CGB1, although I fully recognise that it has not been adopted and could be the subject of modifications.***

*(Ashwell, 46 dwellings, APP/X1925/W/17/3192151)*

**29. Overall therefore, I find that the landscape and visual effects of the proposal would have a significantly adverse impact on the character and appearance of the site and surrounding countryside. As such, the proposal would conflict with LP Policy 6 and with ELP Policy SP5 to the extent that it seeks to recognise the intrinsic value of the countryside.**

*(Offley, up to 70 dwellings, APP/X1925/W/17/3187286)*

4.3.5 In most circumstances, where an Authority can not demonstrate a 5 year supply of housing land and the adopted plan is out-of-date, (or otherwise silent or absent) **paragraph 11** of the NPPF sets out a presumption in favour of sustainable development for decision makers on planning applications as follows:

***c) approving development proposals that accord with an up-to-date development plan without delay; or***

***d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:***

***i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or***

***ii. 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.***

4.3.6 At the time of reporting this matter, the Council's submission plan (ELP) is subject to the local plan Inspectors modification and therefore well advanced. Accordingly, significant weight can be attributed thereto, specifically in respect of planned housing delivery. Both the Inspectors at Offley and Barkway (cited above) concluded, pre-modification, that unplanned housing should now be afforded diminished weight:

***40. The ELP looks to allocate around 170 homes for Barkway across three sites which would contribute significantly to housing supply in the village and the district overall. The appeal site would provide additional choice and availability in the local housing market, but would only contribute a moderate amount of market and affordable housing even with the current shortfall. Based on the steps being taken to address the shortfall and the likely timescales involved, along with the amount of housing proposed, I afford moderate weight to the benefits of housing provision. In this respect, I concur with a recent appeal decision following a public inquiry for development on a site at Offley.***

*(Barkway, 25 dwellings, APP/X1925/W/18/3194048)*



4.3.7 Given the amount of ELP housing already delivered in Royston and the views expressed by the Inspectors above (pre-modification), it is arguable in my view that policies in the ELP can now be regarded as up to date insofar as the Council may credibly be able to demonstrate a 5 year supply of housing land. This notwithstanding, part of the site is within the SSSI and paragraph 11 of the NPPF is clear at d) i that:

***i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;***

4.3.8 The other policies in the Framework which would be operative in this regard would be those centred on habitat and biodiversity, principally paragraph 175 b) which reads:

***b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;***

4.3.9 The proposed access to the site crosses the SSSI boundary as it follows the alignment of the existing bridleway up Briary Lane. While this incursion would be relatively minor, it would undoubtedly occasion an urbanising effect in terms of traffic activity, lighting and general appearance etc. Accordingly, there would be some 'adverse' effect. This is a concern expressed by Natural England in its representation:

***“As submitted, the application could have potential significant effects on Therfield Heath Site of Special Scientific Interest (‘SSSI’). Natural England requires further information in order to determine impacts on the designated site.”***

In these circumstances the decision maker is required to consider whether the benefits of the proposed development outweigh the likely adverse impact. This is not a tilted balance as set out in paragraph 11 rather a neutral evaluation (see 4.3.8 above).

### **Summary**

4.3.10 **At the time of determination, the Council's ELP has not yet been formally adopted but has reached an advanced stage, being currently subject to consultation on proposed modifications. Given this advanced stage, significant weight can be attributed to the policies in the ELP, specifically those which seek to recognise and protect the countryside for its own sake (SP5, NE1 and CGB1). In addition, Saved Policies 6 and 21 may also be afforded weight insofar as they clearly act to protect the intrinsic beauty of countryside and the sensitive edges of the town – aims consistent with the NPPF. Further, the advanced stage of the ELP and the steps therein to address any housing shortfall dictate that less weight can now be attributed to the benefit of housing delivered on unallocated sites such as this.**

- 4.3.11 **The specification of an access up Briary Lane which would trespass onto the SSSI requires that the decision maker consider whether the benefits of the proposal outweigh likely impacts. This is a neutral balance evaluation rather than the tilted balance test as set out under paragraph 11 of the Framework.**
- 4.3.12 **Accordingly, the determination of this application rests on the resolution of a balance between the harm occasioned by the proposal, principally in terms of its conflict with policies seeking to protect the intrinsic character of the countryside and the SSSI and any other harm, and the now diminished benefits associated with the delivery of unplanned housing and associated infrastructure. The resolution of this neutral balance is set out later in this report.**

### **Planning Issues**

- 4.3.13 The following section discusses the planning issues that are relevant to this proposed scheme. I have separated the key issues into seven sections, whereby I will discuss both the harm and benefits and conclude with a separate planning balance:
- Site Constraints and landscape impacts including SSSI
  - Access and Highways – bus routes and connectivity
  - Proposed scale of development and housing mix
  - Open Space Provision
  - Environmental Issues - including noise, drainage and contamination and waste, ecology, archaeology
  - Impact on neighbouring properties and future living conditions
  - S106 and mitigation
  - Discussion, Planning Balance and conclusions.

### **Site constraints/Landscape impacts**

- 4.3.14 The site is located on the scarp slope to the south of Royston adjacent to Therfield Heath. The land slopes steeply northwards with contours ranging from about 120 metres down to 95 metres. The upper slopes are likely to be visible from longer views to the north.
- 4.3.15 The site would be accessed from what is currently a Bridleway 13, which has no public rights for vehicles. The Bridleway is part of the Icknield Way which is a nationally recognised historic route. This footpath currently provides a direct route from the town into the countryside and appears to be well used. There are also links to Therfield Heath from this Bridleway. Therfield Heath is also designated as a Site of Special Scientific Interest (SSSI). The boundary to the SSSI covers the bridleway and the existing parking spaces adjacent to the common land for people who are using the Heath and the Common Land on the corner of Sun Hill and Briary Lane.

4.3.16 It is worth noting that this common land has been subject to a recent planning application (withdrawn) – a renewal of a previous outline planning permission which was granted for 8 dwellings. Following the original decision there was a public Inquiry into the swapping out of the common land (over which the proposed access to this site would have to cross), for land elsewhere, to allow the 8 unit development to go ahead. It was subsequently determined by the Commons inspector that this should remain common land. Further, the Inspector opined on the value of this parcel of land in respect of its value to local people:

***40. The objectors draw attention to the different nature of the replacement land which means that it could not be used for certain activities that have occurred on the release land, for instance ball games. Nonetheless the replacement land could be used for other activities and it will have some value. In terms of the availability of land elsewhere on the common for play, this would not mitigate the loss of the release land for local residents. Overall, I find that residents in the immediate locality of the release land will suffer loss from the proposed exchange of common land.***

4.3.17 The scheme access would need to take in a part of the Common land and it is my understanding that this would need to be subject to provisions in the Commons Act 2006. Although this is not a planning consideration, I feel that it is worth noting as a potential constraint - this appearing as the only viable access to this site in my opinion and the applicant not demonstrating another viable access.

4.3.18 The site lies within the Landscape Character Area LCA 228 - Scarp Slopes South of Royston. The characteristics identified in the North Hertfordshire and Stevenage Landscape Character Assessment is of incised chalk scarp slopes with long distance views. The Chalk scarp is a comparatively common feature in North Hertfordshire however the openness, lack of development and the history of this character area makes it almost unique in the County.

4.3.19 The site also falls within an area covered by **Policy 21** - Landscape and Open Space Patterns in Towns (Saved Local Plan 2007). The policy identifies the principle feature of the dominating slopes in the south of the town, which are dry valleys, form folds, leading to high ground around the town's southern edges, including Therfield Heath. **Policy NE1** of the ELP states:

***“that planning permission would be granted for development that does not cause unacceptable harm to the character and appearance of the surrounding area or the landscape character area in which the site is located, taking into account of any suitable mitigation measures necessary to achieve this.”***

4.3.20 The most notable **environmental** issue arising from the development of the application site is its potential to have a significant adverse impact in what is a sensitive area visually, on rising ground near the top of a scarp slope. It is acknowledged that the site is currently cultivated farmland of lower visual value. However context is very important in that it is farmland within a landscape of higher value which, moreover, is highly sensitive to change.

4.3.21 The application was supported by a Landscape and Visual Impact Assessment (LVIA). This was assessed by a consultant appointed by the Council (Landscape Partnership). The consultant's brief was to review the information submitted as part of the planning application in relation to landscape and visual aspects with a view to determining:

- *the accuracy of the information provided, particularly in relation to current guidance and best practice and the methodology used for Landscape and Visual Impact Assessment;*
- *whether there is any missing information or additional information that is required in order to effectively assess the application;*
- *whether there is agreement or not on the assessed effects of the proposed development, based on a professional judgement utilising the submitted information and an assessment on site;*
- *if the submitted scheme is acceptable in landscape and visual terms*

4.3.22 The Council's consultant concluded that:

***“On balance TLP consider that in landscape and visual terms the proposed development would still result in some localised significant adverse effects. Effects on landscape character would be most notable on the Site and immediate area extending up to Therfield Heath (c 250m distance). Notable visual effects in the medium term from Year 15 are from Therfield Heath (Viewpoint 10) and along Briary Lane /Bridleway Royston 13. These effects result from placing built development at an elevation higher than the adjacent residential areas. However, the scheme includes a generous provision of open space that would be accessible to the public and provide for green infrastructure benefits. The proposed planting would also help to assimilate the development in the medium to long-term from the adversely affected locations on Briary Lane and Therfield Heath.”***

4.3.23 It has been noted above that the SSSI boundary covers the bridleway and the existing car parking spaces. In regards to the SSSI the NPPF paragraph 175(b) states that:

***development on land within or outside a Site of Special Scientific Interest (SSSI), and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the feature of the site that make is of special scientific interest.***

4.3.24 The ELP has a new policy following the modification report regarding biodiversity and geological Sites (NEx). This states that Ecological Surveys are required to be submitted as part of the application. A Ecological Report was submitted and concluded that the development should seek the opportunity to enhance the biodiversity of the site, through good landscape design, including areas of planting including native trees and shrubs.

4.3.25 Natural England was consulted because of the locality of the proposed development site. In regards to the Ecological Report NE has concluded that:

***“there maybe impacts upon trees within the SSSI as a result of the road construction. There is no acknowledgement of this within in the Ecological Appraisal or within a separate SSSI Impact Assessment and we therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed. Note that any permanent land take from the SSSI is likely to elicit an in principle objection from Natural England.”***

4.3.26 Natural England had previously advised that the level of financial contribution towards mitigation needed to be quantified:

***“Whilst we welcome clarification from the developers of a proposed amount and repeat our commitment to the principle of mitigation any sum should be proportionate to the impact and relate to a specific form of mitigation which is considered effective and deliverable.***

***Note, however, that our advice on mitigation at that meeting related only to recreational pressure as the applicant advised at the time that the access road would not cross the SSSI boundary and that their aboriginalist had confirmed that there would be no risk to the trees present along the road.***

***If this is not the case the applicant needs to clearly quantify the impact on the SSSI and accurately assess the value of habitats and ecological features that are to be lost or damaged and avoid, mitigate or compensate accordingly following the hierarchy set out in paragraph 175 of the National Planning Policy Framework. This should include consideration of whether equipment, machinery or materials are likely to be stored on the SSSI and whether any works will require any temporary structure or access onto the land dedicated as SSSI during the construction phase. Where there is to be encroachment or direct impacts upon the SSSI, Natural England strongly recommends that the developer seeks alternatives.”***

4.3.27 The Conservators of Therfield Heath and Greens have not objected to the application however they would require contributions to mitigate from use of the Heath. This has been outlined in the S106 heads of terms in section 4.3.76. The S106 provision is to be used towards upkeep of the Heath and visitor facilities.

## Summary

4.3.28 **The applicant has been cooperative and worked with officers in order to reduce concerns associated with the developments potential to affect visual harm locally and beyond. Despite these attempts however and taking into account the advice offered by the Council's consultant, I remain of the opinion that on balance, that the proposed development of this site as proposed would have a significant localised adverse visual impact on the rural character of the area and would have an adverse urbanising impact on the setting of the Therfield Heath SSSI as well as potentially other adverse effects on this designation..**

### **Access and Highways**

4.3.29 This is an outline application with all matters reserved except for means of main site access. Means of access covers accessibility for all routes to the site, as well as the way they link up to other roads and pathways outside the site.

4.3.30 The proposed access route starts from the junction of Briary Lane with Sun Hill. The unmade section of the bridleway from this junction is proposed to be widened and improved to incorporate a footway. A number of residents have raised concerns regarding the existing tree belt along this section of the bridleway. The applicant has demonstrated that the majority of tree belt would be retained. These trees are not part of the red line and therefore not in the ownership of the applicant. The trees are within the SSSI and under the control of Natural England. Natural England has commented that:

***“ activities such as the removal, cutting or damaging of trees within the SSSI could also require Natural England's consent under section 28E of the Wildlife and Countryside Act 1981 (as amended). Carrying out such activities without Natural England's permission can result in an unlimited fine.”***

4.3.31 The vehicle parking requirements for the development would need to meet the standards in the Vehicle Parking at New Development SPD. This aspect of the design could be agreed at a reserved matters application. The DAS has shown a mixture of front access private drives, attached and detached garages.

4.3.32 An important aspect of the scheme is the replacement of the parking spaces that are currently off the bridleway that serve the Common land and access to the Heath. A number of representations have been made with concerns that the loss of the parking spaces would have a significant impact on the usability of the Heath. The illustrative plan indicates that these car parking spaces could be provided on site near the access into the development at the top of the bridleway.

4.3.33 The County Councils Rights of Way Team were consulted. They have not objected in principle but have stated that the bridleway would need to be upgraded to public highway and as it is on common land it would need to be de-registered. This process is yet to be implemented as planning permission is required before submitting to the process of de-registration. The Rights of Way team has also recommended that:

***“The parking bay which is used adjacent to Royston Bridleway 13, within the common land boundary, will not be retained as part of this development. Equivalent parking should be made available to the public within the development site, for access to the Heath and the Bridleway. “***

This matter could again be picked up at the reserved matters stage should permission be granted in outline.

- 4.3.34 The access along the bridleway up to the application land as submitted has been considered acceptable ‘in principle’ from the Highway Authority for adoption and complies with the highway standards for dedication under s278 of the highway act as a general purpose road. The gradients will be aligned with technical approval as within the limits of the guidance in Roads in Herts this is within 1% to 5%. Short private driveways are normally allowed up to 7%.
- 4.3.35 In regards to the connectivity of the site to services within Royston, the site is near the top of a hill and pedestrian links with local amenities would necessarily involve walking back up a fairly steep slope. If one considers pedestrians such as mothers with push chairs, the elderly and the disabled negotiating this hill, the site could be argued to have poor pedestrian connectivity.
- 4.3.36 The site is some distance away from a current bus service. Due to the location of the development most of the residents would be more than 900 metres from the existing bus stops in Baldock Street to the north and Barkway Street to the east. To resolve this accessibility problem it would be necessary to route an existing bus service through to within 400 metres (bus stop) of the new residential area. National and local guidance (including DfT’s Inclusive Mobility and HCC’s Passenger Transport in New Developments) recommends that new developments are located no more than 400 metres walking distance from bus services. Thus far, satisfactory accessibility to public transport to and from the site has not been demonstrated to the satisfaction of the Highway Authority (see below).
- 4.3.37 The Transport Assessment did not consider the opportunity for a bus diversion in conjunction with passenger transport associated with the development. Following discussions with the developer and the Transport Passenger Unit it was concluded that no commercially viable solution could be achieved due to the small scale development proposed.
- 4.3.38 The Highway Authority’s passenger transport unit (PTU) has commented as follows on the proposal:

***For this development no bus stops are within 400m, with the nearest bus stops are located over 800m away at Baldock Road (served only by service 91 – four journeys per day) and Royston Bus Station (served by a wider selection of bus routes).***

***Any proposed diversion of bus services closer to this development funded by developer contributions, must be considered to have a good chance of being commercially viable to ensure a service is maintained after the fixed period when all developer “pump prime” monies have been exhausted.***

***The scale of development is not considered sufficient to warrant a bespoke new bus service, and therefore each of the existing bus services in the town have been considered in turn. Principally, two considerations apply:***

- 1. Any non-progressive routeing is a deterrent to through travel – an extended service might pick up a few extra people from the new development but risks losing long-distance passengers.***
- 2. If there is insufficient spare time in the operating cycle of a service to accommodate a re-routeing then it will require an extra bus (or will reduce the frequency).***

***Route by route:***

- A/D – commercial services operated by Stagecoach and therefore subject to their support. Timings are part of a regular headway with other services along the Cambridgeshire Busway which would likely be disrupted. Stagecoach also indicated concerns about the physical constraints of operating a service along Briary Lane.***
- 16 – operated by Richmonds Coaches under contract to the county council. Any extra mileage would cost a vehicle, at a gross cost (before passenger fare revenue) of circa £150,000 per annum, and need to reach breakeven after developer funding is exhausted. Town service 17 historically served Sun Hill and Briary Lane but was withdrawn over 10 years ago owing to lack of passengers. This site is not on a scale which would support such a bus service.***
- 18 – operated by Centrebus under contract to the county council. This is already tight for time so the regular 90-minute headway would not be possible. There are a couple of long layovers during the course of the day, opening up the possibility of running up to two journeys per day to/from Sun Lane, but it is possible that one or both are used as driver breaks. This level of service is unlikely to generate sufficient patronage to outweigh the costs of disrupting the service pattern.***
- 91 – operated by Richmonds Coaches under contract to the county council. Could be considered but the driver’s duty is at or very near the legal limit on Mondays to Fridays so only as part of a review of the complete 90/91 timetable, and would also likely require the additional resources as described above, with no guarantee of breaking even.***
- 127 – operated by A2B under contract to Cambridgeshire County Council. They share the view that the risk of losing long-distance passengers would be too high to pick up such a small number of additional passengers. Any layover journey time would be used for driver breaks, and therefore an extra vehicle would be required at cost to cover this route. Even if an extra vehicle is funded the operator, Cambridgeshire County Council has***



***indicated that it would not support this diversion as the additional operating costs would not be covered by the additional fare revenue.***

4.3.39 In order for the proposed access road to be adopted by the local highway authority it would require a lighting scheme. However, no detail on the lighting scheme for the proposed access has been provided. The applicant was reluctant to provide this detail at the outline stage following a request to submit this detail. The LPA feel that any lighting of the access/highway could have significant impacts on the visual amenities of the area including the Heath and SSSI and could have the potential to unacceptably urbanise the immediate and intermediate area. Natural England have commented in regards to lighting the highway:

***“given that invertebrate assemblage is a notified feature of the SSSI there is a potential for additional impacts from light spill onto the heath. We would need to consider the location and direction of lighting, the level of screening offered by retained trees that run along the bridleway and the distribution and species of invertebrates to be found in the affected areas. It may be possible that impacts can be avoided or mitigated through careful design but without details it is difficult to give a definitive answer”***

#### **Summary**

4.3.40 **The site can be satisfactorily serviced via Briary Lane by upgrading and lighting the existing access to the relevant highway specification. However, such works as would be required would undoubtedly have an urbanising impact on the countryside locally and the SSSI (see above). Moreover, accessibility by means other than private transport would be frustrated by the developments location at the top of the scarp slope and the absence of any evidence that a bus route to service the site would be operable in the longer term.**

#### **Proposed scale of development and housing mix**

4.3.41 While this is an outline application, it is incumbent on the Authority to consider the form a development proposal might take, including mix and basic scale parameters. These considerations are lent additional weight by the sensitivity of the site being at the top of the scarp slope overlooking the Heath.

4.3.42 Under the provisions of the new plan, Royston is identified in **Policy SP2** as one of a number of towns towards which the majority of future development will be directed. However, this site lies beyond the proposed settlement boundary and has not been allocated for future development. Therefore as part of the ELP it is proposed to retain the site within the Rural Area.

- 4.3.43 **Policy 9** of the saved local plan states that the Council will refuse development proposals outside of the Royston's development limits boundary unless they are acceptable in the rural area. A substantial residential scheme would not meet any of the criteria set out in Saved **Policy 6** which covers the rural area beyond settlement boundaries.
- 4.3.44 **Policy CGB1** of the submitted Plan sets out the general forms of development that will be supported in the rural area. These are similar to the provisions of saved **Policy 6** and a major residential scheme would be contrary to this emerging policy.
- 4.3.45 As part of the application proposal the Council raised a number of concerns in regards to the level of development in terms of density, height and scale. Following productive discussions with the applicant, the developable site area for housing (shown on the illustrative plan) was reduced to approximately 3.5 hectares providing up to 107 dwellings (reduced from up to 120 dwellings) with associated streets, private gardens and parking spaces. The average indicative net density for housing blocks is stated as being approximately 30 dwellings per hectare.
- 4.3.46 As a consequence of the topography of the site, the dwelling heights could potentially have significant visual impacts on the landscape – particular in local views. In the first DAS submitted, building heights were stated up to 9 metres across the site. Following a review of the landscape impacts a reduction was requested by the Council and the DAS now states that 1 storey dwellings will have a maximum height of 5.5 metres and 1.5 storey dwellings up to 7 metres and 2 storey dwellings will have a maximum of 8.25 metres. The applicant has stated that:
- “careful consideration would be made to the placement of the different building heights on certain areas of the site in order to reduce the potential impact, for example to place the single storey dwellings on the higher ground”.***
- 4.3.47 Affordable housing is offered in line with the provisions of emerging policy **HDS2** of the ELP, as there is sufficient evidence of the housing need. Accordingly, any scheme of 25 units or more would require a contribution of 40%. The tenure ratio would normally be 65% rented 35% other (shared ownership etc). The Council's Housing Development Liaison Officer was consulted on the application. The full requirement has been outlined in the S106 section (4.3.76)
- 4.3.48 It is my view that the housing mix of the site is critical in meeting the needs of Royston. Policy **HS3** states that an appropriate range of housing types and sizes be provided which take into account the findings of the most up-to date evidence including the most recent Strategic Housing Market Assessment (SHMA), the Councils Self Build Register and other relevant evidence of Housing Need. Current evidence suggests it is most appropriate to target a broad balance between smaller (defined as 2 bed or less) and larger (3 bed or more) homes. The emerging plans states that (para 8.20) ***on most suburban and edge of settlement sites, applicants should therefore make initial assumptions of 60% larger (3 plus bed) and 40% smaller (1 or 2 beds) homes to ensure an overall mix.***

4.3.49 The table below sets out the housing mix that would meet the criteria in the SHMA. The most appropriate solution to housing mix would need to be on a site by site basis. Due to the site constraints the percentage ranges could be modified as it may be deemed inappropriate to include the number of flats on the site. However the proposal to include a number of bungalows could accommodate the smaller dwelling sizes.

|                    |       |       |           | To achieve Larger (60%)/ Smaller (40%) split |         |    |           |
|--------------------|-------|-------|-----------|--|---------|----|-----------|
| <b>Market</b>      |       |       | <b>64</b> | Ratio in SHMA                                |         |    | <b>64</b> |
| <b>1bed flat</b>   | 5.5%  | 3.52  | <b>4</b>  | 13.80%                                       | -0.552  | -1 | <b>3</b>  |
| <b>2bed flat</b>   | 10.4% | 6.66  | <b>7</b>  | 25.86%                                       | -1.0344 | -1 | <b>6</b>  |
| <b>2bed house</b>  | 24.0% | 15.36 | <b>15</b> | 60.34%                                       | -2.4136 | -2 | <b>13</b> |
| <b>3bed house</b>  | 36.8% | 23.55 | <b>24</b> | 61.30%                                       | 1.839   | 2  | <b>26</b> |
| <b>4+bed house</b> | 23.2% | 14.85 | <b>15</b> | 38.70%                                       | 1.161   | 1  | <b>16</b> |
|                    |       | 63.94 | <b>65</b> |  |         |    | <b>64</b> |

4.3.50 In trying to agree broad percentage housing Mix the applicant has stated that they:

***“still feel this should be determined at reserved matters. Recent schemes in Royston have delivered an average of 24% smaller properties (1 and 2 beds) and 74% larger properties (3 beds and above). The analysis of this is shown below, and is indicative of the market demand in the area:-***

|                    | Harvester Close |      | Yeats Close |     | Housman Avenue |     | Baldock Road |     | North of Newmarket Road |     | Average |
|--------------------|-----------------|------|-------------|-----|----------------|-----|--------------|-----|-------------------------|-----|---------|
| Smaller properties | 0               | 0%   | 24          | 19% | 8              | 21% | 20           | 40% | 167                     | 51% | 26%     |
| Larger properties  | 19              | 100% | 100         | 81% | 31             | 79% | 30           | 60% | 163                     | 49% | 74%     |
| Scheme Total       | 19              |      | 124         |     | 39             |     | 50           |     | 330                     |     |         |

4.3.51 In light of the statistics above it is in my opinion that it is even more important to agree the percentage breakdowns for housing mix, of both affordable and market housing, as there has been in the past a disproportionate provision of larger properties. It is important to reverse and address this trend so we don't exacerbate the existing problem in Royston. I have included a section within the S106 Heads of Term stating that a Housing Mix is required but as yet this has not been agreed.

## Summary

- 4.3.52 **The site is located outside the settlement boundary of Royston and conflicts with policies in the saved local plan and ELP. The applicant has reduced the dwelling numbers following negotiations in order to reduce the potential impacts on the landscape. The applicant has also offered the full 40% of affordable housing in line with the policies in the ELP. These concessions notwithstanding, it remains disappointing that the housing mix has not been agreed inline with policy HS3.**

## **Open Space provision**

- 4.3.53 As part of the proposal a large part of the site is to be open space. As stated in the DAS (Chapter 4 page 40) approximately 5.33 hectares is proposed to be green infrastructure within the site. The public open space (POS) would be located within the central and south-west quadrant of the site. Existing hedgerows will be maintained around the boundary and through the site where possible. The application includes a proposal to create new areas of grassland, woodland, scrub and wetland areas that would contribute to local biodiversity and also provide opportunities for formal and informal recreation. An equipped play area is also proposed to serve the new residents. New pedestrian routes across the site would link the existing public rights of way which could include circular dog walking routes, drawing people away from the Heath and its more sensitive ecology.
- 4.3.54 Saved **Policy 21** states that development within areas covered by the **Landscape and Open Space Patterns in Towns** designation will normally be refused where it would have a significantly detrimental effect on the character, form, extent and structure of the pattern. Should development be considered acceptable against this test, a number of further criteria are set which, broadly speaking, require the retention and reinforcement of the landscape and open space pattern and encourage their management and use for recreation.
- 4.3.55 Herts Ecology comment that:

***“POS habitats will enhance the development itself and its recreational use will help to reduce increased pressure on the SSSI, both of which are welcomed. However it is not possible to determine whether the development will not have any negative impact on the SSSI from increases in informal recreation activities which may accrue as a result of the new housing.***

***Nevertheless there will also be the potential for increased disturbance to Therfield Heath SSSI given the distance the application site is from the SSSI. This is recognised to the extent that circular dog walks are planned in the public open space to help provide an alternative amenity resource.***

*It is proposed that the POS area will be subject to species-rich grassland creation and will also accommodate additional tree planting, formal amenity play facilities, footpath network and wetland SUDS features – the latter adding potential habitat diversity although they are uncharacteristic features on the chalk, which would not naturally support ponds in this area. Some of this area is also proposed to be managed for lizards. It is stated that loss of hedgerows and grassland within Therfield Green Lane LWS will be compensated within the POS, although I do not recognise there will be any effect on this LWS.*

*In any event, I consider the POS habitats will enhance the development itself and its recreational use will help to reduce increased pressure on the SSSI, both of which are welcomed. However it is not possible to determine whether the development will not have any negative impact on the SSSI from increases in informal recreation activities which may accrue as a result of the new housing”.*

- 4.3.56 Therefore, its return and management as a chalk heathland habitat, accessible to the public, has some value beyond simply mitigating the impact of the new development. This is a potentially notable **social** and **environmental** benefit in the planning balance.

#### **Summary**

- 4.3.57 **The provision of an open space which would not only serve the needs of the new residents but return an area of arable farmland back to heathland for the wider enjoyment of all, is a potentially a social and environmental benefit in the planning balance.**

#### **Environmental Issues**

The sections below will discuss the different environmental issues.

##### Drainage and flooding

- 4.3.58 The site is located in Source Protection Zone 1 (SPZ1) and is considered to be of high sensitivity so could present potential pollutant/ contaminant linkages to groundwater. However The Environment Agency consider that both the previous use and the proposed use present a low risk to ground and surface waters.
- 4.3.59 A number of residents raised concerns in regard to the potential risk to the aquifer that a residential development could potentially have. Following consultation with both the Environment Agency, LLFA and the water authorities no objections were raised given the level of development and along side the relevant documents submitted as part of this application.

4.3.60 A Flood Risk Assessment and Preliminary Drainage Strategy were submitted as part of this application. The LLFA was consulted and stated that;

***“we have no objection in principle on flood risk grounds and advise the LPA that the proposed development site can be adequately drained and mitigate any potential existing surface water flood risk.”***

4.3.61 Two conditions and an informative have been recommended by the LLFA. The Environment Agency has recommended a number of conditions if planning permission is granted.

#### Contamination

4.3.62 The Environmental Protection Team has advised that there are no objections in terms of land contamination and local air quality. If permission is granted then a recommendation for the inclusion of requirement for specific contamination conditions are to be included.

#### Noise

4.3.63 North Herts Environment Protection team were consulted and raise no objection to the proposed scheme.

***“I do not think there are any significant noise sources and London Road is a sufficient distance away such that noise mitigation measures will very likely not be required. The developer is welcome to submit a noise assessment at the reserved matters stage although it is not something I will be requiring.”***

#### Waste

4.3.64 Representations were received from the Local Authorities Waste department. In the instance of an approved scheme a condition and informative are recommended to be included that request the details of all waste facilities and circulation routes to be agreed before commencement of any development on site. This is a matter that can also be agreed at any reserved matters application stage.

#### Ecology

4.3.65 Herts Ecology was consulted as part of this application. They have stated that:

***“There is no ecological information in the database relating to this site, although the southern boundary is a Local Wildlife Site Green Lane S of Royston (Ref: 08/042) which joins Therfield Green Lane LWS (Ref: 07/022). Historically consisting of two largely intensively managed arable fields with hedgerows, the ecological interest was likely to have been limited to common agricultural species. However it is clear from aerial photos and MAGIC that the site is subject to Entry and Higher Level Stewardship, which has created field margins and probably supported hedgerow management. Consequently there should be an increased***

***farmland wildlife interest associated with the site which has benefitted from several years of public funding. This is clear from the photos in the DAS.”***

4.3.66 Ecological studies have been prepared in support of this application and Herts Ecology commented on these as follows:

***“These did not identify any significant ecological interest although the field margin strips, hedgerows and breeding lizard population (low) are of note locally. The lizards were recorded around the edges of the two arable fields. It is disappointing that no breeding bird survey was undertaken given the size of development, although I have no reason to consider anything other than widespread farmland birds would have been present. Bat use of the site is limited, partly due to the nature of the landscape and habitat resources locally. Most species are common although some of the rarer species recorded (Leisler’s, Barbastelle) are of interest.***

***The existing undisturbed grassland field margins amount to 1.9 ha whilst the main replacement species-rich grassland within the main POS amounts to approximately 1.5 ha. Consequently this would appear to amount to a small net loss. Furthermore the existing field boundary grasslands are currently relatively undisturbed; they function ecologically as part of the arable landscape and will support typical farmland species associated with the adjacent hedgerows and undisturbed grassland strips. Despite the ecological proposals and enhancements (various species boxes) – which are in themselves welcome but relatively limited in practice - I am not convinced that this ecology will be sufficiently compensated by the use of the POS as an amenity area which by default is designed to be used by local residents for recreation and will therefore be subject to local and regular disturbance, unlike the land currently in Stewardship. Indeed, planning statement acknowledges this (5.6.2): Therefore it is considered that the proposed development within the application site will result in a minor adverse effect on the site itself.***

***Consequently I consider additional, offsite compensation is required locally to properly replace this resource, especially given that the land has been subject to public support for biodiversity enhancement which will now be wholly wasted in terms of any long term benefits. Given most of the surrounding farmland is already in Stewardship, this would have to add to the grassland field strips already in place in these areas or identify another habitat creation project locally.***

***However, other than addressing the above issues, I do not have any reason to consider that ecological interests would represent a constraint on the development.***

***The reserved matters (or a Condition to any approval out this application) would need to include an appropriate lighting scheme which reduced the impact of the development locally, given the ecological and visual sensitivities of this topographically prominent area. Also, as we stated previously, there will need to be a Landscape / Ecology management plan to describe the management required to maintain the POS habitats.”***

#### Archaeology

- 4.3.67 The County Historic Environmental Team (HET) had requested in their original representation that the results of a geophysical survey and archaeological trial trenching evaluation should be submitted prior to determination of the application. This was requested so that a more informed response could be made in regards to the likely impact on any potential heritage assets of archaeological interest.
- 4.3.68 Following the investigation work which took place in August 2018, the WSI and Trial Trenching Report that covered just over 3% of the site was submitted. The report concluded that no archaeological features that may be of equivalent significance to a Scheduled Monument are present. The HET therefore confirmed that no mitigation would be required in the case that planning permission is granted.

#### Summary

- 4.3.69 **No technical objections are raised to this development by the relevant statutory and non-statutory consultees. Conditions have been recommended by a number of these consultees if permission were to be granted.**

#### **Impact on neighbouring properties and future living conditions**

- 4.3.70 Layout and design are reserved matters and are therefore not part of this outline application. However, I feel that it is important to discuss the general impacts of any development on neighbouring properties given the topography of the site.
- 4.3.71 In this regard, I would draw attention to Policy 57 of the North Hertfordshire District Local Plan No. 2 which sets out the residential guidelines and standards for new residential development and alterations and Policy D3 (Protecting living conditions) of the ELP. Policy D3 states that ***“planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions”***.
- 4.3.72 The indicative scheme shows development contained to the north eastern corner of the site for understandable topographical reasons. However, this identified area for housing has the potential to impact adversely on the reasonable living conditions of the surrounding properties along Echo Hill, not least because of the gradient of the slope.



4.3.73 Policy D3 also states that the “**Council will consider whether there are mitigation measures that can be taken to mitigate the harm to an acceptable level**”. Given the changes in levels, any development would need to be carefully designed so that it would not have any adverse impact on the neighbouring properties in terms of dominance and loss of privacy. I note that this detail can be dealt with in any reserved matters application. However, through negotiations with the developer, the housing along these edges has been afforded larger buffers as shown on the indicative plan with changes to the arrangements of the dwellings. Back to back distances along the northern boundary, with the houses on Echo Hill, would be approximately 25 – 30 metres. Any new properties could be designed to reduce the impact on these neighbouring properties. Along the eastern boundary with Royse Grove and Layston Park, the orientation of properties shown on the indicative plan includes a green buffer, road, then front garden, with the properties facing the eastern boundary with distances of approximately 25 metres to the boundary. Also with the specification of landscaping along this boundary this would help screen the properties further.

**Summary**

4.3.74 **It is in my opinion that mitigation measures could be implemented through careful design consideration such that would reduce any potential adverse living condition impacts associated with development at the quantum proposed to an acceptable degree.**

**S106 and mitigations**

4.3.75 In considering Planning Obligations in relation to this development the Framework advises that:

**“Planning obligations should only be sought where they meet all of the following tests:**

- **necessary to make the development acceptable in planning terms;**
- **directly related to the development; and**
- **fairly and reasonably related in scale and kind to the development. “**

4.3.76 The section below outlines the Heads of Terms and financial contributions sought by statutory bodies:

| <b>Element</b>                          | <b>Detail and Justification</b>   | <b>Condition/Section 106</b> |
|---|---|------------------------------|
| First (Primary) Education contributions | <p>Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards the provision of a new first school.</p> <p>Figures are to be based on 107 dwellings and inline with the toolkit</p> <p><b>£762,375</b></p> | S106 obligation              |

|                                |   |                 |
|--------------------------------|---|-----------------|
|                                | <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/> Planning Obligations SPD and HCC Toolkit</p>   |                 |
| Middle Education contributions | <p>Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards the provision of a new first school.</p> <p>Figures are to be based on 107 dwellings and inline with the toolkit</p> <p><b>£167,669</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/> Planning Obligations SPD and HCC Toolkit</p> | S106 obligation |
| Childcare                      | <p>Towards childcare provision at the First School.</p> <p>Figures are to be based on 107 dwellings and inline with the toolkit</p> <p><b>£20,544</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/> Planning Obligations SPD and HCC Toolkit</p>   | S106 obligation |
| Youth Facilities               | <p>To update the facilities, in order to support the delivery of the curriculum programme at Meridian Youth centre</p> <p>Figures are to be based on 107 dwellings and inline with the toolkit</p> <p><b>£5,350</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/> Planning Obligations SPD and HCC Toolkit</p>                             | S106 obligation |
|                                |   |                 |

|                    |  |                         |
|--------------------|--|-------------------------|
| Library Services   | <p>Full contribution based on Table 2 of the HCC Toolkit index linked to PUBSEC 175. To be used towards Royston Library to reconfigure the Children's and Teenage Area in the library.</p> <p><b>£20,544</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/>         Planning Obligations SPD and HCC Toolkit Policy 51 of the North Hertfordshire District Local Plan No. 2 with Alterations. Planning Obligations SPD and HCC Toolkit</p>   | S106 obligation         |
| Housing Mix        | <p><b>Housing Mix has not been agreed by applicant. No percentage splits have been agreed</b></p> <p><b>Policy HE3 states a need to achieve size mix-split of 60% larger (3+ bedrooms) 40% smaller units (1 and 2 beds).</b></p>   | <b>S106 obligations</b> |
| Affordable Housing | <p>On site provision of 40%</p> <p><b>Within the 65% rented affordable housing element the following tenure mix best meets housing needs, as identified in the 2016 SHMA:</b></p> <p><b>21% x 1 bed flats (6)</b><br/> <b>12% x 2 bed flats (3)</b><br/> <b>26% x 2 bed houses (7)</b><br/> <b>35% x 3 bed houses (10)</b><br/> <b>6% x 4+ bed houses. (2)</b></p> <p><b>Within the 35% intermediate affordable housing element the following tenure mix best meets housing needs as identified in the 2016 SHMA:</b></p> <p><b>8% x 1 bed flats (1)</b><br/> <b>8% x 2 bed flats (1)</b><br/> <b>20% x 2 bed houses (3)</b><br/> <b>54% x 3 bed houses (8)</b><br/> <b>10% x 4+ bed houses (2)</b></p> <p>NHDC Planning Obligations Supplementary</p> | S106 obligation         |

|  |   |                        |
|--|---|------------------------|
|  | <p>Planning Document</p> <p>Submission Local Plan Policy HS2 'Affordable Housing'</p>   |                        |
| Health Services                                  | <p>A developer contribution will be required towards the one off cost of recruiting additional clinical personnel for the benefit of the patients at Market Hill Surgery (incl. its sister surgeries) to mitigate the impacts of this proposal. NHS England calculates the level of contribution required, in this instance to be <b>£10,000</b>. Payment should be made before the development commences.</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/>Planning Obligations SPD</p> | S106 obligation        |
| <b>Sustainable Transport contributions</b>       | <p><b>Passenger Transport Unit</b></p> <p><b>Following consultation there is no commercial viable solution.</b></p> <p><b>No sum agreed to overcome objections</b></p>  | <b>S106 obligation</b> |
| <b>Travel Plan</b>                               | <b>Following Highway objections no terms for a Travel Plan were agreed</b>  | <b>S106 obligation</b> |
| NHDC Waste Collection & Recycling                | <p>Full contribution based on NHDC Planning Obligations SPD.</p> <p><b>£10,807</b> Amount total should be index linked.</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'<br/>Planning Obligations SPD</p>  | S106 obligation        |
| Therfield Heath SSSI and Common land replacement | <p>£500 per dwelling proposed by the developer.</p> <p><b>No agreement with relevant bodies.</b></p> <p><b>Natural England have previously advised that the level of financial contribution towards mitigation needs to be quantified. Any sum should be proportionate to the impact and relate to a specific form of mitigation which is considered effective and</b></p>  | S106 obligation        |

|  |  |                           |
|--|--|---------------------------|
|  | <b>deliverable. Natural England notes from the Ecological Appraisal that the sum put forward is intended for the provision of a warden. NE have previously advised that they would consider wardening to be effective mitigation of impacts upon Therfield Heath SSSI</b>  |                           |
| Ecological off-site compensation scheme                      | <p>offsite habitat to ensure there is no net loss of undisturbed grassland for biodiversity as a result of development</p> <p>Given most of the surrounding farmland is already in Stewardship, this would have to <b>add to the grassland field strips</b> already in place in these areas or identify <b>another habitat creation project</b> locally.</p> <p><b>No sum has been agreed to mitigate the loss of habitat biodiversity</b></p> | S106 obligation           |
| Open space/Landscape management and maintenance arrangements | <p>Private management company or NHDC to secure the provision and long term maintenance of the open space/landscape buffer and any SuDs infrastructure</p> <p><b>Details not confirmed</b></p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>   | S106 obligation           |
| Fire Hydrants  | <p>Provision within the site in accordance with standard wording</p> <p>Policy SP7 'Infrastructure requirements and developer contributions'</p>   | S106 obligation/condition |

### Summary

4.3.77 **Given the recommendation set out below, a completed section 106 agreement has not been compiled at the time of writing this report. Should permission be refused the lack of a completed agreement would need to be part of that refusal (see recommendation below). However, should a subsequent appeal be lodged I would fully expect the appellant and Council to agree Heads of Terms as above as common ground.**

## Discussion and Planning Balance

4.3.78 Section 38 (6) of the 2004 Act requires a Planning Authority to determine applications in accordance with the development plan unless material considerations indicate otherwise. The '**development plan**' in this case comprises policies from 2007 Saved Local Plan (DLP). Those policies in the emerging local plan (ELP) which are similar do not form part of the development plan until adoption but are nevertheless material considerations to which significant weight can now be attributed. There is a presumption in favour of the 'development plan' which makes it the first port of call for making any planning decisions. In discharging this responsibility, it is first necessary to identify those policies within the Plan which have a material bearing on the determination of this application. In my view it is principally those policies which seek to protect the countryside for its own sake and safeguard its intrinsic value and that align with paragraph 170 of the NPPF in this regard:

***Planning polices and decisions should contribute to and enhance the natural and local environment by:***

***b) recognising the intrinsic character and beauty of the countryside ...***

4.3.79 The application site is not allocated for housing in the ELP and therefore development in this location must be considered under polices which seek to give effect to the above national directive, namely to safeguard the intrinsic character and beauty of the countryside. These polices include in part, **Policy 6** (DLP saved) and in full **CGB1, SP5, NE1** (ELP). Further, polices which seek to promote sustainable patterns of growth and protect designated assets are also relevant in this case. These polices include **NE6** (Designated biodiversity, ELP) and **T1** (Assessment of transport matters).

4.3.80 In my view a fair interpretation of these polices leads to the reasonable conclusion that the proposed development would be in marked conflict with their respective aims, namely to protect the countryside, natural designated assets (SSSI) and to promote the principles of sustainable, accessible development. This conflict amounts to harm in the planning balance. The weight given to this harm is for the Council to ascribe based on the prevailing circumstances, including the status of the development at time of determination and any other material considerations, including the status of the emerging plan (ELP).

4.3.81 This said, it must also be acknowledged that there will be benefits associated with the delivery of housing in this location and it is equally important for the Council to weigh these positive attributes in the context of development plan as a whole, along with the harm, in order to determine whether the proposal overall accords with the provisions of the development plan. Further, it is also incumbent on the Authority to assess whether there are any material considerations beyond the development plan which might also affect the positive balance of a determination. This also includes but is not limited to polices in the emerging plan (ELP).

- 4.3.82 The ELP is now subject to the local plan Inspector's modifications. None of these modifications fundamentally disturb the principles underpinning those policies which seek to protect the countryside and focus development toward allocated sites. In the circumstances therefore significant weight is now attached to policies in the ELP specifically those which are germane to a determination in this case. The site is outside the boundary of Royston and would undoubtedly act to urbanise what is presently a prominent and locally valued landscape on the edge of the Heath SSSI. It is acknowledged that the applicant has made serious and earnest efforts to mitigate any adverse impact by re-considering such matters as building scale parameters and built footprint. However, it is clear from professional landscape advice that both the urbanising impact of the proposed new roadway up Briary Lane and the urban form of the development itself, would combine to occasion significant adverse visual impacts locally. These impacts would comprise the incursion of built form into open countryside and include consequent traffic activity and lighting. Given the now advanced status of the ELP and its conformity with the NPPF, I attach significant weight to this conflict with related policies therein and thereby the quantum of harm in the planning balance.
- 4.3.83 The application proposal should also connect with the facilities and services in Royston and beyond by means other than private transport. The promotion of sustainable transport is a requirement of **Policy T1** of the ELP and the NPPF generally. Hertfordshire County Council has explored the possibility of diverting an existing bus service to the site but has objected on the grounds that such provision would be unsustainable in the longer term. In the light of this concern the proposal is in conflict with both policy T1 and the NPPF insofar as they promote access to public transport. Again, I attach significant weight to this conflict and the consequent harm in the planning balance.
- 4.3.84 The delivery of housing per-se is broadly acknowledged as a benefit. It is also acknowledged that while the policies in the ELP now carry substantial weight, any provision of affordable housing beyond the proportion required under saved policies (25%) can be considered an additional benefit. The proposal would deliver 40% affordable housing and I am of the view that some positive weight can be apportioned in this regard. As to the amount of weight which might be afforded, I am inclined to the general view of the Inspector who presided in a recent appeal at Offley in the District (ref APP/X1925/W/17/3187286). On affordable housing at 40% he opined:

***44. The proposal would provide up to 70 new dwellings, of which 40% would be affordable. This level of affordable housing provision exceeds the 25% requirement set out in adopted development plan and the mix and tenure of the units would accord with the advice of the Council's housing officer. The affordable housing provisions would be secured through the UU. A specific need for affordable housing in Offley has not been identified and the Council refers to the provision of 16 units made in the Garden Fields development. Nevertheless, there is recognised to be a high level of need for affordable housing in the District and the provision of affordable housing is a Government policy priority. As such, I give the proposed affordable housing significant weight [my underlining]***

On market housing he concluded:

***48. Moreover, the scale of the proposed provision of up to 70 dwellings should be viewed in the light of the ELP requirement to provide 500 units per year in the period to 2021 and the other sources of housing made by sites in Offley. Some 73 units have already been provided in Offley in the ELP plan period and Policy SP2 allows for further growth in the settlement. Therefore, given the steps being taken to boost the supply of housing in Offley and the District as whole, I consider that the proposed market housing is not essential to resolving the shortfall in HLS in the short term. Having regard to the findings in the Phides case therefore, I give moderate weight to the benefits of the proposed market housing [my underlining].***

I would deviate slightly from his overall conclusions in relation to weight in that this decision pre-dated the issue of the local plan Inspector's modifications. Accordingly, and in the light of the ELP's increased weight, I would suggest it would be reasonable to now attribute only moderate weight to the benefit of affordable housing at 40% and something proportionately less than moderate weight in respect of the proposed market housing in the planning balance.

- 4.3.85 It is also acknowledged that the scheme would deliver a significant area of open space which would undoubtedly offer benefits beyond simply satisfying the needs of the new residential population. It would also return what is ecologically poor farmland back to something which might, over time, be closer to the adjacent Heath in biodiversity terms. This said, the magnitude of this benefit is necessarily limited in the planning balance as it is to some degree extraneous to the development proposed. The loss of farmland to development would generally be regarded as harm in the planning balance and that would be true in this case. However, given the scale of the development proposed I am not persuaded that the loss in this case impacts significantly on the overall balance.
- 4.3.86 Having identified the principal components of harm and benefit in the planning balance and the relative weight attributable thereto, it falls to establish the relevant scale by which to calibrate their impact on a decision. In this case the tilted balance in favour of sustainable development, which may otherwise be used to assess a planning balance (i.e. that harm must significantly and demonstrably outweigh benefit - see 4.3.5 above) in the event that an Authority may not be able to claim a 5 years supply of housing land, is not engaged. Rather, the scale in this case is neutrally calibrated given the advanced status of the emerging plan (and its associated land supply) and that the site falls partially but nevertheless within a SSSI and that there is the potential for significant adverse impacts on the designation (see Natural England response at 4.3.9 above). In this regard paragraph 175 is engaged:



***b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;***

4.3.87 In the circumstances of this case while only a small part of the proposed vehicular access falls within the SSSI development would nevertheless have the potential to occasion a significant adverse effect. Accordingly, to approve the development the benefits must clearly outweigh the harm.

#### 4.4 Conclusions

4.4.1 This proposed development is clearly in conflict with the development plan and the policies within it. The ELP now carries substantial weight as do those policies which are central to a determination in this case. I must therefore give significant weight to the harm identified in this regard, namely the **environmental** harm by reason of injury to the character and beauty of the countryside, the edge of town location and the SSSI as implied and stated in Saved policies 6 and 21 (the development plan) and CGB1, NE1, NE6 and SPD ( ELP) and the NPPF. Further, the scheme conflicts with Policy T1 (ELP) and the NPPF, in that the Highway Authority advises that it is unlikely that a viable bus service would be maintained to the site in the longer term. This conflict is exacerbated by the position of the application site at the top of the scarp slope, a geographical reality which would naturally act to attenuate non-car access. This is **social** and **economic** harm to which I must apportion significant weight.

4.4.2 In counterweight, it is acknowledged that the scheme would deliver some additional market and affordable housing (40%). These are benefits to which I now ascribe less than moderate and moderate weight respectively given the advanced stage of the ELP. There would also be some benefit in terms of the offer of a substantial area of managed open space, the effect of which would likely improve biodiversity locally and act to divert pedestrian traffic away from the Heath. However, beyond serving the proposed development this benefit would be largely extraneous and I must therefore ascribe it limited weight in the planning balance. Other obligations which would be covered by the section 106 agreement would serve to mitigate the impact of the development and would therefore be neutral in the planning balance.

4.4.3 In summary, while the proposed scheme has been carefully considered and the applicant has made commendable efforts to mitigate its impact and address expressed concerns, it remains the case that it would still clearly be in conflict with the development plan and policies in the emerging plan at a time when these must properly be afforded significant weight. In these circumstances I am not persuaded that the benefits clearly outweigh harm or that there are material considerations which would indicate that it may be permissible to deviate from a determination other than in accordance with the

development plan or policies in the emerging plan, to which significant weight can now be afforded. Further, even if the tilted balance were engaged in this case I would advance, on balance, that the identified harm to the character of the area would alone significantly and demonstrably outweigh the now necessarily diminished benefits of unplanned housing. Accordingly, I must recommend that permission be refused for the reasons set out below.

#### 4.5 **Alternative Options**

None applicable

#### 4.6 **Pre-Commencement Conditions**

No conditions are proposed because the recommendation is to refuse the application.

#### 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 **REFUSED** for the following reasons:

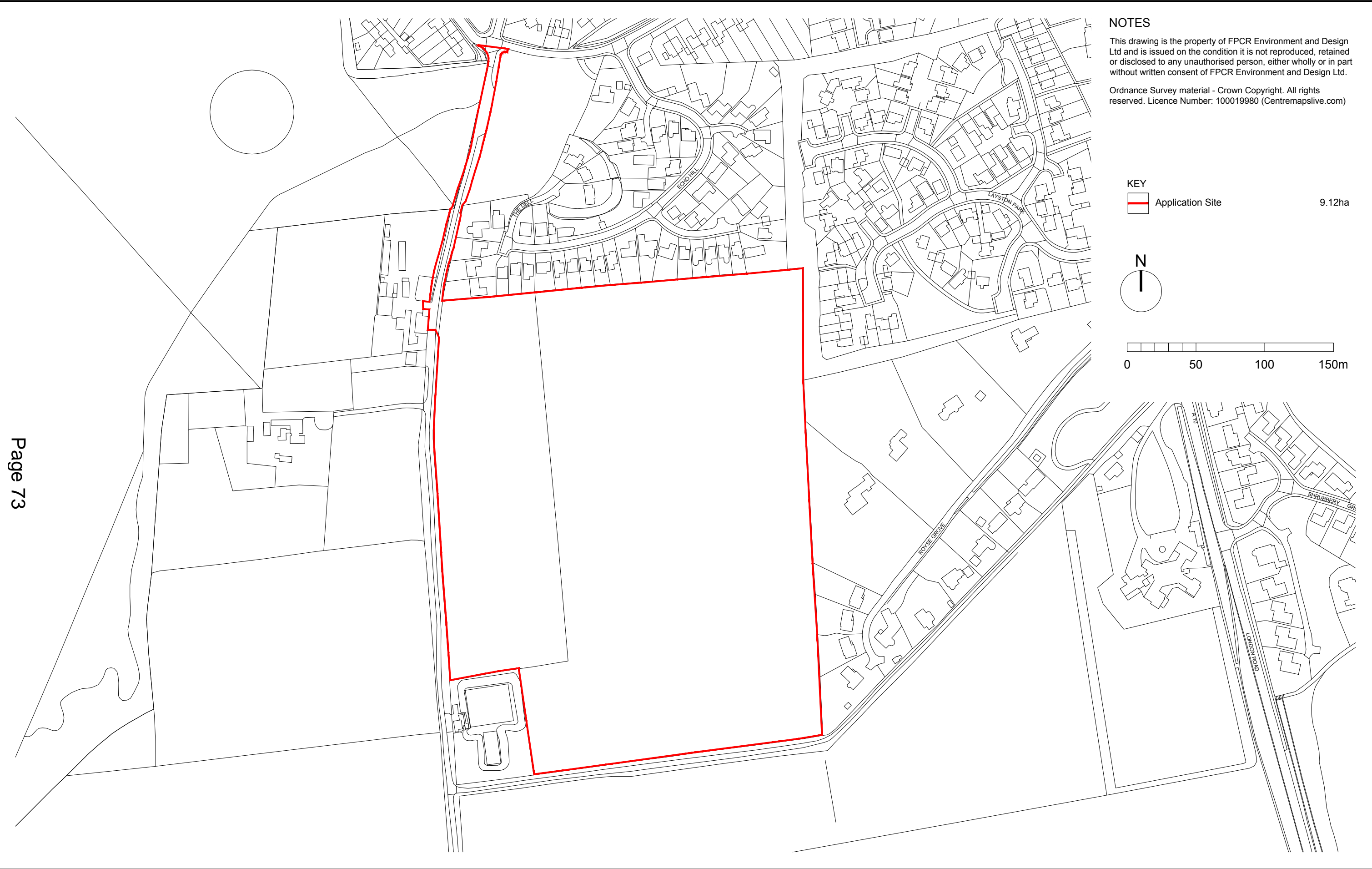
1. By reason of its prominent position and the topography of the site, the proposed development would be likely to result in significant localised adverse impacts on both the character of the area and visual receptors. While these impacts could be mitigated to a limited extent, the combination of residential built form on high ground and the associated urbanising infrastructure, including the proposed new road access over the Common and development breaking the skyline, would act to occasion a marked and adverse change in the character of the immediate and intermediate locality and wider valued landscape. This adverse impact would represent conflict with the aims of the NPPF and Policies CGB1, SP5, SP12c NE1 and NE6 of the emerging local plan and Policies 6 and 21 of the Saved local plan. This conflict would amount to significant and demonstrable harm that is not outweighed by any other material considerations.
2. **Natural England has advised that there is no acknowledgement of the impact on the SSSI within in the Ecological Appraisal and therefore consider this document to be incomplete. It is extremely important that direct impacts upon the SSSI are accurately quantified and assessed. In the absence of a separate SSSI Impact Assessment in this case, the potential for significant adverse effects has not been adequately evaluated such that would demonstrate compliance with the provisions of NEx and NE6 of the emerging local plan and the NPPF.**

3. DfT's Inclusive Mobility, HCC's Passenger Transport in New Developments, The Chartered Institution of Highways Transportation (CIHT) guidance 'Buses in Urban Developments' published in January 2018 and the 'Roads in Hertfordshire Design Guide' (3<sup>rd</sup> Edition January 2011) state that development layouts should be designed such that all occupied areas are no more than 400m walking distance from a bus stop. There are no bus stops within 400m of the proposed development and to be considered sustainable any new or re-routed service to the proposed housing must have a good chance of being commercially viable after developer pump-priming contributions have been exhausted. The Highway Authority has examined the options for servicing the development route by route in order to establish the viability of the public transport options in the longer term. It has concluded that it is unlikely that a satisfactory route would be available in the longer term. Accordingly, it is considered that the proposed development would be unlikely to benefit from a satisfactory bus service beyond the short term with residents being denied access to high quality public transport contrary to the aims of the NPPF, Policy T1 (assessment of transport matters) of the Local Plan and HCC's Local Transport Plan 4.
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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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**NOTES**

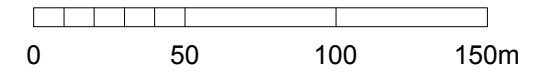
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**KEY**

Application Site

9.12ha



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|                   |   |
|-------------------|---|
| <b>ITEM NO:</b>   |   |
| <u>Location:</u>  | <b>Manor Farm<br/>Church Lane<br/>Bygrave<br/>Baldock<br/>Hertfordshire<br/>SG7 5EE</b> |
| <u>Applicant:</u> | <b>Northern</b>   |
| <u>Proposal:</u>  | <b>Installation of slurry lagoon.</b>   |
| <u>Ref. No:</u>   | 17/04355/FP   |
| <u>Officer:</u>   | <b>Sam Dicocco</b>  |

**Date of expiry of statutory period:** 16.03.2018

**Submitted Plan Nos:** P01; P02

**Extension of statutory period:** 21.01.2019

**Reason for referral to Committee:** The development is other operational development in a site area of 1 hectare or greater (1.73 Hectares)

1.0 **Relevant History**

1.1 None relevant to the site.

2.0 **Policies**

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

LP2 Green Belt  
LP16 Areas of archaeological significance

2.2 **National Planning Policy Framework**

SECT6 Supporting a strong, competitive economy  
SECT12 Achieving well-designed places  
SECT13 Protecting Green Belt land  
SECT 16 Conserving and enhancing the historic environment

2.3 **Supplementary Planning Documents**

Design Supplementary Planning Document

## 2.4 **North Hertfordshire Draft Local Plan 2011-2031**

D1 Sustainable design  
D3 Protecting living conditions  
HE1 Designated heritage assets  
NE1 Landscape

## 3.0 **Representations**

3.1 **Site Notices: 19/01/2018 Expiry: 09/02/2018**  
**Press Notice: 18/01/2018 Expiry: 08/02/2018**

### **Consultee responses**

Environmental Protection (land contamination and air quality) – No objection.

Environmental Protection (noise and other nuisances) – Initial objection based on lack of information overcome by submission of Odour Management Plan, subsequent no objection subject to conditions.

Environment Agency – Initial objection based on lack of information overcome by submission of Revised Design Statement, subsequent no objection subject to conditions.

Natural, Historic and Built Environment Advisory Team (Archaeology) – Initial objection overcome by submission of Archaeological Evaluation Report, subsequent no objection.

Lead Local Flood Authority – Comments advising seeking comments of the Environment Agency.

Hertfordshire Ecology – No objection.

### **Neighbour representations**

None received.

## 4.0 **Planning Considerations**

### 4.1 **Site and Surroundings**

4.1.1 The site forms part of an established agricultural unit within the Green Belt. The site also lies within an area of archaeological interest. The site is located on a plot of land to the south of Church Lane and the west of the A505. The development would lie approximately 180m to the south west of a Scheduled Monument, namely, "Two bowl



barrows at Bygrave, 650m east of Park Wood”. The Scheduled Monuments description is as follows –

*“Bowl barrows, the most numerous form of round barrow, are funerary monuments dating from the Late Neolithic period to the Late Bronze Age, with most examples belonging to the period 2400-1500 BC. They were constructed as earthen or rubble mounds, sometimes ditched, which covered single or multiple burials. They occur either in isolation or grouped as cemeteries and often acted as a focus for burials in later periods. Often superficially similar, although differing widely in size, they exhibit regional variations in form and a diversity of burial practices. There are over 10,000 surviving bowl barrows recorded nationally (many more have already been destroyed), occurring across most of lowland Britain. Often occupying prominent locations, they are a major historic element in the modern landscape and their considerable variation of form and longevity as a monument type provide important information on the diversity of beliefs and social organisations amongst early prehistoric communities. They are particularly representative of their period and a substantial proportion of surviving examples are considered worthy of protection.*

*Despite having been reduced in height by cultivation, the two bowl barrows at Bygrave survive comparatively well and will contain archaeological remains and environmental evidence relating to the monument and the landscape in which it was constructed. The close association of the barrows may be significant as few such pairings survive as earthworks in this area, most having been levelled by ploughing over many years.”*

4.1.2 The sites surroundings are, to the west, agricultural. The site is located immediately to the west of a raised, electrified railway line, which is in turn, adjacent to a major trunk road, namely, the A505. A Biogen facility is sites on the eastern side of the A505. The site is also framed to the north by Church Lane, a single agricultural road, albeit with access onto and off the A505. Church Lane tunnels underneath the raised railway line and A505.

## 4.2 **Proposal**

4.2.1 The application seeks planning permission for engineering works to create a slurry lagoon. The lagoon would be contained by banking which would measure approximately 2.2m in height externally, with 4m in height from the bottom of the proposed slurry pit. The lagoon would measure 77.5m in length and 76.5m in width measured from the inner top of the banks. The lagoon would need to be secured with perimeter fencing and a secure gate.

## 4.3 **Key Issues**

4.3.1 Policy 2 of the Saved Local Plan states that the Council aim to keep the uses of land within the Green Belt open in character. Planning permission will only be granted for appropriate buildings, extensions or changes of use which would not result in a significant visual impact. This proposal is neither a change of use, new building or extension.

- 4.3.2 The National Planning Policy Framework (NPPF) states within paragraph 146 that engineering operations which preserve the openness of the green belt and do not conflict with the purposes of including land within the green belt would not be inappropriate. The 2011-2031 Local Plan Proposed Submission relies upon the contents of the National Planning Policy Framework to assess the appropriateness of development within the Green Belt.
- 4.3.3 Openness is best defined as the absence of built form. The engineering operation proposed, in terms of the banking required to form the slurry pit, would not be built form. Notwithstanding this, the banks, at a maximum of 2.2m in height externally, have potential to impact the open nature of the Green Belt by interrupting the landscape. The banking would be green in nature. In this case, by reason of the green nature of the banking, the sites location in terms of surrounding hard and raised landscape features (railway line and A505) as well as the surrounding topography, would not have any impact on the openness of the Green Belt in this location.
- 4.3.4 In terms of built form, the secure perimeter fencing would impact the openness of the Green Belt. The design of the perimeter fencing could, and would need to, be controlled by way of condition to ensure that the fencing is secure but as open and transparent as feasible, mitigating the impact upon the openness of the green belt. By reason of the conditioned fencing, nearby raised railway line and associated structures, as well as the topography of the site and sites surroundings, the associated built form, in this case, would have a limited impact upon the openness of the green belt or the visual character of the surrounding landscape.
- 4.3.5 The proposed slurry lagoon and associated security fencing would not conflict with the purposes of including land within the Green Belt as set out in paragraph 134 of the NPPF.
- 4.3.6 Given the above discussion, it cannot be stated that the proposal would preserve the openness of the Green Belt, and as such, even though the impact on openness can be somewhat mitigated by conditions, the development must be considered inappropriate. Inappropriate development is, by definition, harmful, and should not be approved unless in very special circumstances. Very special circumstances must clearly outweigh harm to the green belt by reason of inappropriateness and any other harm.
- 4.3.7 The engineering operation and associated security fencing required for the creation of the slurry lagoon is for agricultural purposes. Agriculture should be promoted within the Green Belt as an inherently open use which serves to preserve its essential character and purposes. Buildings for agricultural purposes are considered appropriate within the Green Belt regardless of impact on openness and purposes. Finally, there are permitted development rights in tact for the erection of 2m high fencing on the site. This is a reasonable fall-back position which must be given weight in the balance of 'very special circumstances'.

- 4.3.8 In light of the above, it is considered that very special circumstances exist in this case which clearly outweigh the limited harm to the openness of the green belt.
- 4.3.9 It is considered, in line with the conclusion above in regards to the Green Belt, that the proposed development would not cause harm to the value of the site in regards to the landscape character area. As such, the proposal accords with the provisions and purposes of policy NE1 of the 2011-2031 Local Plan Proposed Submission.
- 4.3.10 The site lies approximately 180m to the south west of a Scheduled Monument. The setting of a heritage asset is the surroundings in which a heritage asset is experienced. By reason of the proximity of the proposed development, it is considered that the proposal has the potential to affect the setting of the Scheduled Monument, albeit, the form of the development is not likely to be prominent or intrusive.
- 4.3.11 Bowl Barrows are a major historic element in the modern landscape and their considerable variation of form and longevity as a monument type provide important information on the diversity of beliefs and social organisations amongst early prehistoric communities. In this case, the Bowl Barrows are considered of particular importance as the two bowl barrows at Bygrave survive comparatively well and will contain archaeological remains and environmental evidence relating to the monument and the landscape in which it was constructed. As a result, it is considered that the contribution of the setting of the Scheduled Monument to its significance, in this case, would be their importance and prominence in the modern landscape. As a result, the setting of the Scheduled Monument should remain subordinate to the heritage asset.
- 4.3.12 The banking, at 2.2m in height externally, would not be at a greater height than the Bowl Barrows, thereby remaining a subordinate feature within the landscape setting. The banking would not interrupt any views in or out which would impact experiences of the asset by reason of the intercepting raised, electrified railway line. Accordingly, it is not considered that the development would harm the contribution of the setting to the significance of the nearby Scheduled Monument.
- 4.3.13 No concerns have been raised from the environmental health team in relation to odour nuisance as a result of the proposal. As such, no harm is expected to result from the proposed development upon the living conditions of nearby residential uses.
- 4.3.14 No objection has been raised on behalf of Hertfordshire County Council Historic Environment team in relation to the site in terms of archaeological interest. As such, the development is considered to accord with policy 16 of the Saved Local Plan.
- 4.3.15 No objection has been raised on behalf of Hertfordshire County Council Ecology team in relation to the site in terms of wildlife interest. As such, the development is considered to accord with policy 14 of the Saved Local Plan.

#### 4.4 **Conclusion**

- 4.4.1 The proposed engineering operation and associated secure fencing would cause limited harm to the openness of the Green Belt, thereby representing an inappropriate form of development in accordance with paragraph 90 of the NPPF. In this case, it is considered that 'very special circumstances' exist which clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm. No harm would result from the proposal on living conditions of the occupiers of nearby residential premises, the wildlife or archaeological value of the site, or the environment in terms of contamination of water sources. The proposal would not harm the contribution of the site to the setting of the nearby heritage asset. Accordingly, the proposal is considered to comply with the provisions of the local development plan.

#### 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 design and construction of the lagoon shall be within the parameters given in the 'Revised Design Statement' by Red Shed Design. The design shall be agreed in writing with the Local Planning Authority prior to construction and then works shall be carried out in line with the agreed scheme.

Reason: To protect groundwater. The site is located within Source Protection Zone 3, above a principal chalk aquifer within the Water Framework Directive (WFD) Cam and Ely Ouse Chalk groundwater body where we carefully monitor development proposals

of all types. Source Protection Zone 3 is a significant groundwater source used for potable water (that is high quality water supplies usable for human consumption). This aquifer is partially overlain by Glacial Head superficial deposits. The closest watercourse is 130m to the east. Groundwater at the site needs to be sufficiently protected from non-hazardous pollution. The site is also located within a Nitrate Vulnerable Zone (NVZ). The slurry lagoon presents a potential for non-hazardous pollution of nitrate vulnerable groundwater used for drinking water abstraction.

4. Prior to the commencement of the development hereby approved, further details, to include elevations at an appropriate scale, of the security fencing shall be submitted to and approved in writing by the Local Planning Authority. The details approved by way of this condition shall then be implemented and retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the security fencing will be as transparent as possible to mitigate the potential impact to the openness of the Green Belt.

5. Prior to the commencement of the development, the developer shall submit an odour management plan, produced in accordance with the Institute of Air Quality Management Guidance on the assessment of odour for planning, for approval by the Local Planning Authority. Once approved, the details shall be implemented in perpetuity.

Reason: To protect the amenities of existing residents.

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 (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

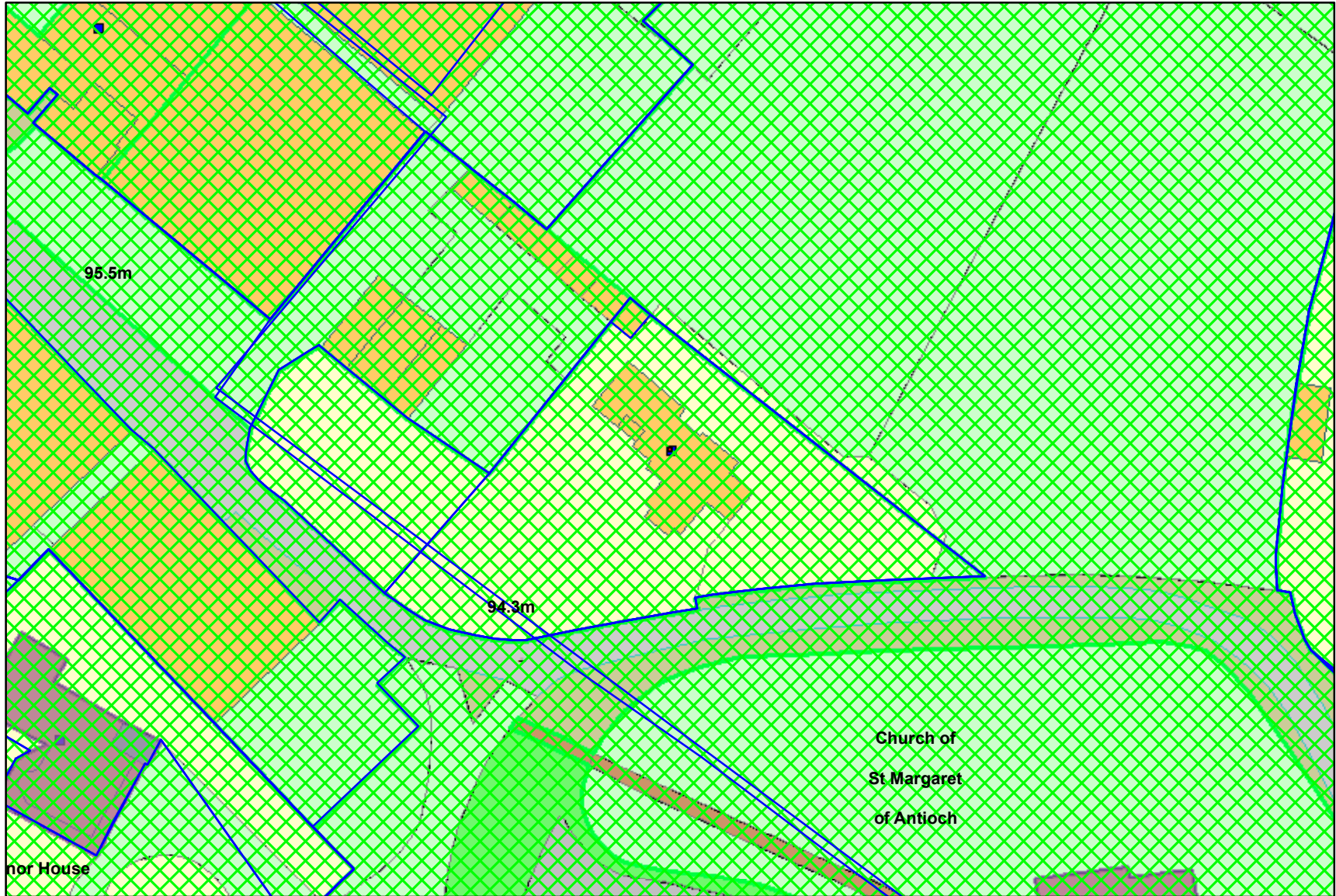
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## Application Validation Sheet

17/04355/FP Manor Farm, Church Lane, Bygrave, Baldock, Herts, SG7 5EE

-  **Acolaid Land Parcel**  
Property.shp
-  **Acolaid Address Point**  
sp.shp
-  **Planning Application (1999)**  
Prapps99.shp
-  **Area of Outstanding Natural Beauty**  
Pranob.shp
-  **Listed Buildings**  
Prlistbid.shp
-  **Tree Preservation Order (Single)**  
ORACLE
-  **Tree Preservation Order (Group)**  
ORACLE
-  **Parish Boundary**  
Prparish.shp
-  **Conservation Area**  
Prconca.shp
-  **District Local Plan Boundary**  
Prdlp2.shp
-  **Green Belt**  
Prgrnbt.shp
-  **Health & Safety Consultation Zone**  
Prhjmzone.shp
-  **Landscape Conservation**  
Prlandca.shp
-  **Ward Boundary**  
Prwardcd.shp
-  **Noise Nuisance Indicators**  
Prnnis.shp
-  **Indicative Flood Plain**  
Prifpm.shp



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Date: 14/12/2018



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## Appeal Decision

Inquiry Held on 6, 7 & 8 November 2018

Site visit made on 8 November 2018

**by David Murray BA (Hons) DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 December 2018**

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**Appeal Ref: APP/X1925/W/17/3188914**  
**The Cabinet, High Street, Reed, SG8 8AH.**

- 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 R Newman against the decision of North Hertfordshire District Council.
  - The application Ref. 16/02113/1, dated 22 August 2016, was refused by notice dated 21 July 2017.
  - The development proposed is the change of use of the premises from public house (Use Class A4) to a single dwelling (Use class C3).
- 

### Decision

1. The appeal is dismissed

### Main Issues

2. Although the formal reason for refusal is reflected in the first main issue below, it is clear from the evidence submitted by the main parties and the 'Save the Cabinet Action Group (SCAG)', which has the status of a Rule 6 party, that there should be a further main issue concerning the effect of the proposed change of use on the significance of The Cabinet as a Listed Building and the effect on the significance of the Reed Conservation Area.
3. The main issues are therefore:
  - Whether the proposed change of use of the public house (The Cabinet) as a local community facility would meet the requirements of Policy ETC7 of the (emerging) North Hertfordshire Local Plan having regard to the criteria set out within the policy including the 'exception' provisions.
  - The effect of the proposed change of use on the significance of The Cabinet as a Listed Building, and on the significance of the Reed Conservation Area, and if harm is found to these heritage assets, the public benefits that have to be weighed against the level of harm.

### Reasons

#### *Background*

4. The appeal concerns the change of use of a public house, The Cabinet, which is situated in the village of Reed. Although its address is the High Street in

practice this is a narrow rural lane with grass verges on the eastern edge of the village. The site is located within an area comprising a few scattered residential properties, including two thatched houses, a farmstead and a short residential terrace. The Cabinet is a part two storey / part single storey timber clad building, with elevations painted a light colour, on the west side of the High Street and it is a Grade II Listed Building. It is also located in the Reed Conservation Area. The village of Reed has a population of about 300 people.

5. It is evident that The Cabinet had been a public house since at least 1806 but it ceased trading as such in 2011 and was vacant until the appellant bought it at an auction in October 2015 from the previous owners 'Albanwise'. The appellant's planning agent Ms Fitzgerald acknowledges that after carrying out essential repairs to the fabric of the building it was converted to a dwelling and has been occupied as a home since. The application is therefore retrospective.
6. Applications for Listed Building Consent for internal alterations to facilitate the proposed change of use were submitted to the Council under ref. 16/02129/1LB and 17/01542/1LB about the same time as the planning application. These applications remain with the Council for determination and are not the subject of this appeal.
7. The premises were registered as an Asset of Community Value (ACV) in April 2014 following a request from Reed Parish Council.

#### *Policy Context*

8. The development plan includes saved policies in the North Hertfordshire District Local Plan No2 with Alterations 1996 (now referred to as the 1996 LP). There are no relevant saved policies concerned with the appeal proposal. The Council is also preparing a new Local Plan 2011-2031 and a proposed Submission Version was published in October 2016 (the new LP). The new LP has now reached the examination stage and the Council advises that following receipt of the Examining Inspector's Interim Findings, the Council is expecting to publish a schedule of Main Modifications later in November 2018. These will be subject to consultation in a period between December and February 2019.
9. Individual policies in the emerging plan may be given weight now depending on the degree of unresolved objection being considered at examination and compliance with the terms of the National Planning Policy Framework (NPPF). The NPPF was re-issued in July 2018, under the transitional arrangements the examination will consider the plan's provisions under the original 2012 version. However, this s78 appeal has to have regard to the updated version of the NPPF and so all references made will be to the 2018 document unless otherwise stated.
10. New LP Policy ETC7 is concerned with scattered shops and community facilities in towns and villages. I am satisfied that it broadly accords with the provisions of the NPPF especially paragraphs 83(d) and 92(c) the latter of which says that in order to provide the social, recreational and cultural facilities and services that the community needs, planning decisions should guard against the unnecessary loss of valued facilities and services,

particularly where this would reduce the community's ability to meet its day to day needs.

11. From the updated evidence submitted by the Council it appears that the outstanding objections to the policy do not concern the application of it to the circumstances of The Cabinet as a public house in Reed. Further, the alterations proposed as a Main Modification do not amend the substance of the policy and therefore I propose to deal with Policy ETC7 as per the Submission Version. Having regard to all of these policy aspects I agree with the conclusions of the main parties at the Inquiry that Policy ETC7 should be given significant weight at this stage as a material consideration.
12. Other policies in the emerging plan relevant to this case are Policy SP13 concerning the historic environment and HE1 concerning designated heritage assets.

*Accord with Policy ETC7*

13. Before discussing the accord with this policy itself, it is fair to say that there is some ambiguity within it, particularly the final exception paragraph, which was discussed at the inquiry. The policy has to be considered on a simple reading of the words involved, using their ordinary meaning, and having regard to the overall purpose of the policy. In this context my reading of the exception test in the final paragraph is as follows: that the vacancy in the (lawful) use of the premises; documentary evidence on viability; and attempts to sell the premises; should all cover the same period of at least one year and that period should just (reasonably) precede the time when the proposal to change the use is made. In this case, the evidence required would primarily need to cover at least the one year period before the application was submitted i.e. before August 2016, although it is also reasonable for me to consider relevant circumstances in the period up to the Council's decision and the intervening periods leading up to the Inquiry.
14. The second paragraph onwards of Policy ETC7 is relevant to the case and indicates that the loss of facilities outside of the defined retail hierarchy will be granted where specific criteria are met. I will consider these in turn.

*(a) Other similar facilities available*

15. It is common ground that there are no other public houses in the village of Reed itself nor within a convenient walking distance for customers, therefore, clause (a) of the policy is not met. I note that there are some 13 public houses within a radius of 3 miles of the appeal site, however, it was not argued that these were a convenient alternative to previous customers of The Cabinet.

*(b) Whether the replacement use would complement the function and character of the area.*

16. The evidence given by Mr Roberts for the Council and Ms Ingram for SCAG was that this criteria is not met as the replacement use would result in the loss of the public house which would harm the function and character of the area. However, my reading of this part of the policy is that it refers to the general nature of the use that is proposed as a replacement rather than the one that would be lost. I saw at the site visit that the area around the appeal site is mainly residential in character, albeit that existing houses are

dispersed on the edge of a rural village. I am satisfied that the residential use proposed would complement the function and character of the area, notwithstanding the issue over the loss of the lawful use as a public house. I find that the proposal meets this criterion.

17. The final paragraph of the policy puts forward criteria as an exception to (a) above and I will consider the components of the exception having regard to the interpretation I have set out in paragraph 13 above.

*Period and nature of vacancy*

18. The Cabinet has been vacant since 2011 but it has been occupied by the appellant as a dwelling since being repaired following his purchase at auction in October 2015. To my mind this unauthorised different use for at least 6 months before the application was submitted is a material incursion into the specified vacancy period in which the public house had to be tested on viability and attempts to sell. On this basis alone I consider that the proposal fails the exception test set out in the policy. However, in case I have misinterpreted that I need to consider the other factors.

*Marketing*

19. The exception criterion refers to reasonable attempts to sell or let the premises and this can be described as 'marketing'. All of the evidence presented on marketing relates to that carried out on behalf of the previous owners of the Cabinet - Albanwise, and which culminated in the sale at auction. The marketing that was carried out prior to the auction is summarised in the letter of 4 March 2016 from the joint selling agents Mullocks Wells (MW) (Core Document (CD) 1.2)
20. As background I understand that Albanwise paid £645,000 for The Cabinet in 2007. When it was put up for sale in 2012 there were no offers when initially offered for sale at £495,000. Some 27 enquires were made during the period of MW marketing until 2014. However, the initial interest failed to materialise into a purchase. The Cabinet was put to auction in 2015 and a brochure for the auction indicated a guide price of £350,000+. Mr Newman's bid of £375,000 was the only bid at the auction and was successful.
21. Although Mr Roberts for the Council considers that the comprehensiveness and robustness of the marketing process are inadequate I do not take issue with these aspects, which were undertaken by professional companies, or the fact that the premises were marketed for a different owner. However, I am concerned that the marketing period is substantially out of step with the period concerning the other factors required in the testing of the premises in the context of the my reading of the policy as I outlined in paragraph 13 above.
22. Moreover, I am concerned that the marketing of the public house at the auction raised an expectation of 'hope value' above its true value based on the lawful use. After mentioning that some renovation/modernisation is required the brochure indicated "This is a great opportunity to refurbish or convert the existing property and offers excellent potential to develop (STPP)" Presumed to mean 'subject to planning permission'. This may well be standard practice by auctioneers as suggested by Mr Spelman for the appellant, and at that stage I recognise that the premises were not being

tested to accord with the process laid out in the policy, but only to try and recoup some of Albanwise's investment. However, to my mind this casts serious doubt over the appropriateness of the marketing that took place.

23. On the marketing issue I find that the evidence presented does not demonstrate that the timing and nature of the marketing meets the requirement of the exception test in Policy ETC7.

*Evidence on viability*

24. The issue of viability is a broad subject made more difficult by the fact that The Cabinet ceased trading as a public house in 2011 and so there is no up-to-date documentary evidence on trading accounts or on consumer expenditure to help assess viability. There are many assessments of viability before me which I will consider in a moment but it is fair to say that each involves a professional assessment of the viability of the premises, based on many economic variables as considered appropriate, and it is not my role to substitute my own opinion. I will therefore concentrate on the range of assessments and where the differences lie.
25. At the time of the Council's consideration of the application, there was a viability assessment in the Culverhouse report (22 November 2016) prepared as part of the appellant's case in support of the planning application. This was independently assessed by Trinity Solutions (12 December 2016) on behalf of the Council. Both assessments concluded that The Cabinet would not be viable again as a public house and it is apparent that this factor was critical in the planning officer's recommendation of approval. The planning committee also had to consider the representations from SCAG and others that a pub could be viable including when run as a social or community funded social enterprise.
26. Since the refusal of planning permission and the lodging of the appeal, further reports on viability or assessments of the reports have been prepared by Mr Spelman (20 October 2017) for the appellant; Mr Nichols for SCAG and Mr Roberts for the Council. Further, the additional spreadsheet prepared by Nichols gives a useful comparison of the assessments, transposing the data assumptions, although I appreciate the concerns about such comparisons being 'parachuted in'.
27. As a comparison of the potential public house business in the premises in terms of a 'net profit before repayments' the Culverhouse valuation indicates that there would be an annual loss of just over £8,000 whereas the other valuations show a potential small profit ranging from almost £24,000 to £75,000. Further, the respective deficit or profit is increased when repayment of loans and interest on capital is taken into consideration, with the worst case being a £67,000 annual deficit.
28. However it appears to me that Mr Spelman's approach of fixing the market value of The Cabinet at £350,000 unduly influences the rest of the valuation assessment. Whilst this is about the figure that was paid at auction, for the reasons I gave in paragraph 22 above, I consider that it does not reflect the true market value based on the lawful use of the property. A similar stance on examining the true market value is reflected in the appeal decisions put to

me<sup>1</sup>. Further, there is clear evidence to show that at a significantly lower purchase price it is likely that a public house use could be viable. It also appears to me that the costs of repairs used by Mr Spelman are relatively high and exceed the costs based on the repair and refurbishment of the public house and should not include the costs associated with the removal of the use as a dwelling house. On the technical evidence put to me I conclude that I have to place more weight on the evidence of Mr Roberts and Mr Nicholls than on Mr Spelman's.

29. In addition to the technical assessments of viability two other factors regarding viability are relevant. First Mr Martin gave evidence as the previous tenant/chef of The Cabinet from 2008 until it closed in 2011. He said that at that time the business was doing steady trade and was viable. The only reason why the pub closed was because of the unlawful actions of a member of staff which he could not rectify. Nevertheless, he was sure that a pub business could be viable and successful in the premises.
30. Secondly, Mr Langley, Chair of Reed Parish Council, gave evidence that the parish council has secured approval to borrow £400,000 from the Public Works Loan Board (£250,000 specified in the letter of 17 May 2018 from MHCLG<sup>2</sup>) to be used on the purchase and reinstatement of The Cabinet as a public house. The parish council's application was supported by a business plan which demonstrated that the pub would be viable and how the loan would be repaid. Mr Langley said that the fact that the MHCLG granted the application was an indication that their assessment of the future viability of a pub was sound and that the Council had credibility as a borrower. There was also the possibility of a 'white knight' becoming involved in the purchase and running of a pub for community use, as suggested by Mr Goddard who had made an offer to buy the pub before the auction, but such altruism has to be treated with caution. Ms Fitzgerald's evidence for the appellant mentioned the case of the White Lion public house in St Leonards<sup>3</sup> where a third party interest to revive the pub failed to materialise after the appeal was dismissed.
31. Bringing the evidence on viability together, there is clear difficulty in assessing this aspect as The Cabinet has not been trading as a public house for some seven years and as a consequence assessments of the future viability of a pub use now are hypothetical. Further, there is a diverse range of professional opinions about whether such a use could ever be viable. However, also taking account of the evidence of the last tenant/chef and the parish council in securing a means of funding for the potential purchase of The Cabinet as a public house for the community, it appears to me that there is sufficient evidence to conclude that there are reasonable circumstances in which the use as a public house could be viable. I conclude that on balance it has not been demonstrated that the reinstatement of the lawful use could not be viable.
32. Overall on this issue I conclude that in respect of Policy ETC7 the presumption in favour of the loss of a local facility is not justified because there is no similar alternative facility available within reasonable walking distance under part (a) of the policy, and while part (b) is met, the proposed

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<sup>1</sup> APP/P0240/A/13/2198005; APP/X1925/W/16/3154355; APP/D3125/A/10/2134643

<sup>2</sup> Ministry of Housing, Communities and Local Government, Local Authority Capital Finance and Reserves)

<sup>3</sup> APP/X0415/C/15/3130705

change of use of The Cabinet to a house would fail the exception test. Within this, it has not been demonstrated that there have been reasonable attempts to sell or let the premises for a similar use within the stated period; neither has The Cabinet been vacant as a public house within the whole test period; nor has a lack of future viability been demonstrated.

*Effect on the significance of the Listed Building and the Reed Conservation Area*

33. The evidence of Mr Copp for the appellant and Ms Ingram for SCAG describes in great detail the historic and architectural qualities and overall significance of The Cabinet as a listed building and on its significance in the Reed Conservation Area. It is common ground with these parties that the change of use of the Cabinet results in 'less than substantial harm' to the Reed Conservation Area.
34. Concentrating on the effect on the significance of the listed building, SCAG says that the change of use proposed would result in the complete loss of the communal value of The Cabinet and therefore should be regarded as the total loss of this heritage asset leading to 'substantial harm' as addressed in paragraph 195 of the NPPF. However, national guidance in the Planning Practice Guidance<sup>4</sup> (PPG) recognises that 'substantial harm' is a high test so it may not arise in many cases. Further it is important to consider whether the adverse impact seriously affects a key element of its special architectural or historic interest. I recognise that the 'community value' of the public house use is an essential part of its significance, however, this needs to be considered in the round and not as a special aspect of greater significance than the other historic and architectural aspects. It is generally agreed that the change of use will not affect the architecture and setting of The Cabinet bearing in mind that the applications for the alternations to the internal fabric of the building are not before me.
35. In applying the general duty on me set out in section 66 and 72 of the 1990 Act<sup>5</sup> I think that it is more appropriate to consider the effect in the holistic way that the appellant's team suggests. I find that the change of use would harm the significance of The Cabinet as a listed building but this harm amounts to 'less than substantial harm'. The test set out in paragraph 196 of the NPPF therefore applies so that the harm is weighed against the public benefits in respect of both the heritage asset of the Listed Building and the Reed Conservation Area.
36. I recognise that the conversion of The Cabinet to a house has resulted in the repair of the building which is a public benefit given that the evidence shows that the fabric of the building deteriorated when closed. However, I have concluded in part under the first issue that the Cabinet could be viable as a public house. This represents the optimum viable use. Therefore, the reinstatement of this would secure its significance as a local heritage asset.
37. Overall I find on this issue that the less than substantial harm to the Listed Building and significance of the Conservation Area that the proposal would cause is not outweighed by the public benefits put forward. As the proposal would not secure the conservation and preservation of the heritage asset in

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<sup>4</sup> Paragraph 016 (Reference ID 18a-016-20140306)

<sup>5</sup> Planning (Listed Buildings and Conservation Areas) Act 1990

the long term the proposal would conflict with Policy HE1(a) of the emerging new LP.

*Other considerations*

38. SCAG submits that the unauthorised change of use of The Cabinet to a dwelling house constitutes 'intentional unauthorised development' (IUD) as set out in the Written Ministerial Statement (WMS) dated 17 December 2015 (as referred to in the Chief Planner's letter of 31 August 2015) and which was confirmed by the Minister<sup>6</sup> on the 29 October 2018 as a potential material consideration in a planning case.
39. In this case, the appellant Mr Newman did not give evidence himself at the inquiry and consequently I do not know his true intentions when he bought The Cabinet at auction and then started to repair the building before the premises were converted to a dwelling house. I understand from the evidence of others and from written representations that the appellant is a developer/builder but is also a licensee and has an interest in a public house elsewhere. On the evidence available I cannot be sure that the appellant only had an intention to carry out unauthorised development and so I cannot place much weight on this aspect in the planning balance.

*Planning balance*

40. The proposal needs to be considered in the context that the existing development plan is silent on the main issues that are involved in this case. However, Policy ETC7 in the emerging LP is a material consideration that carries significant weight. I have found that the proposal to change the use of The Cabinet conflicts with this policy as there is no similar alternative facility within reasonable walking distance under part (a) and for a number of reasons the change of use does not meet the stated requirements of the exception test that follows within the policy. The proposal therefore constitutes the loss of a community facility without overriding justification. This loss also conflicts with the guidance set out in paragraphs 83(d) and 92 (c) of the NPPF.
41. In respect of the second issue I have found that the proposed change of use would result in less than substantial harm to the significance of The Cabinet as a Listed Building and to the significance of the Reed Conservation Area as heritage assets and great weight should be given to the conservation of these assets. However, this harm is not outweighed by public benefits including securing the optimum viable use for the premises. There is conflict with emerging policy HE1 to which substantial weight should be given as it is in conformity with national policy.
42. These adverse factors have to be balanced with the positive aspects of the development but these are limited in that they only arise from the private use of a single dwelling house for the appellant and the repair of the fabric of the building itself.
43. I find that the conflict with emerging LP policies, and the policy of the NPPF that I have mentioned, clearly outweigh the benefits and this indicates that planning permission should not be granted for the change of use, as set out in paragraph 11(d)(i) of the NPPF.

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<sup>6</sup> Kit Malthouse MP, Minister of State, MHCLG.



44. I recognise that such a decision may result in the appellant being faced with the loss of his home. This would be an interference with his human rights. However, such rights are qualified rights and have to be balanced with other considerations. I am satisfied that a refusal of permission on the planning merits of the proposal is reasonable and necessary in the public interest and it is therefore not a disproportionate interference.

**Conclusions**

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

*David Murray*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Ms A Foster, of Counsel                      Instructed by the Solicitor to the Council.

She called

Mr P Roberts, RICS                      Partner; Dalton Warner David LLP, acting on behalf of North Hertfordshire District Council.

### FOR THE APPELLANT:

Mr S Hopkins, Solicitor                      Homes and Hills LLP

He called

Ms Fitzgerald, BA (Hons)  
Dip TP, MRTPI                      Director, Barker Parry Town Planning Ltd.

Mr T Copp BA (Hons) MA  
Assoc IHBC                      Senior Associate Director, CgMs.

Mr Spelman BSc, FRICS                      Director, Peter Spelman Consultancy Ltd.

### FOR THE SAVE CABINET ACTION GROUP (SCAG) - Rule 6 Party:

Mr M Henderson, of Counsel                      Instructed by SCAG

He called

Ms D Ingram MSc CHE                      Director, Planning for Pubs Ltd.

Mr Nichols BSc(Hons) MRICS                      Managing Director, Everard Cole Ltd.

Mr Chapman                      Campaign for Real Ale (CAMRA)

Mr Martin                      Previous tenant of The Cabinet

Mr Titmuss                      Prospective tenant for The Cabinet about 2011

### INTERESTED PERSONS:

|                |                     |
|----------------|---------------------|
| Cllr Mrs Hill  | County Councillor   |
| Cllr Mr Morris | District Councillor |
| Mr P Goddard   | Local resident      |
| Mr Smith       | Local resident      |
| Dr Blenkinsop  | Local resident      |

## **DOCUMENTS HANDED IN AT THE INQUIRY**

- 1 Copy of the Ms Foster's Opening Submissions for the Council.
- 2 Copy of Mr Henderson's Opening Statement on behalf of SCAG.
- 3 Update from the Council on the emerging LP and proposed modifications to Policy ETC7.
- 4 Schedule of comparative valuations from Mr Nichols on behalf of SCAG.
- 5 Copy of RICS Practice Standards re The capital and rental Valuation of public houses, bars, restaurants and night clubs (2010).
- 6 Closing for the Council
- 7 Closing for SCAG
- 8 Closing for the Appellant

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## Appeal Decision

Site visit made on 30 November 2018

**by J A B Gresty MA MRICS**

an Inspector appointed by the Secretary of State

Decision date: 20<sup>th</sup> December 2018

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### **Appeal Ref: APP/X1925/D/18/3211092**

### **38 York Road, Hitchin, Hertfordshire SG5 1XB**

- 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 Dan and Mrs Liz Anderson against the decision of North Hertfordshire District Council.
  - The application Ref 18/01406/FPH, dated 19 May 2018, was refused by notice dated 11 July 2018.
  - The development proposed is loft conversion to include rear dormer and roof windows to front roof elevation, roof ridge line raised and concrete roof tiles replaced with slate roof tiles.
- 

### **Decision**

1. The appeal is dismissed.

### **Main Issue**

2. The main issue in this case is the effect of the proposed development on the character and appearance of the local area.

### **Reasons**

3. The appeal property is an attractive two-storey, semi-detached house. The pair of houses has a symmetrical, designed appearance with distinctive two-storey bay windows in the front elevation. The houses have conventional pitched and mono-pitched tiled roofs. York Road is characterised by similarly designed and sized, semi-detached and terraced, two-storey houses which contribute to the road having an attractive and planned appearance.
4. The proposed development would include extension of the main house roof which would include raising the height of the rear elevation of the roof to form a flat-roofed extension which would span the whole width of the appeal property. The flat-roof would project above the height of the existing ridge and stand above the height of the ridge of the adjoining house. When viewed from the road, the projection of the roof above the ridge would give the pair of houses an unbalanced appearance and would give the existing chimney, which is a distinctive feature of the property, a truncated and incongruous appearance. The loss of symmetry and the development's incongruous appearance would detract from the character and appearance of the host property and the pair of houses as a whole, harming the character and appearance of York Road.

5. From the road, there would be oblique views of the side elevation of the extended roof. its flat roof design would give the extension a bulky, box-like appearance which would be at odds with the scale and design of the host property and would be out of keeping with the prevailing character and appearance of the residential development on York Road.
6. The appeal property has a two-storey rear projection. The top of the roof of the projection is significantly lower than the ridge height of the main house roof. The appeal proposal includes construction of a flat-roofed extension over part of the rear projection which would form part of the extension of the main house roof. The rear projection extension's flat-roof would project above the height of the neighbouring house roofs. Because of its size and box-like design, the extension of the rear projection would appear very large and out of keeping with the rear elevations of the host property and adjoining semi-detached house. Cumulatively, the extensions of the main house and rear projection roofs would give the rear and side elevations of the appeal property an unduly prominent, bulky and stark appearance which would be at odds with the prevailing character and appearance of the local area.
7. There are large flat-roofed roof extensions to several nearby properties which are visible from the appeal property's back garden. However, in the main these developments do not complement the design or appearance of their host properties or contribute positively to the character and appearance of the local area. Each case must be considered on its own merits and these other flat-roofed roof extensions add little weight in favour of the proposed development.

### **Conclusions**

8. At the heart of the National Planning Policy Framework (the Framework), there is a presumption in favour of sustainable development. Good design is a key aspect of sustainable development and permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Also, decisions should ensure that developments are sympathetic to local character, including the surrounding built environment. The proposed extensions would be harmful to the character and appearance of the host property and local area and would not accord with the requirements of Policy 28 of the North Hertfordshire District Local Plan No. 2 with Alterations Saved Policies – September 2007. Nor would the development comply with Policy D2 of the North Hertfordshire Emerging Local Plan 2011-2031 which does not weigh in the proposal's favour. Accordingly, with regard to the design of the proposed development, it would not represent sustainable development as sought by the Framework.
9. The proposed development would provide useful additional living accommodation for the appellants and their family. In this respect the development would create a better place for the appellants to live. However, in this case, the benefit the development would provide to the appellants would not outweigh the harm the development would do to the character and appearance of the host property and local area. Therefore, on balance and for the above reasons, I conclude that the appeal should be dismissed.

*J A B Gresty*

INSPECTOR

**PLANNING CONTROL COMMITTEE**

**DATE: 16 January 2019**

**PLANNING APPEALS DECISION**

| APPELLANT   | DESCRIPTION  | SITE ADDRESS                                  | REFERENCE  | APPEAL DECISION                      | COMMITTEE/ DELEGATED | COMMENTS  |
|-------------|--|---|------------|--------------------------------------|----------------------|---|
| Mr R Newman | Change of use from A4 (Public house) to C3 (single dwelling) | The Cabinet High Street Reed, Royston SG8 8AH | 16/02113/1 | Appeal Dismissed on 10 December 2018 | COMMITTEE            | <p>The Inspector concluded that the proposal to change the use of The Cabinet conflicts with Policy ETC7 of the North Hertfordshire Emerging Local Plan 2011-2031 as there is no similar alternative facility within reasonable walking distance under part (a) and for a number of reasons the change of use does not meet the stated requirements of the exception test that follows within the policy. The proposal therefore constitutes the loss of a community facility without overriding justification. This loss also conflicts with the guidance set out in paragraphs 83(d) and 92 (c) of the NPPF.</p> <p>The Inspector also found that that the proposed change of use would result in less than substantial harm to the significance of The Cabinet as a Listed Building and to the significance of the Reed Conservation Area as heritage assets and great weight should be given to the conservation of these assets. However, this harm is not outweighed by public benefits including securing the optimum viable use for the premises. There is conflict with emerging policy HE1 to which</p> |

|                     |   |   |              |                                      |           |   |
|---------------------|---|---|--------------|--------------------------------------|-----------|---|
|                     |   |   |              |                                      |           | substantial weight should be given as it is in conformity with national policy.   |
| Mr And Mrs Anderson | Raise existing roof ridge height and insertion of rear dormer window and two front velux windows to facilitate loft conversion. | 38 York Road<br>Hitchin<br>Hertfordshire<br>SG5 1XB | 18/01406/FPH | Appeal Dismissed on 20 December 2018 | DELEGATED | The Inspector concluded that the proposed extensions would be harmful to the character and appearance of the host property and local area and would not accord with the requirements of Policy 28 of the North Hertfordshire District Local Plan No. 2 with Alterations Saved Policies – September 2007. Nor would the development comply with Policy D2 (House Extensions, Replacement Dwellings and Outbuildings) of the North Hertfordshire Emerging Local Plan 2011-2031 which does not weigh in the proposal's favour. |



**PLANNING CONTROL COMMITTEE**

**DATE: 16 January 2019**

**PLANNING APPEALS LODGED**

| <b>APPELLANT</b>  | <b>Appeal Start Date</b> | <b>DESCRIPTION</b>   | <b>ADDRESS</b>                      | <b>Reference</b> | <b>PROCEDURE</b>        |
|-------------------|--------------------------|--|-------------------------------------|------------------|-------------------------|
| Mr M Andrews      | 3 December 2018          | Conversion of existing 1-bed annex into self-contained dwelling  | 16 Traherne Close, Hitchin, SG4 9DS | 18/01249/FP      | Written Representations |
| Mr Ricky Casalini | 3 December 2018          | Erection of one 1-bed dwelling following demolition of existing garage including creation of new vehicular access off Folly Path                                   | 21 Sunnyside Road, Hitchin, SG4 9JG | 18/02060/FP      | Written Representations |
| Mr J Patel        | 10 December 2018         | Part change of use from Class A1 (Retail) to create separate Class A5 (Hot Food Takeaway). Alterations to shopfront and erection of external fume extraction flue. | 1-3 The Mead, HITCHIN, SG5 1XZ      | 18/00278/FP      | Written Representations |
| Mr Ioannis David  | 10 December 2018         | Two storey rear extension to existing house to create 2 x one bedroom dwellings  | 39 Kimberley, Letchworth, Herts     | 17/02548/1       | Written Representations |
| Ms E Hoare        | 14 December 2018         | Erection of one detached 4-bed dwelling.   | 3 Crunnells Green                   | 18/02229/FP      | Written Representations |
| Mrs Clara Odularu | 17 December 2018         | Erection of private road security gates and garden wall  | 1 Half Acre, HITCHIN, SG5 2XL       | 18/00273/FP      | Written Representations |

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