

NORTH HERTFORDSHIRE DISTRICT COUNCIL



7 August 2020

Our Ref Planning Control Committee – 20.08.2020
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To: Members of the Committee: Ruth Brown (Chair), Daniel Allen (Vice-Chair), Val Bryant, Morgan Derbyshire, Mike Hughson, Tony Hunter, David Levett, Ian Moody, Sue Ngwala, Sean Prendergast, Mike Rice and Tom Tyson

Substitutes: Councillors David Barnard, Sam Collins, George Davies, Ian Mantle, Michael Muir, Carol Stanier and Kay Tart

NOTICE IS HEREBY GIVEN OF A

MEETING OF THE PLANNING CONTROL COMMITTEE

to be held as

A VIRTUAL MEETING

On

THURSDAY, 20TH AUGUST, 2020 AT 7.30 PM

Yours sincerely,

Jeanette Thompson
Service Director – Legal and Community

****MEMBERS PLEASE ENSURE THAT YOU DOWNLOAD ALL AGENDAS AND REPORTS VIA THE MOD.GOV APPLICATION ON YOUR TABLET BEFORE ATTENDING THE MEETING****

Agenda

Part I

Item		Page
1.	APOLOGIES FOR ABSENCE	
2.	NOTIFICATION OF OTHER BUSINESS Members should notify the Chair of other business which they wish to be discussed at the end of either Part I or Part II business set out in the agenda. They must state the circumstances which they consider justify the business being considered as a matter of urgency. The Chair will decide whether any item(s) raised will be considered.	
3.	CHAIR'S ANNOUNCEMENTS Members are reminded that any declarations of interest in respect of any business set out in the agenda, should be declared as either a Disclosable Pecuniary Interest or Declarable Interest and are required to notify the Chair 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, wishing 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.	
4.	PUBLIC PARTICIPATION To receive petitions, comments and questions from the public.	
5.	17/02755/1 LAND AT JUNCTION OF POTTERSHEATH ROAD AND DANESBURY PARK ROAD, WELWYN REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER Retrospective application for the change of use of land to use a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home and laying of hardstanding and erection of a timber fence.	(Pages 5 - 58)
6.	20/00970/FP LAND WEST OF 1 THE GREEN, ASHWELL ROAD, NEWNHAM, HERTFORDSHIRE REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER Erection of a terrace of 4 dwellings (2 x 3 bed and 2 x 4 bed) and new vehicular accesses onto The Green, associated car parking, landscaping and ancillary works.	(Pages 59 - 76)

7. PLANNING APPEALS
REPORT OF THE DEVELOPMENT AND CONSERVATION MANAGER

(Pages
77 - 84)

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ITEM NO:	
<u>Location:</u>	Land At Junction Of Pottersheath Road And Danesbury Park Road Welwyn
<u>Applicant:</u>	Mr Connors
<u>Proposal:</u>	Retrospective application for the change of use of land to use a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home and laying of hardstanding and erection of a timber fence
<u>Ref. No:</u>	17/02755/1
<u>Officer:</u>	Tom Rea

Date of expiry of statutory period: 29.12.2017

Reason for Delay (if applicable)

An extension of the statutory period for determining this application has been agreed with the applicants until 24th August 2020

Reason for Referral to Committee (if applicable)

This application was originally called in to Committee by Councillor S. Hemingway in the wider public interest. Cllr Hemingway is no longer a Councillor but in light of this call in and the level of public interest this planning application is being reported to the Committee at the discretion of the Development and Conservation Manager and to ensure continuity of decision making in relation to this site.

1.0 Relevant History

- 1.1 On 13th March 2013 NHDC issued an injunction order on part of the application site relating to the siting of caravans and residential use.
- 1.2 16/02460/1: Retrospective application for the change of use of land as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home, erection of two utility buildings, additional hardstanding, associated parking spaces, entrance gates, timber fence and ancillary works. Refused permission 19/1/17 for the following reasons:

The development represents inappropriate development in the Green Belt which causes harm to the Green Belt by reason of inappropriateness and harm to openness. In the opinion of the Local Planning Authority the applicant has not demonstrated sufficient very special circumstances to outweigh this harm. The development is therefore contrary to Policy 2 of the North Hertfordshire District Local Plan No. 2 – with Alterations and paragraphs 88-90 of the National Planning Policy Framework (NPPF).

An appeal was submitted on 23rd March 2017 against the above decision. A Public Inquiry was due to take place on 5th – 7th December 2017, however the appeal was withdrawn on 20th November 2017.

2.0 Policies

2.1 North Hertfordshire District Local Plan No.2 with Alterations (Saved Policies 2007)

Policy 2 - Green Belt

Policy 34 - Residential Caravans and Mobile Homes

Policy 55 - Car Parking Standards

Policy 57 - Residential Guidelines and Standards

2.2 National Planning Policy Framework (2019)

Generally relevant throughout although the following section is particularly relevant:

▣ Section 5 'Delivering a sufficient supply of homes'

▣ Section 13 'Protecting green belt land'

2.3 North Hertfordshire District Local Plan 2011-2031 Proposed submission (September 2016) incorporating the Main Modifications (November 2018)

Policy SP5: Countryside and Green Belt

Policy SP6: Sustainable transport

Policy SP8: Housing

Policy HS7 'Gypsies, Travellers and Travelling Show people'

Policy D3 'Protecting Living Conditions'

Policy NE9 'Contaminated Land'

ELP Background paper:

North Hertfordshire District Council Gypsy and Traveller Accommodation Assessment Update Final Report January 2018

2.4 Department for Communities and Local Government (DCLG) - Planning Policy for Traveller Sites August 2015

Relevant throughout and in particular Policy E: Traveller sites in the Green belt

2.5 Codicote Neighbourhood Plan

The Codicote Neighbourhood Plan are was designated on 24th June 2014. Consultation is currently being carried out by the Codicote Neighbourhood Forum. At present the Plan has no statutory weight.

3.0 Representations

The following representations have been received:

3.1 **NHDC Environmental Health Service:**

Contamination

Recommend a condition requiring confirmation of quantity and quality of surface cover material to garden area.

3.2 **Hertfordshire Highways:** Does not wish to restrict the grant of planning permission subject to a visibility condition.

3.3 **Highways England:** - 'Offer no objection'

3.4 **Codicote Parish Council:**

Advises that previous objection (to application 16/02460/1) still stands and make the following comments:

- ☐ Inappropriate development in the Green Belt (PC do not believe that there are any special circumstances to warrant this development)
- ☐ Loss of openness
- ☐ Refer to NHDC to the grounds on which the Appeal relating to planning application 17/00320/1 land at Gragil and 29 Danesbury Park Road, Welwyn was dismissed by the Planning Inspectorate (APP/X1925/W/17/3181783)
- ☐ Clarification is required on how many caravans and static homes per family are being applied for
- ☐ Inaccuracies on the site plan and description

3.5 **Welwyn Parish Council:** Objects to the application

3.6 **Woolmer Green Parish Council:** Objects to the application

3.7 **Hertfordshire Ecology:** No concerns have been identified, no ecological survey work is required and the application can be determined accordingly.

3.8 **NHDC Housing Supply Officer:** Advises that evidence from the Gypsy & Traveller Accommodation Study, undertaken by ORS in 2014, identifies a requirement for 7 additional pitches over the period to 2031. Advises that the 2 pitches at Pottersheath/ Danesbury Park Road would meet the planning definition for Traveller sites.

3.9 **NHDC Waste Management:**

Advises that refuse collection would be kerbside and that sufficient space appears to be available within the site for waste and recycling storage. Advises on waste collection distances for residents.

3.10 **Local residents: -**

The Local Planning Authority has received a number of representations from local residents objecting to the development (copies of the correspondence can be viewed on the web site under planning ref: 17/02755/1). The concerns raised include the following comments:

- ? Previous application was refused permission – no change in circumstances, no new evidence submitted
- ? Inappropriate development in the Green Belt, contrary to local and national planning policy
- ? Loss of openness
- ? No very special circumstances have been presented
- ? Granting permission would create a precedent for similar unauthorised development
- ? Not included in local plan
- ? Should be refused and site reinstated
- ? Consideration should be given to relationship to surrounding community
- ? Noise and disturbance
- ? Detrimental to quality of life
- ? Case should be escalated to Secretary of State
- ? Query how future usage of the site will be enforced
- ? Concern at environmental impact of fires,
- ? Increased HGV traffic in residential area
- ? In appropriate fencing / landscaping
- ? Injunction not enforced
- ? Residents not supportive
- ? Contrary to Planning Policy for traveller sites
- ? NHDC have provided for travellers in the area
- ? Resulted in waste of public funds and unnecessary costs to residents
- ? Could lead to adjoining site being developed for travellers
- ? If permitted conditions should be imposed to restrict the use
- ? Site being used for business purposes / migrant workers
- ? Interests of the children do not constitute special circumstances
- ? Need to consider A1 (M) smart motorway development
- ? Waste of taxpayers funds
- ? Contaminated land
- ? Impact on openness

3.11 Secretary of State for Housing, Communities and Local Government

On 24th January 2018 the Council received notice that the Secretary of State had been asked to consider a call-in of the current application in accordance with the call-in policy set out in the Written Ministerial Statement of 26th October 2012. The Secretary of State has requested that should the Local Planning Authority be minded to approve the application that it withholds the issuing of the decision until the Secretary of State decides on whether he wishes to call-in the application.

4.0 Planning Considerations

4.1 Site & Surroundings

- 4.1.1 The site is located at the junction of Danesbury Park Road and Pottersheath Road approximately 1.5 miles to the south east of Codicote. The site is irregular in shape and is approximately 0.15 hectares (0.37 acres). The site is relatively flat and enclosed by close boarded fencing and it contains several mature trees. The site has a corner vehicular access onto the junction of Danesbury Park Road and Pottersheath Road. The access is currently gated with the gates set back approximately 12 metres from the highway boundary. The eastern boundary of the site abuts the top of the embankment with the A1(M) motorway. The south western boundary adjoins a former quarry site, the last use of which was for agricultural uses including the rearing of poultry. The site is within the Green Belt

The surrounding pattern of development is characterised by mainly low density residential development and highway infrastructure. The area is well landscaped with a large amount of trees interspersed throughout the area. To the north of Pottersheath Road and east of the A1 (M) the area is more wooded in character particularly the Mardley Heath area north of the residential settlement of Welwyn Heath. To the south east of the site is a Scout Hut and to the south west, along Danesbury Park Road, a large private mobile home site comprising 42 static caravans (Woodlands Park Homes).

- 4.1.2 The A1 (M) essentially bisects the settlements of Pottersheath and Oaklands/Welwyn Heath and the carriageway is set down several metres from the application site and Pottersheath Road in a cutting running north - south.

4.2 Proposal

- 4.2.1 This planning application seeks retrospective consent for the change of use of the site from its former use as a poultry farm as a residential caravan for two gypsy families with two caravans and two static mobile homes, two utility buildings (although only one has been constructed), additional hardstanding, associated parking spaces, erection of timber fencing, entrance gates and additional landscaping. The application is retrospective as the use commenced with the introduction of caravans on the site on 18th October 2016. Currently on the site there are three caravans and one static mobile home.
- 4.2.2 In support of the application the applicant's agent has made the following points within a Planning Statement :-

- ☐ It is accepted that the development is inappropriate development in the Green Belt but that there are material considerations that outweigh the harm to the Green Belt
- ☐ No specific policy in current development plan that identifies and allocates gypsy and traveller sites
- ☐ The Council does not have a five year supply of sites
- ☐ The development is consistent with national policy or can be made so with appropriate planning conditions and obligations
- ☐ Limited weight can be attributed to the site's actual impact on the openness and purpose of the Green Belt
- ☐ There are material considerations in favour of the development – need for gypsy and traveller sites, lack of suitable sites, failure of policy, lack of five year supply. These outweigh harm and therefore permanent planning permission should be granted
- ☐ The personal circumstances of the applicants can be included as a material consideration in favour of the application
- ☐ Site would make a contribution towards the clear and immediate need for additional permanent privately owned gypsy and traveller sites in the District

4.2.3 The application is supported by the following documents:

1. Planning Statement
2. Environmental site assessment report
3. Noise Assessment report

4.2.4 In July 2020 an update was provided by the agents on the current personal circumstances of the applicants residing at the application site. This has confirmed that a number of children are living on the application site and that the applicants continue to meet the definition of travellers as identified in the PPTS (2015).

4.3 **Background and key issues**

4.3.1 Background

4.3.2 In considering this application it is important to take into account the history of the earlier application (ref: 16/02460/1) and the events that led to the submission of this second application seeking planning permission for use of the site as gypsy and traveller accommodation.

4.3.3 Planning application 16/02460/1 seeking retrospective permission for use of the site for two gypsy families was reported to the Council's Planning Committee on 18th January 2017. The officer recommendation was to grant a temporary 3 year planning permission personal to the applicants. The recommendation was based on the personal circumstances of the applicants, the best interests of the children living on the site, unmet traveller accommodation need and in the interests of facilitating the gypsy way of life. The application was refused permission, contrary to the officer recommendation, on the grounds of harm to the Green Belt through inappropriateness and harm to openness.

- 4.3.4 An appeal was submitted against the refusal of planning permission for application ref: 16/02460/1 and a Public Inquiry was scheduled to take place between 5th and 7th December 2017. In the lead up to the Inquiry additional information revealed that there had been a significant change in circumstances since the refusal of planning permission in January 2017.

These changes included a review of the Council's Gypsy and Traveller Accommodation Assessment which identified a need for additional pitches for travellers over the Plan period, further information regarding the personal circumstances of the applicants and advice that additional children were residing at the site.

At a meeting of the Council's Planning Control Committee on 12th October 2017 the Council's appointed expert planning witness for the Inquiry advised that in the light of the new information the Council's case at the scheduled Inquiry could not be defended. This view had been corroborated by Counsel advice obtained by Planning Officers on behalf of the Council.

After a lengthy debate the Planning Control Committee resolved to accept the officer recommendation that the Council should not defend the appeal but invite the Appeal Inspector to grant planning permission for application ref: 16/02460/1. Furthermore, the Committee resolved that the appellant should be invited to submit a further planning application to allow the Local Planning Authority to consider such an application in the light of the additional information available which included the personal circumstances of the occupiers of the site and the Council's interim Gypsy, Traveller and Show person Accommodation Assessment Update (2017). A copy of the Minutes of the Planning Control Committee meeting of 12th October 2017 is attached at **Appendix A**

- 4.3.5 On 3rd November 2017 the current application was submitted and the appeal relating to the earlier application (16/02460/1) was withdrawn on 20th November 2017 and the Inquiry cancelled.
- 4.3.6 The determination of the current planning application has been delayed primarily because of progress on updating the Council's Gypsy and Traveller Accommodation Assessment and the various stages that have occurred with regard to the Emerging Local Plan 2011 – 2031 which now proposes the allocation of the application site at Pottersheath Road as a Gypsy and Traveller site to accommodate 4 permanent pitches (Policy CD6 – Land at Woodside Place, Danesbury Park Road).
- 4.3.7 The key issues in the consideration of this application are considered as follows:
- ☐ Planning Policy
 - ☐ The impact of the development on the green belt
 - ☐ The impact of the development on the character and appearance of the area
 - ☐ Living conditions
 - ☐ Highway issues
 - ☐ Sustainability
 - ☐ The Planning Balance

4.3.8 Planning Policy

4.3.9 Planning Policy

The Government's Planning Policy for Travellers sites (PPTS) (August 2015) is a key national planning policy document applicable in this case. In addition paragraphs 143 - 145 of the NPPF are relevant in that they set the test and general criteria for considering development within the Green Belt.

Paragraph 60 of the NPPF also advises that the size, type and tenure of housing needed for different groups (including travellers) should be assessed and reflected in planning policies.

4.3.10 Paragraph 16 of the PPTS states that :

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

4.3.11 Paragraph 144 of the NPPF states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

The North Hertfordshire District Council Local Plan (Saved Policies) contains two particularly relevant policies – Policy 2 'Green Belt' which reflects general thrust of paragraphs 143 – 144 of the NPPF in terms of very special circumstances being required to justify inappropriate development and Policy 34 Residential Caravans and Mobile Homes. Policy 34 states that the Council may, in special circumstances, permit the use of land for mobile homes or caravans on a temporary basis if:

- (i) There is a proven need; and
- (ii) There will be little or no likelihood of a replacement application to renew the permission for a temporary period; and
- (iii) Particular attention has been paid to its siting, appearance, setting and landscaping

4.3.12 Since the submission of this application the Council has undertaken a significant amount of work in relation to making appropriate provision to meet the needs of Gypsies, Travellers and Travelling Show people in North Hertfordshire and to ensure that the Council's strategy complies with Planning Policy for Traveller Sites (PPTS 2015) advice that local planning authorities should use *'a robust evidence base to establish accommodation needs to inform the preparation of local plans'*. As such the Council commissioned a new Gypsy and Traveller Accommodation Assessment (GTAA) the final report being published in January 2018.

- 4.3.13 The Councils strategy for assessing and making provision for gypsies and travellers was examined at the Emerging Local Plan Hearings held between February and March 2018 under a document '*Matter 12 – The housing strategy: provision for gypsies, travellers and travelling show people (Policies SP8 and HS7)*'. A full copy of the paper Matter 12 is attached at **Appendix B** to this report. The document set out the need for four additional pitches over the Plan period to 2031 to meet the needs of the families currently at the Pottersheath Road site. Arising from these Hearing Sessions were a number of actions required by the Local Plan Inspector to require the Council to produce evidence including a capacity and sustainability assessment of the Pottersheath Road site and its suitability to meet the need for additional pitches arising over the whole of the Plan period.
- 4.3.14 In November 2018 the Council published the Proposed Main Modifications to the Submission Local Plan 2011 – 2031 and this included a proposed revision to Policy HS7 Gypsies, Travellers and Travelling Show people to revise the number of pitches required to meet the District's Gypsy and Traveller pitch needs up to 2031. This included an increase in the number of pitches at Pulmer Water to 8 permanent pitches (Policy CD4) and a new provision at Land at Woodside Place, Danesbury Park Road for 4 permanent gypsy and traveller pitches (Policy CD6).
- 4.3.15 In accordance with the Actions required by the Local Plan Inspector following the Matter 12 statement considered at the Local Plan Hearing Sessions between February and March 2018 the Council has produced an additional statement to be presented at the further round of Local Plan Hearing sessions (dates yet to be confirmed). This statement – '*Matter 25 – new land proposed for allocation through the main modifications MM139 & MM385 – Land at Danesbury Park Road as a Gypsy and Traveller site*' A full copy of this document is attached at **Appendix C** to this report. The statement sets out the reasons why the allocation is justified in terms of the local plan process and relevant policy but also sets out that there are exceptional circumstances that exist to warrant its allocation.
- 4.3.16 As already mentioned above in the background to this application the Local Planning Authority through the Council's Planning Control Committee has already resolved in October 2017 that there were very special circumstances apparent to support the grant of planning permission for the use of this site for gypsy and traveller accommodation for two families.
- 4.3.17 The personal circumstances of the families present on the site continues to provide a very strong case to support the grant of planning permission. Moreover, the evidence base now established by the Council through its GTAA Update 2018 reinforces the case for the granting of planning permission.
- 4.3.18 Summary
- 4.3.19 There is no doubt that the application for the use of the site for gypsy and traveller accommodation including the associated structures constitutes inappropriate development in the Green Belt and that it is harmful to openness. It is also contrary to one of the five purposes of the Green Belt in that it leads to encroachment into the countryside. However, there are material considerations in relation to this application including the personal circumstances of the applicants and the best interests of the children living on the site that are not well served by a refusal of planning permission.

Moreover, the Council has produced evidence through its GTAA 2018 that this site is required to meet the recognised need for gypsy and travellers over the Emerging Local Plan period (2011 – 2031).

4.3.20 The impact of the development on the Green Belt

4.3.21 The application site is in the Green Belt. Paragraph 133 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

4.3.22 The provision onto the site of two caravans and two static homes and two amenity buildings would significantly change the open character of the site and this openness has been further eroded by the replacement fencing which is of approximately 2.0 metres in height along the Pottersheath Road and Danesbury Park Road frontages. In mitigation it is acknowledged that the mobile homes and amenity buildings would be sited, according to the site layout plan, towards the rear A1 (M) boundary and the adjoining quarry site and set back from the gated entrance into the site. It is also accepted that the site was previously enclosed albeit by a lower approximately 1.2m high timber fence.

However, the change of use together with the resultants structures results in the loss of open character to the site. Even taking into account the prevailing pattern of development including the location of the A1 (M) and the nearby housing and mobile home site along Danesbury Park Road the development has a significantly adverse impact on openness.

Apart from harm by way of inappropriateness the development is contrary to one of the five purposes of Green Belts i.e. it would fail to assist in safeguarding the countryside from encroachment.

4.3.23 Summary

4.3.24 The development fails to comply with the fundamental characteristic of Green Belts which is their openness and their permanence.

4.3.25 The impact on the character and appearance of the area

4.3.26 There is a mixed character to the area within which this site is located. To the north is the low density housing forming the settlement of Pottersheath with a linear pattern of development along Pottersheath Road. To the south immediately beyond the site and A1(M) motorway is the urban settlement of Welwyn Heath. To the east is the more open pattern of fields and woodland forming part of Mardley Heath. The adjoining former quarry site contains a number of trees and shrubs and acts as a landscape buffer on approaches to the site along Danesbury Park Road. Beyond the quarry site is the Danesbury Park mobile home site containing a large number of static caravans.

4.3.27 The application site was, prior to the occupation in October 2016, predominantly open in character and well landscaped containing several mature trees, although it was partly enclosed with a low timber fence. The site is now more enclosed with a 2 metre high fence continuous along all of the site boundaries. The utility room and various mobile homes and caravans are partly visible above the fence line.

4.3.28 Policy H ('Determining planning applications for traveller sites') advises (at paragraph 26) against enclosing a site with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community. In this case the boundary fencing is softened by shrub planting along the external boundary and there are no walls. That said, the site does give the impression of containment and isolation particularly with the fencing and front gates. This needs to be balanced against the reasonable security and welfare needs of the families especially in view of the fact that there are several young children living on the site.

4.3.29 Summary

4.3.30 The development is not inconsistent with the general density of the surrounding residential properties. However features of the site such as the high boundary fencing and gates are not consistent with the prevailing pattern and form of development and as such do detract from the character and appearance of the locality.

4.3.31 **Living conditions**

4.3.32 There are just two immediately adjacent residential properties – 'Grey Shingles' and 'The Chase' located on the opposite side of Danesbury Park Road. The main aspect and pedestrian and vehicular entrance to 'Grey Shingles' faces onto Pottersheath Road and therefore the property does not overlook the application site.

The Chase is a detached property set back from Danesbury Park Road and behind substantial vegetation along its front boundary. Its position to the west of the application site and behind screening means that the occupiers of the property are unlikely to overlook the site or be significantly affected by the change of use to caravan site .

4.3.33 A number of concerns have been raised by local residents that the site is not fit for human habitation through contamination and noise from the nearby A1 (M). As such the applicant has commissioned a contamination survey and noise report. In terms of the contamination survey the Council's Environmental Protection Officer is satisfied that there are no ground conditions that will have a detrimental effect on human health. Low levels of non-volatile materials were discovered during site investigation works and the intention is to cover over the designated play area with 600mm of clean material. The majority of the remainder of the site is hardsurfacing set aside for the siting of the mobile homes and parking. In terms of the noise survey the results have revealed that the noise levels within the mobile homes will meet the standards required under BS 3632 and BS 8233 in terms of sound insulation. The provision of the 2.2m high acoustic fence along the A1 (M) boundary will assist in external noise reduction. The Council's Environmental Health officer raises no objections in terms of the noise impact on the development

4.3.34 Summary

- 4.3.35 The living conditions of both the applicants living on the site and the surrounding residents are considered to be acceptable

4.3.36 **Highway issues**

The residential use of this site utilises a previous vehicular access point used in association with the former agricultural use of the site. Traffic movement at the Pottersheath Road / Danesbury Park Road junction is relatively light and the use itself generates comparatively low levels of vehicular movement. The Highway Authority has not objected to the development subject to the provision of specified visibility splays.

- 4.3.37 In terms of parking provision the submitted site layout plan indicates a turning area within the site so that cars can leave in forward gear and there would be two parking spaces for each dwelling within the site. Refuse collection is via a kerbside collection and the required amount of refuse and waste recycling bins can easily be accommodated on the site.

4.3.38 Summary

- 4.3.39 The Highway Authority considers that the use would not have an unreasonable impact on the safety and operation of the adjoining highway. Given this advice it is concluded that there are no highway grounds on which to object to the development or use.

4.3.40 **Sustainability**

- 4.3.41 The site has been checked against sustainability criteria as part of the allocation process through the Emerging Local Plan and found to be a suitable location in terms of the required infrastructure and services needed.
- 4.3.42 There are positive economic and social benefits from the development. The occupiers are employed locally in the landscaping business, the use meets an identified housing need and children attend local schools and nurseries.

No objections are raised on environmental grounds by the statutory consultees. Whilst there may be reliance on the car to access the full range of facilities, public transport options are available nearby and the site is within walking distance of local shops, a primary school and some other services.

4.3.43 Summary

- 4.3.44 The economic, social and environmental objectives necessary to achieve sustainable development as required by paragraph 11 of the NPPF can be delivered as part of this development.

4.3.45 The Planning Balance

- 4.3.46 It is clear that the use of the land as a residential caravan site, together with associated structures is inappropriate development in the Green Belt and there would be a loss of openness and encroachment into the countryside. Significant weight must be attached to this harm. Consideration should therefore be given as to whether this harm is outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development
- 4.3.47 The Council has, through a review of its Gypsy, Traveller and Show person Accommodation Assessment (GTAA Update 2018), established a requirement to allocate the Pottersheath site to accommodate 4 permanent pitches (Policy CD6 – Land at Woodside Place, Danesbury Park Road). This has been based on a robust and defensible evidence base on the accommodation needs of Gypsies and Travellers in North Hertfordshire District for the Emerging Local Plan period up to 2031. This evidence has shown that the need at Pottersheath Road is over and above that to be met at the only other authorised gypsy and traveller site in the District at Pulmer Water (site CD4). The Council has followed the guidance in Planning Policy for Traveller sites (2015) in identifying and updating annually a supply of deliverable sites to provide for the Plan period. It is considered that the GTAA evidence must weigh heavily in favour of the use of the Pottersheath Road site as a Gypsy and Traveller site.
- 4.3.48 There are no policies in the adopted local plan concerning the provision of appropriate sites for gypsies, travellers and show people. Whilst this is now being positively addressed in the Emerging Local Plan allocations there has been a failure of policy with the current development plan which adds significant weight in favour of the application.
- 4.3.49 The granting of planning permission would facilitate the traditional gypsy way of life and their protected characteristics in accordance with statutory legislation. The families also require a settled base to enable children to benefit from local education and healthcare. There are other personal circumstances such as local employment and that the families have no alternative housing accommodation. The best interests of the children living on the site would not be well served by a refusal of planning permission. These personal circumstances weigh in favour of the grant of planning permission.
- 4.3.50 Taking all the above matters into account it is considered that the harm to the Green Belt by reason of inappropriateness, a loss of openness and encroachment into the countryside is outweighed by other material circumstances which can be summarised as follows:
- ☐ The lack of a five year-year supply for gypsies and travellers;
 - ☐ The personal circumstances of the families;
 - ☐ The protection of the characteristics of the Gypsy way of life
 - ☐ The best interests of the children

In October 2017, the Council were of the view that very special circumstances existed that outweighed the substantial harm caused to the Green Belt by the use of the site for residential caravans. This because of the GTAA review and the level of identified housing need, the personal circumstances of the applicants and the best interest of the children. The case for the granting of a permanent planning permission in respect of the current application is arguably more compelling now given the evidence base of housing need, the continued personal circumstances of the families and that this would be in the best interests of the children living on the site.

- 4.3.51 Notwithstanding the convincing case for the grant of a permanent planning permission it is acknowledged that the Local Plan Examination has not yet concluded and the Plan is not yet adopted. It would not be appropriate to undermine this process even though it is at an advanced stage. However, it would be reasonable to assume that the Plan will be adopted within two years. A temporary two year permission is therefore recommended.

4.3.52 **Enforcement action**

- 4.3.53 The LPA had suspended any enforcement action with respect to the unauthorised occupation of this site until the outcome of this planning application was known. However, due to the length of time it has taken to resolve this matter should the LPA decide to refuse planning permission or the Secretary of State decide to call-in the application it will be necessary to commence enforcement action to prevent a lawful use of the site being established.

4.4 **Conclusion**

- 4.4.1 A decision on this application has been delayed while the Council has been assessing the number of Gypsy and Traveller pitches required to meet the District's needs up to 2031. The Council's evidence base set out in its GTAA 2018 follows the work of independent experts and a methodical approach that has been tested both at planning appeals and local plan examinations and found to be sound (source: Matter 12 document, NHDC Emerging Local Plan hearing papers).

This process conducted as part of the Local Plan Examination has led the Council to recommend to the Local Plan Inspector that the Pottersheath site is allocated for the provision of four permanent Gypsy and Traveller pitches (site CD6 as part of Policy HS7).

- 4.4.2 In addition to the evidence of need mentioned above there remain compelling personal circumstances of the families currently residing on the site and as such it is considered that the grant of planning permission would also be in 'the best interests of the child' as referred to in the PPTS 2015.
- 4.4.3 I recommend that a temporary planning permission be granted for the retrospective change of use of land to use as a residential caravan site for two gypsy families, each with two caravans including no more than one static mobile home each, erection of two utility buildings, additional hardstanding, associated parking spaces, erection of entrance gates, timber fence and ancillary works in accordance with the details submitted with the planning permission and subject to conditions. I consider that a temporary permission is proportionate and justified in the circumstances.

5.0 Recommendation

- 5.1 That planning permission be **GRANTED** subject to the application being referred to Secretary of State for Housing, Communities and Local Government and the following conditions:

1. The development hereby permitted shall be for a limited period being for a period of 2 years from the date of this decision. At the end of this period the use hereby permitted shall cease and all caravans, static mobile homes, buildings, structures, materials and equipment brought onto or erected on the land, or works in connection with the use shall be removed and the land restored to an open condition in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

Reason: The use is granted on a temporary basis only due to the very special circumstances that are apparent and which override the normal presumption against granting inappropriate development in the Green Belt.

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. There shall be no more than four caravans stationed on the site of which no more than 2 shall be a static caravan.

Reason: In the interests of visual amenity

4. No commercial activities shall take place on the site including the storage of materials

Reason: In the interests of visual amenity

5. The development shall be carried out in accordance with the details submitted Noise Assessment by LF Acoustics, Report ref Welwyn Noise 151216 (December 2016). The caravans shall meet the Park Home Specification BS3632:2015.

Reason: To protect the residential amenities of the residents.

6. The garden area forming part of the site shall not be used until written evidence is submitted to and agreed by the Local Planning Authority to demonstrate that the surface cover material imported to the garden area has been applied to a depth of 600mm and has been verified as chemically suitable. The surface cover material shall be imported and laid out on the site and the details submitted within two months of the granting of planning permission.

Reason: To ensure that any contamination affecting the site is dealt with in a manner that safeguards human health.

7. Within two months from the granting of planning permission, vehicle to vehicle visibility splays of 2.4 metres by 43 metres to the right of the access along Pottersheath Road and 2.4 metres by 27.5 metres to the left of the access along Danesbury Park Road shall be provided and permanently maintained (as indicated on the amended site plan). Within which there shall be no obstruction to visibility between 0.6 metres and 2.0 metres above the carriageway. 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.

8. The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of the Planning Policy for traveller sites (PPTS) 2015

Reason: To accord with the very special circumstances relevant to this application and the recommendations of the Council's Gypsy and Traveller Accommodation Assessment January 2018

Proactive Statement:

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

NORTH HERTFORDSHIRE DISTRICT COUNCIL

PLANNING CONTROL COMMITTEE

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

MINUTES

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

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

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

66 APOLOGIES FOR ABSENCE

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

Councillor Val Shanley was substituting for Councillor Michael Muir.

67 MINUTES - 14 SEPTEMBER 2017

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

68 NOTIFICATION OF OTHER BUSINESS

There was no other business notified.

69 CHAIRMAN'S ANNOUNCEMENTS

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

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

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

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

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

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

70 PUBLIC PARTICIPATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This was the playing field in which the public inquiry would meet and the issues that the Council would be required to provide evidence to assist the Inspector in reaching a decision

as to whether to allow or dismiss this appeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The reason for refusal identified the inappropriateness and the harm to the openness and Members were entitled to carry out that planning balance and to conclude that the planning balance in favour of granting permission at that time did not amount to very special circumstances and thus refuse permission.

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

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

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

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

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

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

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

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

In January it was considered that the best needs of the 4 children living on the site did not give rise to special circumstances that outweighed the harm to the green belt. The material change

to those circumstances was the additional of one child and the health issues of resident on the site. This did not demonstrate that planning permission would be granted on appeal.

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

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

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

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

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

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

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

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

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

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

who stops the traffic in the street to threaten your health after you have spoken to the Planning Control Committee.

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

The Chairman thanked Parish Councillor Gregory for her presentation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLVED:

- (1) That officers be authorised to write, without delay, to the Planning Inspectorate to confirm that, in light of a material change in circumstances, North Hertfordshire District Council as Local Planning Authority would be inviting the appointed inspector to grant conditional planning permission;
- (2) That officers be authorised to write, without delay, to all those who submitted representations to the Local Planning Authority prior to the determination of the planning application and to those third parties who have registered to appear at the Public Inquiry of the Local Planning Authority's decision, setting out the reasons for this decision;
- (3) That officers be authorised to write to the Appellant, without delay, to invite a planning application similar to that originally submitted (planning ref: 16/02460/1) so that the Local Planning Authority can consider such an application in the light of information now available which includes the personal circumstances of the Appellant and occupiers and the Council's interim Gypsy, Traveller and Showperson Accommodation Assessment Update (2017);
- (4) That, subject to the receipt of a re-submitted planning application, officers be authorised to write to the Planning Inspectorate to suggest that it is no longer necessary to hold a public inquiry and/or to request that the appeal/Public Inquiry is held in abeyance pending the outcome of the Local Planning Authority's decision on the re-submitted planning application. In the circumstances that the appeal is to proceed, officers be authorised to make representations on a change in appeal procedure to a written appeal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

He asked Members to refuse permission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Chairman thanked Mr Booth for his presentation.

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

Members referred to Paragraphs 3.7 and 4.3.29 of the report regarding Highways and expressed disappointment that the dangers regarding the junctions and traffic were not supported by reasons for refusal. They were surprised that no objections had been raised considering the comments made regarding the suitability of parking on the site and the limits

of highway adoption given the road layout and further that they appeared to be agreeing to roads that were unacceptable.

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

It was proposed, seconded and

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

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

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

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

St Ippolyts Parish Council had submitted the following comment:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Chairman thanked Mr Hawkins for his presentation.

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

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

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

There were currently three other proposals which were all in the green belt being Newcastle, Tilbury and Rayleigh, this is because these locations were where support was needed and

there were no alternatives.

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

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

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

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

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

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

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

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

Members asked for clarification regarding the need for demand.

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

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

The Chairman thanked Mr Troup for his presentation.

Members asked for clarification regarding pollution

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

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

It was proposed, seconded and

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

74 PLANNING APPEALS

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

RESOLVED: That the report entitled Planning Appeals be noted.

75 EXCLUSION OF PRESS AND PUBLIC

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

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

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

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

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

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

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

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

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

The meeting closed at 9.54 pm

Chairman

Examination of the North Hertfordshire Local Plan (2011-2031)

Examination hearing sessions

Statement of North Hertfordshire District Council

Matter 12 – The housing strategy: provision for gypsies, travellers and travelling showpeople (Policies SP8 and HS7)

Issues

12.1 Is the Gypsy, Traveller and Showperson Accommodation Assessment Update (July 2014) [HOU10] a robust assessment of the accommodation needs of travellers in the District? From my reading, it covers the period 2013 to 2031 – is that correct? Does this timeframe have any implications for the soundness of the Plan?

1. The 2014 Gypsy, Traveller and Showperson Accommodation Assessment (GTAA) was completed under guidance set out in Planning Policy for Traveller Sites (2012) (PPTS) and met the requirements of Sections 225 and 226 of the 2004 Housing Act (Accommodation needs of Gypsies and Travellers). It also met the requirements of the National Planning Policy Framework (2012).
2. In August 2015, the PPTS was amended to differentiate between travellers who have permanently ceased to travel and those that continue to travel, or have ceased travelling temporarily. To take account of this change a new Gypsy and Traveller Accommodation Assessment (GTAA) was commissioned in 2017 and published in 2018. This GTAA covers the 15 year period from 2017 to 2032 but has also considered the need arising within the period to 2031 so it aligns with the Local Plan period. It therefore considers the need for the remaining Local Plan period. This document is available as ED60 and supersedes HOU10.
3. The objectives of the GTAA are to provide the Council with a robust and defensible evidence base on the accommodation needs of Gypsies, Travellers and Travelling Showpeople for the period to 2032 and also for the Local Plan period to 2031.
4. The assessment has been carried out by independent experts, ORS, and followed a methodological approach that has been tested at both planning appeals and local plan examinations¹ and found to be sound. The assessment included a mixture of quantitative and qualitative research with members of the Travelling Community and local and regional stakeholders, as well as a comprehensive assessment of current and future pitch requirements.
5. The PPTS, states that local planning authorities should identify and update annually a supply of deliverable sites sufficient to provide for 5 years' worth of sites against their

¹ Including the Local Plan for Maldon and the Joint Core Strategy for Cheltenham, Gloucester and Tewkesbury.

locally set targets, and identify sites or broad locations, for years 6-10 of the plan and where possible sites or broad locations for years 11-15 [PPTS para.10 a and b].

6. The PPTS states that local planning authorities should use a 'robust evidence base to establish accommodation needs to inform the preparation of local plans' [PPTS para. 7c.]. The 2014 GTAA identified a need for 7 pitches between 2013 and 2031, this is covered by the proposed allocation within HS7 [HOU10 para 4.2]. The survey for the 2018 GTAA included an additional family who had moved in to North Hertfordshire since 2014. The 2018 GTAA identifies a need for 10 pitches for travellers that meet the new planning definition and no need for any identified pitches for unknown households who may meet the planning definition or those that no longer meet the planning definition. For clarity, the figure of 10 pitches supersedes the figure identified in the 2014 GTAA for 7 pitches.
7. The key implication for the Local Plan is that 8 of the 10 pitches are required in years 1-5 (2017 to 2022). This means that the local planning authority should identify suitable sites to meet this need.

12.2 The definition of 'Gypsies and Travellers' used in the national Planning Policy for Traveller Sites now omits from this definition people who have ceased to travel permanently. The Gypsy, Traveller and Showperson Accommodation Assessment Update (July 2014) appears to be based on an earlier definition which includes people who have ceased to travel permanently.

a) Is that correct?

8. Yes. The 2014 Gypsy and Traveller and Accommodation Assessment (GTAA) was based on a definition of Gypsies and Travellers that includes people who have ceased to travel permanently. It was completed to meet the requirements of sections 225 and 226 of the Housing Act (2004) and PPTS (2012).
9. ED60 can be relied upon as identifying the needs for North Hertfordshire using the new planning definition. The statement of common ground / memorandum of understanding for Luton [ED18, p.8]; for East Hertfordshire [ED13, para 5.7], St Albans [ED7, para 4.1], Stevenage [MOU11, para 4.1] Welwyn Hatfield [MOU7, para 6.14] South Cambridgeshire [MOU10, para 4.5], Central Bedfordshire [MOU 8, para 5.9] confirm that there is no requirement for North Hertfordshire to meet the traveller housing needs from these districts.

b) What are the implications of this?

10. The outcomes of the 2014 assessment do not comply with the requirements set out in PPTS (2015) as they do not differentiate between households that meet the current planning definition and those that do not. ED60 supersedes the 2014 GTAA. Therefore

there are no implications for the plan as the up to date assessment sets out the need to be met based on the current planning definition of a Traveller.

c) What are the needs of gypsies, travellers and travelling showpeople based on the definition used in current Government policy?

11. ORS conducted surveys and interviews and Figure 7 below sets out the planning status of households in North Hertfordshire.

Site Status	Meet Planning Definition	Unknown	Do Not Meet Planning Definition
Gypsies and Travellers			
Private site	1	0	0
Residential caravan site	1	0	1
Unauthorised sites	2	0	0
Bricks and mortar	0	0	2
TOTAL	4	0	3

[ED60 Figure 7, p28]

12. Figure 7 shows that for Gypsies and Travellers 4 households meet the planning definition of a Traveller in that ORS were able to determine that they travel for work purposes and stay away from their usual place of residence, or have ceased to travel temporarily. A total of 3 Gypsy and Traveller households do not meet the planning definition as they were not able to demonstrate that they travel away from their usual place of residence for the purpose of work, or that they have ceased to travel temporarily due to children in education, ill health or old age. Some did travel for cultural reasons, to visit relatives or friends, and others had ceased to travel permanently – these households did not meet the planning definition.

13. The 4 households that meet the planning definition are presently located on the private site, the residential caravan site and an unauthorised site.

14. Analysis of the household interviews completed at the private site indicated that there is a current need for the 6 presently unauthorised pitches. The six pitches are unauthorised due to the lapse in March 2017 of the temporary planning permission for

the pitches. There is a future need for 2 additional pitches as a result of new household formation (based on the demographics of the residents). There are 2 vacant pitches on the site to accommodate future need and the site owner is applying for planning permission to extend the temporary consent for the presently unauthorised pitches.

15. Analysis of the household interviews completed at the unauthorised site indicated that there is a current need for the 2 pitches that are presently sited there but unauthorised, and future need for 2 additional pitches as a result of new household formation (based on the demographics of the pitch residents) over the 15 year GTAA period to 2032.
16. Therefore, it can be seen from figure 8 below that there is an overall need for 12 pitches but that there are also 2 vacant pitches in the area. Therefore the overall level of additional need for those households who meet the planning definition of a Gypsy or Traveller is for 10 additional pitches over the 15 year GTAA period. See Figure 8 below.

Gypsies and Travellers - Meeting Planning Definition	Pitches
Supply of Pitches	
Additional supply from vacant public and private pitches	2
Additional supply from pitches on new sites	0
Pitches vacated by households moving to bricks and mortar	0
Pitches vacated by households moving away from the study area	0
Total Supply	2
Current Need	
Households on unauthorised developments	8
Households on unauthorised encampments	0
Concealed households/Doubling-up/Over-crowding	0
Movement from bricks and mortar	0
Households on waiting lists for public sites	0
Total Current Need	8
Future Need	
5 year need from older teenage children	0
Households on sites with temporary planning permission	0
In-migration	0
New household formation	4
<i>(Formation from household demographics)</i>	
Total Future Needs	4
Net Pitch Need = (Current and Future Need – Total Supply)	10

[ED60 Figure 8, p29]

17. The need for the provision of pitches in five-year Local Plan periods is as follows in Figure 9.

Years	0-5	6-10	11-14	15	Total
	2017-22	2022-27	2027-31	2032	
Pitches	8	1	1	0	10

[ED60 Figure 9, p30]

18. Note, there were no Gypsy or Traveller households in North Hertfordshire where it was not possible to complete an interview, or to obtain robust data about pitch residents.

d) If the answer to the preceding question is not known, is it necessary to update the evidence to ensure that the Plan is consistent with national policy and properly justified?

19. This question is no longer relevant due to the 2018 GTAA being PPTS (2015) compliant. The evidence base has therefore been updated.

12.3 In light of the previous questions, will the seven permanent pitches allocated at Pulmore Water ensure that the need for gypsy, traveller and travelling showpeople accommodation is met?

20. Rather than a need for 7 permanent pitches there is now a need for 10 additional permanent pitches for the period to 2032. The figure of 7 pitches is therefore superseded by the 2018 GTAA. Figure 8 above identifies a need for 8 pitches to accommodate existing families on unauthorised developments in the first five years of the assessment period to 2022. Of this 8, 6 are for families currently at the Pulmore Water site and 2 are for families currently at the Pottersheath Road site. For clarity, Table NHDC 1 provides the information on need and supply.

Years	0-5	6-10	11-14	15	Need	Supply	Total
	2017-22	2022-27	2027-31	2032			
Pottersheath Road	2	1	1	0	4	0	4
Pulmore Water	6	1	1	0	8	2	6

NHDC Table 1 [Based on 2018 GTAA]

21. 2 pitches are needed in years 6-10 and 2 pitches are needed years 11-15 for family expansion on both sites. Figure 9, at paragraph 17 above shows 1 pitch is required in years 6-10 and 1 pitch is required for years 11-15. This because there are already two vacant pitches at Pulmore Water so this need is already catered for and the need to physically provide pitches for family expansion is therefore only relevant at Pottersheath Road. NHDC Table 1 above indicates the supply at Pulmore Water netting off the need to that site from 8 to 6.
22. The proposed allocation at Pulmore Water will ensure that the need for Gypsy and Travellers accommodation arising from residents of Pulmore Water will be met over the plan period. The needs at Pulmore Water are for 6 unauthorised pitches to become lawful and authorised plus two additional sites for family expansion. This totals a need for 8 pitches – however as there are two vacant sites at Pulmore Water, the actual provision required is 6.
23. The unauthorised development at Pottersheath Road has a need for 2 pitches in the period to 2022 to become lawful and permanent. There is also a need for 2 pitches for family expansion for the period to 2031. Therefore, there is a need for 4 pitches to accommodate the families currently at Pottersheath Road now and in the future and within the plan period.

12.4 Is the allocation of the seven permanent pitches at Pulmore Water soundly based? What site selection process has been followed, and why has this site been chosen?

24. The allocation of the pitches at Pulmore Water is soundly based on the most up to date evidence available for plan making at the time of submission of the plan. The need for provision at Pulmore Water was based on a robust site selection process that was based on the recognition that a site owned by a travelling family will always be preferable to public or third party ownership and that to seek an alternative site for the family would require the purchase of another site when the family are already suitably accommodated. The site selection process therefore focussed primarily on the sustainability of the site to meet the aims of the plan and the suitability of the site to meet the needs of the family to the end of the plan period. A flow chart showing the site selection process followed has been appended to this statement.
25. The Proposed Submission Local Plan relied on the 2014 GTAA. The families at Pottersheath Road were identified as new families by the 2018 GTAA. A map showing the location of Pottersheath Road is attached at Appendix 2 to this statement. The families at Pottersheath Road own the land upon which they are currently unauthorised to reside. The Council therefore proposes to test this site using the same methodology as for Pulmore Water. If the site is found to be suitable it can then be promoted as an allocation at Pottersheath Road and as a main modification. This would enable the sites potential release from the Green Belt to be considered appropriately through the

Local Plan process. This will enable proper consultation, and a Sustainability Appraisal to be undertaken. As the Council has identified a need arising within the first years of the Local plan the need should be provided for in the Local Plan.

12.5 Have all sites put forward for allocation been considered through the SA? Is the SA based on appropriate criteria and is it a robust and sound base of evidence?

26. Only one site was put forward for the accommodation of travellers. This site², called Pulmore Water, is the only reasonable alternative identified. It was subject to the SA site assessment process described under matter 9.1. A summary and details of the assessment are included in Appendix 6 of the Submission SA (LP4, Appendix 6, p508). The SA would need to be updated and consulted upon for Pottersheath Road.

12.6 What process or methodology has been used to select land for allocation? In particular:

- a) Have all sites put forward for allocation been considered through the process/methodology? Has the testing of reasonable alternatives been robust?**
- b) Have sites been discounted from possible allocation for any reason (for example, through the use of site size thresholds)? If so, are all of the reasons for excluding sites justified?**
- c) Aside from any reasons for excluding sites, has greater weight/importance been given to any site selection criteria over others and if so what is the justification for this 'weighting'?**
- d) Have all constraints been taken into account?**
- e) Have alternative uses been considered?**

27. The methodology for the site selection of Pulmore Water was based on a pragmatic view of the practicalities of asking a family resident on a site in their ownership to move to an alternative site. The main constraint to the allocation of the site was the capacity of the site to accommodate all the pitches required to the end of the plan period. To establish the capacity of the site a capacity assessment of the site was undertaken (HOU11). This capacity assessment found that there existed sufficient space on the Pulmore Water site to make appropriate accommodation for all members of the extended family to the end of the plan period through the allocation of the area shown on the policies map identified by Policy HS7. This remains the position in light of the GTAA 2018.

28. In regard to Pottersheath Road the families are currently residing on land they own and no additional sites for travellers have been submitted to the Council. A planning application to temporarily regularise the unauthorised development for three years was refused against officer advice on January 18, 2017. This decision was appealed and a Public Inquiry was due to take place on 5-7 December 2017. However, a meeting of

² LP4, pp 98-99, Site CD4 Land at Pulmore Water, St Albans Road, Codicote.

the Planning Committee on September 6, 2017 concluded that in the light of the very special circumstances, material weight could be given to provide temporary planning permission to the families at Pottersheath Road. Officers were authorised to invite the Inspector at the Appeal to grant conditional planning permission. In response to this the applicant withdrew their Appeal and submitted a new Planning Application for temporary planning permission which is expected to be determined February 15, 2018.

29. The Council intends to carry out an assessment, similar to that at Pulmore Water to evidence if an allocation at Pottersheath Road is justified.

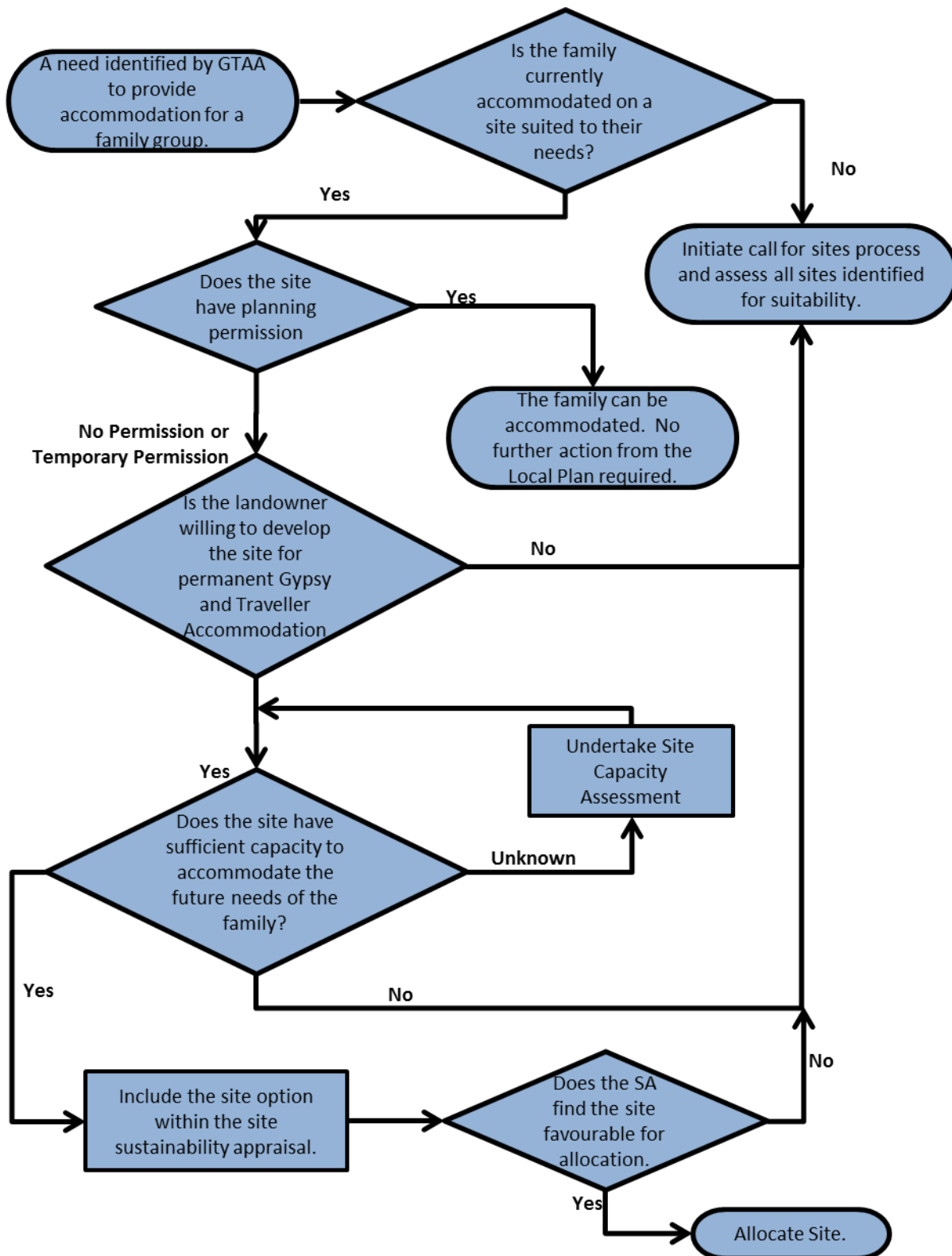
12.7 Overall, has the SA of sites and the selection process been appropriate and robust?

30. Please see answer to Question 12.5 above.

12.8 Are the criteria set out in Policy HS7 consistent with national policy and guidance?

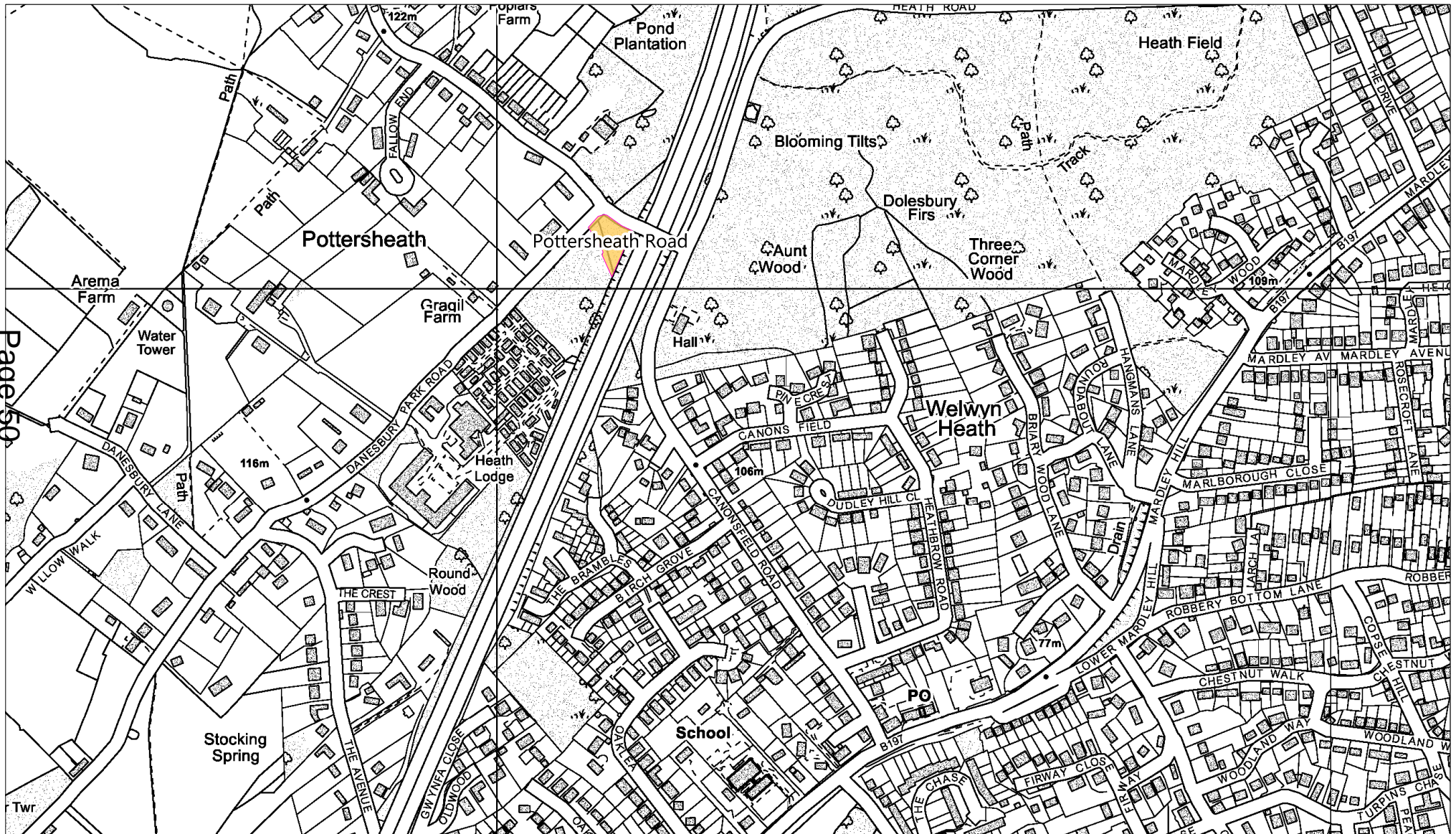
31. The principles behind Policy HS7 are considered to be consistent with national policy and guidance as set out in the PPTS (2015). The policy includes an allocation to meet the level of need that was identified in the 2014 GTAA. This meets the requirements of the PPTS.
32. The policy then includes a set of criteria to determine any further applications that are submitted for additional Gypsy and Traveller pitches and Travelling Showpeople plots. This is also consistent with the requirements of the PPTS. If a main modification is made to incorporate the traveller site at Pottersheath Road, and this was found sound, it would be added Policy HS7.

Appendix 1: Site Selection Flowchart





Gypsy & Traveller Site - Pottersheath Road



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Date: 12:01:18

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Examination of the North Hertfordshire Local Plan (2011-2031)
Examination hearing sessions
Statement of North Hertfordshire District Council

**Matter 25 – new land proposed for allocation through the main modifications
MM139 & MM385 – Land at Danesbury Park Road as a Gypsy and Traveller site**

Question 25.1 For each of the new areas of land proposed through the main modifications:

a) Is the inclusion of the new area of land for allocation necessary for soundness?

1. Yes, for the reasons previously set out in the Council's [Matter 12 statement](#) and [ED149](#). The Plan as submitted is not positively prepared, justified, effective nor consistent with national policy on this matter.
2. The Council's Matter 12 statement explained that, following the submission of the Plan, a revised and updated Gypsy and Traveller Accommodation Assessment (GTAA, [ED60](#)) had been published. The updated GTAA identified a need for 10 net additional pitches for travellers meeting the definition set out in national policy. This assessment is a sound assessment of future need. It follows the requirements of national policy and uses a robust methodology that has been found sound at numerous Local Plan examinations.
3. As a result of this assessment the Council identified a need for four additional pitches over the Plan period to 2031 to meet the needs of the families currently at the Pottersheath Road site (NHDC Matter 12 Statement, p.5, paragraph 20 & Table 1).
4. This need was in addition to the pitch requirement arising from, and to be met at, the existing, private Gypsy and Traveller site at Pulmer Water, Codicote. This was included as a proposed allocation in the submitted version of the Plan.
5. Paragraph 10 of the Government's [Planning Policy for Traveller Sites](#) (PPTS) identifies, among other matters, that Councils should identify a supply of specific deliverable sites to provide five-year's worth of sites and a supply of specific, developable sites or broad locations for growth for years 6 to 10 and, where possible, for years 11-15.
6. The updated GTAA identified an immediate need for two pitches to meet current needs arising from the families currently at the Pottersheath Road site (i.e. within the five year period which demands specific deliverable sites to be identified) with a further need for two additional pitches arising over the remainder of the Plan period ([ED60](#), p.29, paragraph 6.19).
7. The Council's Matter 12 statement set out a site identification and selection methodology. In particular this took a pragmatic view of the practicalities of asking a family resident on a site in their ownership to move to an alternative site (NHDC Matter

12 statement, Paragraphs 24 and 27 and Appendix 1). There has been no suggestion from this Inspector that this general methodological approach is unsound. This approach reflects the Government's aims in Paragraph 4(e) of the PPTS to promote more private traveller site provision.

8. Arising out of this hearing session, the Inspector identified a series of actions for the Council. These are listed on the cover sheets of ED149 and are addressed in the remainder of that document and the relevant proposed Main Modifications. As part of this work the Council produced an additional note explaining the strategy for meeting the identified needs and demonstrating that this site had sufficient capacity to accommodate the identified needs in accordance with the Matter 12 methodology. This included a sustainability appraisal of the site (ED149, Appendix M12-2).

b) Is the new area of land proposed deliverable? In particular, is it

i) confirmed by all of the landowners involved as being available for the use proposed?

9. Yes. The land is owned by the current occupiers. A retrospective planning application for the change of use of this land to a Gypsy and Traveller site has been submitted and is under consideration (NHDC reference 17/02755/1).

ii) supported by evidence to demonstrate that safe and appropriate access for vehicles and pedestrians can be provided?

10. Yes, the site has frontage onto both Danesbury Park Road and Pottersheath Road. No objection has been made by Hertfordshire County Council as highway authority to proposed Main Modifications MM139 and MM385. The highway authority did not object to a previous planning application for use of this land as a Gypsy and Traveller site.

iii) deliverable, having regard to the provision of the necessary infrastructure and services, and any environmental or other constraints?

11. Yes, as explained in Paragraphs 7 and 8 above, the site has been considered through the site selection methodology and sustainability appraisal and is considered a suitable location for development having regard to potential constraints. This is expanded upon in answer to Issue (c) below.
12. Through the Main Modifications consultation process, the site has been subject to consultation with a range of statutory providers. Given the limited intensity of use there are no specific infrastructure requirements arising other than the nominal impact upon demand for local services arising from use of the site. The likely significant effects of allocating the site have been considered through sustainability appraisal.

13. For completeness, and to allow direct comparison with the assessment of mainstream housing sites considered through the Strategic Housing Land Availability Assessment ([HOU9](#)), the constraints relevant to this site and which informed the sustainability appraisal are set out in the table below.

Agriculture	AQMA	AONB	Archaeology	Common / CROW	Cons. Area	Contaminated	Flood - river (EA)	Flood - surface	Green Belt
Urban	No	No	No	No	No	No	No	No	Yes
Habitat	Listed Build.	Local Nature Reserve	PROW	Reg. P&G	SAM	SPZ	SSSI	Wildlife	
Yes	Setting	No	No	No	No	3	No	No	

14. The site is presently within the Green Belt (see answers to Question 25.2 below). A Grade II listed building lies approximately 100m north-west of the site on Pottersheath Road. However this is concealed from the site, and general public view, by heavy planted screening along the highway frontage. A Local Nature Reserve lies to the east of the A1(M) but is separated from this site by the motorway, which runs in a cutting, and the Pottersheath Road overbridge.

15. Any impacts arising from use of this site can be considered and addressed through the application of criteria in relevant Development Management policies.

c) Is the inclusion of the new area of land justified and appropriate in terms of the likely impacts of the development

16. Yes. In broad terms the allocation is justified by:

- The identification of a need for future Gypsy and Traveller provision which, under the requirements of national policy, the Council should seek to address;
- The approach to site identification which recognises as a general principle that a site owned by a travelling family is considered preferable to public or third-party ownership and that to seek an alternative site would require its purchase and the relocation of the family to that site when they are already suitably accommodated (Matter 12 statement, paragraph 24);
- The proper consideration of potential adverse impacts and specific policies in the NPPF and PPTS which indicate development might be restricted. A balanced planning judgement has been made on the benefits and impacts of the site;
- There being no preferable, deliverable alternative site(s) which would allow the identified need to be met over the Plan period in a substantively different way
- There being no reasonable prospect of other nearby authorities being in a position to assist under the Duty to Co-operate should NHDC resolve not to meet this need in full.

17. This is supplemented by the matters relied on for demonstrating exceptional circumstances set out below.

Question 25.2 If / where the new area of land proposed for allocation is currently in the Green Belt:

a) Do exceptional circumstances exist to warrant its allocation? If so, what are they?

18. Yes, for the reasons set out in Paragraph 16 above and also for the following specific exceptional circumstances identified in ED149:

- the lack of a five-year supply for the travelling community;
- the personal circumstances of the families;
- the protection of the characteristics of the Gypsy way of life; and
- the best interests of the children.

19. NHDC has already resolved, in its Development Management function and based upon the site's present Green Belt status, that it would not be able to sustain a refusal of planning permission for the current occupants at appeal. As set out in the Council's response to Matter 23, the Courts have determined that the plan-making test of *exceptional circumstances* is a lower threshold than the decision-making test of *very special circumstances* which this Council have already conceded would exist on this site.

b) What is the nature and extent of the harm to the Green Belt of removing the site from it?

20. The site lies within 'Parcel 6' as identified in the Green Belt Review Update ([ED161B](#), pp.138-139). The study concludes that this Parcel as a whole makes a significant contribution to Green Belt purposes in separating the urban areas of Welwyn, Oaklands and Pottersheath.

21. However, the visual and physical openness of the Green Belt in this area is highly fragmented by loose-knit development along both Pottersheath Road and Danesbury Park Road. This is particularly the case when compared with the more open pattern of agricultural fields to the east, which form the remainder of 'Parcel 6' in the Green Belt Review Update, and the woodlands to the east and north which lie within neighbouring Welwyn Hatfield. These provide the more substantive contribution to Green Belt purposes in separating these areas from the settlements of Codicote, Knebworth and Woolmer Green and, at a larger scale, maintaining separation between the towns of Stevenage and Welwyn Garden City

22. Overall, it is considered this site, by virtue of its location and limited size, makes a moderate contribution to Green Belt purposes. Its release would therefore occasion moderate harm.

c) To what extent would the consequent impacts on the purposes of the Green Belt be ameliorated or reduced to the lowest reasonably practicable extent?

23. The site is well defined on three sides by the A1(M), Pottersheath Road and Danesbury Park Road. Criterion (d)(ii) of Policy HS7 requires that Gypsy and Traveller sites "...can be successfully screened and contained within a specified boundary". This will assist in ameliorating impacts on the purposes of the Green Belt.

If / where relevant

d) If this site were to be developed as proposed, would the adjacent Green Belt continue to serve at least one of the five purposes of Green Belts, or would the Green Belt function be undermined by the site's allocation?

24. Yes. The adjacent Green Belt will continue to contribute to the purposes of Green Belt. The assessment of 'Parcel 6' shows that the land beyond the proposed allocation already serves Green Belt purposes.

e) Will the Green Belt boundary proposed need to be altered at the end of the plan period, or is it capable of enduring beyond then?

25. The proposed boundary is capable of enduring beyond the Plan period. Though it is recognised that under current planning policies the Council will be required to update its assessment of Gypsy and Traveller needs prior to, or at, the end of the Plan period. It will need to identify suitable sites to meet that need where possible.

f) Are the proposed Green Belt boundaries consistent with the Plan's strategy for meeting identified requirements for sustainable development?

26. Yes. The Plan seeks to meet identified needs for Gypsy and Traveller accommodation using the principles set out in the Matter 12 methodology.

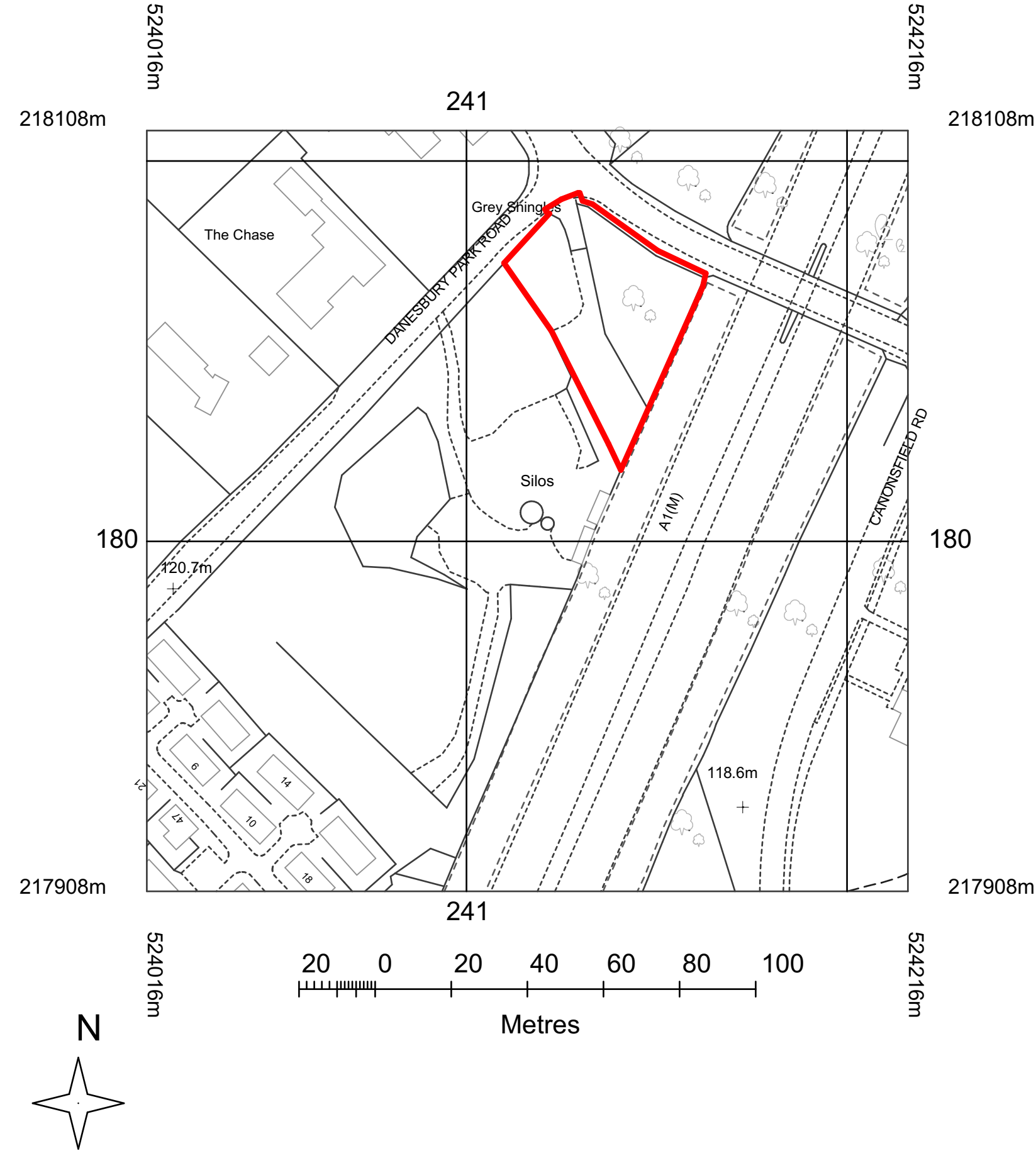
g) Has the Green Belt boundary around the site been defined clearly, using physical features that are readily recognisable and likely to be permanent? Does it avoid including land which it is unnecessary to keep permanently open?

27. Every effort has been made to clearly define the Green Belt boundaries around allocated sites using physical features such as roads and watercourses that are readily recognisable. Three sides of the site are bounded by existing highways. An appropriate boundary to the fourth side would be secured through application of Policy HS7(d)(ii) as set out in Paragraph 23 above.

28. The proposed boundary is limited to that land which is necessary to meet the needs identified above. It will be an "...exceptional, limited alteration to the defined Green Belt

boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific identified need for a traveller site”, consistent with Paragraph 17 of the PPTS.

Stanfords VectorMap



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1:1250

Location Plan

Notes:

Application Bounday

Ownership Boundary

Rev.	Date	Amendments	Author
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Client:	John Connors	Scale:	1:1250, 1:1 @ A3
Project title:	Land at Danesbury Park Road, Welwyn, AL6 9SN	Project:	16_824A_CONN25
Drawing title:	Location Plan	Drg. No:	16_824A_001
<div>Green Planning Studio Ltd</div> <div>Directors : Matthew Green BA, Ruth Reed BA, DipArch, MA, PGCEd HonFRIAS PPRIIBA, Michael Rudd BSc(Hons), MSc, LL.M, PgDip Law, FGS</div> <div>Reg. No: OC08736963</div>			

Page 57

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RIBA

Chartered Practice

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ITEM NO:	
<u>Location:</u>	Land West Of 1 The Green Ashwell Road Newnham Hertfordshire
<u>Applicant:</u>	North Herts District Council
<u>Proposal:</u>	Erection of a terrace of 4 dwellings (2 x 3 bed and 2 x 4 bed) and new vehicular accesses onto The Green, associated car parking, landscaping and ancillary works.
<u>Ref. No:</u>	20/00970/FP
<u>Officer:</u>	Jo Cousins

Statutory Expiry Date

28 September 2020 – extension of time agreed with applicant.

Reason for delay:

Committee cycle to allow the application to be reported to Planning Committee.

Reason for referral to Committee:

The applicant is North Hertfordshire District Council.

1.0 Policies**1.1 North Hertfordshire District Local Plan No. 2 with Alterations (Saved Policies)**

Policy 6 – Rural Areas beyond the Green Belt
Policy 14 – Nature Conservation
Policy 16 – Areas of Archaeological Significance and other Archaeological Areas
Policy 26 – Housing Proposals
Policy 55 – Car Parking Standards
Policy 57 – Residential Guidelines and Standards

1.2 Emerging Local Plan 2011 – 2031**Section 2 – Strategic Policies**

SP1: Sustainable development in North Hertfordshire
SP2: Settlement Hierarchy and Spatial Distribution
SP5: Countryside and Green Belt
SP6: Sustainable Transport
SP8: Housing

SP9: Design and sustainability
SP11: Natural resources and sustainability
SP12: Green infrastructure, landscape and biodiversity
SP13: Historic environment

Section 3 – Development Management Policies

D1: Sustainable design
D3: Protecting living conditions
D4: Air quality
NE1: Landscape
NE4: Protecting open space
NE11: Contaminated land
T1: Assessment of transport matters
T2: Parking
HE1: Designated heritage assets
HE4: Archaeology

1.3 **National Planning Policy Framework 2019**

Section 2: Achieving sustainable development
Section 5: Delivering a sufficient supply of homes
Section 9: Promoting Sustainable Transport
Section 6: Building a strong, competitive economy
Section 11: Making effective use of land
Section 12: Achieving well-designed places
Section 15: Conserving and enhancing the natural environment
Section 16: Conserving and enhancing the historic environment

1.4 **Supplementary Planning Documents**

Vehicle Parking Standards at New Development (2011)
Design

2.0 **Site History**

2.1 None relating to this site.

3.0 **Representations**

3.1 **Local Neighbours/Residents** – The following objections were received from local residents at **Newnham Manor Farm** and **Old School House**, Caldecote Road:

1. The proposed development will impact significantly upon neighbouring properties and the character of the green.
2. The addition of 4 new houses with associated car parking is excessive in such a small village setting and will diminish the privacy and green space currently available to residents. We do not necessarily oppose to any building in that area but have serious concerns at what is proposed.
3. The green is an integral part of our village and it would be a shame to spoil it.

3.1.1 The occupier of **5 The Green** has made neutral comments in respect of the scheme as follows:

1. The existing dwellings all have matching gable end windows facing the Green. The proposed houses only have three pane windows at first floor rather than four on the existing houses. It would look better to match.
2. Services cross the site and will need to be moved/re-sited to accommodate the proposal (surface water drains, water supply, sewer pipes and electricity cables).
3. Entry into the Green from Caldecote Road is tight, and the road surface is in need of repair.
4. Can the sewer system cope with new dwellings.
5. The existing houses on the Green are celebrating their 100 year Anniversary and we welcome this new homes proposal to complete The Crescent.

3.2 **Caldecote and Newnham Parish Council** – make the following comments:-

“Having reviewed the plans and submission, the Parish Council has asked me to say that they have no objections to the application. However, they would comment that the plans appear to significantly reduce the garden area in front of Number 1, The Green and they should like this to be reviewed and sufficient car parking space made available in front of Number 1.

It has been commented that 2 houses might be better than 4 so as to keep the invaluable green space in the middle of the village.

It is important to the community that the development is in keeping with the other properties around the Green both as regards scale and finish. On balance I see no objection to the design of the scheme. This said I consider that it would be appropriate to condition materials. Given that this is a conservation area, we would not wish to see any expansion of these submitted plans without a further opportunity to review.”

3.3 **Herts and Middlesex Wildlife Trust:**

Suggest the provision of Bat and Bird boxes at the development should be secured by a condition.

3.4 **Hertfordshire Highways:**

Does not wish to restrict the grant of permission subject to conditions relating to: Construction traffics and management plan; Access provision; Provision of visibility splays; Provision of cycle parking.

3.5 **NHDC Environmental Protection Officer (Air Quality:**

Recommend an EV Charging Infrastructure condition and an informative.

3.6 **NHDC Environmental Protection Officer (contamination):**

Recommends a land contamination condition.

- 3.7 **NHDC Environmental Protection Officer (noise):**
Recommends informatives regarding the demolition and construction phase of the development.
- 3.8 **NHDC Waste Officer:** Provides guidance and recommendations on waste and recycling collection provision within the site which are included as an informative.
- 3.9 **Hertfordshire Historic Environment Advisor (Archaeology):**
Advises that the site has potential to contain archaeological remains, and since it appears to have remained undeveloped during the later post-medieval and modern periods any such remains that may be present may be well preserved. The proposed development is such that it should be regarded as likely to have an impact on heritage assets of archaeological interest and suitable provision should therefore be secured via the imposition of conditions.
- 4.0 **Planning Considerations**
- 4.1 **Site and Surroundings**
- 4.1.1 The application site comprises a land parcel of 0.21 hectares on the north side of The Green and to the east of Caldecote Road in Newnham. Adjacent land to the north-east and west is in residential use with the properties 1 Caldecote Road and the terraces of 1 to 4 and 5 to 8 The Green. Land to the rear boundary is agricultural and under cultivation. The site sits to the rear of the access road to dwellings at The Green which benefits from a grassed amenity area containing trees that separates it from Newnham Road. The application site is a flat area of informal amenity grass owned and maintained by the Council with boundaries made up by mature trees and hedges with an open frontage to The Green. The site is visible in views entering the village from Newnham Road. The east and west boundaries are comprised of a hedge/vegetation.
- 4.1.2 The character of the wider locality is of loose knit residential dwellings and farm buildings along Caldecote Road and Ashwell Road surrounded by agricultural land. The site is within a Conservation Area, and the Rural Area beyond the Green Belt.
- 4.2 **Proposal**
- 4.2.1 Planning permission is sought for the erection of a terrace of four 1.5 storey dwellings and the associated change of use of the land to residential. The application site measures approx. 68 metres deep by 23 metres wide at the road frontage widening to 43 metres at the rear boundary. An area to the side adjacent to Caldecote Road, also owned by the Council, is excluded from the application site. This area contains trees and would maintain a green buffer zone to the highway boundary. The proposed terrace would be positioned back from the highway boundary by approx. 23 metres to allow for the provision of access points to serve each dwelling leading to two parking spaces per unit and grass lawn areas.
- 4.2.2 The dwellings would have a footprint a maximum of 11.9 metres deep by 30.7 metres long with a ridge height of 8.2 metres (dimensions are approximate). Two of the

dwelling would have three bedrooms, with the other two (outer units) having four bedrooms. The dwellings would be of a traditional style and design picking up features on the two existing terrace blocks at The Green, such as window pattern, flat roof dormers, gable ends to outer units and low eaves to the inner units and chimneys. The dwellings would have tiled roofs with brick and rendered walls again to reflect the existing terraces here.

4.3 Key Issues

4.3.1 The key material planning considerations are as follows:

- ☐ Whether the principle of the development is acceptable
- ☐ Conservation Area assessment
- ☐ Character and appearance, siting and design issues
- ☐ Impacts on neighbour amenity
- ☐ Future living conditions
- ☐ Highway, access layout and parking
- ☐ Trees and landscaping
- ☐ Ecology
- ☐ Archaeology
- ☐ Environmental matters and climate change

4.3.2 Principle of the development

4.3.3 The site is in the Rural Area Beyond the Green Belt. Policy 6 of the adopted 1996 Local Plan sets out what types of development would normally be allowed in the rural area, with the aims of the Policy being the protection of the countryside. The proposal could be considered an infill plot as it lies within the core of the settlement, however it would not comply with Policy 6 as the proposal is for more than a single dwelling. Furthermore the application is for market housing and would not therefore comply with other criteria within this Policy.

4.3.4 The adopted Local Plan is however relatively old, with local and national planning policies having changed and evolved since its 1996 adoption. The emerging Local Plan (ELP) is now at an advanced stage towards adoption, having gone through a public examination process and has had Modifications published (November 2018), which were released for public consultation which ended in April 2019. Further hearing sessions in March 2020 were postponed and it is impossible given present circumstances due to COVID-19 to give any indication as to when adoption can be anticipated. This may affect the weight given to the Emerging Plan in relevant decisions. Notwithstanding this point, none of the Inspector's various queries affect the key land-use policies of the emerging plan that are most relevant to this proposal.

4.3.5 The ELP can in my view be given moderate weight and is a material consideration. The ELP in Policy SP2 classifies Newnham as a Category B village. Policy SP5 states that the Council will operate a general policy of restraint in the RA through the application of its detailed policies. Policy CGB1 states that planning permission will be granted where development complies with a stated criterion, in this case the proposal meets criteria (a). being an infill plot within the built core of a Category B village.

The proposal is considered to comply with the relevant policies in the ELP which is given moderate weight, due to the advanced stage the ELP has reached towards its adoption with regard to the requirement for further hearing sessions.

- 4.3.6 The NPPF is a material consideration which is also given weight. The ELP is considered consistent with the NPPF by implication due to the stage that has been reached towards adoption. Taking the above into consideration, there are no objections to the principle of the development of the site for residential development when assessed against the ELP, however the proposed use of the site for residential development is not acceptable in principle when assessed against the adopted Local Plan.
- 4.3.7 Paragraph 11 d) of the NPPF states that 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. or ii. are complied with.
- 4.3.8 Part i. of 11 d) refers to ‘the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed’, which in footnote 6 includes designated heritage assets being the Newnham Conservation Area in this instance. Paragraph 11 d) i. is engaged in light of the Council not being able to demonstrate a five-year supply of deliverable housing sites and the location of the site within a Conservation Area.
- 4.3.9 The proposal is not considered harmful to the significance of the Conservation Area as a designated heritage asset, as discussed in the paragraphs below, therefore this application has to be assessed according to whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of delivering new homes, when assessed against the policies in the NPPF taken as a whole. This final assessment will be set out at the end of this report.
- 4.3.10 Conservation **Area assessment**
- 4.3.11 As stated, the site is within a Conservation Area, a designated heritage asset. Great weight should be given to the asset’s conservation, as set out in section 16 of the NPPF. The Newnham Conservation Area Appraisal 2008 is a material consideration as it broadly follows Heritage England’s guidelines and plays a key role in ensuring that changes within the conservation area preserve or enhance its special character or appearance. The Appraisal states:

“To the west of no.1 The Green is an area of land that is neutral. In conservation terms, if the site remains ‘open’ the church in the distance will remain in view, whereas, if appropriately developed, a scheme would balance the two existing terraces on the north side of The Green. The properties looking onto The Green are distinctive and provide sufficient design cues for what may be acceptable, for instance, most of the buildings are 1 ½ storey, rendered with plain tiled roofs, dormer windows and forward facing gables.”

- 4.3.12 The site remains wholly undeveloped but does have a frontage to the vehicular access at The Green. The proposal would not involve the loss of vegetation to achieve the scheme. Whilst clearly having an urbanising effect on this site of open land with the dwellings being visible to the adjacent road network, the proposals could be seen to complete the crescent of development here by mirroring the two existing terraces of dwellings. This would be in contrast to its undeveloped character, which is a gap between existing development and the highway in the core of this settlement. The proposal in my view follows the guidance in the Conservation Area Appraisal. It is therefore considered that developing the site would result in less than substantial harm to the significance of the Conservation Area due to the form of the development and its urbanising effect on land which is limited due to the constraints of the site area.
- 4.3.13 Less than substantial harm should therefore generally be weighed against the public benefits of the proposal including, where appropriate, securing its optimal viable use. The principle benefit is that the development would approve four new dwellings on land that can be relatively easily developed, resulting in an improvement to the District's housing land supply position. On the scale of 'less than substantial harm', the amount of harm is considered to be at the lower end of this continuum, and it would not indicate a clear reason for refusal by itself in my view. In the wider context of the locality including the Conservation Area, the development of the site for residential and the type and quality of the dwellings proposed is considered wholly acceptable. The development of the site for housing can also be viewed as being a more optimal use for the land given the District's housing land supply position, with weight also given to the proposal to remove the site from the Rural Area in the emerging Local Plan. Overall, as set out above and in this report as a whole, the public benefits are considered to outweigh the relatively small harm to the Conservation Area.
- 4.3.14 **Character and appearance, siting and design**
- 4.3.15 The application site is undeveloped, however it is located within the core of the settlement and has existing residential development to either side. Given the surrounding residential development in close proximity to the site, and the existing arrangement of terraced dwellings at The Green I consider the site capable of accommodating new residential development in the form proposed. I consider the density and number of dwellings would not be excessive for the site when compared to existing nearby residential development.
- 4.3.16 The dwellings would be approximately 23 metres back from the highway at The Green and separated from Caldecote Road by the tree buffer strip retained in Council ownership. The site is visible in approaches to the village, but this would be softened by the trees on the green area to the front of The Green. Therefore, I do not consider that the development would appear visually dominant within the street scene. The dwellings would be set back from the other boundaries of the site and would be of a very similar scale to the existing dwellings at The Green in terms of footprint, size and height, completing the western block of the crescent. Therefore, it is not considered that the development would appear cramped within the site and locality and would relate acceptably to the character and appearance of the area.

- 4.3.17 No smaller units of two bedrooms or less are proposed. However, larger dwellings at a lower density are more characteristic of the immediate locality. Given that the scheme reflects the existing development at The Green and provides four dwellings I consider that the mix of 3 and 4 bedroom units proposed is acceptable for this site in this location.
- 4.3.18 The overall design and external materials of the dwellings are proposed to reflect the existing terraces Arts and Craft origins with tiled roofs and rendered walls. This is considered an acceptable approach to the design and finish that as previously stated in my view completes the crescent of development at The Green. Samples or details of the external materials to be used would be requested by condition if permission was to be granted. It is not considered that permitted developments should be removed by condition given that they would be limited by virtue of the site being within a Conservation Area.
- 4.3.19 For the reasons above the proposed development is considered to be of an appropriate scale, layout and design that would not harm the character and appearance of the locality and the significance of the Conservation Area.
- 4.3.20 **Neighbour amenity**
- 4.3.21 The application site sits to the side of the terrace of dwellings 1 to 4 The Green and has the properties 1 and 2 Caldecote Road to the rear, side boundary at more than 30 metres distant. Other nearby dwellings are the other terrace 5 to 8 The Green and The School House on Caldecote Road and dwellings on Ashwell Road where they are separated from the site by highways and the curtilages of other properties and are considered sufficiently far away to avoid loss of amenity being caused.
- 4.3.22 No. 1 Caldecote Road is located to the north of the site and has a boundary that adjoins the western boundary of the site, which presently comprises a hedge. The dwelling is more than 30 metres distant from the rear walls of the proposed dwellings but it is noted that they do have a side allotment garden running alongside plot at a closer distance. However, with the maintenance of the hedges, trees and additional planting the relationship is considered to be acceptable here to safeguard the private amenity areas associated with the dwellings. I consider they would be sufficiently far away to avoid loss of light, overshadowing and overbearing impacts.
- 4.3.23 In addition the proposed dwellings have been carefully sited so as to minimise any adverse impact upon the neighbouring terrace and in particular 1 The Green. No windows are proposed in the first-floor side elevations thus ensuring privacy is maintained. The front of the proposed terrace is aligned with the front wall of 1-4 The Green so as not to infringe privacy in rooms at the front of this adjacent terrace. Equally this has the benefit to the rear as the walls are sufficiently angled to safeguard privacy in rear gardens. The careful position of the terrace also aids light issues with No1. The Green to the east with a minimum gap to the boundary of approx. 2 metres to the front widening to approx. 6 metres at the rear.
- 4.3.24 Impacts on residential amenity are therefore considered acceptable.

4.3.25 Living conditions of future occupants

4.3.26 The proposed dwellings would be located such that they are considered to receive adequate outlook and light for their main habitable rooms and their private rear gardens. The rear gardens would be a minimum of 8 metres wide and 23 metres in length which would provide sizable, quality private amenity space. Means of enclosure has been specified on the landscaping plan with areas of fencing and hedging indicated. Internal fencing has not been specified but can be secured by a condition requiring these details.

4.3.27 The dwellings are sited such that they would not appear overbearing or cause loss of light to their potential occupants. Living conditions for future occupiers are therefore considered to be acceptable.

4.3.28 Highways, access layout and parking

4.3.29 The County Council highway authority has not objected to the proposal, subject to requesting conditions relating to the provision of a Construction Management Plan, Visibility splays and access provision and cycle parking.

4.3.30 The visibility and access provision conditions and requirement for a Construction Management Plan are considered reasonable for the development proposed. With regard to cycle provision it is noted that the forms state one space per dwelling is to be provided, but this is not included on the plans. In accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018), the developer would need to provide at least one cycle parking space/store within the development site per dwelling. The agent has confirmed that the cycle provision will be provided via sheds to each dwelling and that this can be covered by the recommended condition.

4.3.31 The Highway Officer has noted that the proposal creates several vehicular access points which is far from ideal. He has suggested that a central access point in the middle and four sets of parking spaces either side may be better. However, due to the scale of the development and nature of the site no objection is formally raised. I have looked at this matter in the wider benefit and would on balance concur with the view that the parking provision as proposed is acceptable and note that it is commensurate with provision elsewhere at The Green.

4.3.32 The dwellings are three and four bedroom units. The Council's 2011 parking standards SPD require each dwelling with two or more bedrooms to have a minimum of 2 parking spaces. All dwellings meet these standards. Furthermore the parking spaces meet the standard set in Manual for Streets in paragraphs 8.3.48 to 8.3.54 sets out minimum dimensions for parking spaces perpendicular to a highway of 4.8m by 2.4m.

4.3.33 With regards to impacts on the public highway, the layout of the site and parking provision, the proposal is considered to be acceptable.

4.3.34 Landscape and trees

4.3.35 The site contains a small number of trees within it, with a larger number of trees and other vegetation on or close to its boundaries and a small distance outside the site. There are no substantial losses to vegetation to enable the development. The site would be enhanced by new planting to reinforce boundaries and provide a net gain to biodiversity. The landscaping provisions can be satisfactorily secured by the imposition of conditions.

4.3.36 The trees remaining within the site would not be affected by the proposed development but can be appropriately safeguarded through a condition. It is considered that there would be an acceptable balance of hard and soft landscaping and that the details indicated on the submitted landscape plan are of a sufficiently high quality for this Conservation Area location.

4.3.37 **Ecology**

4.3.38 The application does not trigger any specific issues relating to ecology or wildlife. The comments received from the Herts and Middlesex Wildlife Trust are noted and I would concur with the view that a scheme for ecological enhancement could be satisfactorily secured via the imposition of a condition

4.3.39 **Archaeology**

4.3.40 The location is in an Area of Archaeological Significance identified in the Local Plan. This denotes the medieval core of Newnham, a small village with a moated medieval manorial site (Manor Farm), the adjacent medieval parish church, and buildings lining Caldecote Road and Ashwell Road. The manorial estate is recorded in Domesday as 'Neuham'. No archaeological remains are known in this vicinity due to no investigations having been carried out in this part of the village. The site is in the core of the village, in a topographically suitable location for settlement, and close to the junction of the historic, medieval or earlier routes to Ashwell and Caldecote.

4.3.41 The County Council Archaeologist has advised the imposition of conditions. The recommendation is reasonable and necessary to provide properly for the likely archaeological implications of this development proposal. I believe that this recommendation closely follow the policies included within Section 16 of the National Planning Policy Framework and is in accordance with Policy 16 of the current local Plan and Policy HE4 of the ELP. In this case the three appropriately worded conditions advised would be sufficient to provide for the level of investigation that this proposal warrants and safeguard potential archaeological interests on the site.

4.3.42 **Environmental matters and climate change mitigation measures**

4.3.43 In response to consultation the Councils Environmental Protection Officers have not raised any concerns relating to the development that cannot be adequately covered by the imposition of conditions and informatives relating to Land Contamination, noise and nuisance and air quality.

4.3.44 The application Design and Access Statement includes sustainability details to confirm that proposal would provide energy efficient standards of construction, services and lighting. These would conform with the energy efficient Building Regulation requirements. In addition sustainable water usage and the provision of electric vehicle charging and cycle parking assist with climate change mitigation. The dwellings would be designed as lifetime homes to give adaptable and accessible accommodation. Overall the proposals meet the aims of Policy D1 'Sustainable Design' of the ELP. Members will note that recommended condition 10 requires the provision of cycle storage on site and recommended condition 12 requires standard EV charging points for each dwelling as part of this proposal.

4.4 Planning Balance and Conclusion

4.4.1 The Local Planning Authority cannot demonstrate a 5-year supply of housing land as required by the NPPF. The April 2019 monitoring report shows that North Hertfordshire has a 1.3-year land supply for decision making purposes. Further housing permissions have been granted since that time, however, decision makers must have regard to the broad magnitude of the five-year supply position short-fall. Appropriate weight should be given to the provision of four dwellings on this site.

4.4.2 I do not consider that the proposed development would harm the significance of the Conservation Area as a designated heritage asset which the site is within, therefore permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering new homes. Appeal decisions have confirmed that the degree of deficit below the five year supply figure is also material, in that the benefits of delivering new homes with a significant deficit must be given more weight in the planning balance than would be the case if the deficit was only just below five years.

4.4.3 All development proposals must achieve the three strands of sustainable development as set out in Section 2 of the NPPF (i.e. the economic, social and environmental objectives). In this case the development would assist the local economy in providing construction jobs in the short term and jobs within the service sector in the longer term. Moderate weight could be attached to this economic benefit. In social terms the proposal will deliver 4 additional dwellings that will contribute to the Council's housing supply and provide well-designed dwellings that meet life-time homes objectives that will be supportive of the communities social and general well-being. I attach significant weight to these benefits.

In terms of the environmental objective, there is the potential for net biodiversity gain and the sustainability statement advises that the development can minimise waste and pollution and be adaptive to climate change and the move to a low carbon economy. I

attach significant weight to these environmental benefits. The adverse impacts from the proposed development could be said to be the loss of the informal open green space.

- 4.4.4 The Examination Inspector dealing with the emerging Local Plan has not questioned the designation of Newnham as a Category B village. Given the above analysis, on balance I conclude that the limited adverse impacts of the development are significantly and demonstrably outweighed by the benefits and therefore will achieve sustainable development as required by the National Planning Policy Framework.

4.5 **Alternative Options**

- 4.5.1 None applicable.

4.6 **Pre-Commencement Conditions**

- 4.6.1 I can confirm that the applicant is in agreement with the pre-commencement conditions that are proposed.

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 and informatives:

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. Details and/or samples of materials to be used on all external elevations and the roof of the development and the exterior hard surfaces, hereby permitted shall be

submitted to and approved in writing by the Local Planning Authority before the development is commenced and the approved details shall be implemented on site.

Reason: To ensure that the development will have an acceptable appearance which does not detract from the appearance and character of the surrounding area.

4. Prior to the commencement of development a vegetation/tree protect plan shall be submitted and approved in writing by the Local Planning Authority to show how existing vegetation, due for retention, will be protected during construction. The approved plan shall be implemented on site unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent damage to or destruction of trees to be retained on the site in the interests of the appearance of the completed development and the visual amenity of the locality.

5. The landscaping details illustrated on drawing PL06 shall be carried out before the end of the first planting season following either the first occupation of any of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced during the next planting season with others of similar size and species, unless the Local Planning Authority agrees in writing to vary or dispense with this requirement.

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

6. Prior to occupation of the approved development, plans and details of proposed bat and bird boxes shall be submitted to the Local Planning Authority and approved in writing. The development shall be carried out in accordance with these approved details and maintained as such in perpetuity.

Reason: In the interests of ecology.

7. Prior to the first occupation of the development hereby permitted the vehicular access shall be provided and thereafter retained at the position shown on the approved plan drawing number (PL03 Rev- B) in accordance with the highway specification as Setout in Roads in Hertfordshire. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

Reason: To ensure satisfactory access into the site and avoid carriage of extraneous material or surface water from or onto the highway in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018)

8. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority, in consultation

with the Highway Authority. This should be based on the Hertfordshire's Construction Management Template available from <https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx#managementplans>

The development shall be carried out in accordance with the approved Construction Management Plan.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

9. Concurrent with the construction of the new access, visibility splays of 2.4 metres 25 metres should be provided in both directions onto The Green at the access point (which will also achieve the necessary footway visibility splays), and permanently maintained as such, within which there should be no obstruction to visibility between 600mm and 2 m above the carriageway level.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018) and Roads in Hertfordshire, Section 4, 2.3

10. Prior to commencement of the development hereby permitted a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Reason: To ensure the provision of adequate cycle parking that meets the needs of occupiers of the proposed development and in the interests of encouraging the use of sustainable modes of transport in accordance with Policies 1, 5 and 8 of Hertfordshire's Local Transport Plan (adopted 2018).

11. (a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of a written preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then 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

(c) 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 (b), above; has been submitted to and approved by the Local Planning Authority.

(d) 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 (c) 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.

(e) Any contamination, other than that reported by virtue of condition (a) and (b), 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.

12. Prior to occupation, each dwelling shall incorporate one Electric Vehicle (EV) ready domestic charging point and it shall thereafter be retained.

Reason: To contribute to the objective of providing a sustainable transport network and to provide the necessary infrastructure to help off-set the adverse impact of the operational phase of the development on local air quality.

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

Reason: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they

are damaged or destroyed as a result of the development hereby permitted.

14. The demolition/development shall take place/commence in accordance with the programme of archaeological works set out in the Written Scheme of Investigation approved under condition (13)

Reason: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they are damaged or destroyed as a result of the development hereby permitted.

15. The development shall not be occupied/used until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (13) and the provision made for analysis and publication where appropriate.

















Reason: The site lies within an area where there is significant potential for archaeological remains and any finds should be retrieved and/or recorded before they are damaged or destroyed as a result of the development hereby permitted.

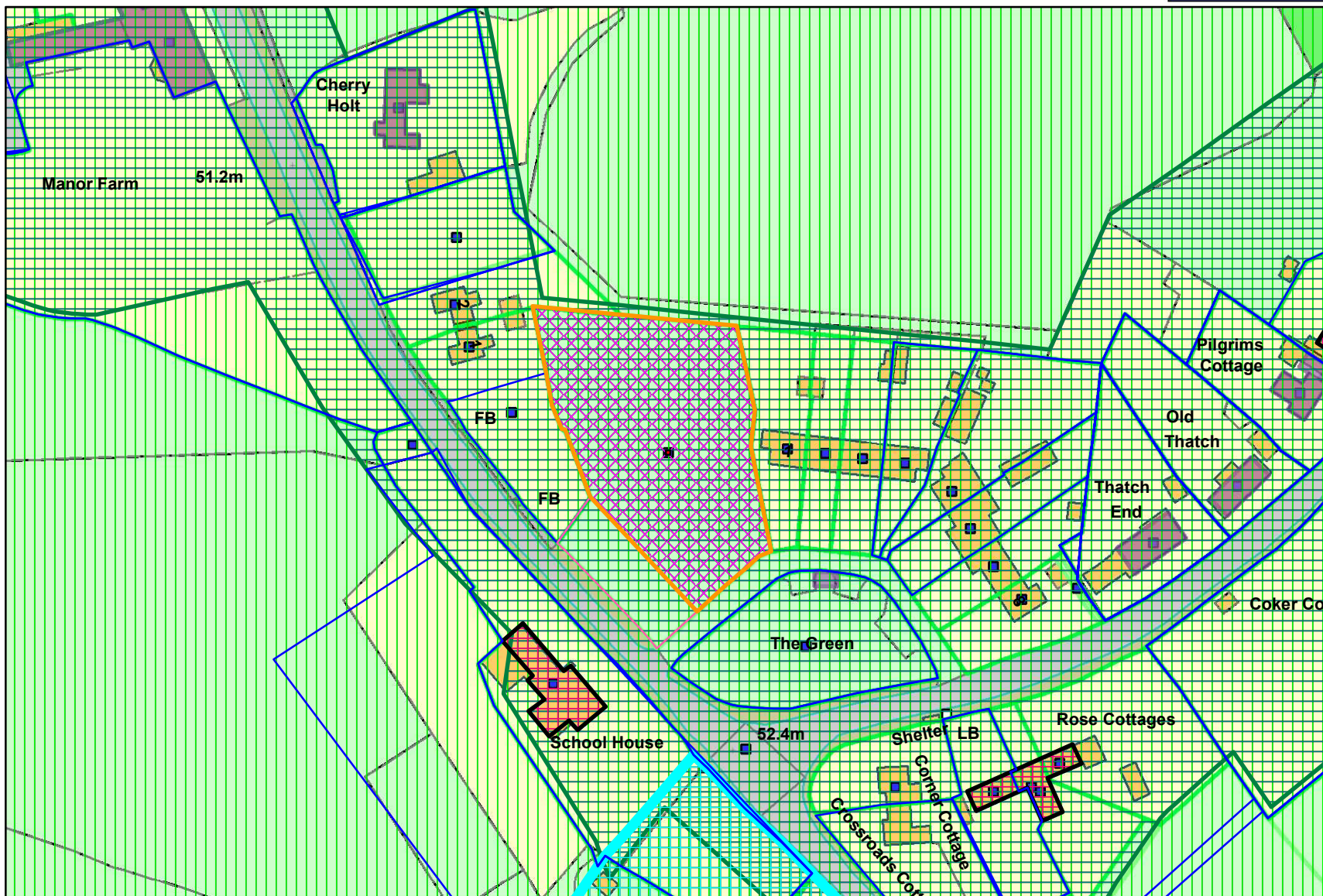
Proactive Statement:

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

Application Validation Sheet

20/00970/FP Land West of 1 The Green, Ashwell Road, Newham, Herts

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



Scale 1:1,250

Date: 27/07/2020

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PLANNING CONTROL COMMITTEE**DATE: 20 August 2020****PLANNING APPEALS LODGED**

APPELLANT	Appeal Start Date	DESCRIPTION	ADDRESS	Reference	PROCEDURE
Mr & Mrs Wright	9 July 2020	Removal of Condition 3 (removal of Permitted Development Rights) of planning permission 17/02861/1 granted 25/01/2018 for Change of use of ancillary building to separate residential dwelling.	The White House Preston Road Gosmore SG4 7QS	19/02875/S73	Written Representation
Mr & Mrs Frapporti	24 July 2020	Erection of one detached 3-bed single storey dwelling and cycle/store building following demotion of existing barn building.	Land South Of Willow Tree Farm London Road Barkway Hertfordshire	19/02701/FP	Written Representation
Mr B Patel	24 July 2020	Erection of one single storey 2-bed dwelling including installation of vehicular crossover onto Bearton Road.	6 St Marks Close Hitchin SG5 1UR	19/02633/FP	Written Representation

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PLANNING CONTROL COMMITTEE**DATE: 20 August 2020****PLANNING APPEALS DECISION**

APPELLANT	DESCRIPTION	SITE ADDRESS	REFERENCE	APPEAL DECISION	COMMITTEE/ DELEGATED	COMMENTS
Mrs Walsh	Erection of one detached 1-bed dwelling.	14 Waterdell Lane St Ippolyts SG4 7RB	19/01555/FP	Appeal Dismissed on 13 July 2020	Delegated	The Inspector stated that the development would be a prominent and intrusive feature and would result in unacceptable harm to the character and appearance of the area.

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Appeal Decision

Site visit made on 7 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2020

Appeal Ref: APP/X1925/W/20/3244746

14 Waterdell Lane, St Ippolyts, Hitchin, Hertfordshire SG4 7RB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Walsh against the decision of North Hertfordshire District Council.
 - The application Ref 19/01555/FP, dated 26 June 2019, was refused by notice dated 16 August 2019.
 - The development proposed is a new build 1 bedroom bungalow.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site currently comprises parking and part of the large garden to the front of 14 Waterdell Lane, a semi-detached dwelling at the junction of Waterdell Lane with The Crescent. Near to the site, the northern side of Waterdell Lane and The Crescent are characterised by semi-detached and terraced dwellings with similar external materials and designs incorporating front gables and first-floor dormers. There is a little more diversity to the south of Waterdell Lane, but dwellings are predominantly two-storey, semi-detached pairs with similar forms and brick finishes.
4. Buildings on both Waterdell Lane and The Crescent are typically arranged behind deep frontages which accommodate parking or soft landscaping. The set back of dwellings from the street is not uniform, but differences in the positions of adjacent buildings are generally fairly small resulting in a gently curving building line. Likewise, the angled orientation of No 14 and the attached dwelling at 12 Waterdell Lane provides for a gradual transition between dwellings to the rear of the site on The Crescent, and those fronting Waterdell Lane to the east. Along with the common designs of the buildings, these factors give the street scenes an attractive rhythm and sense of unity which is further enhanced by the distinctly spacious character deriving from the generous spacing between and to the front of buildings.
5. The proposed dwelling would be on a similar building line and angle to the dwellings at 10 and 16 Waterdell Lane, but it would be positioned entirely

forward of No 14. It would also be set much closer to the boundary of the site with The Crescent than 19 The Crescent to the north. It would therefore be a prominent and intrusive interruption to the existing building line and the current visual connection between Waterdell Lane and The Crescent around this junction. I acknowledge that 16 Waterdell Lane is also set forward of No 14, but The Crescent provides separation to this neighbour and the dwelling would be more generally seen against the backdrop of 14 Waterdell Lane and 19 The Crescent. In this context it would be a conspicuous and incongruous feature, unrelated to the street scenes of either Waterdell Lane or The Crescent.

6. The uncharacteristic nature of the development would be further exacerbated by the small scale and single-storey design of the dwelling. I recognise that there are a few single-storey buildings on Waterdell Lane, but the examples I saw were larger than the dwelling now proposed. Moreover, they do not form part of the immediate context of the appeal site where buildings are generally two-storey with much larger footprints than the proposed dwelling. The small size of the plot and the siting of the dwelling close to its boundaries, and in particular the boundary with The Crescent, would further cause the development to appear cramped and out of keeping with the more spacious setting of dwellings around the site.
7. Although there is some vegetation to the boundaries of the site which the appellant indicates would be retained, screening of the development would not be complete, and the dwelling would be apparent and would stand out against nearby dwellings on this part of Waterdell Lane and The Crescent.
8. There is a single-storey outbuilding to the side of No 16 set close to the boundary with The Crescent, but this has the clear appearance of an ancillary structure within the curtilage of No 16. It is therefore distinct from the appeal proposal for an additional dwelling which would be separate from No 14. The appellant has also referred to permission granted recently for the erection of a dwelling at 1 The Crescent¹. I do not have full details of this scheme, or the circumstances which led to it being accepted, but note that the dwelling was proposed in place of an existing garage which I saw is set back from The Crescent and London Road. It does not therefore represent a direct parallel to the appeal before me which I have in any case considered on its own merits.
9. For these reasons, the development would be a prominent and intrusive feature and would result in unacceptable harm to the character and appearance of the area. It would therefore be contrary to Saved Policy 57 of the North Hertfordshire District Local Plan No.2 with Alterations 1996 (NHDLP) which outlines that development should relate to and enhance its site and surroundings and the area's character. For similar reasons, there would be conflict with Policy D1 of the Emerging North Hertfordshire Local Plan 2011-2031, but as the plan is yet to be adopted it is subject to change, and I do not know whether there are unresolved objections to this Policy. With regard to paragraph 48 of the National Planning Policy Framework (the Framework), I therefore afford less weight to the conflict with this policy.

Other Matters

10. The appeal site is within the Green Belt. However, the main parties agree that the proposal would comprise limited infilling within a village and would be an

¹ Application reference 20/00409/FP

exception to inappropriate development in the Green Belt in accordance with paragraph 145 of the Framework. From the evidence before me, I have no reason to reach an alternative conclusion.

11. The Council has not challenged the appellant's assertion that it cannot demonstrate a 5 year housing land supply (5YHLS). I have not been provided with details of the extent of the shortfall, but the Framework therefore advises that the policies most important for determining the application are considered to be out of date. In these circumstances, paragraph 11 of the Framework outlines that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
12. The Framework identifies a need to significantly boost the supply of housing. The proposal would make effective use of the site, and would provide a small dwelling which would contribute to the supply of housing within the village which the appellant advises has been identified as a Category A village where development will be allowed within defined settlement boundaries. There would also be some economic benefits of the proposal, through construction activity and additional spending in the local economy.
13. However, the small scale of the development limits the contribution to the supply of housing and the extent of these benefits, and I give them moderate weight in the planning balance as a result. Against this, there would be conflict with the Framework which highlights the importance of well-designed places and requires that development should be sympathetic to local character. I attach significant weight to the harm that would arise in this respect. The absence of identified harm to the living conditions of neighbouring or future occupiers or to highway safety, and that interested parties and consultees have not objected to the development are neutral factors and weigh neither for nor against the proposal.
14. Overall, I find that the adverse impacts of the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development set out at paragraph 11(d) of the Framework.
15. The proposal would conflict with the development plan when it is read as a whole and there are no material considerations, including the Framework, which indicate that the decision should be taken otherwise than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR

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